



Our reference: MKB:ATR

21 February 2025

Brett Whitworth
Deputy Secretary, Local Government
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21 FEB 2025



Dear Mr Whitworth

RE: MODEL MEETING CODE AMENDMENTS

Please find following Temora Shire Council's (TSC) submission to the Office of Local Government (OLG) on the *Model Code of Meeting Practice for Local Councils in NSW (Model Code)*. The submission has been endorsed by Council at the 20 February 2025 Council Meeting.

Introduction

As per Council's submission on the *Councillor Conduct Framework Review* submitted to the OLG on 29 November 2024, TSC continues to support the importance of creating an environment within the Council Chamber that promotes respectful, transparent and collaborative working relationships between the Mayor, Councillors, staff and the community.

Council decision making should be transparent, but TSC strongly disagrees with the sweeping assertion that closed council briefing sessions are being used to make decisions away from public view. Briefing sessions and workshops enable Councillors to hear from subject matter experts as well as Council staff about complex matters that may be beyond a Councillor's field of experience.

TSC also does not support the sentiment that dignity in the Council Chamber has been lost and cautions the OLG on designing a new Model Code based on this flawed assumption. TSC does not support the removal of clear guidance from the Model Code in relation to conduct within the chamber and does not support the requirement of Councillors to stand when speaking in the Chamber, generally the conduct of Councillors is appropriate, and this would be an unnecessary impost on the Councillors during debate and discussion in the Chamber.

TSC's submission has been prepared using the headings within the document *A new model code of meeting practice – Consultation draft*.

1. Promoting transparency, integrity and public participation

1.1 Recording how Councillors have voted in the minutes: TSC supports the amendment that calls for inclusion on how Councillors have voted in the minutes.

1.2 Voting on planning decisions: TSC support the amendments requiring that staff reports be considered by Council before making decisions on planning matters and that the reasons for not supporting the staff recommendations in relation to a planning matter be recorded.

1.3 Resolutions at closed meetings: TSC supports the principle of transparency and availability of business papers to the public (in line with ICAC recommendations) but is extremely concerned about how this would be implemented in practice. As written, this amendment imposes an unreasonable and open-ended duty on Council to continually monitor all previous business papers (all the way back to the beginning of time), determine whether all the reasons for them being made confidential have lapsed, consult with the Council and then publish them. This would require a significant amount of staff time and additional software resources, that a small rural Council such as Temora would find challenging to support financially. Identifying the exact point at which information transitions from

confidential to public domain is complex, and there are already adequate mechanisms under the GIPA legislation.

2. Promoting the dignity of the Council Chamber

2.1 Removing the option to reduce duration of speeches: TSC does not support removal of the option to reduce speaking times for Councillors. Five minutes is believed to be an appropriate timeframe that allows for fair debate and discussion within a Council meeting.

2.2 Attendance by audio-visual link: Restricting the ability of Councillors and staff to participate remotely in Council meetings disadvantages those with work or carer commitments and may discourage some elected representatives from running for Council. TSC has found that remote participation at Council and Committee meetings by Councillors and staff is by exception and when this option has been utilised it has been for legitimate reasons.

2.3 The requirement of Councillors and staff to stand when the Mayor enters or leaves the Chamber and when speaking: TSC does not support the requirement to stand when the Mayor enters or exits the Chamber as generally the Mayor is seated prior to the commencement of meetings. As per our previous submission TSC does not support the requirement to stand when speaking during the Council meeting, generally the conduct of Councillors is appropriate, and this would be an unnecessary impost on the Councillors during debate and discussion in the Chamber. Standing to speak or upon entry and exit of the Mayor should not be a requirement and instead should be an option available to Councils should the conduct in the Chamber become unruly. This alternatively could be an option for Councils to determine when endorsing the Code of Meeting Practice in each new term of Council or if there are concerns regarding conduct within the Chamber. It is not clear in the proposed Code whether the Mayor will be required to stand to speak, should this be the expectation, this is also not supported and would not be appropriate unless required to bring order to the Chamber. The current technology used in the TSC Chamber to record Council meetings has not been physically designed for this requirement and will require costly updates to the technology within the Chamber, which would present a significant financial burden for a small rural Council such as TSC.

2.4 Acts of disorder: Council does not support the definition of disorderly conduct based on the practices and expectations in the NSW Legislative Assembly. Conduct should not be defined by other protocols that are otherwise irrelevant to the operation of Council meetings. Expectations should be clear and be written into the Code. Council requests that further information, and guidance is provided in relation to the definition of disorder and the circumstances that would trigger the Mayor expelling a Councillor.

3. Depoliticising the role of the General Manager

3.1 Questions with notice: TSC does not support the removal of restrictions on raising complaints about the General Manager and staff in questions with notice. This current provision protects staff from unfair criticism, airing of personal grievances and reputational damage. Retaining this clause supports the smooth running of meetings and effective relationships between councillors and staff. Further TSC would support the inclusion of Councillors and contractors of Council to be added to this provision. TSC does not support the removal of guidance in relation to notices of motion and questions on notice and further Council strenuously opposes the removal of the requirement for General Managers to prepare reports for notices of motion in circumstances where a decision is required which will have financial implications, noting that Council has the ability to accept, reject or amend a recommendation of the General Manager.

3.2 Staff attendance: Amendments that would shift responsibility for determining staff attendance at meetings to the Council is not supported. This amendment undermines the statutory role of the General Manager in managing staff and the efficient and effective operation of the organisation.

This proposal is contrary to the employment arrangements within council, whereby the responsibility for staff rests with the general manager. The General Manager should have the ultimate decision on which staff members attend the Council meeting. The Council should not be able direct other staff members to attend council meetings without approval of the General Manager, the messaging becomes confusing as to who the staff are answer to.

Where applicable, the general manager should be supported by the subject matter experts to provide clarification on their reports, consequently the general manager must be able to determine which staff attend council meetings to provide that expert advice.

4. Simplifying the Model Meeting Code

4.1 Public forums: TSC would prefer that the (optional) provisions on the operation of public forums be retained in the Code. Removal of these provisions means that councils have no guidance on how to set rules for public forums that provide a consistent, safe, fair and orderly way for members of the public to address council.

5. Restricting Councils from holding briefing sessions

5.1 Pre-meeting briefings: As per our previous submission TSC strongly agrees that "decision making" should be made in open Council meetings and utilises a Committee structure to support the decisions of Council, however, strenuously oppose the proposed reform to ban briefing sessions.

Briefing sessions and workshops enable Councillors to hear from subject matter experts as well as council staff about complex matters that may be beyond a Councillor's field of experience. It allows Councillors to ask questions that openly display their ignorance of a topic without the press and public there to witness it. Where Councillors have insufficient knowledge about an issue it is sometimes easier to "decide not to decide". Well-constructed briefing sessions and workshops minimise the likelihood of this outcome and provide professional development opportunities that many Councillors embrace.

In addition, briefing sessions and workshops are used to develop the strategic direction of a Council, to sift through the multitude of ideas that come from the Community Strategic Planning process and narrow them into achievable community goals. In these instances, they allow a free, frank, open and honest discussion of community priorities because the press and the public are not watching and passing judgement. It is an opportunity to work through solutions in a collaborative environment, establish strategic direction and to obtain feedback for Councillors and staff about the direction that council is taking. TSC recommends that the OLG provide Guidelines for delivery of briefing sessions and workshops as opposed to them being banned holistically.

In conclusion, TSC acknowledge the Government's commitment to Local Government and thank the OLG for the opportunity to provide input on the Model Code of Meeting Practice. Please do not hesitate to contact me on 6980 1100 or email temshire@temora.nsw.gov.au should you wish to discuss further.

Yours sincerely



Melissa Boxall
General Manager