

Ref: D25/14719

28 February 2025

Council Governance Team
Office of Local Government
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NOWRA NSW 2541

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

Dear Sir/Madam

RE: Model Meeting Code amendments

Kempsey Shire Council appreciates the opportunity to provide feedback on the proposed amendments to the Model Code of Meeting Practice. While we support efforts to improve governance and transparency, we have significant concerns that the proposed changes will lead to unintended consequences that could negatively impact decision-making, public participation, and the overall efficiency of Council meetings.

Opposition to the Banning of Briefing Sessions

The proposed removal of councillor briefing sessions is of great concern. While transparency is a priority, the current Model Code already prohibits briefing sessions from being used for decision-making, including preliminary decisions, or the conduct of debate outside a formal council meeting. If improper practices are occurring in some councils, the appropriate response is to address those cases individually – not to impose a blanket ban that negatively affects all councils, including those that use briefings appropriately.

Banning briefings will likely result in:

- Less informed councillors: Councillors rely on briefing sessions to receive detailed explanations and ask questions in a setting where they can seek clarification without the pressure of a public meeting.
- Increase in confidential reports: If councils are forced to provide all background information in a public setting, more matters may be classified as confidential to protect sensitive information, with the confined of the *Local Government Act 1993*, ultimately reducing transparency.
- Restricted discussion: Councillors and staff will be less able to engage in frank and technical discussions about complex matters, potentially leading to poorer decision-making.
- More informal discussions: Without structured briefing sessions, informal discussions between councillors and staff may increase, creating greater governance risks and reducing transparency.

A more balanced approach would be to retain briefing sessions while reinforcing governance rules to ensure they are properly conducted.

Concerns About the Removal of Public Forum Clauses

The proposed removal of recommended public forum clauses from the Model Code is also problematic. These clauses are already optional, allowing councils to adopt them as best practice or

modify them to suit local needs. Removing them eliminates a standard framework without providing any alternative guidance.

The risk of this change is that councils will have less guidance on best practice, leading to greater inconsistency across the sector.

The existing approach – where councils can opt into the recommended framework or develop their own – strikes the right balance and should be retained.

Procedural Formalities & Risk of Vexatious Complaints

While Kempsey Shire Council supports increasing the authority of the mayor to maintain order in meetings, we have concerns about additional procedural formalities such as:

- Mandating that councillors and staff must stand to speak
- Standing when the mayor enters and leaves the chamber
- Strict modes of address

These rules are unnecessary and could lead to inadvertent breaches of the Code, which in turn may increase the number of vexatious complaints. Procedural missteps – rather than substantive issues – could become the basis for complaints that consume council resources and distract from core governance responsibilities. The focus should be on maintaining orderly and respectful debate, not enforcing rituals that could become distractions from substantive issues. Each council should retain the ability to establish its own meeting customs.

General Manager's Role

The proposed changes would remove the option for general managers to provide financial and strategic advice on motions that propose unbudgeted spending. However, these clauses are already optional – councils can choose to adopt them or not. Furthermore, even where councils include these provisions in their Code, the general manager has discretion on whether they exercise the power.

There is no need to mandate the removal of these clauses across all councils. Retaining the current approach allows each council to determine the best process for ensuring financial accountability in decision-making.

Unintended Consequences & Governance Risks

The proposed changes could have several unintended negative consequences, including:

- Increased risk of accidental breaches: The addition of rigid procedural requirements makes it more likely that councillors will inadvertently breach the Code, opening the door for increased complaints and procedural disputes.
- Increase in vexatious complaints: More rigid procedural requirements may encourage a rise in complaints that focus on minor technical breaches rather than substantive governance concerns.
- Reduced transparency: The ban on briefing sessions is likely to push discussions into less formal, undocumented channels, making decision-making less transparent rather than more.
- Inconsistent public participation: Removing public forum clauses without providing an alternative framework risks reducing public engagement rather than strengthening it.

Conclusion

Kempsey Shire Council urges the Office of Local Government to reconsider aspects of the proposed changes, particularly the removal of briefing sessions and public forum clauses. These amendments, if implemented, will likely reduce transparency, hinder councillors' ability to make informed decisions, and create inefficiencies in council operations.

While we support improving governance practices, these changes take an overly rigid, one-size-fits-all approach that does not account for the diverse needs and structures of councils across New South Wales. A more effective approach would be to retain council discretion while reinforcing best-practice governance safeguards.

Thank you for the opportunity to provide feedback. We hope that the final Model Meeting Code reflects a more balanced approach that supports both transparency and effective governance.

Yours faithfully



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