

26 February 2025

Mr Brett Whitworth
Deputy Secretary, Local Government
Office of Local Government
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NOWRA NSW 2541

Email: olg@olg.nsw.gov.au
Attention: Council Governance Team

Dear Mr Whitworth

Submission – Model Meeting Code Amendments

I refer to the Office of Local Government's Circular 24-23 relating to the review of the Model Code of Meeting Practice for Local Councils in NSW dated 17 December 2024, and provide the following as Council's submission, which was adopted by Council on 19 February 2025.

Council agrees, in part, with the aim to promote dignity in the Council chamber, however offers the following comments in relation to specific proposed amendments.

Notices of Motions

Council would prefer that the optional provisions on the deadline to receive Notices of Motions be retained in the Model Code. The alteration of Clause 3.10 means that councils will now be required to establish its own provisions.

Similarly, the removal of Clause 3.12 removes the ability for the General Manager to raise concerns with the Motion, particularly for Motions that may have significant implications for the Council. The clause should be retained, in the Model Code.

The alteration of Clause 10.9 is not supported by Council. The voting of money for expenditure on its works, services or operations cannot be delegated, and therefore a resolution of Council is required (s377(1)(g) of the Local Government Act). The identification of a source of funding for motions requiring expenditure of funds is an appropriate provision that should be retained in the Model Code.

The removal of Clauses 3.13, 9.10 and 10.9 are contrary to Council's obligations under sections 8A(1)(a), 8A(2)(e) and 8B of the Local Government Act 1993. The retention of the first sentence in each instance as a minimum is recommended.

Questions with notice (former Clause 3.15)

Council does not support the removal of restrictions on raising complaints about the General Manager and staff in questions with notice. 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.

Extraordinary meetings (proposed Clause 3.25)

The insertion of the requirement to have all Councillors in attendance to deal with urgent business not listed on an Extraordinary meeting agenda is an onerous test to achieve,

particularly if the matter is deemed urgent. Clarification is sought on whether Councillors who have sought leave under Clause 5.4 of the Model Code or similarly if a Councillor declares an interest in the urgent matter, does that preclude the matter from being heard.

Pre-meeting briefings (former Clauses 3.33 to 3.38)

Individual Councillors have the right to request information and advice from staff. Council believe that pre-meeting briefings provide the best opportunity to provide Councillors with the frank and open information and advice at the same time.

It is also important to note that the pre-meeting briefing sessions are also an important time for Councillor inductions, professional development and understanding of the organisation in line with Council's obligations under the Local Government (General) Regulations 2021. These sessions enable Councillors to build the skills, knowledge and personal attributes necessary to be an effective mayor or councillor.

Council agrees that the briefing sessions should not be used to make determinations on matters that are to be referred to Council meetings, but considers that they are retained to provide information and educate Councillors.

Public forums (Section 4)

Council would prefer that the optional provisions on the operation of public forums be retained in the Model Code. Removal of these provisions means that councils have no guidance on how to set rules for public forums that provide a safe, fair and orderly way for members of the public to address Council.

Attendance by audio-visual link (Clause 5.19)

Restricting the ability of Councillors to participate remotely in council meetings disadvantages those with work or carer commitments and may discourage them from running for office and may reduce the diversity of Councillor candidates. Additionally, the reasons for attendance should allow for work commitments and other family commitments. Accordingly, the original wording of this clause should be retained.

Staff attendance (former Clause 5.43)

Council does not support amendments that would shift responsibility for determining staff attendance at meetings to the Council. This amendment undermines the statutory role of the General Manager in managing staff and the efficient and effective operation of the organisation.

Voting on planning decisions (Clauses 11.12 to 11.17)

Council supports the proposed amendments requiring that staff reports be considered by Council before making decisions on planning matters, but does not support a new requirement for councils to provide reasons for their decision where the staff recommendation is not adopted. This would be impractical where the Mayor uses their casting vote or there are dissenting views.

Resolutions at closed meetings (proposed Clauses 14.19, 14.20, 20.20 & 20.21)

Council supports the principle of transparency and availability of business papers to the public but very concerned about how this would be implemented in practice. As written, this amendment imposes an unreasonable and open-ended duty on council to continually monitor all previous business papers (all the way back to the beginning of time), determine whether all the reasons for them being made confidential have lapsed, consult with the Council and then publish them. Identifying the exact point at which information transitions from confidential to public domain is complex, and there are already adequate mechanisms under the Government Information (Public Access) Act 2009 to facilitate this.

Council has concerns with the inclusion of Clauses 14.19, 14.20, 20.20 and 20.21, however Council would require guidance on the public release of items that were deemed confidential, as well as the definition of 'consult with the Council'.

Acts of disorder (former Clause 15.11)

Council does not support the definition of disorderly conduct based on the practices and expectations in the NSW Legislative Assembly. Conduct should not be defined by other protocols that are otherwise irrelevant to the operation of council meetings. Expectations should be contained in one location, being the Code of Conduct. The rewording of Clause 15.10(d) and (e) is not supported and the original wording should be retained.

Other matters

Proposed Clause 3.8 does not reflect s367(3) of the Act and may cause multiple formats to be provided based on preference, rather creating greater chances of error in complying with the requirements.

In acknowledging diversity in Councillors it is considered that the Model Code allow Councillors not to stand whilst addressing the chairperson where factors such as illness or disability preclude this happening.

Council does not support the proposed increase in the power of the Mayor throughout the Model Code. Nor does Council support the proposed reduction in power of the General Manager in the Model Code.

Council is neutral on the removal of Clause 8.2, however notes that this removes the consistency across the industry which assists members of the public navigate Council agendas.

The proposed alteration to Clause 9.17 is inconsistent with the Department's objective of the review being to promote dignity in the Council chamber. Council suggests reconsideration of removing the term 'respectfully'.

Council would prefer that the optional provisions on the deadline to receive a notice to alter or rescind a resolution be retained in the Model Code. The alteration of Clause 17.10 means that councils cannot define their own period to receive those notices.

If you have any queries please contact me on [REDACTED]

[REDACTED]
GENERAL MANAGER

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