

**COMMENCEMENT**

The meeting opened with Acknowledgement of Country and Prayer at 6pm.

**IN ATTENDANCE**

The Mayor Zac Miles, Deputy Mayor Elizabeth Krasso, Councillors Ross Williams, Jim Sanderson, Richard Quinn, Tatyana Virgara (via Zoom) and Julia Prieston.

**ALSO PRESENT**

General Manager Mitchell Murphy, Director Finance and Corporate Strategy Maria Kenny, Director Community & Customer Services Annie Goodman, Director Infrastructure and Environmental Sustainability Samantha Urquhart, Director Town Planning Steve Kourepis, Director People and Culture Rosanna Guerra, Manager Communications and Events Shery Demian, Recording Jade Reed and Minute-taker Sarah Jenkins

**APOLOGIES**

No apologies were received.

**DECLARATIONS OF INTEREST**

The Mayor called for Declarations of Interest without response.

**CONFIRMATION OF MINUTES**

**031/24** RESOLVED on the MOTION of Councillor Williams, seconded Councillor Prieston That the Minutes of Ordinary Meeting No. 4532, 29 April 2024 be confirmed.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krasso	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously

**032/24** RESOLVED on the MOTION of Deputy Mayor Krasso, seconded Councillor Prieston That the Minutes of Extraordinary Meeting No. 4533, 20 May 2024 be confirmed.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	

Deputy Mayor Elizabeth Krasso	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously

## MAYORAL MINUTES & REPORTS

### 2.1 MAYORAL MINUTE: VALE TONY BLEASDALE OAM

#### PROCEEDINGS IN BRIEF

#### **033/24** RESOLVED on the MOTION of Mayor Miles

1. That the report be received and noted.
2. That a letter of condolence be forwarded to Tony Bleasdale's family.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krasso	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously

## TABLING OF PETITIONS

#### PROCEEDINGS IN BRIEF

A petition was tabled in relation to Late Item 4.11 by Mr Sameer Kassam with 65 signatures from 28 residences.

## ADDRESSES FROM THE PUBLIC

#### PROCEEDINGS IN BRIEF

Nil

**MOVE ITEM**

- 034/24** RESOLVED on the MOTION of Councillor Sanderson, seconded Councillor Prieston That at 06:07 pm Late Item 4.11 be brought forward to be discussed prior to Item 4.11.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoi	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously

**COUNCIL REPORTS**

- 4.11 FARNELL STREET - TRAFFIC CALMING

**PROCEEDINGS IN BRIEF**

Mr Sameer Kassam addressed the meeting.

Mrs Melinda Doust addressed the meeting. Mrs Doust was granted an extension of time (moved by Clr Prieston, seconded by Clr Sanderson and carried unanimously).

Ms Maria Page addressed the meeting on behalf of the residents on North Farnell Street. Ms Page was granted an extension of time (moved by Clr Quinn, seconded by Clr Prieston and carried unanimously).

**RECOMMENDATION**

1. That the report be received and noted.
2. That Council determine to proceed with one of the available options and next steps as proposed within the body of this report. These options are:
  - a. Option 1- Remove the two slow points constructed in North Farnell Street
  - b. Option 2- Retain the two slow points constructed in North Farnell Street until further consultation has been undertaken.
  - c. Option 3- Retain the two slow points constructed on North Farnell Street.
3. That the detailed design for all future works associated with the 'Boronia' Local Area Traffic Management Scheme and other traffic management projects be put out to public consultation, prior to final endorsement through the Local Area Traffic Committee, including consideration of community feedback.

MOVED on the MOTION of Councillor Williams, seconded Councillor Sanderson

An AMENDMENT was moved by Clr Ross Williams seconded by Clr Jim Sanderson:

That Council:

1. That the report be received and noted;
2. Remove slow points installed in Farnell Street (North) - commence early June 2024;
3. Undertake comprehensive public consultation to seek feedback on appropriate traffic calming devices to be placed on Farnell Street North - June to September 2024.
4. Additional consultation be taken across the whole LATM area to ensure a uniform and equitable approach for all residents and identify unintended consequences of traffic management actions in the LATM area;
5. Work with TfNSW to seek improved traffic light phasing for the Right-Hand turn onto Pittwater Road from Ryde Road;
6. A further report be brought back to Council to consider the progress/ outcomes of the public consultation and alternate traffic calming devices. - July 2024; and
7. In all future Traffic Management device installations council provide detailed plans showing actual form, dimensions, and location of the planned traffic management device to affected residents and in particular conduct final consultation with the residents adjacent to the planned devices.

An amendment to point 3 incorporating the wording of the resident's petition was suggested by Mayor Miles and accepted by Clr Williams.

In addition, an additional point, point 5, was suggested by Deputy Mayor Krasso and accepted by Clr Williams.

The Amended MOTION became:

That Council:

1. That the report be received and noted;
2. Remove slow points installed in Farnell Street (North) - commence early June 2024;
3. Engage in community consultation, particularly with North Farnell residents, in relation to future measures (if any) appropriate to address any current safety issues in relation to speed or rat running, including in relation to type, engineering and location of any such future measures - June to September 2024.
4. Additional consultation be taken across the whole LATM area to ensure a uniform and equitable approach for all residents and identify unintended consequences of traffic management actions in the LATM area;
5. That the 2021 LATMS and Action Plan process be completed with current community consultation and be formally adopted by Council;
6. Work with TfNSW to seek improved traffic light phasing for the Right-Hand turn onto Pittwater Road from Ryde Road;

7. A further report be brought back to Council to consider the progress/ outcomes of the public consultation and alternate traffic calming devices. - July 2024; and
8. In all future Traffic Management device installations council provide detailed plans showing actual form, dimensions, and location of the planned traffic management device to affected residents and in particular conduct final consultation with the residents adjacent to the planned devices.

**035/24** RESOLVED on the AMENDED MOTION of Councillor Williams, seconded Councillor Sanderson

That Council:

1. That the report be received and noted;
2. Remove slow points installed in Farnell Street (North) - commence early June 2024;
3. Engage in community consultation, particularly with North Farnell residents, in relation to future measures (if any) appropriate to address any current safety issues in relation to speed or rat running, including in relation to type, engineering and location of any such future measures - June to September 2024.
4. Additional consultation be taken across the whole LATM area to ensure a uniform and equitable approach for all residents and identify unintended consequences of traffic management actions in the LATM area;
5. That the 2021 LATMS and Action Plan process be completed with current community consultation and be formally adopted by Council;
6. Work with TfNSW to seek improved traffic light phasing for the Right-Hand turn onto Pittwater Road from Ryde Road;
7. A further report be brought back to Council to consider the progress/ outcomes of the public consultation and alternate traffic calming devices. - July 2024; and
8. In all future Traffic Management device installations council provide detailed plans showing actual form, dimensions, and location of the planned traffic management device to affected residents and in particular conduct final consultation with the residents adjacent to the planned devices.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krasso	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously

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4.1 HUNTERS HILL LOCAL PLANNING PANEL - REQUEST FOR DELEGATION TO GENERAL MANAGER TO APPOINT NEW MEMBERS

PROCEEDINGS IN BRIEF

**RECOMMENDATION**

1. That Council delegate authority to the General Manager to appoint a chair, two alternate chairs, additional expert members and community representatives to the Hunter's Hill LPP from the 2024 Minister approved list.

MOVED on the MOTION of Councillor Sanderson, seconded Councillor Williams

An AMENDMENT was moved by Clr Jim Sanderson seconded by Clr Ross Williams:

1. That Council notes the LOCAL PLANNING PANELS DIRECTION - INTERIM APPOINTMENT OF MEMBERS, made by the Minister for Planning & Public Spaces the Hon Paul Scully on 22 January 2024, and in particular under the heading 'Direction 2 Interim appointment from the pool dated 28 February 2021' relating to the appointment of panel members 'for the period covering 28 February 2024 to 30 June 2024' that under Direction 2.3:

Any panel member who has served two terms on a specific local planning panel cannot be reappointed, this includes community representatives. In this case, a council to whom this direction applies must appoint a new panel member from the approved pool.

2. That Council also notes the *Environmental Planning and Assessment Act 1979* Schedule 2 Part 4 Provisions relating to members of planning bodies, Clause 11 Terms of office of members, in relation to appointment of Local Planning Panel (LPP) members, relevantly provides:
  - (1) A member of a planning body holds office, subject to this Act and the regulations, for such period (not exceeding 3 years) as is specified in the member's instrument of appointment.
  - ...
  - (3) A member is eligible (if otherwise qualified) for re-appointment.
  - ...
  - (6) A member of a local planning panel may not hold office as a member of that panel for more than 6 years in total.
3. That Council seek confirmation from the Department of Planning that the Ministerial Direction of 22 January 2024 does not prevent:
  - (a) The reappointment of expert members who have not served more than six years in total as members of the Hunter's Hill LPP and who remain included

in the new list of Minister approved LPP chairs and expert members, which is expected by the end of May 2024; and

- (b) The reappointment of community representatives who have not served more than six years in total as members of the Hunter's Hill LPP.
4. That, if not already done so, Council urgently seek expressions of interest from suitably qualified Heritage Planners and Heritage Architects from the approved list of independent experts expected by the end of May 2024 (including from existing panel members who have served less than six years) to serve as Independent Expert members of the Hunters Hill LPP until 30 September 2025.
5. That, if not already done so, Council urgently seek expressions of interest from suitably qualified residents of the Municipality of Hunter's Hill (including from existing panel members who have served less than six years) to serve as a Community Representative Members of the Hunters Hill LPP until 30 September 2025.
6. That Council convene a Working Party of all Councillors to report and make recommendations to Council in relation to the appointment of Independent Expert and Community Representative Members of Council's Local Planning Panel in time for Council to finalise appointment of all Local Planning Panel members at or before its Ordinary Meeting in July 2024.
7. That the Working Party be authorised to perform its work utilising Council Staff and resources as required to complete its ultimate function, including:
  - (a) assessing the qualifications, expertise, experience and relevant knowledge of the Municipality of Hunter's Hill and its values of candidates for Independent Expert and Community Representative membership of the LPP against relevant selection criteria;
  - (b) considering any advice provided by Council Officers;
  - (c) shortlisting suitable candidates; and
  - (d) conducting interviews of potential appointees as appropriate.
8. That information about the LPP appointment process be published on the Council website.

MOVED on the MOTION of Councillor Quinn

Clr Quinn foreshadowed the motion that was in the paper:

1. That Council delegate authority to the General Manager to appoint a chair, two alternate chairs, additional expert members and community representatives to the Hunter's Hill LPP from the 2024 Minister approved list.

The AMENDED MOTION was PUT to the meeting.

RECORD OF VOTING	
For	Against
Councillor Ross Williams	Mayor Zac Miles
Councillor Jim Sanderson	Deputy Mayor Elizabeth Krassoi
	Councillor Richard Quinn
	Councillor Tatyana Virgara
	Councillor Julia Prieston

The MOTION was NOT CARRIED

The FORESHADOWED motion became the MOTION:

1. That Council delegate authority to the General Manager to appoint a chair, two alternate chairs, additional expert members and community representatives to the Hunter's Hill LPP from the 2024 Minister approved list.

Mayor Miles left the meeting at 07:50 pm and Deputy Mayor Krassoi chaired the meeting.

Mayor Miles returned to the meeting at 07:51 pm.

MOVED on the MOTION of Councillor Sanderson, seconded Councillor Williams

An AMENDMENT was moved by Clr Jim Sanderson seconded by Clr Ross Williams:

1. That Council delegate authority to the General Manager to appoint a chair, two alternate chairs, four additional expert members and four community representatives to the Hunter's Hill LPP, with the chair, alternate chairs and additional expert members being appointed from the 2024 Minister approved list.
2. That existing Hunter's Hill LPP expert members who have served less than six years in total be eligible to apply provided they remain on the 2024 Minister approved list.
3. That existing Hunter's Hill LPP community representative members who have served less than six years in total be eligible to apply.
4. That the term of appointments of expert members and community representatives under this delegation expire on 31 March 2025.
5. That this delegation to the General Manager expire on the affirmation of office of Hunter's Hill Councillors elected at the 2024 Local Government Elections.

The AMENDED MOTION was PUT to the meeting

RECORD OF VOTING	
For	Against
Councillor Ross Williams	Mayor Zac Miles



Councillor Jim Sanderson	Deputy Mayor Elizabeth Krasso
	Councillor Richard Quinn
	Councillor Tatyana Virgara
	Councillor Julia Prieston

The AMENDED MOTION was NOT CARRIED

The FORESHADOWED motion became the MOTION and was subsequently amended by Clr Quinn and seconded by Deputy Mayor Krasso to become:

That Council delegate authority to the General Manager to:

1. Appoint a chair, two alternate chairs, and additional expert members to the Hunter’s Hill LPP from the 2024 Minister approved list; and
2. Appoint community representatives to the Hunter’s Hill LPP.

**036/24** RESOLVED on the MOTION of Councillor Quinn, seconded Deputy Mayor Krasso

That Council delegate authority to the General Manager to:

1. Appoint a chair, two alternate chairs, and additional expert members to the Hunter’s Hill LPP from the 2024 Minister approved list; and
2. Appoint community representatives to the Hunter’s Hill LPP.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	Councillor Ross Williams
Deputy Mayor Elizabeth Krasso	Councillor Jim Sanderson
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED.

4.2 QUARTERLY BUDGET REVIEW AS AT 31 MARCH, 2024

PROCEEDINGS IN BRIEF

**037/24** RESOLVED on the MOTION of Councillor Quinn, seconded Councillor Prieston

1. That the report be received and noted.
2. That variations to the FY2023-24 operational and capital budget, as outlined in this report, be adopted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krasso	

Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

#### 4.3 SUMMARY OF COUNCIL INVESTMENTS AS AT 30 APRIL 2024

##### PROCEEDINGS IN BRIEF

**038/24** RESOLVED on the MOTION of Councillor Quinn, seconded Councillor Williams

1. That the report be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoi	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

#### 4.4 DEVELOPMENT APPLICATIONS DETERMINED BY THE LOCAL PLANNING PANEL IN APRIL 2024

##### PROCEEDINGS IN BRIEF

**039/24** RESOLVED on the MOTION of Councillor Quinn, seconded Councillor Prieston

1. That the report be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoi	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

4.5 DEVELOPMENT APPLICATIONS DETERMINED BY THE DEVELOPMENT CONTROL UNIT  
IN APRIL 2024

PROCEEDINGS IN BRIEF

**040/24** RESOLVED on the MOTION of Councillor Quinn, seconded Deputy Mayor Krassoï

1. That the report be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoï	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

4.6 DEVELOPMENT APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY IN  
APRIL 2024

PROCEEDINGS IN BRIEF

**041/24** RESOLVED on the MOTION of Councillor Quinn, seconded Deputy Mayor Krassoï

1. That the report be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoï	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

4.7 REPORT OF LEGAL MATTERS - APRIL 2024

PROCEEDINGS IN BRIEF

**042/24** RESOLVED on the MOTION of Councillor Quinn, seconded Councillor Williams

1. That the report be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoi	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

4.8 COUNCILLOR BRIEFINGS AND WORKSHOPS

PROCEEDINGS IN BRIEF

**043/24** RESOLVED on the MOTION of Councillor Williams, seconded Deputy Mayor Krassoi

1. That the report be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krassoi	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

4.9 MINUTES OF THE SUSTAINABILITY ADVISORY COMMITTEE HELD ON 14 MARCH 2024

PROCEEDINGS IN BRIEF

**044/24** RESOLVED on the MOTION of Deputy Mayor Krassoi, seconded Councillor Williams

That the Minutes be received and noted.

RECORD OF VOTING
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For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krasso	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

#### 4.10 MINUTES OF THE CULTURAL AND EVENTS ADVISORY COMMITTEE HELD ON 14 MAY 2024

##### PROCEEDINGS IN BRIEF

- 045/24** RESOLVED on the MOTION of Councillor Prieston, seconded Councillor Quinn  
That the minutes be received and noted.

RECORD OF VOTING	
For	Against
Mayor Zac Miles	
Deputy Mayor Elizabeth Krasso	
Councillor Ross Williams	
Councillor Jim Sanderson	
Councillor Richard Quinn	
Councillor Tatyana Virgara	
Councillor Julia Prieston	

The MOTION was CARRIED unanimously.

##### Questions With or Without Notice

- 7.1 CR ELIZABETH KRASSOI (SUBJECT: COMPOST REVOLUTION)

##### PROCEEDINGS IN BRIEF

##### **QUESTION FROM CR KRASSOI:**

##### **1. SUBJECT: COMPOST REVOLUTION**

##### **Background**

We have previously discussed compost revolution as a great way to create education and action around household food waste and scrap management.

##### **Question or Service Requested:**

1. If not in our current budget, are Council able to piggyback with Lane Cove (which has the program up and running).

**RESPONSE:**

Compost Revolution started in 2010 as a joint-initiative of Waverley, Randwick and Woollahra Councils utilising funding from the NSW Environmental Trust. In 2012, the program was scaled up and outsourced to Revolution Apps to take over the running of the platform.

The online platform provides tutorials and sales for users with 'free' delivery. Residents of participating councils are eligible for discounted composting products to help them reduce their organic waste at home.

The indicative program costs are likely to be up to \$15,000 including the estimated subsidy and annual fee paid to Compost Revolution. There is currently no budget allocated in the 2024-25 FY for ongoing membership with Compost Revolution (or any other provider).

Whilst Council supports the concept of Compost Revolution, it is currently investigating the market, including alternate products that may be purchased for similar costs by residents directly through local retail stores, without requiring a Council subsidy.

It is not feasible for Council to piggy back off another Council, given the contractual obligations and complexity with rationalising the subsidy allocation to each Council. However, Council will seek feedback from Lane Cove Council as part of its investigations.

Upon completion of this investigation, staff will brief Councillors.

**7.2 CR JIM SANDERSON (SUBJECT: EXCAVATION OF DEVELOPMENT SITES)****PROCEEDINGS IN BRIEF****QUESTIONS FROM CR SANDERSON:****1. SUBJECT: EXCAVATION OF DEVELOPMENT SITES****Question or Service Requested:****Background**

On 15 April, I made a detailed Councillor Request regarding excessive excavation of development sites and in particular in relation to two sites in part of the Municipality, which are not within a Heritage Conservation Area but where excavation did not appear to comply with relevant Parts of the *State Environmental Planning Policy (Exempt and Complying Development) 2008 (Codes SEPP)*.

In relation to the first development, presumably initially approved under Part 3B of the *Low Rise Housing Diversity Code* of the *Codes SEPP*, but as I understand this complying development certificate (CDC) was later surrendered, I asked:

**Is there any approval that currently permits development work on this site?**

**If there is currently no development consent, how is it that work continues on this site?**

The other development, presumably approved under Part 3 of the *Codes SEPP*, apparently has an excavation that will accommodate a basement well in excess of the maximum area of 45 square metres. Additionally, under Clause 3.1 of the *Codes SEPP*, should any part of the basement contain more than a lift shaft, stairway or meter room and have another two storeys above it, the building will be regarded as three storey and not come within the scope of the *Codes SEPP*.

As I understand, a development application that sought to cover excavation well in excess of that permitted by the *Codes SEPP* was later withdrawn.

I asked and again ask:

**Can Council ensure that we stop development that takes advantage of the generally less prescriptive provisions of the *Codes SEPP* but seeks a Building Information Certificate to cover excessive excavation?**

**Allowing the developer to utilise the excavation for a basement that exceeds the limits of the *Codes SEPP* would be to reward wrong doing. Can orders be sought to have the excessive area of excavation filled in?**

## **Excessive Excavation in General**

### **Background**

In addition to the developments discussed above, there have been other cases of excessive excavation of development sites, regardless of whether approval has been by CDC or the LEP/DCP track.

Excessive excavation can: permanently remove features of local natural topography including rock outcrops; impact on the water table; and create risks for adjoining property, particularly early development without concrete foundations including many heritage items.

Both the LEP currently in force and amendments proposed in the current LEP scoping proposal, while including objectives to reduce excavation, have no numeric controls to limit excavation.

The current DCP has excavation controls that are specific to tree protection zones and the restricted zone between the mean high-water mark and the foreshore building line. Otherwise, the DCP limits numeric controls to clause 3.3.4 Landscaped Areas Control (f), which provides:

Landscaped areas should maintain existing topography:

- (i) Cut or fill should not be deeper than 1 metre measured from ground level (existing) at any point.
- (ii) The combined vertical height of cut-and-fill should not exceed 1.5 metres.

(iii) Excavation which exceeds these limits typically represents an excessive intrusion upon natural topography.

It is of concern that these provisions use the term 'should' rather than 'shall' and are located in the discretionary DCP rather than the legislative instrument, the LEP.

The absence of numeric controls on excavation from the LEP, appears to be leading to developers, who have exceeded the excavation limits of their CDC approval, to attempt to use the LEP to justify excessive excavation.

There appears to be strong justification, if possible, for including numeric controls on excavation in the LEP.

### **Question**

**Does anything prevent the inclusion of numeric controls on excavation in the LEP?**

Noting that these questions and in particular the last question are relevant to the current LEP / DCP review, can these questions now be answered?

### **RESPONSE:**

***Is there any approval that currently permits development work on this site?***

#### **10 Earl Street, Hunters Hill**

In regards to **10 Earl Street, Hunters Hill**, there is an approval for the current excavation on site. CDC20228166 was approved by a Private Certifier and the site is under the Certifier's supervision. The approval is for the construction for dual occupancy dwellings.

The Private Certifier has advised Council, that the "*additional excavations*" around the perimeter of the proposed dual occupation, was to allow for provision of sub-soil drainage and construction of the retaining walls, to hold back the excavation and support the first-floor slab.

These excavations around the proposed dual occupation have now been back filled to original levels.

There are minor excavations around the common boundary alignment which is causing subsidence of the common boundary fence and the private certifier has required the builder to address this matter promptly.

#### **22a Earl Street, Hunters Hill**

Regarding **22a Earl Street, Hunters Hill**, there was a CDC 20238222 issued by a Private Certifier. The approval is for the construction of a dwelling house.

Work commenced, the builder's Home Owners Warrantee Insurance was not forthcoming therefore the certifier had withdrawn his services.

A stop work notice was issued on 1 September 2023. The new builder and owner are currently in discussion with the Private Certifier to recommence services.

Council has been requested in the interim to issue a Building Information Certificate, on the slab construction, pool shell and footings associated with boundary walls on the common boundaries.



The owner will be lodging a Development Application for the use of this sub-floor area, which will be considered on its submission, to Council.

The process to date has taken over 8 months.

Council's Rangers and Health and Building Surveyor have been monitoring the site to ensure siltation control measures are maintained.

***If there is currently no development consent, how is it that work continues on this site?***

#### **10 & 22a Earl Street, Hunters Hill**

In reference to both the above sites, initial earth works, drainage and partial "back filling" continued to stabilise the soil movements, to ensure reduced potential damage to neighbouring properties, under the supervision of a Private Certifier.

***Can Council ensure that we stop development that takes advantage of the generally less prescriptive provisions of the Codes SEPP but seeks a Building Information Certificate to cover excessive excavation?***

In all cases, once Council is notified/made aware of any potential non-compliances with an approved CDC or Construction Certificate (CC), Council's Health and Building Surveyor inspects the site and would notify the appropriate Private Certifier of the situation. This is also conveyed to the public/customer, were under the current NSW Legislation this inquiry from the public can be escalated by them, to the Building Commission, who monitor all Certifiers.

***Allowing the developer to utilise the excavation for a basement that exceeds the limits of the Codes SEPP would be to reward wrong doing. Can orders be sought to have the excessive area of excavation filled in?***

As detailed above, Council does not approve unauthorised works and in these instances the Private Certifier who is controlling these two projects must work inside the approved plans or seek to amend these CDC plans.

A Building Information Certificate (BIC) does not approve any unauthorised works. A BIC can be submitted by the owner to regularise works, however the above process must be worked through between the builder / owner and the certifier prior to submission.

***Does anything prevent the inclusion of numeric controls on excavation in the LEP?***

A Local Environment Plan (LEP) is a legal document which guides development and land use within a particular Local Government Area. LEPs outline what a landowner can or cannot do with their land and may provide for the protection of heritage and environmentally sensitive areas.

A Development Control Plan (DCP) is a written document that supports the Local Environmental Plan (LEP) and expands its principal development standards. It is a locally adopted plan and guides council staff, developers and landowners in the requirements needed and provides guidelines for

development. A DCP may contain a range of measures such as planning principles, objectives and controls for buildings. DCPs can also have controls for single topics such as landscaping, drainage, excavation and car parking.

CONCLUSION

The meeting concluded at 8.27pm.

I confirm that these Minutes are a true and accurate record of Ordinary Meeting No. 4534 held on 27 May 2024.

.....  
Councillor Zac Miles  
MAYOR

.....  
Mitchell Murphy  
GENERAL MANAGER