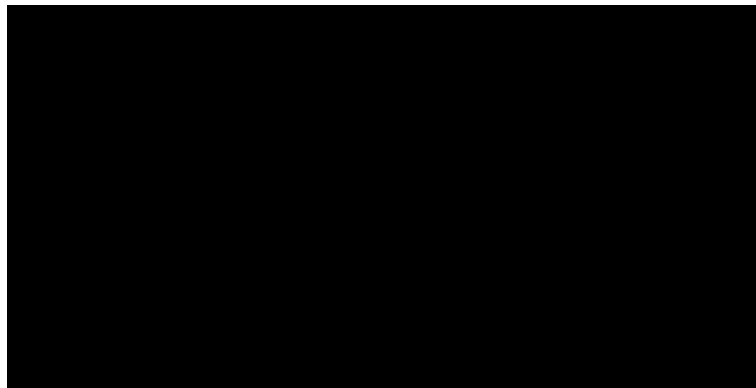




REROC

RIVERINA EASTERN REGIONAL
ORGANISATION OF COUNCILS

RESPONSE
Proposed
Amendments to the
Model Code of
Meeting Practice
February 2025



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Introduction

The Riverina Eastern Regional Organisation of Councils (“REROC”) encompasses 8 Local Government entities located in the eastern Riverina region of NSW. REROC’s Member Councils are: Bland, Coolamon, Cootamundra-Gundagai, Greater Hume, Junee, Lockhart, Temora and Goldenfields Water County Councils.



Our Member Councils welcome NSW Government's commitment to Local Government. REROC aligns with the majority of CMA recommendations and agree that our councils should be accountable to their community. Local Government is government at the grassroots and in country areas, councillors live that community accountability everyday, as they constantly come into direct contact and interact with the people they represent.

REROC supports the Government's outcomes for the amended Code of Meeting Practice:

- Promoting transparency, integrity, and public participation;
- Promoting the dignity of the council chamber;
- Depoliticising the role of the general manager; and
- Simplifying the Model Meeting Code.

When reviewing the proposed amendments, our Members are very mindful of the manner in which State Government conducts its decision-making. While there may be debates in Parliament the important decisions are taken by the Executive behind closed doors without the media or the public sitting in on the meetings. Further heated debates on the floor of Parliament present little influence or impact on the decisions made in previous meetings.

We provide our comments on the proposed amendments to the Code of Meeting Practice below:

Promoting Transparency, Integrity, and Public Participation

- ***Recording how Councillors have voted in the minutes:***

REROC supports the amendment that calls for inclusion on how Councillors have voted in the minutes.

- ***Voting on planning decisions:***

REROC members support the amendments requiring that staff reports be considered by Council before making decisions on planning matters and that the reasons for not supporting the staff recommendations in relation to a planning matter be recorded.

- ***Resolutions at closed meetings:***

REROC members support the principle of transparency and availability of business papers to the public (in line with ICAC recommendations) but is extremely concerned about how this would be implemented in practice.

As it is currently written, this amendment imposes an unreasonable and open-ended duty for Council to continually monitor all previous business papers (including historic papers), to determine whether all the reasons for them being made confidential have lapsed, consult with the Council, and then publish them. This will impact heavily on councils requiring additional human resources and software resources. Any small rural or regional Council would find challenging to support these additional requirements financially. Identifying the exact point at which information transitions from

confidential to public domain is complex, and it is highlighted that adequate mechanisms already exist under the GIPA legislation.

- ***Removing pre-meeting councillor briefings***

Our Members agree that decision-making in councils should be transparent and made in open council meetings. However, we strongly oppose the proposal to ban councillor briefing sessions, which we assume includes councillor workshops. We do not support the proposal that all matters be dealt with by council committees, for the reasons stated below.

If we want effective, evidence-based decision-making from our councillors we must be able to provide them with the opportunity to better understand the complex subjects they are required to deal with. Briefing sessions and workshops enable councillors to hear from Subject Matter Experts as well as council staff about complex matters that may be beyond a councillor's field of experience. It allows councillors to ask questions that openly display their limited knowledge about a topic without the press and public there to witness it.

Where councillors have insufficient knowledge about an issue it is sometimes easier "to decide not to decide". Well-constructed briefing sessions and workshops minimise the likelihood of this outcome and provide professional development opportunities that many councillors embrace.

In addition, briefing sessions and workshops are used to develop the strategic direction of a council, to sift through the multitude of ideas that come from the Community Strategic Planning process and prioritise them into achievable community goals. In these instances, councillors benefit from the free, frank, open and honest discussion of community priorities that occurs because the press and the public are not watching and passing judgement. The sessions provide opportunities to work through solutions, strategic opportunities and directions and to obtain feedback that will inform final decision-making in the chamber.

Our Members agree that these sessions should not devolve into pseudo-council meetings where decisions could mistakenly be made. Therefore, we are recommending that the OLG provide Guidelines for delivery of briefing sessions and workshops. We suggest that one of the requirements be that these sessions are always led by the General Manager and that the Mayor is only a councillor for the duration of the session. In our opinion, if the Mayor is at the head of the table during a briefing session or workshop, then the session's demeanour takes on the character of a council meeting. We think it is important that council staff take the lead in these sessions to ensure that the character of the sessions remains informal - one of information sharing and discussion only.

Our member councils highly value the pre-meeting briefings as an opportunity to touch base on issues prior to a Council meeting. It must be acknowledged that the tyranny of distance presents a significant challenge for rural and regional councils, so opportunities for councillors to partake in face to face conversations can be limited. Often, the council meeting is the only time the councillors have been in contact since the previous council meeting.

These meetings provide an *informal* opportunity for councillors to reconnect, talk about issues directly affecting their communities and discuss State matters. It is convenient, cost-effective and a commonsense approach for rural and regional councils to hold informal meetings prior to the council meeting.

- ***Information considered at closed meetings to be made public after it ceases to be confidential.***

REROC supports this proposed amendment.

- ***Recording of council meetings to be published on council websites for the balance of the council term***

REROC has no objections to this proposal.

- ***Council does not make final planning decisions without a staff report containing an assessment.***

REROC supports this proposed amendment.

- ***Councils to give reasons where they make a decision on a planning matter that departs from the staff recommendation.***

REROC supports this proposed amendment.

Promoting the Dignity of the Council Chamber

- ***Removing the option to reduce duration of speeches:***

REROC members do not support removal of the option to reduce speaking times for Councillors. Five minutes is believed to be an appropriate timeframe that allows for fair debate and discussion within a Council meeting.

- ***Enhancing the Authority of the Mayor***

REROC supports the proposal that the Mayor be permitted to call extraordinary meetings. In relation to the requirement that councillors stand when the Mayor enters the room, REROC believes that this is a matter that should be decided by individual councillors, not an action imposed by the State on councillors.

REROC members are concerned with the removal of requirements to ensure that any Mayoral Minute (removal of clauses 9.9 and 9.10) that recommends the expenditure of funds may not have the appropriate funding ramifications attached.

REROC member Councils respect the position and status of the Mayor and the ability for them to put forward Mayoral Minutes, but any recommendation to expend Councils reserves should be managed in a financially responsible manner.

It is our understanding in that a Mayoral Minute is more for ceremonial purposes, the fact that it is not required to be seconded and no debate resulting means that there may be no rigour or scrutiny

placed around financial implications of such an outcome. We suggest that this matter be given more consideration.

In any LGA, for councils to attract the best candidates to assume the role of councillor in their community, it is imperative that council obligations are work and family friendly, where possible. By losing the opportunity for pre-meeting briefings, this significantly increases the burden on councillors, with the requirement to attend **additional** meetings. This creates an increased barrier, especially for rural and regional candidates, to participate in Local Government as a councillor.

- ***Requiring councillors to stand when a councillor addresses the meeting or when the Mayor enters the chamber***

REROC believes that our rural and regional councils already conduct dignified and respectful meetings. Our members do not believe that this proposal will add any benefit to the manner in which council meetings are delivered. This requirement does not support inclusive considerations for councillors that may live with a physical disability or impairment.

Our Members express concern that standing could be considered an intimidating act by other councillors, because the councillor would be standing over his/her fellow councillors. During a very vigorous debate this could become contentious and come across as being quite aggressive.

In addition, we do not believe it is appropriate to require Councillors to stand when addressing the meeting during a Committee of the Whole session. The Committee of the Whole allows for extended debate and conversation, standing may detract from those discussions by disrupting the natural flow of discussion.

REROC believes the requirement to stand when addressing the meeting should be a matter for the councillors themselves to decide, after all it is their meeting, not a matter to be mandated by the State. At the very least this proposal should be amended so that it does not apply to sessions where council is meeting as a Committee of the Whole.

REROC however would support protocols that allow the Mayor to stand during a meeting in response to unruly behaviours, or where the Mayor believes, the action is required to bring a meeting to order.

- ***Refining Definitions of Disorder***

REROC believes that it is more appropriate for councils to adhere to their council's Code of Conduct which the councillors themselves have voted to adopt, it is a clearer and less subjective standard than the one proposed.

REROC members do 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 clear and be

written into the Code. REROc requests that further information, and guidance is provided in relation to the definition of disorder and the circumstances that would trigger the Mayor expelling a Councillor.

- ***Councillors must attend meetings in person.***

REROc agrees that as a priority, wherever possible, Councillors should attend meetings in person. In reality, on occasion there are times when Councillors through unforeseen circumstances may not be able to attend. Restricting the ability of Councillors and staff to participate remotely in Council meetings disadvantages those with work or carer commitments and may discourage some elected representatives from running for Council.

The reasons provided for permitting attendance via Audio Visual Link (AVL), as proposed in Clause 5.19 are far too narrow, and will create another barrier to participation in council meetings. REROc believes that this should not be a one size fits all approach, and Councils should have the power to determine whether or not it is appropriate, given the Councillor's reported circumstances.

Clause 5.16 does allow the Mayor to hold a council meeting by AVL where there is a natural disaster or public health emergency, but this is the entire council meeting and does not consider a scenario where an individual councillor or a number of councillors may be impacted by a natural disaster and unable to attend in person. This is not an issue where a one-size-fits-all approach should apply; therefore, we do not agree with this amendment being mandated as is currently proposed.

- ***Restricting the circumstances in which the council may withhold a leave of absence.***

REROc does not oppose this amendment.

- ***Removing the option for staff to attend meetings by audio visual link***

REROc believes this option should not be withdrawn, it should be a matter for the Council to determine if it is appropriate for a staff member to participate in a council meeting by AVL. Unforeseen circumstances can arise for numerous reasons and the use of AVL can be of great assistance in ensuring that council business is not delayed.

- ***Strengthening the deterrence against disorder by allowing expulsion from successive meetings.***

REROc has sincere concern about the potential, perceived or otherwise, of the power to expel councillors from successive meetings to be weaponised, particularly where there is interpersonal conflict between the Mayor and a Councillor. Additionally, it is important to avoid any opportunity, either perceived or otherwise, to manipulate numbers to pass a resolution for a contentious motion.

Our Members strongly believe that Councillors should work as a team. REROc recommends that the decision to expel a councillor should be a collective decision of each Council, made by way of resolution, with the Mayor holding the power to move a motion to expel. Mayors should only take an action to expel in the most egregious of circumstances.

We do support the ability of the Mayor to expel members of the public from the chamber for acts of disorder. We are not convinced that Mayors should be able to issue PINs. The issuing of PINs to

disorderly members of the public could be viewed as an attempt to silence public opinion and lessen the rights of the community to participate in their local government.

REROC members would like clarity around definitions of Acts of Disorder. The Model Code does not detail how Councils are to act with Councillors that create serious breaches or continually disrupt the operation of Council meetings. This is an extremely important matter to address and there should be clearly defined guidance on how determinations are made and what the repercussions are for the breaches.

Whilst it should be managed in the first case by the Council or Chair, there needs to be a process for independent assessment. This assessment requires an appeal mechanism, and also penalties that reflect the breach. The current system is slow and the penalties do not reflect the disruption and damage caused. It would appear that the best way to strengthen acceptable meeting standards is to punish those that are using their position to disrupt the operations of Council. Suspension time and substantial fines are what will change this attitude - not a 2 year process of investigation with minimal penalties.

Depoliticising the Role of General Manager

- ***Questions with notice:***

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

Further REROC members would support the inclusion of Councillors and contractors of Council to be added to this provision.

- ***Removing the requirement for General Managers to prepare reports for notices of motion***

REROC supports this amendment except where the Notice of Motion has significant financial implications for the council. Where significant financial implications are identified then the Notice should include a report from the General Manager.

- ***Withdrawal of Notices of Motion***

REROC agrees that councillors should be able to withdraw their notices of motion at any time.

- ***The Mayor has discretion on whether staff respond to questions without notice.***

REROC supports this amendment.

- ***Conferring responsibility on the council to determine staff attendance at meetings***

Within all REROC Councils, the General Manager has full responsibility of staff and therefore should have the ultimate decision on which staff members attend the Council meeting. The Council should

not be able to direct , other staff members to attend council meetings without approval of the General Manager, as it blurs the lines of whom staff respond to.

Where applicable, the General Manager should be supported by subject matter experts to provide clarification on their reports. The General Manager must be able to determine which staff attend council meetings to provide expert advice.

Simplifying the Model Meeting Code

REROC supports actions that would simplify the Code.

- ***Public Forums***

REROC supports the proposal that councils will be free to determine their own rules for public forums and public representations.

- ***Simplifying the rules governing public representations***

REROC Members find that Clause 14.11 is confusing and request more clarity is required.

Restricting Council from Holding Briefing Sessions

Our Members agree that decision-making in councils should be transparent and made in open council meetings. However, our Members strongly oppose the proposal to ban councillor briefing sessions, which we assume includes councillor workshops. We do not support the proposal that all matters be dealt with by council committees, for the reasons stated below.

If we want effective, evidence-based decision-making from our councillors we must be able to provide them with the opportunity to better understand the complex subjects they are required to deal with. Briefing sessions and workshops enable councillors to hear from Subject Matter Experts as well as council staff about complex matters that may be beyond a councillor's field of experience. It allows councillors to ask questions that openly display their limited knowledge about a topic without the press and public there to witness it.

Where councillors have insufficient knowledge about an issue it is sometimes easier "to decide not to decide." Well-constructed briefing sessions and workshops minimise the likelihood of this outcome and provide professional development opportunities that many councillors embrace.

In addition, briefing sessions and workshops are used to develop the strategic direction of a council, to sift through the multitude of ideas that come from the Community Strategic Planning process and prioritise them into achievable community goals. In these instances, councillors benefit from the free, frank, open and honest discussion of community priorities that occurs because the press and the public are not watching and passing judgement. The sessions provide opportunities to work through solutions, strategic opportunities, and directions and to obtain feedback that will inform final decision-making in the chamber.

Councils also use workshops to consider competing alternative solutions to problems, including solutions that require the acquisition of land, investments in infrastructure or changing zoning.

These are matters that need to be canvassed without the public watching as ideas and alternatives are considered and rejected. One of our Members provided an example of a workshop where council considered a decision to invest in a new childcare centre. Discussions centred around the best location for the centre with six distinct locations considered, all of which required the purchase of land. Councillors were able to take advantage of the informality that a workshop provides, to freely discuss the alternatives and determine a pathway forward.

Our Members agree that these sessions should not devolve into pseudo-council meetings where decisions could mistakenly be made. Therefore, we are recommending that the OLG provide Guidelines for delivery of briefing sessions and workshops. We suggest that one of the requirements be that these sessions are always led by the General Manager and that the Mayor does not chair the meeting but is merely a councillor for the duration of the session. If the Mayor is at the head of the table during a briefing session or workshop, then the session's demeanour can more easily take on the character of a council meeting. We think it is important that council staff take the lead to ensure that the character of the sessions remains one of information sharing and discussion only.

Our Members are concerned that the inability to hold these sessions will result in longer council meetings and more closed sessions as councils consider alternative solutions that include proposals that might advantage or disadvantage sectors of their community. Our Members are concerned that longer council meetings will not result in better decision-making, nor encourage people to stand for local government.

Conclusion

REROC welcomes the opportunity to provide a response to the proposed amendments.

We strongly believe in the importance of councillors being able to make decisions about how their council meetings operate. While it is important to have the guidance that the Code of Meeting Practice provides, the Code should not override the power of Councillors to make decisions that accommodate their unique circumstances.

REROC strongly believes that a one-size-fits-all approach is not appropriate. Councils in rural and regional areas manage vastly different challenges to our metropolitan counterparts. Challenges facing rural and regional councillors such as the distances they need to travel to attend meetings, and lack of available public transport must be taken into account when determining how council meetings will run.

REROC Members are strongly opposed to amendments that would force every meeting held to be under public scrutiny. We believe that if councillors are denied the opportunity to ask questions about strategic, financial, or operational council proposals in an informal setting, it will result in poorer, less informed decision making, effectively putting the individual and the Council at risk.

As State Government Ministers are permitted to receive briefings from their staff and third parties on all manner of topics, our REROC councillors are asking that they be afforded the same opportunity.

The REROC Board would welcome the opportunity to collaborate with the Minister and the OLG on the final Code and would be happy to meet to discuss this response.