

From: [REDACTED]
To: [OLG BS Office of Local Government Mailbox](#)
Subject: Model Code of Meeting Practice: Submission from Snowy Monaro Regional Council
Date: Saturday, 1 March 2025 11:43:16 AM
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Please find below a submission from Snowy Monaro Regional Council on the model code of meeting practice:

COUNCIL RESOLUTION 29/25 20 February 2025

A. Provide the following feedback to the OLG on the draft model code of conduct;

1. Council supports the broad direction of the OLG's draft model code of meeting practice which seeks increasing transparency and robust and respectful debate.
2. Council supports the minister's intent to decrease code of conduct complaints by setting a new balance between mayors, councillors and general managers.
3. Council supports the intention of the Minister to depoliticise the role of general managers.
4. Council supports an end to private councillor briefing sessions, which would now be open to the public. We agree that private councillor briefing sessions have the potential to have "a corrosive effect on the transparency of council decision making."

B. That the issues raised by staff be provided in addition to councils submission.

Issues raised by staff

- A. That to enact the desired change that information relating to upcoming council decisions is not to be provided in briefings, that a clause establishing this needs to be added into the model code.
- B. That the requirement for the implications of proposed motions to be advised to the governing body before they determine a matter be retained as the governing body should be fully informed before it makes a decision.
- C. That the requirement for the public forum to be held before the start of the council meeting in clause 4.1 be removed.
- D. That flexibility continues to be available for councillors to attend meetings by audio-visual link so as to make being a councillors more accessible to employed people and those with other responsibilities that limit their ability to always physically attend meetings.
- E. That the change to how staff attendance is determined not be undertaken due to the logistical problems this will create in having staff attend meetings to assist in providing information to councillors.
- F. That the Office of Local Government needs to clearly establish that should the requirements under the local government legislation and regulations result in a breach of workplace safety requirements, that the liability and costs resulting from compliance by Council rests with the Office of Local Government.
- G. That if the governing body is to be given the power to compel staff to attend council meetings that this be limited to those staff authorised for councillors to contact in any staff interaction policy.
- H. That the process of standing when the mayor enters the room and when talking is not in keeping with modern standards and will portray councils as organisations out of touch with modern society.
- I. That the requirement to address the Mayor in a Council Meeting as Mr Mayor or Madam Mayor be extended to include 'Mayor' consistent with the proposal to

address a Chair who is not the Mayor as Mr Chairperson, Madam Chairperson or Chair.

J. That the powers of mayors to put forward mayoral minutes not be expanded due to the corruption risks that this creates.

1. *Set a requirement for councillors to apologise for misbehaviour:* The provisions strengthen the requirement for councillors to comply with the chairs directions by providing that councillors cannot avoid complying with a direction by leaving the meeting. Under the change the directive will have the effect of preventing the councillor from re-joining the meeting until they have undertaken the required action.
2. *Removing pre-briefing sessions:* While the discussion of the Minister indicates wider reform around provision of information to councillors, the only part shown as being enacted here is to remove the provisions setting out that the CEO may have a pre-meeting briefing session. Simply removing this from the code has no real effect. Council can still undertake any action not in contravention to the model code. It would be recommended that the Council does not follow that approach, as the intent of the Minister should guide the future practice. The intent of the Minister would be better served by having a clear statement in the meeting code that provision of information to councillors on matters to be decided at a council or committee meeting is only to be provided in the meeting.
When used properly the briefing session is a good tool to allow councillors to meet their statutory obligation to be fully informed before they come to the meeting. Under the current legislation the only questions that should be raised in a council meeting should be in response to issues raised in the debate.
The response provided does not fully align with the reason given for the change. Decisions and debate should already not be occurring in those briefing sessions. If this is occurring the appropriate response is for the Office to regulate and control that behaviour, not remove the tool for informing the councillors. That could be achieved by requiring the sessions to be recorded and the Office could then undertake audits and reviews as required.
3. *Removing conduct matters from the meeting code:* Remove sections from the meeting code about how councillors behave. The intent appears to be to only have conduct matters dealt with in the code of conduct. It is considered that dealing with matters only in one place makes it easier to manage the policy. It avoids the risk of inconsistencies between policy.
4. *Requiring confidential information from meetings to be released once it no longer is required to be kept confidential:* At the moment information that is put to a confidential meeting remains confidential for all time. This change will allow people to gain access to the information that was considered in confidential session. While there is no philosophical objection to this approach, it aligns with the expectation of information being publicly available, it will increase the costs of operating Council as there will need to be processes put into place to classify when the information can be released. It is difficult to determine the cost of this new requirement. Other than the administrative concern, there is no objection to this

proposed change.

5. *Clarifying that the Mayor can call an extraordinary meeting:* Some people interpret the clause that requires the Mayor to call a meeting at the request of two councillors as the only way that meetings can be called. A clause is proposed to be added to clarify that the Mayor can call an extraordinary meeting. It is not considered an unusual power for the chair of the governing body to be able to bring together the governing body as needed and in consultation with the General Manager so no objection is proposed.
6. *Removing the ability of the CEO to provide advice to councillors on motions:* Currently if motions are proposed that have impacts that have not been identified or disclosed by the councillor moving the motion the CEO is expected to ensure that councillors are fully informed of the impacts of the decision they may be about to make. Councillors are not necessarily in positions filled by merit selection on technical knowledge about council services. Even if that was the case, it would be impossible for any person to have sufficient knowledge about all of the areas Council is involved in. Under this change unless councillors become (somehow) aware of the potential ramifications of the motion before them, they will potentially be making uninformed decisions. Such a situation does not appear to be in the best interests of the community, as it could lead to sub-standards decisions being made. It will also increase the chances of corrupt behaviour happening. For example, a councillor may be lobbied about a matter and the councillor can agree to put forward only partial information, to support the case for the outcome desired by the third party. The other councillors, who are not given availability to the same information are potentially at a significant disadvantage. The potential windfalls third parties could made from manipulating councillors this way provides an opportunity to incentivise councillors inappropriately.
7. *Removing the requirement for activities not in the operational plan to identify funding:* This will create a more complex and costly process. Items in the operational plan can only be actions linked to the delivery program adopted by the governing body. The governing body can only place activities in the delivery program that it has provided funds for. If Council resolves to undertake a new activity without providing resourcing, some other activity will have to cease. Where under the current process that issues is expected to be resolved at the time, under the new process the decision will need to sit in waiting until the next council meeting, at which time a report will have to come back to determine how the Council will meet its obligation to be able to fully fund all activities in the delivery program.
8. *Removing the statement that questions are not to be complaints:* Such behaviour would be considered under the code of conduct. Performance of the CEO must be managed in accordance with the contract, doing otherwise would be a breach of the code of conduct. Behaviour that is seen to be a personal attack would also breach the code of conduct. This change may also be impacted by the future changes being proposed to the conduct provisions.

9. *Public forum rules removed*: Each individual council will need to develop its own procedures for the running of public forums. It is assumed that other Councils are wanting to make their own rules. This will slightly increase costs of the Council as a new procedure will need to be developed and maintained instead of simply following the standard procedure. Costs will be minimal. The code retains the requirement that the forum be held prior to the meeting, a provision the Council currently does not comply with. Assuming that the current process is seen to have an advantage over having the public forum before the meeting commences Council should seek a change to this clause.
10. *Attendance by audio-visual*: Ability to attend remotely has been significantly reduced. It will only be allowed due to medical issues and unexpected caring responsibilities. While there are advantages to having the councillors in the room, the flexibility that currently exists is seen to be something that is likely to widen the field of people that would be able to stand for Council. The claims that councillors attending the meetings remotely reduces the dignity of the meetings do not appear to be in keeping with current standards of practice in the community.
11. *Staff attendance*: The change removes the power of the CEO to prevent staff attending a council meeting. While the intent is no doubt not malicious, junior staff being called before the governing body in a public forum will create a very stressful situation for some people. Inflicting such a situation is a clear breach of the work health and safety legislation. It should be clarified that the Office of Local Government will take on the liability for any costs or fine incurred by Council as a result of its breaching its duty of care to employees by enacting the code of meeting practice. If this is seen as a suitable role for the governing body, there should be clarification around how this works in conjunction with the staff interaction policy. The ability to seek staff to attend should only extend to the staff on the agreed interactions list. Another issue that this change will create is that the only way staff will be able to attend meetings would be by the governing body resolving to allow it. So unless it is known well-before that a staff member will be required, in which event a recommendation will need to come before the previous meeting, when the CEO considers staff are required to respond to matters, the CEO will need to bring a recommendation to the meeting. Staff will need to wait outside of the meeting until such time as the matter can be determined. This does not seem to be a very efficient process, and no justification is provided for why this change is required.
12. *Councillors and staff standing*: This process is seen as obsolete and is more likely to portray Councils as organisations out of touch with modern society, thus making it a less attractive place for younger people, who are often underrepresented in local government. If the issue is councillors talking over each other, then that behaviour needs to be managed in a more appropriate way, by ensuring mayors are trained to enforce the requirements and the penalties for misbehaviour are strengthened.
13. *Modes of Address*: The requirement to address the Mayor in a Council Meeting as Mr Mayor or Madam Mayor should be extended to include 'Mayor' consistent with

the proposal to address a Chair who is not the Mayor as Mr Chairperson, Madam Chairperson or Chair.

14. *Mayoral minutes*: Expands the matters that can be raised by mayoral minute. This is seen as a concern as mayoral minutes have no requirement to provide information in advance to the rest of the members of the governing body. This can lead to uninformed decision making. In addition, the ability to circumvent public notice that would otherwise be required for decision making reduces the ability of the community to be aware of proposed changes and comment on those proposed changes. Mayoral minutes present a corruption risk of a higher-level event than that mentioned above in relation to the notices of motions, as the mayor could spring matters onto the governing body, so that they have even less time to research potential issues before being required to decide a matter. The more appropriate approach in most instances is for the mayor to give notice of an extraordinary meeting if required, ensuring the required transparency and engagement around matters being considered.
15. *Foreshadowed motions*: These are removed from the code. This would appear to be indicating that it is only the original motion and amendment (that cannot be in contravention to the original motion) can be considered at the meeting. If an alternative view was wished to be carried this would require a new notice of motion at a future meeting. There are arguments in support of this approach, in that a new motion may be so dissimilar to the motion for which notice has been given that proper notice of that should be given to allow its consideration. The alternative view is that the information on the matter at hand has already come before Council, so it is more efficient to determine the matter while the business (more broadly viewed as the topic, rather than the motion) is before the Council. It will be left to the governing body to determine whether to make a submission on this matter.
16. *Point of order does not relate to conduct of the councillors*: It would seem at odds with the Minister's stated intention to improve the behaviour at Council meetings that the ability to raise a point of order that a councillor is acting inappropriately is removed. This places a much higher emphasis on the mayor to manage the behaviour of councillors. The danger of removing this ground for points of order is that it would increase the risk that the mayor could play 'favourites'. Those preferred by the mayor could be called to order by the mayor, but other councillors would not be able to call the mayor's attention to behaviour the mayor chooses to ignore.

Regards

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Snowy Monaro Regional Council acknowledges the Traditional Custodians of the region's land and water: the Ngarigo, Walgalu, Southern Ngunnawal and Bidawal Peoples. We pay our respects to Elders past, present and emerging.

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