



Hawkesbury City Council

supplementary ordinary meeting business paper

date of meeting: 24 April 2007

location: council chambers

time: 5:00 p.m.

ORDINARY MEETING

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ORDINARY MEETING

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Meeting Date: 24 April 2007

SUPPLEMENTARY REPORTS

Item: 80 **CP - Floodplain Risk Management Committee - Appointment of New Committee Members - (95498, 86589)**

Previous Item: 224, Special (19 September 2006)

REPORT:

On 19 September 2006 Council resolved that:

"Two additional community representatives be included on the Flood Plain Management Committee".

Notices were placed in the Hawkesbury Independent newspaper on 24 October 2006, inviting expressions of interest for membership.

Council received three expressions of interest. The interested persons are:

- Mr William Sneddon, South Windsor
- Mr Geoffrey Bessell, Wilberforce
- Mr Frank Scharfe, Vineyard

Council's Floodplain Risk management Committee (FRMC) considered the applications on 19 February 2007 and resolved as follows:

The matter of membership be referred to Council for determination.

The matter was reported to the Council meeting of 27 March 2007 where the report was withdrawn for the following reason:

This matter was withdrawn by Management from the meeting and will be reported back to Council in Closed Session, if permitted under the Local Government Act, after Council has investigated exemptions for community members from the Minister.

The matter of reporting to a closed session of Council was considered and found that it is not a matter that, under the provisions of the Local Government Act, can be considered in a closed session of Council. Whilst the actual applications for membership may be considered to contain personal information, the actual consideration of the committee membership is not a matter to be considered in a closed meeting. (Copies of the applications may be viewed by Councillors upon request to the Director City Planning.)

At the FRMC of 19 February 2007 the chair of the Committee, Councillor Conolly, requested that any other relevant matter relating to membership also be reported to Council.

In response, it is considered that three issues require attention. These are:

1. Amendment to the FRMC constitution by updating references to Director Environment and Development and deletion of reference to Manager Building and Development.
2. Amendment to the FRMC constitution to allow the additional two community members and government departments.
3. Attendance of Ms Carolyn Daley and Department Primary Industries at the FRMC meetings

Community Membership exemptions from Minister

The matter of pecuniary interests of community members on the Floodplain Risk Management Committee (FRMC) was discussed with the Department of Local Government. The Department representative gave the following (verbal) advice. As the FRMC is an advisory committee it may only make recommendations to Council and does not make any formal resolutions/decisions. The final decision rests with the Council itself. As the community members do not make the final decision in these matters, a formal exemption for community members from the Minister, under Section 458 of the Local Government Act 1993, is not required. The exemptions previously obtained for the elected Councillors were required, and have been obtained, for that reason. However, this advice does not preclude all members, including Community members, of this Committee, from declaring all interests, pecuniary or otherwise, at the start of each meeting of the Floodplain Risk Management Committee.

Issues raised at the FRMC meeting of 19 February 2007**Issue 1**

Throughout the FRMC constitution various references are made to the Director Environment and Development. As a result of restructuring within Council, the Directorate of Environment and Development no longer exists. The Directorate now responsible for supporting the committee is City Planning. Accordingly, it is recommended that the references to Director Environment and Development be changed to the Director City Planning.

Section 5(c) of the constitution states that the Director may delegate the Manager Building and Development as his/her delegate when deemed necessary. This position has been made redundant. Council's Strategic Planner - Corporate Planner has been attending the FRMC meetings regularly since August 2005, is involved in a number of flood related projects affecting Council, and is within the City Planning directorate. It is recommended that the holder of this position be the Director's delegate when deemed necessary.

Issue 2

As a result of Council's resolution on 19 September 2006 there will now be up to six community representatives. The current constitution at Section 5(a)(ii) allows for four representatives. It is recommended that the constitution be amended to allow for six community representatives.

Section 5(a)(iii) of the constitution allows for four Government departments to be appointed to the Committee. These are State Emergency Services; Department of Infrastructure, Planning and Natural Resources; Department of Primary Industries; and Department of Defence.

The Department of Infrastructure, Planning and Natural Resources has been split into two departments which are the Department of Planning and the Department of Natural Resources. Since the split representatives from the Department of Natural Resources have continued to attend meetings. (It should be noted that a recent State Government reorganisation has resulted in the Department of Natural Resources being split and renamed. However, the final name had not been finalised at the time of writing this report) Previous contact with representatives from the Department of Planning reveals that the Department of Planning wish to continue as a member of the Floodplain Risk Management Committee. Furthermore, the Committee has requested the Roads and Traffic Authority to become a member of the Committee. Council is presently waiting a response from the RTA.

It is recommended Section 5(a)(iii) be amended to allow for up to six Government departments to be appointed to the Committee.

Issue 3

Section 6(e) (iii) states that members of the Committee shall cease to hold office if absent without prior approval of the committee for three consecutive meetings.

The present Committee first met on 14 February 2005 and has had a total of nine meetings. Ms Carolyn Daley has attended one of these meeting, sent apologies for one meeting and has been absent without

explanation for seven meetings, including the last four meetings. Ms Daley is clearly in breach of the Committee Constitution. It is recommended that Council write to Ms Daley to thank her for her initial interest in being a member of the Committee, advise her of the terms of the Constitution and advise her that her membership is no longer current. Attempts have been made to contact Ms Daley to discuss this course of action, however, at the time of writing this report, no contact had been successful.

If Council supports this course of action regarding Ms Daley's membership, the three applications from Messer's Sneddon, Bessell and Scharfe for community membership on the Committee, can be supported.

Should Council not support the proposed course of action with Ms Daley, ie, Ms Daley remains on the Committee, then it is recommended that the abovementioned applications for community membership for the FRMC be prioritised as follows:

1. Mr Geoffrey Bessell
2. Mr William Sneddon
3. Mr Frank Scharfe

(The above priority list has been based on the submitted applications.)

The representative from the Department of Primary Industries has not attended any meetings, however, has sent apologies on two occasions. The representative has recently made contact with Council staff, confirmed willingness to attend meetings and provided an updated postal address.

Conformance to Strategic Plan

The proposal is deemed to conform with the objectives set out in Council's Strategic Plan i.e:

"Objective: An informed community working together through strong local and regional connections".

Funding

The operation of this committee is funded within existing budgetary allocations.

RECOMMENDATION:

That:

1. The additional two community members to the Floodplain Risk Management Committee be Mr Geoffrey Bessell and Mr William Sneddon.
2. The Constitution of the Floodplain Risk Management Committee be amended as follows:
 - a. Wherever appearing "Director, Environment and Development" delete and insert "Director City Planning"
 - b. Section 5(a)(ii) – before the words "community appointments" delete "Four (4)" and insert "Six (6)"
 - c. Section 5(a)(iii) – before the words "government departments" delete "Four (4)" and insert "Six (6)", and insert after "Department of Primary Industries", "RTA, Department of Planning"
 - d. Section 5(c) – after the words "may delegate the", delete "Manager, Building and Development" and insert "Strategic Planner – Corporate Planner"
3. Council write to Ms Daley to thank her for her initial interest in being a member of the Committee, advise her of the terms of the Constitution and advise her that her membership is no longer current. Mr Frank Scharfe be appointed to fill this membership vacancy.

ORDINARY MEETING - Supplementary

Meeting Date: 24 April 2007

ATTACHMENTS:

AT - 1 Current Constitution of Floodplain Risk Management Committee.

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**Hawkesbury City Council
Hawkesbury Floodplain Risk Management Committee
Advisory Committee Constitution**

1. Name

The Advisory Committee, as appointed under the provisions of section 377 of the Local Government Act 1993, shall be known as the [Hawkesbury Floodplain Risk Management Committee](#), and is hereinafter referred to as the 'Advisory Committee'.

2. Objectives

- (a) To advise Council about information, research and analysis required to understand the nature and degree of flood risk in Hawkesbury LGA generally and in particular localities;
- (b) To advise Council about town planning measures and standards considered necessary to minimise risk to life and property in Hawkesbury LGA;
- (c) To advise Council about road and drainage infrastructure and other physical works required to minimise risk to life and property in Hawkesbury LGA;
- (d) To advise Council about public awareness strategies and to act on Council's behalf to implement these strategies as required;
- (e) To recommend to Council measures to reduce flood risk to Council's infrastructure and buildings;
- (f) To liaise with state agencies and neighbouring Councils involved in the Hawkesbury Nepean Floodplain Management Strategy;
- (g) To advise Council in relation to representations to other levels of government in support of initiatives to reduce flood risk to life and property in Hawkesbury LGA.

3. Role and Authorities

- (a) Whereas the Advisory Committee is appointed by the Hawkesbury City Council under the terms of the Local Government Act 1993, the Advisory Committee is to abide at all times with the terms of reference of this clause, and with the authorities delegated under this clause whilst remaining in force (unless otherwise cancelled or varied by resolution of Council).
- (b) The Advisory Committee shall have the following authorities delegated to it in accordance with the provisions of section 377 of the Local Government Act 1993:
 - (i) to recommend to Council policies drawn up by professional staff for:
 - [land use, planning and management under the EP&A Act;](#)
 - [evacuation strategies;](#)

- [planning provisions within the Local Environment Plan;](#)
 - [improving public infrastructure.](#)
- (ii) to bring to Council's attention, by way of recommendation, any item requiring a policy decision outside the authority granted to the Advisory Committee under section 377;
- (c) The Council retains the responsibility for all budgetary considerations;
- (d) The General Manager (or his/her delegate) retains, and shall be entirely responsible for the appointment and dismissal of staff (either permanent or temporary) within the [Hawkesbury Floodplain Risk Management Committee](#) in accordance with the Local Government Act 1993;
- (e) The General Manager (or his/her delegate) retains all responsibility for the direction of any staff member, including any disciplinary action, be it for permanent, temporary or part time staff. The Advisory Committee will, however, have the right to bring to the attention of the Director of the Department within Council responsible for the [Hawkesbury Floodplain Risk Management Committee](#), any issues which, in its opinion, require disciplinary action; and
- (f) Any authorities conferred upon the Advisory Committee under this Constitution may be varied by Council.

4. Term

The Advisory Committee members' term shall be for four years to coincide with Council's term of office. Advisory Committee members shall cease to hold office at the expiration of three months after the Ordinary election of the Council, but be eligible for re-appointment, subject to the condition that the Advisory Committee may be dissolved by Council at any time.

5. Structure and Membership

- (a) The structure and membership of the Advisory Committee shall be as follows, and all the undermentioned appointments will have voting rights:
- (i) [Four \(4\) Councillors of the Hawkesbury City Council; and](#)
 - (ii) [Four \(4\) community appointments, appointed by Council following the calling of applications as detailed in clause 6\(b\) of this Constitution;](#)
 - (iii) [Four \(4\) government departments \(State Emergency Services, Department of Infrastructure, Planning and Natural Resources, Department of Primary Industries, and Department of Defence;](#)
- (b) Whereas the appointments detailed in clause 5(a) will form the Advisory Committee, the Director, [Environment and Development](#), will be required to attend meetings of the Advisory Committee;
- (c) The Director of the Department charged with the responsibility for the [Hawkesbury Floodplain Risk Management Committee](#) within the Hawkesbury City Council shall attend meetings and may delegate the

Manager, Building and Development, as his/her delegate when deemed necessary;

- (d) The Advisory Committee shall, at its first meeting following appointment, and each twelve (12) month period thereafter, elect one of its members from those appointed under clause 5 to be the Chairperson of the Advisory Committee, and one of its members appointed under the same clause to be Deputy Chairperson, who shall act in the absence of the Chairperson;
- (e) The position of Chairperson shall not be held by the same person for any longer than three (3) consecutive years;
- (f) The position of Deputy-Chairperson shall not be held by the same person for any longer than three (3) consecutive years;
- (g) No staff member of Hawkesbury City Council shall be elected as Chairperson or Deputy Chairperson of the Advisory Committee;
- (h) Each member of the Advisory Committee entitled to vote shall only have one vote except that of the casting vote of the Chairperson in the case of equality of votes;
- (i) The Advisory Committee may co-opt additional members from time to time, at its discretion, to provide specialist advice or assistance, but such co-opted members shall only serve on the Advisory Committee for the period of time required, and will not, whilst serving in the position of co-opted member, have any voting rights; and
- (j) The Advisory Committee may invite as observers citizens or other representatives for the purpose of clarifying certain matters as decided by the Advisory Committee. Such observers will not be permitted to vote.

5. Appointment and Election of Members

- (a) **Four (4)** Councillors will be appointed to the Advisory Committee in accordance with practices and procedures of the Council;
- (b) The Council shall, in the month of October following the quadrennial election place advertisements in appropriate newspapers inviting nominations from members of the community for membership to the Advisory Committee;
- (c) The Council shall select and appoint the community representatives to the Advisory Committee;
- (d) The Advisory Committee shall have the power to fill casual vacancies at its discretion;
- (e) Members of the Advisory Committee shall cease to hold office:
 - (i) if the Advisory Committee is dissolved by Council;
 - (ii) upon written resignation or death;
 - (iii) if absent without prior approval of the Advisory Committee for three consecutive meetings; or

- (iv) if the Council by resolution determines that the member has breached Hawkesbury City Council's Code of Conduct (as it is in force from time to time).
- (f) For the purposes of sub-clause 6(e)(iv), the Code of Conduct is to be taken to apply to community and representative members as referred to in clause 5(a) in the same way as the Code of Conduct applies to Councillors.

7. Procedures and General

- (a) Ordinary meetings of the Advisory Committee shall be held no less than six times per year. Special meetings may be convened at the discretion of the Chairperson, or, in his/her absence, the Deputy Chairperson;
- (b) The Director, [Environment and Development](#), shall be the Executive Officer to the Advisory Committee, and will be responsible for preparation of specialist reports, and any and all correspondence associated with the Advisory Committee;
- (c) The Council will provide a Minute Clerk for the purpose of recording the Minutes of the Advisory Committee meetings and for the distribution of Minutes followings meetings of the Advisory Committee;
- (d) No meeting of the Advisory Committee shall be held unless three (3) clear days notice thereof has been given to all members;
- (e) The Minute Clerk shall forward a copy of the Minutes of each Advisory Committee meeting to all Advisory Committee members, as well as to Council, for submission to the appropriate Standing Committee, as soon as possible following such Advisory Committee meeting;
- (f) At any meeting of the Advisory Committee, the Chairperson, or the person acting in the position of Chairperson, shall, in addition to his or her ordinary vote, have a casting vote where such a situation occurs where there is an equality of votes;
- (g) The rules governing meetings and the procedures of the Advisory Committee shall, so far as they apply, be those covered by the Hawkesbury City Council's Code of Meeting Practice, as may be altered from time to time by resolution of the Council;
- (h) A quorum of the Advisory Committee shall be constituted by [six \(6\) member, including two \(2\) Councillors](#), being present at meetings;
- (i) Any members having a pecuniary interest in any matters being discussed by the Advisory Committee shall declare such interest at the meeting of the Advisory Committee and refrain from voting or discussion thereon.
- (j) The requirements applying to pecuniary interests for members as detailed in clause 7(i) above shall apply equally to any other appointed or invited observers or co-opted members, and also to the Executive Officer/Secretary;
- (k) Any recommendations of the Advisory Committee shall, as far as adopted by the Council, be resolutions of the Council, provided that

recommendations or reports of the Advisory Committee shall not have effect unless adopted by the Council;

- (l) It shall be competent for the Advisory Committee to appoint a sub-committee or specific work groups comprised of members or non-members to exercise and carry out specific investigations for the Advisory Committee, and then to report back to the Advisory Committee. These appointed sub-committees or work groups may be dissolved by the Advisory Committee at any time;
- (m) Any appointed sub-committees or work groups have no power to make any decisions whatsoever on behalf of the Advisory Committee, and any recommendations of any sub-committee or work group will only have effect once adopted by the Advisory Committee, or by the Council, as the case may be;
- (n) The Director, [Environment and Development](#) shall prepare an Annual Report of the [Hawkesbury Floodplain Risk Management Committee's](#) activities for submission to the Advisory Committee, who will, in turn, present such report to the Council.

LAST CLAUSE

oooO END OF ITEM 44 Oooo

oooO END OF REPORT Oooo



ordinary
meeting

end of
supplementary
business
paper

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