

26 February 2025

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Re: Consultation Draft of the New Model Code of Meeting Practice

The Northern Sydney Regional Organisation of Councils (NSROC) is pleased to respond to the Office of Local Government's consultation draft of the new Model Code of Meeting Practice for local councils in NSW. This submission has been prepared with the input and support of our member councils but should be considered draft until it is formally endorsed by the NSROC Board.

NSROC is a voluntary association of eight local government authorities in Sydney. NSROC member councils are Hornsby Shire Council, Hunter's Hill Council, Ku-ring-gai Council, Lane Cove Council, North Sydney Council, Mosman Municipal Council, City of Ryde and Willoughby City Council. NSROC assists member councils collaborate on key issues and activities, develops regional solutions and generates social, environmental and economic benefits – for local communities and the region overall.

NSROC supports the outcomes the proposed amendments are intended to achieve:

- promoting transparency, integrity and public participation
- promoting the dignity of the council chamber
- depoliticising the role of the general manager
- simplifying the Model Meeting Code.

That said, there are several elements that would benefit from further clarity, consultation, and refinement. It is not clear how the concerns expressed by Councils in response to the September 2024 review have been addressed.

Giving notice of business to be considered at council meetings

NSROC does not support removing clauses 3.12 and 3.13. The removal of staff oversight of notices of motion to identify legal, strategic, financial or policy implications conflicts with good governance practices. These clauses uphold strong fiscal discipline and alignment with the adopted budget of Council. The use of notices of motion to promote new projects and initiatives without recognised funding sources could result in the undermining of the framework in the development of the annual Delivery Plan and Operational Plan. It is relevant to note in clause 3.12 that "the general manager *may* prepare a report". It is not a mandatory requirement at the present time hence its removal from the Model Code is unnecessary. **These clauses should remain.**

Questions with notice

NSROC does not support removing clause 3.15. Allowing a councillor to ask a question with notice concerning complaints against and wrongdoing by the general manager or staff member is inappropriate conflicts with conduct, privacy, and fraud and corruption principles.

This 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. There are more appropriate mechanisms to deal with allegations of wrongdoing via internal and external grievance procedures. **The clause should remain.**

Banning briefing sessions

NSROC member councils are committed to ensuring transparency and accountability in decision making. The debate and deliberation of notices of motion, Mayoral Minutes, recommendations and other matters that lead to a decision or resolution of council should be in the public domain.

NSROC has previously expressed concerns with the proposed ban on private pre-meeting briefing sessions with councillors (clauses 3.33 - 3.38). The opportunity for Councillors to receive information, learning and support, as well as participate in strategic planning initiatives in closed session remains important. Workshops and briefing sessions are a forum for the dissemination and consideration of information that allows councillors to better understand an issue. Closed session briefings and workshops foster informed decision making and enhance the quality of debate that subsequently occurs at the public Council meeting.

Further, to suggest that all proceedings of a workshop can occur during a Council meeting is inconsistent with the objectives to make Council meetings accessible, streamlined and efficient.

NSROC suggests the Model Code allow workshops to be held and includes a mandated requirement to disclose in reports to Council when deciding a matter, that a workshop was held and its purpose.

Attendance of the general manager and other staff at meetings

NSROC does not support the amendment to clause 5.43 that confers responsibility on council to determine staff attendance at meetings.

The attendance of staff (other than the general manager) at a meeting is not a matter for determination by a council and should remain with the general manager. The proposed amendment to allow councils to determine which staff members shall attend a meeting to allow it to deal with business on the agenda is inappropriate on many levels including fraud and corruption and probity matters. It conflicts with the powers of the council under the Local Government Act 1993, as a council cannot direct any member of staff (other than the general manager). It is the general manager's role under the Local Government Act 1993 to direct staff. The general manager may choose to consult with the mayor regarding attendance of staff. **The clause should remain unamended.**

Duration of speeches

NSROC does not support removing clause 10.24. The removal of the ability of a council to resolve to shorten the duration of speeches from five minutes to expedite council business at a meeting is a retrograde step. Mosman Council has for many years limited speakers to three minutes and this has operated extremely well noting that extensions of time will be reasonably granted when circumstances warrant. There has been no apparent issue with councillors not having enough time to debate issues. **This option to vary the time limit should be retained.**

Resolutions passed at closed meetings to be made public

NSROC has concerns with the proposed requirements that business papers be published once their content is no longer confidential (new clauses 14.19 and 14.20). While we support improvements to transparency and public access to information, these amendments establish a duty on the general manager to continually monitor all previous business papers, determine whether all the reasons for them being made confidential have lapsed, consult with the council and then publish them. Such a duty may be unworkable and create an unreasonable administrative burden.

Identifying the exact point at which information transitions from confidential to public domain is complex. This requires careful consideration of legal obligations, privacy law, commercial-in-confidence agreements, legal proceedings and ongoing investigations. This would require ongoing assessment and monitoring of all confidential papers and consultation with multiple third parties.

The proposed amendments make no allowance for public interest considerations (e.g. release of personal and other confidential information that is of little or no benefit to the public) or the partial release of information (i.e. with redactions). It is also unclear whether these amendments are intended to apply retrospectively (i.e. to business papers already dealt with under previous terms of council).

A more efficient and effective approach would be to require that Councils review papers after the end of each council term to identify any that can be released (in accordance with information access and other relevant laws), and/or a requirement that councils notify the public that anyone may seek access to confidential business papers by lodging an information access (GIPA) request and publishing any business papers released on the website.

In conclusion

NSROC would welcome the establishment of a working group to codesign the final Model Code of Meeting Practice for Local Councils in NSW. Made up of experienced practitioners, including mayors, general managers, and the Office of local Government, the group would identify workable and efficient proposals that address the outcomes and objectives of the reforms.

If you require further information, please don't hesitate to contact me by phone on [REDACTED]

Yours sincerely

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Executive Director
Northern Sydney Regional Organisation of Councils