

Email: councillorconduct@olg.nsw.gov.au

Re: **Submission on the Model Code of Meeting Practice for Local Councils in NSW**

Inner West Council (Council) welcomes the opportunity to provide feedback on the Office of Local Government Consultation Draft of the Model Code of Meeting Practice for Local Councils in NSW (Consultation Draft).

Council notes and supports:

- The proposed ability of each council's mayor to call an extraordinary meeting without the need to obtain the signature of two councillors, and the removal of restrictions on mayoral minutes. Council considers this is consistent with the policy rationale of enhancing the authority of the mayor.
- The requirement on each council's general manager to consult with the mayor in respect of identifying in a council meeting agenda those items that are likely to be considered in confidential sessions. Council considers this is consistent with the policy rationale of ensuring mayors are empowered to run council meetings effectively.
- The removal of the mandatory requirements in respect of public forums from the Model Code. Council considers the provision of discretion to councils in respect of how public forums are to be conducted is consistent with the recognition of local government as the legitimate third tier of government in New South Wales.
- The requirement for the general manager to make a business paper considered in confidential session of council available on a council's website as soon as practicable after the information in the business paper ceases to be confidential. Council notes the requirement for the general manager in this scenario to consult with the council prior to publishing the business paper, and considers that in most instances this can be achieved by identifying in the business paper when it will be made publicly available.
- The clarification that a councillor who has lodged a notice of motion may withdraw it at any time, and the requirement for the mayor to note the withdrawal of the notice of motion at the meeting if the notice of motion was withdrawn after the agenda for the meeting has been circulated. Council considers this is a useful clarification, but considers that it would benefit from more operational detail as to whether a councillor in this scenario should direct their withdrawal notice to the general manager or the mayor.
- The removal of provisions allowing motions to be foreshadowed. Council considers this is consistent with the policy rationale of simplifying the rules of debate, and notes that a councillor can at any time during debate note that they may move an alternate motion if the motion being debated is lost.

Banning confidential Councillor Briefing Sessions

Council opposes the restriction on councils holding briefing sessions, noting that this will be given effect through an amendment to the *Local Government (General) Regulation 2021 (Regulation)*.

Council previously made a submission opposing the proposal to ban briefing sessions contained in the "Councillor Conduct and meeting practice: a new [REDACTED] Discussion Paper). Given submissions in respect of the Discussion Paper closed on 29 November 2024, and the Consultation Draft was issued in December 2024, it is unclear what, if any, consideration was given to the submissions made by Council and other councils and other local government stakeholders.

Council reiterates its concern with the proposal to ban confidential councillor conduct briefings. Council considers that the ban is inconsistent with the policy intention stated in the Consultation Draft of "uplift[ing] the standards at council meetings so that they ... resemble the forthright and effective debate that occurs at the State and Federal levels". As noted by Local Government NSW in its submission, the private briefings provided to Ministers, the NSW Government, Opposition, and Crossbench lead to better informed MPs and more informed decision making once a matter comes to the public forum in Parliament. Council considers the same principle should apply to local government, to recognise its status as the legitimate third tier of government in New South Wales. While Council agrees transparency of decision making is extremely critical, the proposal to ban confidential briefing sessions creates the risk that debate in the council chamber will be less informed, and therefore, less effective.

Council urges the New South Wales State Government to reconsider the proposal to ban confidential briefing sessions, and instead consider alternative transparency mechanisms that could be imposed, including some of the suggestions made in Council's submission of November 2024, to ensure briefing sessions do not become forums for debate.

Virtual Attendance at Council Meetings

The Consultation Draft proposes that councillors will only be able to attend and participate in council meetings by audio-visual link where they are unable to attend because of ill-health or other medical reasons, or because of unforeseen caring responsibilities.

Council opposes this proposal, on the basis that this will reduce the diversity of councils. As noted by the Minister for Local Government in "Stand for your community: Candidate guide", one of the "real strengths of NSW is the diversity of its communities and our councils should reflect that diversity, so more voices are heard". Preventing councillors from being able to attend meetings virtually, except in very narrow circumstances, will make it less attractive and feasible for people in certain demographic groups to become councillors, and will have a detrimental effect on diversity. Implementing this proposal will specifically have a detrimental effect on the number of people with caring responsibilities who might stand for election. As the basis for this, a 2022 ANU study conducted by Tanya Jakimow and published in the *Commonwealth Journal of Local Governance* (Issue 26: May 2022) analysed diversity in local government in NSW, and explicitly

noted "the ability to remotely attend council meetings (the [REDACTED])

It is unclear why this restriction would be imposed in pursuit of the objective of promoting the "dignity of the council chamber" when it will have a detrimental effect on promoting local government diversity, which has been identified as one of the strengths in NSW local government. Council urges the New South Wales State Government to reconsider this proposal.

Staff Attendance at Council Meetings

The Consultation Draft proposes that the attendance of council staff at council meetings will be determined by council from time to time, and not by the general manager, as is the current convention.

While Council agrees with the policy rationale that councillors are best placed to determine what support they require from staff at meetings, implementing the proposal could pose logistical difficulties. For example, the staff who need to attend one particular council meeting may not necessarily be the same as the staff who need to attend the next council meeting, as the items due for consideration by council may be significantly different. In order for council to resolve the staff who might need to attend a particular council meeting, councillors would need to know which items might be considered at the meeting well in advance of the agenda and business paper being distributed. The alternative would be for a council to determine in advance the staff who need to attend meetings. Operationally this would require these staff to attend all meetings regardless of whether they are actually required to provide advice at the meeting.

Alternatively, if the council's determination is drafted permissively, staff attendance for a particular meeting would likely be at the general manager's direction, given the general manager's ability to direct staff pursuant to section 335(g) of the *Local Government Act 1993* (Act).

The latter option is the status quo, which was presumably originally justified on the basis that it is the general manager who has the statutory responsibility pursuant to section 335 of the Act of providing advice to council. There seems to be no reason to depart from the status quo, and it is unclear how this proposal will achieve the stated policy intention of depoliticising the role of the general manager.

Council opposes this proposal and suggests an alternative could be for the attendance of staff at a council meeting to be with the approval of the general manager, who would be required to consult with the mayor as to the staff who will attend a meeting. Council notes this is likely the manner in which staff attendance at meetings is agreed to in any event, and this alternative would also achieve the policy intention of supporting mayors in ensuring meetings are managed effectively.

Shortening the duration of speeches

[REDACTED] Council's ability to resolve to shorten the duration of speeches to expedite the consideration of business at a meeting. Shortening the duration of speeches is an effective mechanism by which a council may choose to manage its time, and ensure it is able to consider all items in a meeting agenda. It is unclear how this achieves the policy intention of promoting the dignity of the council chamber, and seems like an excessively granular regulation of the conduct of council meetings. Noting the proposal, discussed above, that councillors will determine which staff should attend council meetings, it is also unclear why councillors are considered "best placed to determine what support they require from staff at meetings", yet cannot be trusted to determine how long councillors should be granted to speak on items.

Council opposes this proposal and considers that it should be open to each council to determine how best to manage the conduct of council meetings.

Points of Order to be able to be made with respect to meeting principles

The Consultation Draft proposes the removal of the restriction on a point of order being able to be made with respect to adherence to the general "Meeting Principles".

Council acknowledges the need to emphasise the importance of these principles. However, these meeting principles are drafted very generally, and not in a way that is amenable to being the subject of a point of order. For example, if a councillor were to raise a point of order on the basis that something that occurs at a meeting is not inclusive and does not represent the diverse needs and interests of the local community, it would be difficult for the chairperson to make a ruling on this in a manner that does not rely on a highly subjective interpretation of the principle of inclusivity.

Council opposes this proposal, and consider the policy intention for this proposal is unclear.

Councillors and staff must stand when the mayor enters the chambers and when addressing the meetings

The Consultation Draft proposals that councillors and staff must stand, if able to do so, when the mayor enters the chambers and when the councillor or staff member is addressing the meeting. Council acknowledges the policy intention of enhancing the authority of the mayor, and also acknowledges that the proposed requirement to stand is only if a person is able to do so. However, council opposes this requirement on the basis that it seems like an excessively granular regulation of the conduct of council meetings. Council also notes that this proposal is not inclusive, as it explicitly equates the display of respect for the mayor with an ability to stand.

Council opposes this proposal and considers it should be open to each council to determine whether they wish to have their councillors and staff stand when the mayor enters the chamber and when addressing the meeting.

For further information on this submission please contact [REDACTED]
[REDACTED]

References:

Jakimow, T (2022) "Roadblocks to diversity in local government in New South Wales, Australia: changing narratives and confronting absences in diversity strategies", *Commonwealth Journal of Local Governance*, 26, 74–93. <https://doi.org/10.5130/cjlg.vi26.8054>.

Council approved this submission on 18 February 2025.