

25 February 2025

Deputy Secretary
Office of Local Government
Locked Bag 3015
NOWRA NSW 2541

Attention: Council Governance Team

By email: olg@olg.nsw.gov.au

Dear Mr Whitworth

Model Meeting Code amendments

Reference is made to Council Circular 24-23 dated 17 December 2024 inviting submissions on proposed amendments to the Model Code of Meeting Practice (Model Meeting Code) for Local Councils in NSW.

Lane Cove Council at its meeting on 20 February 2025 considered a report on the consultation draft of the Model Meeting Code and resolved to lodge the following submission.

Introduction

The proposed amendments to the Model Meeting Code have little regard to the concerns that Lane Cove expressed in its submission to the OLG in November 2024.

The proposed amendments to the Model Meeting Code present a range of concerns and challenges for Council. These concerns and challenges are summarised as follows:

- Pre-meeting briefings are proposed to be banned with the exception of certain circumstances specified in the revised Code. Council has previously raised concerns over the proposed banning of pre-meeting briefings and maintains its staunch opposition to such a measure.
- Removing the need to specify when Notice of Motions are to be submitted and replacing it with “within a reasonable time” and “to be determined by council”. What is a reasonable time and to whom must it be reasonable? The current practice of specifying the timeframe in which Notice of Motions are to be submitted to the General Manager for consideration and inclusion in the Business Papers is considered reasonable. A specific timeframe establishes a standard and encourages responsibility and accountability.
- In the case of a Notice of Motion or a Mayoral Minute, it is proposed that the General Manager be no longer permitted to prepare a report if he/she believes there are important legal, strategic, financial, or policy implications that should be considered before the Notice of Motion or Mayoral Minute is debated. This includes identifying funding sources if funds are not already in the adopted budget. It can only be assumed that this is now a matter for council to determine. This is unfortunate given the General Manager generally has the

requisite knowledge (or has direct access to a staff member who has the requisite knowledge) and expertise to effectively and efficiently supply or source this information. It is asserted that this will “depoliticise the role of the general manager”, yet no evidence has been presented to indicate this has ever been an issue in the past.

- The attendance of other staff (other than the General Manager) at a meeting should not be a matter for council determination. It is a matter that rightly rests with the General Manager. The Council does not direct staff, they only direct the General Manager. This is likely to become an industrial issue that various stakeholders will have a vested interest in.
- Removing the prevention of a councillor from asking a question that comprises a complaint or wrongdoing against the General Manager or member of staff is considered unhealthy and may be weaponised. Complaints of this nature ought to be dealt with via the Code of Conduct administrative procedures whereby allegations are to be properly investigated (in confidence), procedural fairness afforded and natural justice served.
- Removing the statement of ethical obligations that appears in all business paper preambles may be perceived by the public as diluting the importance of this important matter. It could be construed that the behavioural obligations of the Code of Conduct and the appropriate management of conflicts of interest are of little or no value.
- Public forums cannot form part of a council meeting. They can only be held prior to a council meeting or an extraordinary council meeting. This will result in the need for members of the public who wish to speak at Council meetings to do so before the meeting (either on the day of the meeting or on a separate evening prior to the council meeting). Challenges include:
 - If Council wants to quarantine time for the public forum, it will either have to hold it inconveniently early or advertise a later start time for Council meetings.
 - If there are only a few speakers in the public forum on a given night, Councillors and staff could be waiting a significant period of time between the end of the public forum and the start of the Council meeting. Alternatively, if many speakers we will have to stop the public forum to start the council meeting.
 - If the forum starts to make meetings late, Council could will need to look at ways of tightening the forum up by doing things like limiting the number of speakers on an item.

None of the above is considered necessary. The status quo should remain.

- The previously prescribed rules of engagement during public forums are proposed to be removed. They are now a matter for council to determine. The current prescribed rules of engagement are clear and concise and should be retained as a minimum standard.
- The Order of Business has been removed from the current Code and replaced with council having to determine the Order of Business. Whilst this doesn't pose any significant issues, the question is why was it removed and is it necessary? It could at least remain as a default and have Council resolve to change it should they feel it necessary from time to time.
- The right for council to resolve to shorten the duration of speeches to expedite the consideration of business at the meeting has been removed.

One of the unintended consequences of removing this clause is unnecessarily long meetings that may lead to important items being adjourned. By leaving the time limit of speeches at 3 minutes, the Council can always resolve to extend the length of time a councillor wishes to speak.

- Information in confidential business papers need to be published on council's website from the time the information ceases to be confidential. Who determines when information ceases to become confidential, what criteria is to be applied in releasing information that was previously considered confidential and are there any circumstances where the information might be considered as always having to remain confidential?
- It is proposed to remove alleging a breach of council's code of conduct as an act of disorder during a council meeting. Allegations of breaching the code of conduct should always remain confidential and be dealt with in an appropriate manner and in an appropriate environment and with due regard to procedural fairness and natural justice.

Other matters the OLG may wish to consider in its review of the Model Meeting Code include:

- Limiting the use of a casting vote to maintaining the status quo or require the Chairperson to declare they are about to use their casting vote. Council proceedings could then be suspended to allow 15 minutes of private discussion. The matter would then be recommitted for voting purposes only (no debate).
- Review the use of 'leave of absence. The rules around non-attendance at a council meeting should have limitations (for example – not more than 6 months). The granting of leave should be based on defined rules rather than, say, political alignments.

Thank you for the opportunity to comment on the consultation draft. Please direct any enquiries to [REDACTED]

Yours Sincerely

[REDACTED]

Director – Corporate Services & Strategy
Lane Cove Council