

Floodplain Risk Management Advisory Panel - Terms of Reference, Membership and Appointment of Chairperson

File No: S055537-02

Summary

The City of Sydney first established a Floodplain Risk Management Committee in 2008 with a principal objective to assist Council in the development, implementation, and review of floodplain policy and flood risk management plans. The Committee was also necessary to ensure that Council met its statutory obligations relating to the management of flood liable land.

The former Floodplain Risk Management Committee ceased in 2016 once all policy, studies and plans were prepared. Since that time many important flood risk mitigation initiatives have been instigated within the local government area, and some major works have resulted in significant changes to flood catchments.

Legislative reform, improved industry standards and advances in technology have also occurred over the last 9 years, and these changes can have a significant influence on outcomes set in flood studies and plans.

For these reasons, and to ensure Council continues to meet its statutory obligations, the City of Sydney's flood related studies and plans need to be reviewed with the oversight of a Floodplain Risk Management Advisory Panel.

The Floodplain Risk Management Advisory Panel has no decision-making powers. It is primarily a technical review body which is required to advise Council and City of Sydney staff on flood-related policy, studies and plans. Any study or plan supported by the Floodplain Risk Management Advisory Panel must be approved by the elected Council if it is to be implemented.

This advisory panel is specifically an opportunity for input and engagement. The Panel is not constituted as a committee of Council under the Local Government Act 1993, nor a sub-committee of the Central Sydney Planning Committee under the City of Sydney Act 1988.

The advisory panel is comprised of 2 Council representatives, 4 community representatives and up to 9 representatives from other relevant government agencies. The new Council representatives and community representatives are to be determined by Council. These representatives are recommended to be appointed for a term commencing immediately and ending on the day appointed for the next ordinary election of Council.

Recommendation

It is resolved that Council:

- (A) endorse the establishment of the Floodplain Risk Management Advisory Panel;
- (B) endorse and adopt the Terms of Reference of the Floodplain Risk Management Advisory Panel, as contained in Attachment A to the subject report;
- (C) authority be delegated to the Chief Executive Officer to make minor amendments to the Terms of Reference, in consultation with the Floodplain Risk Management Advisory Panel to correct any drafting errors and finalise design, artwork and accessible formats for publication;
- (D) appoint Councillor _____ as the Chairperson of the Floodplain Risk Management Advisory Panel for a term effective immediately and ending on the day appointed for the next ordinary election of Council;
- (E) appoint Councillor _____ as the alternate Chairperson of the Floodplain Risk Management Advisory Panel, for a term effective immediately and ending on the day appointed for the next ordinary election of Council; and
- (F) appoint Lois Towart, Robert Vitale, Cheryl Hollebon and Toulia Foster as the community representatives of the Floodplain Risk Management Advisory Panel, for a term effective immediately and ending on the day appointed for the next ordinary election of Council.

Attachment

- Attachment A.** Floodplain Risk Management Advisory Panel Terms of Reference
- Attachment B.** Community Representatives Expressions of Interest (Confidential)

Background

1. The Local Government Act 1993, section 733, provides councils with exemption from liability for decisions made about the management of flood liable land where those decisions are made in good faith and consistent with the principles of the gazetted manual for management of flood liable land.
2. The NSW Government gazetted a revised version of the Flood Risk Management Manual (the Manual) in 2023 as the manual relating to the management of flood liable land under the Local Government Act 1993, section 733.
3. Councils are provided protection for liability for certain advice and activities associated with flood liable land under section 733 of the Local Government Act 1993, where they act in good faith and in accordance with the principles of the Manual.
4. Principle 1 of the Manual is "Establish sustainable governance arrangements". Effective governance arrangements are identified as integral to support the strategic management of flood risk, and for responsibility within the council structure to be clear. The Manual states that councils should establish a Floodplain Risk Management Committee as a recommended governance arrangement.
5. On 4 August 2008, Council resolved to establish a Floodplain Risk Management Committee. This committee was later established as a sub-committee of the Environment and Heritage Committee.
6. This Floodplain Risk Management Committee successfully oversaw the preparation of 8 flood studies and respective floodplain risk management studies and plans between 2008 and 2016. No further meetings were warranted as Council had adopted the flood studies and floodplain risk management studies and plans for all parts of the local government area, and the committee ceased after its final meeting in December 2016.
7. The latest gazetted Manual now recommends that floodplain risk management studies and plans are reviewed at least every 5 years, or when other significant changes occur in the catchment such as major re-development, significant floods, changes in community needs or when recommended measures are no longer considered to be feasible.
8. Since 2016, many important flood risk mitigation initiatives have been instigated within the local government area, and some major works have resulted in significant changes to flood catchments.
9. Legislative reform, improved industry standards and advances in technology have also occurred over the last 9 years, and these changes can have a significant influence on outcomes set in flood studies and plans.
10. To ensure Council continues to meet its statutory obligations, the City of Sydney's flood related studies and plans need to be reviewed with the oversight of a Floodplain Risk Management Advisory Panel.
11. City of Sydney staff have instigated activities to review and updating flood studies and floodplain risk management studies and plans in accordance with the Manual. Documentation relating to all catchments will progressively be reviewed. Re-establishing the Floodplain Risk Management Advisory Panel is now required as part of the governance arrangements for the program.

12. Terms of Reference for the Floodplain Risk Management Advisory Panel have been developed to define panel membership and procedures.
13. The scope of the Panel defined in the Terms of Reference includes acting as a forum for the discussion of technical, social, financial and environmental issues associated with flooding, facilitating coordination between Council, NSW Government agencies and the local community on flood related matters, and overseeing Council's floodplain risk management program, including development, implementation and review of flood studies, floodplain risk management studies and floodplain risk management plans.
14. The Terms of Reference contain membership provisions which are consistent with the Manual, including elected members of Council, local community representatives, City of Sydney staff involved in floodplain management, representatives from NSW Government agencies, and other key stakeholders such as or owners of land that may influence flood behaviour and managers of infrastructure like Sydney Water.
15. Once Council endorses the establishment of the Floodplain Risk Management Advisory Panel, adopt the Terms of Reference and appoint the Chairperson, Alternate Chairperson and community members The remaining members of the Panel may then be appointed in keeping with the Terms of Reference.
16. An expression of interest for community representatives on the Floodplain Risk Management Advisory Panel was open from 2 October to 30 October 2024. Eight applications were received and these have been assessed in keeping with the selection criteria within in the draft Terms of Reference. It is recommended that Council appoint Lois Towart, Robert Vitale, Cheryl Hollebon and Toula Foster as the community representatives of the Floodplain Risk Management Advisory Panel, for a term effective immediately and ending on the day appointed for the next ordinary election of Council. Refer to Attachment B for further information about the expression of interest applications.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

17. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship - the Floodplain Risk Management Advisory Panel will ensure effective governance arrangements to oversee the City of Sydney's floodplain management program and associated activities in accordance with the Manual.
 - (b) Direction 4 - Design excellence and sustainable development - the Floodplain Risk Management Advisory Panel will oversee the development and implementation of Council's floodplain management program which in turn improve capacity and capability to plan sustainable development in the City of Sydney to reduce the risk to life and property damage from flooding and withstand the impacts of climate change.

- (c) Direction 7 - Resilient and diverse communities - the Floodplain Risk Management Advisory Panel will oversee the development and implementation of Council's floodplain management program including recommendations on emergency management, managing and reducing flood risk, improving community resilience and managing changes in risk due to climate change.

Organisational Impact

18. The Floodplain Risk Management Advisory Panel will be coordinated by existing staff.

Risks

19. The Floodplain Risk Management Advisory Panel will help the City of Sydney demonstrate that flood liable land is being managed in accordance with the Manual and that decisions are being made in good faith as required to satisfy the provisions of Section 733 of the Local Government Act 1993.
20. The main objective of floodplain risk management is to reduce risk to life and property damage caused by flooding. The advisory panel will consider a range of flood related issues and make recommendations regarding floodplain risk management studies and plans which may include potential flood mitigation works, changes to planning conditions and property notations, information sharing and education and emergency management. The Advisory Panel will provide oversight to the management of these measures, including the technical, communication and consultation processes associated with these risk management approaches.

Social / Cultural / Community

21. The Floodplain Risk Management Advisory Panel will include up to four community representatives. The process for reviewing flood risk management studies and plans includes community and stakeholder engagement.

Environmental

22. Flooding is recognised as a significant environmental risk. Flood studies and floodplain risk management plans seek to understand and insofar as is possible, manage these risks, including risks associated with climate change. The Floodplain Risk Management Advisory Panel will provide the necessary governance oversight to ensure that the City of Sydney is responsibly managing its floodplains.

Economic

23. Floodplain Risk management studies and plans consider both the direct and indirect economic impacts of flooding and the costs of mitigating the flood risks. The feasibility, cost and benefits of identified flood mitigation options will then be clearly and transparently assessed and prioritised for the benefit of the community and the City of Sydney in developing plans to implement viable flood mitigation measures and strategies.
24. The Floodplain Risk Management Advisory Panel will oversee the City of Sydney's floodplain management activities with the aim of reducing the future economic impacts of flooding.

Financial Implications

25. The Floodplain Risk Management Advisory Panel is advisory in nature and provides recommendations to Council. It will not have any power to incur expenditure or to bind the Council to any recommendation of the panel.
26. The long-term financial plan includes a provision for stormwater drainage enhancement of \$60.8 million over the 10 years from 2024/25. The panel may make recommendations on the prioritisation of floodplain risk management measures to be delivered using these funds, however the decision to commit funds will remain with Council or as delegated to CEO, Directors and staff.
27. Annual operational budgets include allowances to review and update flood studies and floodplain risk management studies and plans.
28. The formation of a panel aligns with recommendations within the Manual. By following the Manual the City of Sydney will ensure that Council is eligible for floodplain management grants awarded by the NSW Government.

Relevant Legislation

29. Local Government Act 1993, section 733, provides councils are not liable for certain advice and activities associated with flood liable land which are undertaken in good faith, which includes managing catchments in accordance with the principles of the Manual.

Critical Dates / Time Frames

30. In May 2024, the City of Sydney commenced updates to flood studies for the Darling Harbour and City Area catchments under the NSW Floodplain Management Program. The City of Sydney was awarded a grant to undertake these updates with the funding awarded on a 2 to 1 basis with the grant covering two thirds of the cost and the City of Sydney funding one third.
31. It is anticipated that the floodplain risk management advisory panel will need to be in place as early as practicable to support the process of consultation, review and finalisation of these flood study updates.
32. The City of Sydney is also reviewing flood notations in line Department of Planning requirements and the Panel will oversee this process in accordance with the scope defined in its Terms of Reference.

Options

33. Not undertaking any work to review and act in response to flood management studies is not recommended. This approach has potential to increase the community risk to loss of life and property damage as well as being inconsistent with flood management responsibilities under the Local Government Act 1993.
34. Responsibility could be given to the Council's Environment and Climate Change Committee to manage flood risk. This option would not satisfy the governance requirements of the Manual, which requires representation from community members and NSW Government departments. Flooding issues can also be very complex and warrant their own meeting with members having appropriate expertise to focus to determine appropriate recommendations.
35. Formation of a Floodplain Risk Management Advisory Panel, reporting via the Environment and Climate Change Committee, with appropriate Terms of Reference, internal, community and other stakeholder membership and technical support is recommended to satisfy the governance requirements of the Manual. This option is recommended in consideration of advantages and disadvantages of other options and alignment with the Manual.

Public Consultation

36. This advisory panel provides an authentic and transparent mechanism to engage. The call for Expressions of Interest to be a community representative on the Floodplain Risk Management Advisory Panel was open from 2 October to 30 October 2024. During this period the City's floodplain risk management approach was promoted to all members of the community. Extensive community and stakeholder engagement will occur as floodplain risk management studies and plans are reviewed. The outcomes of the consultation will be considered by the Panel and the outcomes will be reported to Council.

VERONICA LEE

Executive Director City Services

Stuart McTaggart, Principal Engineer - Environment and Water

Attachment A

**Floodplain Risk Management Advisory
Panel Terms of Reference**

Floodplain Risk Management Advisory Panel Terms of Reference

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1. Purpose

The primary role of the Floodplain Risk Management Advisory Panel is to assist Council in the development, implementation, and review of floodplain risk management plans. The Panel will:

- Act as a forum for the discussion of technical, social, financial and environmental issues associated with flooding;
- Facilitate coordination between Council, NSW State Government agencies and the local community on flood related matters; and
- Oversee and provide input to Council's floodplain risk management program, including development, implementation and review of flood studies, floodplain risk management studies and floodplain risk management plans.

The Panel complies with the provisions of the NSW Flood Risk Management Manual 2023 for the purposes of section 733 of the Local Government Act 1993, and reports to Council through the Environment and Climate Change Committee.

The Panel's advice must be in alignment with the City's policies, strategies and operational plans.

2. Limitation of Authority

The Floodplain Risk Management Advisory Panel is an advisory body to the City of Sydney Local Government Authority. The Floodplain Risk Management Advisory Panel is not an executive body and does not have the authority to:

- expend money on behalf of Council;
 - undertake any work on behalf of the City of Sydney;
 - commit the Council to any arrangement;
 - consider any matter outside its specific reference;
 - direct Council officers in the performance of their duties; or
 - represent the Council in any communication with the public or media without the permission of the City of Sydney.
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3. Membership

Membership of the Floodplain Risk Management Advisory Panel will include representatives from the local community, elected representatives of Council and representatives of various Government agencies.

Membership of the Floodplain Risk Management Advisory Panel consists of up to 13 formal members, including representatives from:

- Community (4);
- NSW State Emergency Service officers or volunteers (4);
- Sydney Water (1);
- Transport for NSW (1);
- NSW Department of Climate Change, Energy, the Environment and Water (1);
- Other invited government Agencies as and when required ; and

- City of Sydney (2).

All members representing external government agencies shall be appointed to the panel by the agency they represent and hold appointments on a representative basis only. The representative agency can revoke an appointment at any time and appoint a new representative by way of written notice to Council.

The Council representative will act as Chair of the Panel. Council will determine a Chairperson and an alternate Chairperson to serve as the Council representative.

The City of Sydney Chief Engineer, or another City of Sydney staff member nominated by the Chief Engineer, will formally serve as the Council representative when both the Chairperson and the alternate Chairperson are unable to attend the panel meeting.

Other invited Government Agencies include neighboring Councils and State Authorities impacted by a Flood study or Floodplain Risk Management Study and Plan being undertaken by City of Sydney, who may be invited to a meeting on a needs basis.

Key City staff will attend meetings as observers or specialist advisors and will report to the Panel on a needs basis but are not members of the panel.

Specialist consultants engaged by the City of Sydney will serve as additional advisors or observers where invited on a needs basis. Non-member attendees do not have voting rights.

We encourage all Community applicants, including Aboriginal and Torres Strait Islander people, Australian South Sea Islander people, people with disability, LGBTIQ+ and people from culturally diverse communities to nominate for this panel.

4. Term

The Term of the Advisory Panel will match the current Council term. Community members will be appointed for one term and are appointed in a personal capacity only. Community members may be eligible for reappointment for one further term of the Panel.

Regardless of the date of appointment, the Term will end on the day appointed for the next ordinary election of Council.

The panel may at any time be dissolved and disbanded by resolution of Council.

5. Recruitment

A call for nominations of Expressions of interest for Community representatives will be advertised and promoted to relevant groups and organisations via media, community networks, stakeholders and organisations.

The call for nominations will advise that applications will be assessed according to the selection criteria.

The City of Sydney may create a reserve list of Community members for any casual vacancies.

Successful applicants will be notified in writing.

6. Selection and Selection Criteria

An internal assessment of applicants for appointment as a Community member will be undertaken by a panel of City of Sydney staff against the following selection criteria:

- Residence or property ownership or business operator within City of Sydney LGA.
- Representation across different Council's catchments.
- Knowledge of local catchment flooding issues.
- Commitment to represent the interests of the City community concerning floodplain management issues.
- Ability to attend panel meetings and public meetings within LGA as required.
- Ability to commit to a long-term membership of the panel.
- Preparedness to observe Council's Code of Conduct.

The community representatives cannot:

- have been employed by the City of Sydney or a joint organisation of which the City is a member in the past 12 months
- have a close personal or business relationship with a City of Sydney Councillor or a person who has a senior role at the City of Sydney that may lead to a real or perceived conflict of interest
- currently, or in the past 3 years, provide any material goods or services – including consultancy, legal, internal audit or advisory services – to the City of Sydney which directly affect subjects or issues considered by the panel; or
- otherwise be employed in a role that may lead to a real or perceived conflict of interest.

All applicants must be prepared to attend an interview as part of the selection process where necessary and, if successful, an induction session prior to the inaugural meeting.

7. Appointment

The Council representatives and Community panel members will be determined by Council.

Any member may resign by giving written notification to the City.

A person may cease to be a panel member if they fail to comply with these Terms of Reference. At the discretion of the Chairperson, a Community member may be determined to have ceased membership where they are absent from at least two consecutive meetings without notification.

The Chairperson may choose to continue to the end of the current term of the panel without replacing the Community panel member.

8. Meeting Administration and Protocol

City of Sydney staff will provide administrative support including:

- scheduling meetings of the Floodplain Risk Management Advisory Panel with at least two weeks' written notice to all members;
- compiling and circulating agenda and relevant documents to all members;
- taking and distributing minutes that include attendance, declaration of interest and meeting resolutions;
- coordinating other meeting arrangements including accessibility of meeting procedure and materials; and
- reporting on progress to Council and the community.

The Floodplain Risk Management Advisory Panel meetings will be called as business demands to discuss Council's floodplain management program. Meetings will be held at least once every six months in a calendar year. More regular meetings will be called if there are pressing issues to be put forward to the panel.

The quorum of a meeting of the panel will be at least 5 attendees, comprising of the Chair and at least 4 members. No business of the Floodplain Risk Management Advisory Panel will be considered unless a quorum is present.

If the Chair is not able to attend or is not present within ten minutes after the time appointed for the meeting commencement, the Alternative Chairperson will chair the meeting where available, or otherwise the Chief Engineer or their nominated representative will chair the meeting.

The Chair is responsible for:

- Determining the most effective way of dealing with the issues raised and making the necessary arrangements to achieve this,
- Allocating times to be devoted to agenda items and ensuring that these times are observed,
- Opening the meeting and following the agenda,
- Encouraging all members of the panel to express their point of view,
- Summarising the progress of the discussion and degree of consensus reached at the end of each agenda items, and confirming this with the Minute taker before moving on,
- Closing the meeting and confirming the date, time and place of the next meeting; and

Matters arising at any meeting of the Floodplain Risk Management Advisory Panel will be decided by a simple majority of the votes of members.

Members can suggest additional agenda items during the meeting, provided that these items do not contravene the objectives stated in these Terms of Reference and if time allows.

The meeting minutes will be approved by the Chairperson and circulated to attendees within three weeks of the meeting. Meeting minutes from previous panel meeting will be included in the meeting agenda.

9. Code of Conduct and Conflicts of Interest

Members of the Floodplain Risk Management Advisory Panel must comply with the City's Code of Conduct in their capacity as a Panel member. Members must act lawfully, professionally, ethically and with integrity.

Information accessed, discussed, received and used in the Floodplain Risk Management Advisory Panel meetings is confidential unless the panel resolves otherwise. A breach of confidentiality is considered a breach of these Terms of Reference and the City's Code of Conduct.

Conflicts of interest must be disclosed and managed in accordance with the Code of Conduct. It is each members responsibility to be aware of their obligations under the Code of Conduct for both pecuniary and non-pecuniary conflicts of interest.

In addition, where members are engaged as City contractors or consultants, outside their work on the Advisory Panel but for work that pertains to an item on the Advisory Panel agenda, the member shall not participate in any discussion, decision-making or voting on that item.

10. Working Parties

The Floodplain Risk Management Advisory Panel has the capacity to establish time-limited working parties to address specific issues and projects.

The Panel may invite relevant Council and community members to be part of these working parties to provide additional expertise where required.

11. Reporting and Review

The City will report to Council on each meeting of the Floodplain Risk Management Advisory Panel meeting via the CEO Update.

The key activities of the Floodplain Risk Management Advisory Panel will be reported in the City's annual report.

Floodplain Risk Management Advisory Panel
Terms of Reference



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