



28 February 2025

Office of Local Government
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Our Ref: DOC2025/015252

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

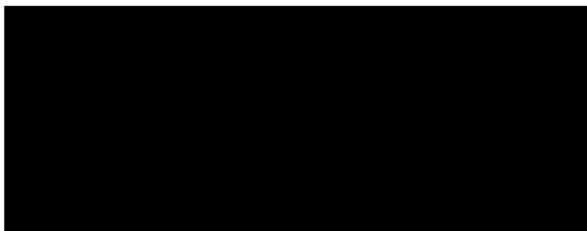
Dear Office of Local Government Council Governance Team,

MODEL MEETING CODE AMENDMENTS

Cessnock City Council welcomes the opportunity to make a submission on the 'Model Meeting Code Amendments'. Please find attached Council's submission.

If you require any further information, please do not hesitate to contact me via [REDACTED]

Yours faithfully



Acting General Manager

Questions for consideration:		Our response:
Questions for Consideration		
1.	Will the proposed amendments made in the consultation draft of the Model Meeting Code achieve the policy outcomes identified in this paper?	Please refer to below provided response.
2.	Are there any other amendments you would suggest that will achieve these policy outcomes?	An additional principle on 'respect' could be included to support that while debate is encouraged and Councillors have a right to differ on points, it is important that debate is respectful and any reports of misconduct are made in good faith. There could be increased focus on assisting Councillors to understand that while they may be elected in a ward area and by a particular cohort of electors, their responsibility is to the whole of the community within the local government area. The balance of freedom of speech and representing the interests on which they were elected with the need to act fairly, ethically and without bias in the interests of the whole community can result in passions extending beyond respectful discussion and a strong local government regulator can assist with this.
3.	Will the proposed amendments have any unintended consequences?	The removal of Councillor briefing sessions may: • Discourage Councillors from seeking clarification leading to uninformed decisions. • Result in longer and more inefficient Council meetings due to an increase in closed sessions. • Reduced staff development opportunities. • Increase questions taken on notice. At Cessnock Council, our COMP calls these "Agenda Review Meetings" to more accurately reflect that it is an opportunity to take Councillors through the agenda so that they have an opportunity in the week leading to a meeting to consider the papers, seek further information as may be required prior to a Council meeting where the decisions are made. These meetings do not pre-empt open and transparent decision making but support Councillors in their role as community representatives.
4.	Are there any other amendments the Government should consider?	Please refer to below provided response.

Promoting transparency, integrity and public participation

5.	Removal of pre-meeting councillor briefings. <i>The restriction of briefing sessions will be prescribed in the Regulation.</i>	Council agrees that all decisions should be made in open Council meetings, unless a meeting is required by legislation to be closed to the public. However, removal of the ability for Councillors to receive some information in a confidential manner limits their capacity to be leaders of the community. Despite provisions relating to commercial-in-confidence or other confidential matters, there are always elements of the community who think that all matters, including in particular expenditure and tenders, should be open to the public as they perceive this as the only way to demonstrate transparency despite the NSW Audit Office auditing Councils, monthly, quarterly and annual financial reporting. As Councillors are not delegates of the community in the sense that they must vote how instructed, we need to provide Councillors with all the tools to support them representing the entire community, not just the people who voted for them, or just the people of their ward.
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6.	Removal of pre-meeting councillor briefings. <i>The restriction of briefing sessions will be prescribed in the Regulation.</i>	Whilst we have already provided a response in regards to this, we reject the view that briefing sessions are a forum for making decisions away from the public view. All Councillors should have the ability and right to request advice and information from staff. Council's current Code of Meeting Practice provides for pre-meeting agenda review sessions. These sessions are critical for Councillors to ask questions of Council staff to gain a better understanding of (especially complex) matters before the public Council meeting environment. Decisions are not made during these sessions. Briefings can be practical because the information is sometimes complex. They are also a mechanism to support Councillors with disabilities or learning difficulties to navigate sometimes complex documents. More broadly, there are many learning styles which must be adapted to and accommodated. Adopting the proposed changes will force one learning style to all, meaning that those who work with this style will dominate and those to whom this style does not agree will be silenced. By not allowing Councillors the opportunity to learn away from the public, the forum for open discussion and debate is stifled. Councillors will simply not participate. Council has a large number of new Councillors following the recent election and banning briefing sessions could: • Discourage Councillors from seeking clarification on matters leading to uninformed decision making. • Increase the number of questions taken on notice. • Increase the number of closed sessions. • Reduce staff development opportunities. And, • Result in longer, inefficient Council meetings. Alternate Reforms We note that while pre-meeting briefings are removed, the discussion paper does indicate that "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)".
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		Council could therefore adopt a quarterly planning workshop schedule to work through matters such as CSP, budget, significant strategic matters. Confidential Sessions Banning briefing sessions could result in longer Council meetings due to the potential increase in commercial or confidential information to be provided to Councillors, resulting in more closed sessions in Council meetings. It could also result in an increase in questions taken on notice. Banning briefing sessions also removes staff development opportunities for presenting information to, or engaging with Councillors. Any material provided to Councillors that impact decision making will need to be reported to Council meetings – this will mean any Councillor Memos. This may impact the “frank and fearless” advice Council staff provide to Councillors knowing that it must be made publicly available. Alternate Reforms An alternate consideration could be the requirement to note in a Council report where a briefing has been provided and a summary of the discussion. However, this would be difficult to implement due to the timing around the preparation of Council reports and when Council briefings are usually held. Executive summaries may be included as an ‘addendum’ to Council reports.
7.	Requiring information considered at closed meetings to be made public to Council’s website after it ceases to be confidential. <i>ICAC recommendation.</i>	Council supports the principles of openness and transparency and actively engages in a proactive release program under the GIPA Act to publish information to members of the public. While these provisions also support the same principle, they are too prescriptive and do not allow Council’s to make this determination. It is already open to Council’s to publish information to Council’s website when confidentiality has been lifted. However, the current wording presents a potential burden to Council which does not support the objective.
8.	Requiring recordings of meetings to be published on Councils websites for longer. Must be published for the balance of the Council term, or in the case of an election year for at least 12 months.	Supported Council supports publishing of information. However, not all Council’s have the technical capabilities and storage for this. There is no reference to the State Records Act and this would be better given that the minutes of a meeting are the official record.

		Cessnock City Council currently publishes its business papers to its website and recorded meeting sessions to YouTube (also accessible via the website). There are no current publicised date limits applied.
9.	Councils must not make final planning decisions without a staff report containing an assessment and recommendation.	Supported This codifies existing practice.
10.	Council to give reason where they make a decision on a planning matter that departs from the staff recommendation.	Supported Council supports this and clarifies what was a previous legislative requirement. This provides assistance where a planning matter is the subject of litigation, however would recommend that the wording better align with the Environmental Planning & Assessment Act.
Promoting the dignity of the council chamber		
11.	The mayor will be permitted to call extraordinary meetings without a request and the restrictions on mayoral minutes will be removed.	Extraordinary Meetings Called by the Mayor Should be aligned with the standing provision “to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request”. Mayoral Minute Restrictions Lifted This is in contradiction to openness and transparency. Given that an agenda must be published before a meeting, removing restrictions on routine business coming through a Mayoral Minute means that the community may have no notice of a matter, even routine, on which they wish to be present or indeed present at a public forum.
12.	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.	Council does not support the requirement of Councillors to stand when addressing a meeting or when the mayor enters the chamber. This seems to be antiquated and pompous. Council’s current technological set-up (including audio-visual and webcasting) would not support this. Additionally, consideration should be given to Councillors that may have a disability that would prevent them from standing as well as Councillors that may have other difficulties standing.
13.	Removing the option for councils to reduce the duration of speeches.	Councils should be able to determine a minimum and maximum speaking time to reflect local practices. This should be balanced based on the number of Councillors. Regardless of the duration of speeches, there is always provision to move that a motion be put. Removing limits on duration of speaking may therefore have the unintended consequence of actually stifling speech rather than encouraging wide participation.
14.	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	Supported. Council supports an open and transparent approach to reporting to the general public and maintaining

	sessions.	its decision-making public facing. However, see Council's response to the removal / banning of briefing sessions. Council does not make any decisions in briefing sessions.
15.	Refining the definitions of disorder to remove phrases that could be weaponised to impede debate.	Council does not support the definition of disorderly conduct as based on the NSW Legislative Assembly. The processes implemented by the NSW Legislative Assembly do not reflect the practice of local government council meetings and therefore should not define them. Creating a system of expectations where local government Councillors are aligned with federal government members is both unrealistic and not feasible in practicality.
16.	Providing as a default that councillors are to attend meetings in person. <i>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.</i>	Council does not support the limiting of Councillors to attending Council meetings in person. This will: • Disadvantage those with work / career commitments. • Limit the ability for some individuals to run for Council/Office. Council would like to continue to make running for Council more accessible and achievable for a broader catchment of individuals. • Limit those in more remote areas where access to Council chambers or to be present in person is not possible easily. More generally this may increase the number of absences recorded or result in a lower attendance pool. • Potentially increase costs, both the time and money associated with travel. • Council has a popularly elected Mayor, so it has no position in regards to Mayoral elections. Provision should be maintained that <i>Councillors may attend and participate in meetings of the Council and committees of the Council by audio-visual link with the approval of the Council or the relevant committee.</i>
17.	Restricting the circumstances in which the council may withhold a leave of absence. <i>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.</i>	Supported. This is consistent with current practice.
18.	Removing the option for staff to attend meetings by audio visual link.	Not supported - Note item 16.

19.	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.	Generally Supported. However, from Council previous submission: Powers of the Mayor Whilst Council supports the power of mayors to expel Councillors for acts of disorder, Council does not support the proposed reform to confer the power on mayors to remove the Councillor's entitlement to receive a fee for the month in which they have been expelled from a meeting. September discussion paper proposed Mayor to impose sanctions in relation to fees – that doesn't appear to have been included. How do you ensure that the mayor has a reasonable, balanced approach with proper review mechanisms in a timely and responsive manner for the community? If the aim is to take politics out of local government, this is the opposite. Granting powers to the mayor to remove fees may lead to a perceived or actual abuse of power. The Discussion Paper provides for a 'right of review' as a check against misuse of power – who will conduct this right of review? If the General Manager is to be removed from the process, would a review be referred to the OLG? A tribunal? The Privileges Committee?
Depoliticising the role of the general manager		
20.	Removing the requirement for general managers to prepare reports for notices of motion. <i>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.</i>	Supported.
21.	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.	We do not support amendments that would move responsibility to the Mayor from the General Manager in regards to determining whether staff should respond to questions with notice or determining attendance of staff at Council meetings. This directly undermines the General Managers responsibility of managing staff.

22.	Conferring responsibility on the council to determine staff attendance at meetings. <i>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.</i>	We do not support amendments that would move responsibility to Council in regards to determining which staff should attendance Council meetings. This directly undermines the General Managers responsibility of managing staff.
Simplifying the Model Meeting Code		
23.	Removing the non-mandatory rules governing public forums. <i>Council will be free to determine their own rules for public forums.</i>	Whilst Council does not directly disagree with the removal of the provisions in the Code, the removal of the provisions will remove any guidance that Council has in regards to setting rules and guidelines for public forums. This may reduce the orderly and fair nature of Councils to be able to provide the public the opportunity for public forum.
24.	Simplifying the rules governing public representations to the council on the closure of meetings to the public.	
25.	Simplifying the rules for dealing with urgent business without notice at meetings.	Supported.
26.	Simplifying the rules of debate by removing the provisions allowing motions to be foreshadowed.	Supported.
27.	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.	Supported.
Restricting councils from holding briefing sessions		
28.	Decision making by councillors must be through a resolution adopted at a council or committee meeting.	Supported. This is already in practice. Every decision that Council is asked to make is supported by a relevant paper.
29.	Information may be provided to councillors by staff in response to a request for information or action made through the councillor request system.	Supported. This is already in practice. Councillors may submit a request for information using Council's request system in accordance with the Councillor and Staff Interaction Policy.
30.	General information to assist councillors' understanding of sector wide issues should be received from the general manager (and other external sources).	Supported. This is already in practice where Councillors receive a weekly newsletter with updates relating to Council projects and other matters of relevance.

31.	Training materials to meet learning and development requirements come through established training programs.	Supported. Councillors are required to develop a Professional Development Plan. Councillors must complete mandatory training opportunities, and additional training is able to be requested in line with Councils Councillor Training and Development Policy. The resources and materials provided are consistent with development requirements.
32.	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).	Supported. Council could adopt a quarterly planning workshop schedule to work through matters such as CSP, budget, significant strategic matters. Council provides the Mayor and Councillors with their personal development plans with the goal of supporting the Mayor and Councillors with their work in order to deliver to the community.
33.	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.	Supported. This is already in practice. Every decision that Council is asked to make is supported by a relevant paper.
34.	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.	Not supported. Refer to item 17.
35.	The Mayor will not be subject to these restrictions and may receive information in order to undertake their functions under the Act.	Supported. This is already in practice. The mayor may and should receive information in order to undertake their functions.