

# Model Meeting Code Amendments

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Submission to Proposed Changes

To whom it may concern

**Submission to Model Meeting Code Amendments**

Wagga Wagga City Council (WWCC) appreciates the opportunity to provide the following submission in response to the Office of Local Government’s draft amendment to the Model Meeting Code and accompanying paper.

Some of the proposed changes will have a substantial impact on the way Council currently conducts meetings. One of the biggest issues facing Council is the potential removal of briefings (workshops) and pre-meeting briefings.

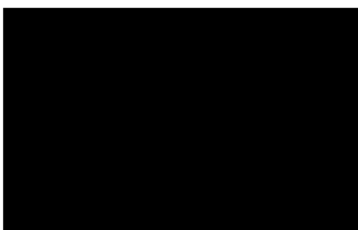
This suggestion is not supported in the strongest possible terms. Transparency is critical to maintaining trust within the community, however briefing sessions outside of the public meeting process should be permitted within a clear framework. It is important that Councillors feel safe to ask questions and understand alternate views or solutions to an issue. It is also important that Council officers can provide detailed background information to Councillors in relation to matters that may come before them. This process of becoming fully informed cannot be achieved within the formality of a Council Meeting and banning briefing sessions may ultimately delay timely decision making.

This single proposal will undermine and weaken government across NSW to the detriment of the people of NSW. It will deliver poor decisions and compromise good government.

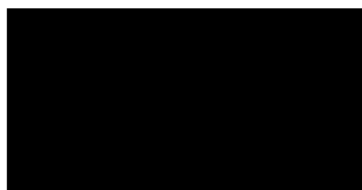
Council’s feedback has been made by responding to the key headings/subjects, rather than specifically answering changes to the model code.

We thank you again for the opportunity to provide feedback.

Regards



**Mayor**



**General Manager**

## Promoting transparency, integrity and public participation

Summary of OLG's Proposed Amendments	Council Response
<p>Removing pre-meeting councillor briefings. It is the Government's expectation that any material provided to councillors, other than the mayor, that will affect or impact or be considered by councillors in their deliberations or decisions made on behalf of the community must be provided to them in either a committee meeting or council meeting. The restriction on briefing sessions will be prescribed in the Regulation.</p>	<p>This suggestion is not supported in the strongest possible terms.</p> <p>Transparency in local government is critical to maintain trust within the community, however briefing sessions outside of the public meeting (whether pre-meeting or otherwise) process should be permitted within a clear framework. It is important that Councillors feel safe to ask questions and understand alternate views or solutions to an issue. It is also important that Council officers can provide detailed background information to Councillors in relation to matters that may come before them. This process of becoming fully informed cannot be achieved within the formality of a Council Meeting and banning briefing sessions may ultimately delay timely decision making. This will also likely impact Council resourcing with Councillors asking questions via email or through phone calls in the lead up to Council Meetings making it difficult to respond to and ensure all Councillors are presented with the same information.</p> <p>This single proposal will undermine and weaken government across NSW to the detriment of the people of NSW. It will deliver poor decisions and compromise good government.</p>
<p>Requiring information considered at closed meetings to be made public after it ceases to be confidential, as recommended by ICAC. The general manager will, after consulting with the council, be required to publish business papers for items considered in closed meetings on the council's website after the information in them ceases to be confidential.</p>	<p>This recommendation is out of context with the recommendation of ICAC. ICAC conducted an investigation into the conduct of the City of Canada Bay Council mayor and others, which was in relation to planning matters involving a number of developers. As a result of the investigation ICAC made the following recommendation in relation to planning matters considered in closed Council:</p> <p><i>That the Department of Planning and Environment: takes steps to require councils to proactively release relevant business papers, correspondence and reports where confidentiality under Part 1 of Chapter 4 of the Local Government Act 1993 no longer exists, either via initiating an amendment to legislation or a regulation, and/or amending the Model Code of Meeting Practice for Local Councils in NSW and The Closure of Council Meetings to the Public guidelines.</i></p> <p>Applying this recommendation to all Council matters considered in the closed part of Council Meetings (tenders, staffing matters, financial hardship etc) is not appropriate.</p>

	Automatically releasing confidential information once it is "deemed" no longer sensitive may put Councils at legal, financial and/or strategic risk.
Requiring recordings of meetings to be published on council websites for longer. Recordings must be published on council websites for the balance of the council term, or, in the case of an election year, for at least 12 months.	This is supported.
Providing that councils must not make final planning decisions without a staff report containing an assessment and recommendation, as recommended by ICAC.	This is supported.
Requiring councils to give reasons where they make a decision on a planning matter that departs from the staff recommendation, as recommended by ICAC	This is supported and is consistent with the existing framework. This justification is required if defending a decision in the Land & Environment Court.

## Promoting the dignity of the council chamber

Summary of OLG's Proposed Amendments	Council Response
Enhancing the authority of the mayor. The mayor will be permitted to call extraordinary meetings without a request and the restrictions on mayoral minutes will be removed.	This is supported.
Requiring councillors to stand when a councillor addresses the meeting, or when the mayor enters the chamber, as well as by mandating modes of address at meetings.	<p>The requirement to stand when addressing the meeting and /or when the mayor enters should be a matter to be determined by the Council – not required by mandate. It is difficult to contemplate how this would assist in restoring dignity.</p> <p>It is also not equitable or inclusive and would be unfair if a Councillor or staff member had mobility issues or was in a wheelchair.</p> <p>The nature of 'debate' within the code already limits opportunities for real debate or discussion. This will further promote the use of debate for individual monologues and grandstanding. It will also require unnecessary upgrades to IT (e.g. microphones)</p>
Removing the option for councils to reduce the duration of speeches, to ensure all councillors may have their say on important community issues.	This is supported as long as the cap of five (5) minutes is retained.
Making clear to the community that decisions are made in council meetings and not in other forums that the community can't access, like briefing sessions.	This is already clear within the existing framework. Council meetings are the only way to formalise a decision of Council.
Refining the definitions of disorder to remove phrases that could be weaponised to impede debate.	This is supported.

<p>Providing as a default that councillors are to attend meetings in person. Councillors will only be permitted to attend meetings by audio visual link where they are prevented from attending a meeting in person because of ill health or another medical reason or unforeseen caring responsibilities. Councillors will not be permitted to participate in meetings at which a mayoral election is being held by audio visual link. To facilitate this, the rules governing attendance at meetings by audio visual link will be mandated.</p>	<p>While Council supports a preference for in person attendance, the model code needs to provide flexibility for instances such as Councillors being out of town for work or attending a conference/training. This enables Councillors to continue to participate in important matters when travelling out of town. Making a change such as this may restrict the type of future candidates attracted to campaign for election in the future.</p>
<p>Restricting the circumstances in which the council may withhold a leave of absence. Where a councillor gives an apology from attending a meeting, the council will be deemed to have accepted the apology and granted a leave of absence from the meeting unless the council resolves otherwise and gives reasons for its decision.</p>	<p>This is supported.</p>
<p>Removing the option for staff to attend meetings by audio visual link.</p>	<p>This is not supported. Again, the preference is for in person attendance but there may be instances where remote attendance is required. Staff should be afforded some flexibility for certain circumstances.</p>
<p>Strengthening the deterrence against disorder by codifying the common law position that allows councillors to be expelled from successive meetings where they fail to apologise for an act of disorder at an earlier meeting.</p>	<p>This is supported.</p>

## Depoliticising the role of the general manager

Summary of OLG's Proposed Amendments	Council Response
<p>Removing the requirement for general managers to prepare reports for notices of motion. General managers will no longer be required to prepare reports on notices of motions with financial implications or to identify sources of funding where a notice of motion proposes expenditure that has not been budgeted for. These will be matters for the council to determine.</p>	<p>This suggestion is not supported in the strongest possible terms.</p> <p>While it is agreed that these matters are for Council to determine, it is critically important for the General Manager to provide a report regarding potential implications (if any) of implementing an activity identified through a Notice of Motion. By adopting motions without identifying a funding source is just bad business.</p>
<p>Providing that the mayor, not the general manager has discretion on whether council staff should respond to questions with notice. It will be open to the mayor to rule a question with notice out of order at the meeting if it breaches the disorder provisions of the council's code of meeting practice.</p>	<p>This is not supported. The General Manager is best placed to make a determination on whether or not a question or question with notice should be answered. It adds an unnecessary layer for Councillors to ask a question through the chair, to only then be referred through the General Manager.</p> <p>The removal of the following clause is also not supported:</p>

	<p><i>A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.</i></p> <p>There are appropriate channels and mechanisms in place to deal with these sort of complaints/questions.</p>
<p>Conferring responsibility on the council to determine staff attendance at meetings. Because councillors are best placed to determine what support they require from staff at meetings, it will be a matter for the council to determine which staff attend meetings.</p>	<p>This is not supported. Without a thorough understanding of the full structure of an organisation how can Councillors determine who should be in attendance.</p>

## Simplifying the Model Meeting Code

Summary of OLG's Proposed Amendments	Council Response
Streamlining the code by removing unnecessary provisions.	We support any attempt to streamline processes and provisions.
Removing the non-mandatory rules governing public forums. Councils will be free to determine their own rules for public forums.	This is supported as long as Council has the ability to develop a framework with parameters that suits our community.
Simplifying the rules governing public representations to the council on the closure of meetings to the public.	This is supported.
Simplifying the rules for dealing with urgent business without notice at meetings. Simplifying the rules of debate by removing the provisions allowing motions to be foreshadowed.	This is supported, but clarity is required about what can be considered and whether all Councillors have to be in attendance for this to occur.
Mandating some current non-mandatory provisions including those allowing meetings to be cancelled or held by audio visual link in the event of natural disasters and public health emergencies and those governing councillors' attendance at meetings by audio visual link.	Parts of this are supported, however as above we do not support the mandate that Councillors may only attend via audio visual link because of ill health or unforeseen caring responsibilities.

## Restricting councils from holding briefing sessions

Summary of OLG's Proposed Amendments	Council Response
Proposed amendments to the Regulation will restrict councils from holding briefing sessions. The	This suggestion is not supported in the strongest possible terms.

<p>amendments will establish the appropriate ways councillors are to make decisions and receive information based on the following principles:</p> <ul style="list-style-type: none"> <li>• Decision making by councillors must be through a resolution adopted at a council or committee meeting.</li> <li>• Information is to be provided to councillors through clear and established channels: <ul style="list-style-type: none"> <li>○ information may be provided to councillors by staff in response to a request for information or action made through the councillor request system,</li> <li>○ general information to assist councillors' understanding of sector wide issues (e.g. legislative changes), should be received from the general manager (and other external sources),</li> <li>○ training materials to meet learning and development requirements come through</li> <li>○ established training programs,</li> <li>○ information to enable councillors to understand the function, service delivery standards, strengths, weaknesses, threats and opportunities of council operations should be provided in periodic workshop format (e.g. an annual strategic planning workshop), and</li> <li>○ information requiring a specific decision or resolution of council is to be provided by the general manager as a part of a report prepared for the business papers of a council or committee meeting.</li> </ul> </li> <li>• The distribution of information in a meeting or format that is not consistent with the above pathways (e.g. through briefing sessions), is not permitted.</li> <li>• The mayor will not be subject to these restrictions and may receive information in order to undertake their functions under the Act.</li> </ul>	<p>Transparency in local government is critical to maintain trust within the community, however briefing sessions outside of the public meeting process should be permitted within a clear framework. It is important that Councillors feel safe to ask questions and understand alternate views or solutions to an issue. It is also important that Council officers can provide detailed background information to Councillors in relation to matters that may come before them. This process of becoming fully informed cannot be achieved within the formality of a Council Meeting and banning briefing sessions may ultimately delay timely decision making.</p> <p>This single proposal will undermine and weaken government across NSW to the detriment of the people of NSW. It will deliver poor decisions and compromise good government. The express authorisation of the Mayor being briefed in direct contrast to other elected members simply punctuates the absurdity of the proposal.</p>
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