



Council Chambers  
30 June 2023

The **3785th MEETING** of **COUNCIL** will be held on Cammeraygal lands at the Council Chambers, North Sydney at **6.30pm** on Monday 10 July 2023. The agenda is as follows.

SHANE SULLIVAN  
**ACTING GENERAL MANAGER**

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- 1. Opening of Meeting**
  - 2. Acknowledgement of Country**
  - 3. Apologies and applications for leaves of absence or attendance by audio-visual link by councillors**
  - 4. Confirmation of Minutes**
  - 5. Disclosures of Interests**
  - 6. Public Forum**
  - 7. Items by Exception**
  - 8. Mayoral Minutes**
    - 8.1 MM01 Miller Place initiative – Local Infrastructure Contributions
    - 8.2 MM02 Cammeray Community Battery – Update
    - 8.3 MM03 Sub Base Platypus - Update
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## **9. Reports of Committees**

- 9.1 Waverton Peninsula Working Group Minutes - 6 June 2023
- 9.2 Traffic Committee Minutes - 9 June 2023

## **10. Reports to Council**

- 10.1 Heritage Assessment of 53 and 55 Yeo Street Cremorne
- 10.2 IPART Review of the Rate Peg Methodology
- 10.3 Variation to Development Standards Q3 2022/23 Financial Year
- 10.4 Community Housing Project Update: 287 Miller Street Cammeray
- 10.5 Small Coffee Carts in Outdoor Dining Spaces - Response to Council Resolution
- 10.6 Cleaning of Open Space Facilities - Tender 01/2023

## **11. Notices of Motion/Questions with Notice**

Nil

## **12. Matters of Urgency**

Nil

## **13. Closure of Meeting**

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TO: The Mayor, Zoë Baker and Councillors Beregi, Bourke, Gibson, Lamb, Lepouris, Mutton, Santer, Spenceley, and Welch

**3785th MEETING OF COUNCIL TO BE HELD ON MONDAY 10 JULY 2023**

**1. OPENING MEETING**

**2. ACKNOWLEDGEMENT OF COUNTRY**

**3. APOLOGIES AND APPLICATIONS FOR LEAVES OF ABSENCE OR ATTENDANCE BY AUDIO-VISUAL LINK BY COUNCILLORS**

**4. CONFIRMATION OF MINUTES**

THAT THE MINUTES of the previous 3784th Council Meeting held on Monday 26 June 2023 be taken as read and confirmed.

**5. DISCLOSURES OF INTEREST**

**6. PUBLIC FORUM**

**7. ITEMS BY EXCEPTION**

**8. MINUTES OF THE MAYOR**

**8.1 MM01 Miller Place initiative – Local Infrastructure Contributions**

For many decades, Council has planned to give the North Sydney CBD a public “heart” at Miller Street between the Pacific Highway and Berry Street.

Council first formalised this plan with the adoption of the *North Sydney Public Domain Strategy* in 2018.

“Miller Place” seeks to transform Miller Street from a busy four lane street to a new high grade activated public space providing a space to gather, host events such as outdoor concerts and markets and a place for public art. With large canopy trees,

lawns and access to sunlight for most of the day, this new “place” will establish a much-needed civic heart for the North Sydney CBD.

It will also accommodate tens of thousands of commuters, students and visitors arriving via the new Victoria Cross Metro Station and the North Sydney Train Station portal from Greenwood Plaza each morning.

Under Transport for NSW’s (“TfNSW”) *Interchange Access Plan* for the Victoria Cross Metro station (February 2023), the Miller Place initiative was being investigated as part of the *North Sydney Integrated Transport Program*.

However, in order to be realized, the project requires support and funding from TfNSW as it requires network and bus route changes around the CBD.

TfNSW has been considering the initiative and the required changes for some years. Given that the Metro Stations and the overstation development helmed by Lend Lease are currently under construction, there is a finite window in order to ensure that the Miller Place initiative is delivered with the least additional cost, disruption and inconvenience to the CBD and Miller Street, in particular.

Miller Place should be delivered at the same time as the Metro development. If the project is delayed until after Victoria Cross Station and over-station development is completed and operational it may be delayed indefinitely as construction will be significantly more expensive and disruptive.

It is, therefore, timely that Council support this project and seek to ensure that it is delivered in parallel to the completion of the Victoria Cross Metro station and overstation development.

The NSW Government is due to make a decision on transport project priorities soon. Council’s Local Infrastructure Contributions Plan (LIC) includes public domain projects for the North Sydney CBD. Consistent with the LIC Plan, I propose that Council approach the NSW Government and pledge a contribution of \$9M towards the delivery of Miller Place concurrent with the Metro, as Council’s commitment to the project.

**I therefore recommend:**

**1. THAT** Council advise TfNSW that it will pledge \$9M under Council’s Local Infrastructure Contributions Plan to support the delivery of Miller Place concurrently with the completion of the Victoria Cross Metro Station and overstation development.

## **8.2 MM02 Cammeray Community Battery - Update**

On 8 May 2023 Council considered a Mayoral Minute in relation to the proposed location of a community battery in Green Park, Cammeray.

Council and our community strongly support the roll out of renewable energy initiatives delivered through the Federal Government ARENA funding, including the current funding for community batteries.

The Community Strategic Plan and Council’s Environmental Sustainability Strategy 2030 recognise the need to transition to renewable energies to avoid catastrophic climate change. Council is committed to achieving net zero in Council operations and has adopted ambitious community targets to assist the community in significantly reducing greenhouse gas emissions by 2030.

Support for the Cammeray community battery is, therefore, strong.

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However, concerns were raised in relation to the proposed location of the community battery within Green Park, Cammeray and the impacts on precious public open space. Council, therefore resolved on 8 May 2023:

*THAT Council write to Ausgrid seeking:*

- (a) clarification as to whether the proposed works truly relate to a community battery or simply provide expanded capacity for the grid; and*
- (b) Urge them to locate any energy infrastructure, including the proposed "community battery", of in accordance with the recommendations from Council's strategic planners outlined above.*

Following that meeting, Ausgrid attended the Environmental Reference Group meeting held on 16 May 2023 and answered questions on the battery and heard submissions on the location of the battery. Indeed, one of the community members urged Ausgrid to consider locating the battery within existing infrastructure at Cammeray.

Ausgrid recently announced that the community battery will be provided within the existing substation on Metcalfe St Cammeray, and that interested residents had been informed.

This decision reflects real community consultation at work – Ausgrid listened to the submissions from the community and amended the proposal to address those concerns.

Ausgrid has also suggested that a working group is formed with metropolitan councils to develop a decision-making model to identify suitable locations for future community batteries.

Council welcomes the establishment of the working group and hopes that this model will allow stakeholder needs and concerns to be considered when working to find suitable locations.

Up front collaboration with communities and councils will ensure future community batteries can be rolled out with seamlessly with community support.

**I therefore recommend:**

**1. THAT** Council write to Ausgrid acknowledging their commitment to community consultation and welcoming both the location of the proposed community battery within the existing Metcalfe Street Ausgrid infrastructure and the establishment of the working group with local government.

### **8.3 MM03 Sub Base Platypus – Update**

On 13 March 2023, Council considered a notice of motion put forward by Councillor Welch and unanimously resolved:

*1. THAT North Sydney Council write to the Sydney Harbour Trust, the Honourable Tanya Plibersek MP, and Federal Member Kylie Tink to:*

- a) ask for an update as to when construction on the water-related facilities such as landing pontoons for boats, kayaks and stand-up paddleboards will begin.*
- b) pursue the possibility of having a 50m Harbour pontoon pool, with night lighting and water features for children at the Sub Base Platypus site.*
- c) pursue the possibility of having a regional art gallery that would embrace the Harbour at the Sub Base Platypus Site. Council Meeting - 13 March 2023*

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2. *THAT Council collaborate with the Sydney Harbour Trust to provide improved community facilities on the site.*

Following that Council meeting, I wrote to the Harbour Trust, Minister for the Environment, Tanya Plibersek MP and North Sydney Federal Member, Kylea Tink MP. As a result of that correspondence, on 28 April 2023 the General Manager, senior staff and I met with the Chief Executive of the Harbour Trust, Ms Janet Carding together with the team working on Sub Base Platypus.

On 6 July 2023, I received correspondence from the Harbour Trust confirming the matters we discussed (Attachment 1).

**I therefore recommend:**

**1. THAT** Council note the correspondence from Harbour Trust in relation to Sub Base Platypus dated 6 July 2023.

**2. THAT** Council continue to engage with the Harbour Trust in relation to community uses and activation of the Sub Base Platypus site.

## 9. REPORTS OF COMMITTEES

### 9.1 Waverton Peninsula Working Group Minutes - 6 June 2023

Report of Miranda Shoppee, Team Meeting Administrator

The purpose of this report is to advise the proceedings of the Waverton Peninsula Working Group to Council.

This report presents the recommendations of the Waverton Peninsula Working Group meeting held on 6 June 2023 for Council adoption.

Where the Working Group recommendations are supported, they are proposed to be adopted by Council.

The minutes are attached for information.

**Recommending:**

**1. THAT** the Minutes of the Waverton Peninsula Working Group meeting of 6 June 2023 be noted.

**2. THAT** Council actively engage with Transport for NSW to address water-based issues as a parallel activity to the Master Plan, with this to include the harbour bed sediment contamination issue.

**3. THAT** Council to continue to lobby the NSW Government for the transfer of the Berrys Bays public lands and related marine leases to Council.

**4. THAT** Council request that Maritime NSW:

i) provide Council with the enhanced Landscape Architect / Project Coordinator's design; and

ii) advise what action will be taken to stop the further deterioration of the wharf.

### 9.2 Traffic Committee Minutes - 9 June 2023

Report of Miranda Shoppee, Team Meeting Administrator

Council is required to consider the Minutes of this Committee. Section 5.3.2 of the RMS Delegation to Council for the Regulation of Traffic states that: *All proposals*

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*recommended by the LTC must still be formally approved by the elected Council (or their sub-delegate), subject to certain limitations.*

This report presents the Minutes of the last meeting of the Traffic Committee held on 9 June 2023 for Council adoption. The Minutes are attached for information.

There are no matters referred from the Traffic Committee Meeting of 9 June 2023 to Council for adoption.

The full reports to the Traffic Committee can be viewed at <https://www.northsydney.nsw.gov.au/traffic-committee>.

**Recommending:**

**1. THAT** the Minutes of the Traffic Committee dated 9 June 2023 be received.

## **10. REPORTS TO COUNCIL**

### **10.1 Heritage Assessment of 53 and 55 Yeo Street Cremorne**

Report of Ben Boyd, Executive Strategic Planner

The purpose of this report is to seek Council's endorsement to revoke an Interim Heritage Order (IHO) that Council imposed over numbers 53 and 55 Yeo Street, Cremorne. Revocation is recommended, as an independent comprehensive heritage assessment commissioned by Council has concluded that neither of the two properties adequately meet the heritage threshold criteria to be identified as local heritage items under Council's Local Environmental Plan.

On 13 February 2023, Council considered a Notice of Motion in addressing heritage concerns raised by residents in relation to Development Application DA334/22, which seeks to demolish two x two-storey dwelling houses and construct a four-storey residential flat building at 53 and 55 Yeo Street Cremorne.

At that meeting Council resolved to seek advice to determine whether an Interim Heritage Order could be supported for the sites, and whether the properties could be included as heritage or contributory items within an extended adjacent conservation area.

On the basis of an internally conducted preliminary heritage assessment on 22 February 2023, Council imposed an IHO (No.1/2023) on 53 and 55 Yeo Street Cremorne which took effect on the date of its publication of the IHO in NSW Government Gazette No. 94 on 24 February 2023. The purpose of the IHO was to provide temporary protection of these properties to allow sufficient time to undertake more in-depth research to determine if the two properties were worthy of heritage listing under North Sydney Local Environmental Plan 2013.

On 23 March 2023, the owners of the two properties lodged an appeal with the Land and Environment Court challenging the imposition of the IHO.

On 8 June 2023, Council received a more in-depth and detailed heritage assessment prepared by Extent Heritage which concluded that despite the dwellings being good examples of Federation era dwellings, they do not reach the threshold for listing as individual heritage items at the local level.

Further to these findings, the Extent Heritage report, whilst acknowledging that the dwellings show stylistic similarities to contributory buildings within the adjacent heritage conservation area (HCA), further work would be required to justify their inclusion in that HCA as a formal amendment to the North Sydney LEP.

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Based on the findings of the independent heritage assessment, it is recommended that Council revoke the IHO, as it has served its intended purpose.

**Recommending:**

- 1. THAT** Council note the recommendations of the comprehensive and independent Heritage Assessment prepared by Extent Heritage forming Attachment 1 to this report.
- 2. THAT** pursuant to s.29(4) of the NSW Heritage Act, 1997, Council revoke IHO 1/2023 in relation to 53 and 55 Yeo Street, Neutral Bay as both properties have been found not to adequately satisfy the threshold criteria for listing as a local heritage item.
- 3. THAT** pursuant to s.29(5) of the NSW Heritage Act, 1977, Council:
  - (a) publish a notice in the NSW Government Gazette that the IHO has been revoked.
  - (b) notice of the IHO's revocation is given to NSW Minister for Heritage and NSW Heritage Council and to each affected property owner or occupier.
  - (c) notice be given of the IHO's revocation on Council's website and in the Mosman Daily.
- 4. THAT** Council advise its legal representatives assisting in the Land and Environment Court Appeal against the imposition of the Interim Heritage Order of the outcome of Council's consideration of this report.

## 10.2 IPART Review of the Rate Peg Methodology

Report of Jenny Gleeson, Manager Corporate Planning and Engagement and Christian Menday, Manager Financial Services

The purpose of this report is to inform Council of the Independent Pricing and Regulatory Tribunal's (IPART) review of the Rate Peg Methodology released for stakeholder consultation, and the implications of the draft decisions on Council's future revenue. The report also seeks Council's endorsement for a submission to IPART.

NSW councils are concerned about their ability to remain financially sustainable while simultaneously meeting the growing demand for new and improved services and infrastructure. The long-standing 'rate peg' constrains councils' ability to fully recover the costs of providing current services, and this negatively impacts their financial sustainability.

Council staff have reviewed IPART's Draft Report on the review of the Rate Peg Methodology. The 185-page report, including detailed technical data and calculation methodologies, was issued on 6 June 2023 with submissions closing 4 July 2023. IPART's draft decisions aim to fulfill dual purposes: to address some of the concerns raised by councils regarding the limitations of rate pegging, and to ensure ratepayers are not required to pay more than they need to for services, acknowledging the current cost of living pressures.

Council's long-held advocacy position is that the rate peg itself is an impediment to a council's long term financial sustainability. The rate peg also constrains North Sydney Council's capacity to act on community demands for additional services and infrastructure. This position was most recently put forward in Council's submission to IPART's Issues Paper (November 2022).

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While reiterating general non-support of the rate peg, Council supports the changes proposed to simplify the rate peg methodology. The changes will address lag issues in the current methodology and provide a more up-to-date rate peg that is reflective of the economic environment and costs of inputs that Council is facing. The inclusion of a specific factor for the Emergency Services Levy is supported as a measure to make cost-shifting visible to ratepayers.

IPART also proposes to review the rate peg methodology every five years via a transparent and consultative review process, to ensure the methodology is up to date and fit for purpose, and to establish a Local Government Reference Group. Both intentions are supported.

**Recommending:**

1. **THAT** Council note the IPART Review of the Rate Peg Methodology report.
2. **THAT** Council endorse the submission to IPART on the Rate Peg Methodology.

### **10.3 Variation to Development Standards Q3 2022/23 Financial Year**

Report of Jenny Gracey, Team Leader Administration Services

The Department of Planning and Environment mandates certain reporting requirements for the application of Clause 4.6 (of the North Sydney Local Environmental Plan) variations to development standards as they apply to the determination of development applications. The purpose of this report is to address those requirements for Quarter 3 of the 2022/23 financial year.

When assessing a development application, any variation to a “development standard” contained in the North Sydney LEP 2013 (NSLEP) greater than 10% must be reported to the North Sydney Local Planning Panel (NSLPP) for determination.

The Department of Planning and Environment requires that “a report of all variations approved under delegation by a Council must be provided to a meeting of the Council at least once each quarter”.

Of 133 applications determined in Quarter 3 (Q3), there were 13 approved variations pursuant to clause 4.6 of the NSLEP 2013: nine approved by NSLPP, one by Sydney North Planning Panel (SNPP), two under delegated authority in accordance with Ministerial directions, and a further two accepted under delegation in accordance with expanded delegations given to the Panel.

**Recommending:**

1. **THAT** the report be received.

### **10.4 Community Housing Project Update: 287 Miller Street Cammeray**

Report of Rebecca Aukim, Director Community and Library Services

The purpose of this report is to provide Council with an update on the 287 Miller Street Cammeray community housing project and recommend a way forward in pursuit of its delivery.

In March 2023, Council and community housing provider Link Wentworth, completed the tender process for 287 Miller Street Cammeray to build 12 self-contained one-bedroom affordable housing units. The development received development consent in July 2021.

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Council currently owns approximately 14% of the Miller Street property. Council has previously resolved to acquire 51% ownership of the site concurrent with its contribution for the construction of the development of the site.

In March 2022, Council endorsed a contribution of \$3,089,831 which would represent 51% of the cost of construction of the project and increase Council's ownership to 51% of the land and associated development. In the time that has passed since that resolution, construction costs have risen appreciably and a further contribution of \$1,818,748 would be required towards the project in addition to the contribution towards construction costs, to achieve the ownership benchmark previously endorsed by Council.

This report presents various options to deal with the project and the associated increased construction costs and recommends that the previously endorsed monetary contribution be maintained, and that the 51% ownership of the site no longer be pursued. This is considered a prudent approach and achieves the underlying intent of this project, which is to provide an additional 12 residential community housing units in North Sydney.

Associated with this proposed development is a draft Development Agreement between Council and Link Wentworth which provides clarity around shared costs and other arrangements. It remains in draft form and includes in-principle agreements to address any overrun or underrun of costs. The draft Agreement specifies that cost overruns must be funded and borne in full by Link Wentworth at their sole risk and underruns shall be proportionately refunded to the Landlord (North Sydney Council) upon Practical Completion.

**Recommending:**

**1. THAT** Council endorse Option 1 to finalise a development agreement with Link Wentworth Housing to pursue the construction and delivery of the community housing project at 287 Miller Street, Cammeray which represents a total contribution of \$3,089,831 to be sourced from Council's affordable housing contribution restricted reserve.

**2. THAT** the General Manager be issued with delegated authority to finalise the Development Agreement with Link Wentworth as the basis to deliver the housing project in partnership with Council.

## **10.5 Small Coffee Carts in Outdoor Dining Spaces - Response to Council Resolution**

Report of Albert Lo, Manager Property Assets

The purpose of this report is to provide a response to Council's Resolution of 30 January 2023, addressing the prospect of allowing small coffee carts in Council-controlled outdoor dining spaces.

Local businesses appreciate the opportunity to operate outdoor dining as it creates an expanded activation of the business with more consumers able to enjoy the atmosphere and experience, thereby attracting additional trade.

Recent studies have demonstrated community satisfaction with alfresco/outdoor dining offerings across Sydney.

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At its meeting of 30 January 2023, Council resolved:

*THAT a short report be prepared on the prospect of allowing small coffee carts in Council controlled Outdoor Dining Spaces.*

A review has been undertaken in response to the above resolution and has considered:

1. the purpose and objectives of Council's current *Outdoor Dining and Goods on Footpath Policy*;
2. the increased benefit to local businesses;
3. infrastructure and services implications associated with food/beverage production facilities operating on public land;
4. equitable access to public land – potential conflict between the business community
5. equitable access to public land – potential conflict between businesses and residents
6. industry norms in relation to the use of public land to support local businesses by way of footpath dining;
7. licensing fees should business use of public land be intensified.

There is no doubt that allowing businesses to produce food and/or beverages on public land would provide economic benefit to the business, however, in balancing the public interest and risks associated with infrastructure and service requirements, intensifying the use of outdoor dining areas is not recommended.

A review of neighbouring Councils shows support for outdoor dining only and not for operation of food/beverage production such as coffee cart operation on public land.

**Recommending:**

1. **THAT** Council does not approve the use of coffee carts or any other food/beverage production on footpath areas within the public domain.
2. **THAT** Council update the Policy and Guidelines to make it explicit that food/beverage production is not permissible in Outdoor Dining areas.

## 10.6 Cleaning of Open Space Facilities - Tender 01/2023

Report of David Manson, Manager Parks and Reserves

The purpose of this report is to provide Council with an analysis and recommendation of the tender process for the Cleaning of Open Space Facilities Tender 01/2023.

Tenders were called and were received until 3pm 23 May 2023 for the submission of tenders to undertake the Cleaning of Open Space Facilities across the North Sydney LGA.

Should Council wish to discuss this report it is noted that the attached confidential document includes information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. Further, release of the information would on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services. As such should this matter be discussed it should be considered in closed session.

**Recommending:**

1. **THAT** Council accept the tender of the highest ranked Tenderer for Tender 01/2023 for cleaning of Open Space Facilities.

**2. THAT** the General Manager be authorised to take any necessary action to implement the decision including entering into associated contracts.

**3. THAT** once Council has executed the Contract, the information relating to the successful tender be published in Council's Register of Contracts as required by Government Information (Public Access) Act 2009 – Part 3 Division 5-Government Contracts with Private Sector.

**4 THAT** Council resolves that the identified attachment to this report is to be treated as confidential in accordance with section 11(3) of the Local Government Act for the following reason under section 10A(2) of the Local Government Act:

(d) commercial information of a confidential nature that would, if disclosed:

(i) prejudice the commercial position of the person who supplied it

It is further noted that release of this information would, on balance be contrary to the public interest as publication of all tendered amounts would discourage potential tenderers from submitting commercial information in future and would affect Council's ability to obtain value for money services.

**11. NOTICES OF MOTION**

**Nil**

**12. Matters of Urgency**

**Nil**

**13. CLOSURE**