



PORT STEPHENS
COUNCIL

Mr Brett Whitworth
Deputy Secretary
Office of Local Government
Locked bag 3015
NOWRA NSW 2541

ATTN: Council Governance Team

Dear Mr Whitworth

Re: Model code of meeting practice amendments

In response to Circular 24-23 consultation on reforms to council meeting practices, Council is generally supportive of the reforms to the model Code of Meeting Practice (the Code).

Council provides commentary below on the proposed amendments where further consideration should be given.

The proposed changes will likely bring about the desired outcomes in part, however a number of the amendments will not facilitate an appropriate flow of information to the elected Council.

Removal of briefing sessions

By way of background and in response to the Councillor Conduct and Meeting Practices Discussion Paper in September 2024, Council raised a number of issues, which included significant concerns with the proposed ban on pre-meeting briefing sessions with the Mayor and Councillors. A summary of the concerns are provided below.

- 1) Port Stephens Council does not believe there is a problem to be solved in relation to pre-meeting briefings.
- 2) The ban of briefings places a barrier for all councillors to receive and seek advice on various topics at once, in an efficient and effective information sharing forum.
- 3) The existing briefings are not a forum for debate or decision-making, and would continue in that manner.
- 4) A ban on briefings would limit the ability of staff to provide frank, honest, apolitical and impartial advice to councillors on complex policy, operational and financial matters, and objective information on risks and benefits of options that council may need to consider.

In response to this Circular, the proposal to remove councillor briefing limits the ability of the Mayor and Councillors to have an open and frank discussion with management concerning matters of interest and confidential aspects that cannot be discussed in an open forum. It is acknowledged a Council report may include the subject matter at hand, however our experience over many council terms is the Mayor and Councillors find the informal councillor briefings helpful and very informative without the formality of a Council meeting.

The briefings currently enable a more focussed and meaningful debate in a council meeting, supporting the requirement for councils to conduct effective and efficient council meetings, in accordance with the provision of the Code of Meeting Practice, the roles and responsibilities of the governing body and the mayor under the Local Government Act 1993. A view is held that meetings would potentially be much longer and may limit the ability of a council to complete the business on the agenda in one sitting.

Proposed meeting protocol to standing when the Mayor enters the Chamber and when addressing the meeting

The proposed protocol of councillors and staff standing when the mayor enters the Council chamber and to address the chair is a historical practice in some councils, we believe this practice is not in line with more contemporary practices and adds no value to the authority the mayor holds at a council meeting, therefore does not assist in achieving the desired outcomes of this reform. The same view is held with the requirement to stand when addressing the meeting.

In addition to the above proposal, consideration should be given to removing the protocol referring to the mayor as "His/Her Worship". In 2025, it is considered a more appropriate form of address would be to refer to the mayor as "Mayor" – this suitably provides a sufficient level of importance to the role of mayor.

Removal of foreshadowed motions

The proposal to remove foreshadowed motions is viewed as a productive reform to assist with more efficient meetings.

Proposed planning decisions

The introduction of the requirement for councils to have all information (staff report and assessment) prior to making a final planning decision, and to provide reasons for not supporting the staff recommendations, under new clauses 11.12 and 11.13, is supported.

Acts of Disorder

The proposed changes to clause 15.10(d) referencing the NSW Legislative Assembly should be given further consideration. Acts of disorder should be defined within the Code and not simply reference another jurisdiction that has nothing to do with Council meeting. The proposed changes would require additional ongoing monitoring of changes to the NSW Legislative Assembly framework, therefore adding to the administrative burden on councils. A clear definition in the Code would also assist the Mayor at a meeting should disorder occur.

Acts of disorder by the public

It was noted in the discussion paper OLG issued in September, "Councillor conduct and meeting practice: a new framework", there is proposal to introduce the provision for a mayor to issue a penalty infringement notice to members of the public should they refuse to leave the chamber once expelled. This proposal is not an appropriate mechanism to manage behaviours in the council chamber - issuing such notices would come with appeal/review rights before the courts and put councils to further financial and administrative costs.

Meeting attendance during a leave of absence

Section 234(3) of the Local Government Act 1993, makes provision to attend future council meetings where a leave of absence has been granted. Whilst the Code is clear on other aspects of meeting attendance under the Act, it appears to be silent on this provision. The Code should be amended to include section 234(3) to ensure it is clear that a councillor may attend a future meeting where a leave of absence has been granted and the leave of absence is taken to be rescinded.

Proposed Questions with Notice amendment

It is noted that the current clause 3.15 is to be removed – "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."

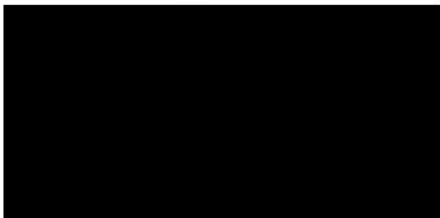
The removal of this clause would be inconsistent with various provisions of the Model Code of Conduct and is likely to create unintended consequence. The General Manager is responsible for the management of Council staff and complaints about staff should not be raised in an open Council meeting forum. Dependent upon the nature of the complaint or allegation, it may give rise to a workers compensation claim from the staff member and considered a psychosocial hazard, particularly if an elected member is targeting a member of staff or the general manager. Such conduct by a councillor could be a breach of clause 7.6 (f) and (h) – 'Inappropriate Interactions' under the Code of Conduct. The existing process should be maintained and clause 3.15 should remain in the Code of Meeting Practice.

Closed business paper to be made public

The requirement for councils to release confidential reports once they are no longer confidential is considered to be an extra administrative burden and may have unintended consequences should a council release a report prematurely and may trigger legal action and/or exposes commercially/legally sensitive information. Councils currently release the resolution to inform the community of a council decision – this is viewed as sufficient to maintain an open and transparent approach to such matters.

Should you have any questions concerning Council's response, please [REDACTED]
[REDACTED] [REDACTED]

Yours sincerely,



Tim Crosdale
General Manager

28 February 2025

