

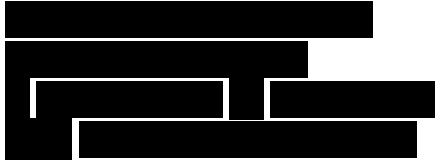
From: [Kristian Enevoldson](#)
To: [OLG BS Office of Local Government Mailbox](#)
Subject: Model Meeting Code Amendments Submission - Nambucca Valley - Attn Governance Team
Date: Friday, 14 February 2025 4:17:40 PM
Attachments: [Model Meeting Code Amendments DRAFT RESPONSE.PDF](#)

Goo afternoon

Please find attached NVC's submission to the draft COMP. It was adopted by Council last night.

Regards

Kristian Enevoldson



PROFESSIONALISM | ACCOUNTABILITY | COMMUNITY FOCUS | TEAMWORK | SAFETY | VALUE FOR MONEY | LEADERSHIP

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MODEL MEETING CODE AMENDMENTS - NVC SUBMISSION

Clause (old)	Clause (new)	Change	Response
3.1	3.1	Remove requirement to have meeting dates and times included in the COMP – to be determined by Council resolution	Agreed – can set date by resolution without having to change the COMP, which technically would require public exhibition
	3.3	Mayor may call extraordinary meeting without the need to obtain signatures of 2 councillors	Agreed - simplifies the process of calling an extraordinary meeting in the case of an urgent matter.
3.8 / 3.27	3.8 / 3.23	Agenda may be provided electronically <i>'unless Council determines otherwise'</i> (new)	Agreed – council to make decision on format
3.1	3.0	Notices of motion – removal of <i>"council to specify notice period required"</i> and add <i>"within such a reasonable time before the meeting is to be held as determined by Council"</i>	Agreed – essentially the same, just reworded
3.12	n/a	Removal of capacity of GM to prepare a report on NOMs considered to have legal, strategic, financial or policy implications.	Not agreed – removes the “gatekeeper” from items going to the business paper that may be illegal, defamatory, outside of policy etc.
3.13	n/a	Removal of capacity of GM to prepare a report on NOM that requires expenditure of funds other than provided for in the budget if not identified in the NOM	Not agreed – NOM (if carried) could potentially have major budget implications and affect cashflow and the meeting of the financial performance targets.
3.15	3.15	<ul style="list-style-type: none"> Removal of “a councillor is not permitted to ask a question with notice under cl 3.14 (NOM) that comprises a complaint against the GM or member of staff of the council, or a question that implies wrongdoing by the GM or a member of staff” 	<ul style="list-style-type: none"> Not agreed. Matters regarding staff are operational in nature and should be dealt with by the GM. Complaints or allegations against the GM should not be made in open council. Complaints or allegations of wrong-doing should be conducted through a performance management or complaint process with the person implied entitled to the principles of natural justice. A false allegation made in a public setting has the potential to be defamatory. The recommended change is at odds with Council’s obligation to have a safe work environment re psychosocial hazards.

		<ul style="list-style-type: none"> Removal of option GM to respond to a question with notice orally (must be included in a report) 	<ul style="list-style-type: none"> Agreed – written report provides a more accurate method of response
3.21	3.18	New - GM to consult with the mayor in relation to items of business that are closed to the public to ensure that the agenda identified matters to be considered in closed session and the grounds under S10A(2) of the Act	Agreed - this should occur in agenda review with the chair
3.23	n/a	Removal of statement in the business papers reminding councillors of their oath or affirmation of office	Not agreed. This is good practice that endorses good behaviour
3.29 – 3.32	3.25 – 3.28	Business may be considered at an extraordinary meeting at which all councillors are present where notice of the business has not been given “if the council resolved to deal with the business of the grounds that it is urgent” (resolution and “all councillors present” is new requirement). Reason for urgency must be stated in the resolution. If all councillors not present the mayor must also rule the matter is urgent in order to be considered.	Agreed - restricts new matters not in the Extraordinary business paper to urgent items only
3.33 – 3.28	N/A	Pre-meeting briefing sessions in the absence of the public to be removed	Not agreed - closed briefing sessions allow councillors to ask questions of staff which many be too sensitive to ask or respond with members of the public present. Could result in councillors being less informed.
4.1 – 4.24	4.1	Public Forum - Council to determine their own rules rather than being prescribed in the Code	Agreed – provides flexibility with consideration to the needs of each council
5.4 - 5.8	5.4 - 5.8	Where a councillor submits an apology for non-attendance (with no prior resolution) – the council will be deemed to have accepted the apology and granted a leave of absence unless the council resolves NOT to accept the apology	Agreed - the instances of non-acceptance of an apology or leave of absence request would be unusual

		<p>or grant leave of absence. If this is the case the reasons for doing so must be stated.</p> <p>The requirement for a councillor who is on approved leave to give at least 2 days' notice to the GM regarding their intention to attend had been removed.</p>	
5.19	5.19	Attendance by audio-visual link restricted to ill-health or medical reasons, or unforeseen carers responsibilities. The resolution for the councillor to attend remotely is no longer required to be included in the resolution.	Agreed – prevents non-attendance for trivial/non-essential reasons
5.37	5.38	Recording of the meeting is to be kept for at least 12 months or for the balance of the council term, whichever is longer	Agreed – good practice for the term of the Council
5.43	5.44	Attendance by staff at Council meetings (excluding attendance as a member of the public) is to be determined by the Council and not the GM	Not agreed – staffing matters should be the responsibility of the GM. This is contrary to the Local Government Act
n/a	7.1	Where they can councillor and staff must stand when the mayor enters the chamber and also when addressing the meeting	<ul style="list-style-type: none"> • Not agreed to requirement to stand when the Mayor enters chamber – overly formal • Agree to councillors standing when addressing the meeting. It makes it clear as to which councillor has the floor
7.2	7.2	Chair can be referred to as “Chair” as well as ‘Mr Chairperson” or “Madame Chairperson”	Agreed
8.2	N/A	Removal of the Order Business from the Code	Agreed - allows flexibility regarding the Order of Business when setting the agenda
9.3 – 9.10	9.3 – 9.9	Urgent items of business not in the business paper – must have all councillors present, must be urgent and the resolution must include the reason for the urgency. If all councillors not	Agreed – including the reason for urgency in the motion is good practice

		present the Mayor can rule if the matter of urgency can be dealt with.	
9.6 – 9.10	9.7 – 9.9	<p>The mayor is able to put a mayoral minute to the meeting without notice on “any matter or topic the mayor determines should be considered at the meeting”.</p> <p>Removal of current restrictions: “any matter or topic within the jurisdiction of the Council”, “Must not be used to put matters that are routine or not urgent or matters for which proper notice should be given because of their complexity”, “the recommendation...would require the expenditure of funds other than those already provided for in council’s current adopted Operational Plan”</p>	Disagree - may consume time in meetings on matters that Council has no control or jurisdiction over. The GM and councillors should have notice as to what is on the agenda.
9.14	9.13	A question must not be asked at the meeting unless it concerns a matter on the agenda or notice has been given of the question. Proposed amendment “unless the council by resolution and the mayor determines otherwise in accordance with cl 9.3” (new urgent matters)	Not agreed – this puts staff in a difficult position in terms of not being prepared for “left-of-field” questions.
9.16	9.15	Councillor are to put questions through the mayor and not the GM. The GM may request another member of staff to answer the question.	Agreed – better meeting protocol
9.18	9.17	Removal of requirement for councillors to put questions “respectfully”	Not agreed – this could encourage disrespectful behaviour in meetings
10.3	10.3	If a councillor who submits a NOM wishes to withdraw it after the business paper has been distributed, the mayor is to note the withdrawal of the NOM at the meeting	Agreed – formalises the NOM withdrawal
10.9	N/A	The following is removed - NOM’s requiring the expenditure of funds that do not identify the	Not agreed - this could commit council to expenditure where there is no funding source identified

		funding source the item must be deferred pending a report from the GM on the availability of funds for implementing the proposed motion.	
10.17 – 10.19	10.16 – 10.17	“Foreshadowed motions” removed and replaced with “foreshadowed amendments”.	Agreed – simplified and less confusing terminology
10.24	N/A	Removal of the option for council to shorten the duration of speeches to expedite the consideration of business at a meeting	Not agreed – this could result in lengthy speeches and very long council meetings.
N/A	11.12	Council must not make a final planning decision without receiving a report containing an assessment and recommendation in relation to the matter put before council	Agreed – good due diligence
N/A	11.13	When council goes against the staff recommendation on a planning decision it must provide reasons for its decision and why it did not adopt the staff recommendation	Agreed – good due diligence
14.9 – 14.17	14.9 – 14.11	Representation by members of the public regarding items in closed sessions. Changes include: <ul style="list-style-type: none"> • Council may resolve to close the meeting to the public to hear a representation by a member of the public as to whether the meeting should be closed to consider an item of business where the representation involves disclosure of information relating to the matter. • Removal of GMs right to refuse an application described above • Removal on limit to number of speakers • Removal of time restrictions on speakers 	Agreed – to the process in principle allows additional information to come to Council on a particular matter that may not be appropriate to receive in a public setting Not agreed to the removal of restrictions - GM has no capacity to refuse items that may be inappropriate. Unlimited number of speakers and speech times may de-rail the meeting

14.22 – 14.23	14.17 – 14.20	Deals with resolutions passed in closed meetings. Currently only <u>resolutions</u> made in closed session to be made public “as soon as practicable. This will be expanded to include the business papers as well. There is a new requirement for the GM to “consult with the council before publishing the information on council’s website”.	Agreed – increased transparency in relation to decisions of council
15.11 – 15.12	15.10 – 15.13	Acts of disorder in meetings. A number of changes to the definition of disorder. Deletion of “alleges a breach of the council’s code of conduct. New inclusion “uses any language, words or gestures that would be regarded as disorderly in the NSW Legislative Assembly”. Deletion of doing or saying anything that is “likely to bring the council or committee into disrepute”. Other new requirements – a failure to comply with a direction from the Chair (eg apology or withdrawal) will constitute a fresh act of disorder. If the councillor fails to act in response to remedial action, this action will be required at every subsequent meeting until it is complied with.	Not agreed. Chair would have to become familiar with what constitutes disorder in NSW Legislative Assembly. The Code of Conduct should guide councillor behaviour. Not agree with removal of prohibition of speech that would potentially bring council into disrepute.
15.14 – 15.16	15.14 – 15.17	Deals with Expulsion from meeting. Choice of 2 options <ol style="list-style-type: none"> 1) Chair can expel any person (councillor or public) from the meeting. 2) Chair can expel public, but councillors only with resolution of council. However, the above “does not limit the ability of the council to resolve to expel a person,	Agreed (option2) – gives the Chair greater control over the meeting.

		including a councillor, from a council meeting under 10(2)(a) of the Act” (ie expulsion by council resolution)	
17.10	17.10	A NOM to rescind a resolution relation to a DA must be submitted to the GM no later than 1 day after the meeting (currently council can define the timeframe)	Agreed - good due diligence – allows applicants to delay progressing pending the result of the rescission motion.
17.12 – 17.14	17.12 – 17.14	In cases of urgency a motion to alter or rescind a resolution may be moved at the same meeting it is adopted. Must be signed by 3 councillors and submitted to the Chair. Currently Chair rules that the business that is the subject of the motion is urgent and required decision before next council meeting. It is proposed that the council resolves (rather than the Chair) to deal with the business as urgent and requires a decision before the next meeting. The resolution adopted must state the reasons for the urgency.	Agreed – takes the onus off the Chair and onto the council. Would prevent the Chair from blocking a rescission/alteration that is in fact urgent.
20.8 – 20.9	N/A	Currently committee members (on committees that do not comprise all councillors) can be removed from a committee for three consecutive unapproved absences or being absent from over half the meetings held over the past year without approval. This will be removed.	Agreed
N/A	20.20	New requirement - The GM must cause business papers for items considered in confidential session to be published on the website as soon as practicable after the information in the business paper ceases to be confidential, GM needs to consult with the council before publishing the information.	Agreed – greater transparency. However, sections of the confidential business papers may need to be redacted which could be an administrative burden.

MODEL MEETING CODE AMENDMENTS - OLG ONLINE SURVEY QUESTIONS

Survey Question	Council Response
<p>1) Will the proposed amendments made in the consultation draft of the Model Meeting Code achieve the policy outcomes identified in the paper?</p>	<p>A commentary on each policy outcome is provided below:</p> <p>1) <u>Promoting transparency, integrity and public participation:</u></p> <ul style="list-style-type: none"> • Whilst opening briefing sessions to the public does promote public participation it may stop councillors from discussing matters openly and frankly. We disagree with this amendment. • Mandating council meeting recordings and publishing of confidential business papers once they cease to be confidential would promote transparency • Restricting Councils from making final planning decisions without a staff report (and giving reasons for resolving against the staff recommendation) would greatly improve the integrity of the planning process <p>2) <u>Promoting the dignity of the council chamber:</u></p> <ul style="list-style-type: none"> • Granting the mayor greater capacity to control disorder, restricting audio visual attendance for non-essential reasons and requiring councillors to stand when speaking would promote the dignity of the chamber • Removing the capacity to time-limit councillors' speeches could be abused by some councillors to monopolise the chamber and create un-necessarily long meetings, which could have the opposite effect of promoting dignity in the chamber. <p>3) <u>Depoliticising the role of the general manager:</u></p> <ul style="list-style-type: none"> • Whilst the removal of the requirement of the GM to prepare reports for Notices of Motion would depoliticise the role of the GM it may result in expenditure for unavailable funds and decision being made with lack of relevant information. • Not allowing the GM to select which staff are able to attend council meeting would not depoliticise the role of the GM, not having the appropriate staff at meetings to answer questions could in fact make the job of the GM more difficult. <p>4) <u>Simplifying the Model Meeting Code:</u></p> <ul style="list-style-type: none"> • We consider this outcome has been met, for example by removing some unnecessary sections and allowing councils to make their own rules regarding public forum

Survey Question cont...	Council Response
2) Are there any other amendments you would suggest that will achieve these policy outcomes?	Nothing identified
3) Will the proposed amendments have any unintended consequences?	We agree with the response from LGNSW ie briefing sessions provide councillors an opportunity to ask questions of staff which may be too sensitive to ask or respond to in a public setting. Banning closed sessions will result in councillors being less informed and potentially making poor decisions.
4) Are there any other amendments the Government should consider?	Nothing identified