



19 February 2025

Mr Brett Whitworth
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Local Government
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Dear Mr Whitworth,

A NEW MODEL CODE OF MEETING PRACTICE - CONSULTATION DRAFT
CONSULTATION DRAFT OF THE NEW MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW

Thank you for the opportunity to provide feedback to the above named subject matter.

Quotes from the Office of Local Government documents are in **red**, our responses are in **black** and quotes from NSW legislation are in **green**.

Please find attached:

- 2025 FEB 19th Submission A NEW MODEL CODE OF MEETING PRACTICE CONSULTATION DRAFT
- 2025 FEB 19th Submission MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW 2024

We look forward to reading all submissions in relation to "A new model code of meeting practice – Consultation draft" and "Consultation draft of the new Model Code of Meeting Practice for Local Councils in NSW" discussion papers.

We await reading the final reforms that emerge from this consultation process.

Yours faithfully

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19 February 2025

Submission on

A NEW MODEL CODE OF MEETING PRACTICE CONSULTATION DRAFT DECEMBER 2024

Page 4

Minister's Foreword

For these reasons, it is important that meetings are effective, allow for robust, respectful debate and result in actionable outcomes for New South Wales communities.

Our Response

Our suggestions below suit this aim of “robust, respectful debate and result in actionable outcomes for New South Wales communities”.

Page 4

Minister's Foreword

By making changes to the Model Code of Meeting Practice for Local Councils in NSW, I hope to set a new balance between mayors, councillors and general managers and restore dignity to the council chamber.

Our Response

It is important this “new balance” reflects the fairness principles enshrined in the Local Government Act 1993.

Page 4

Minister's Foreword

Mayors will have the power to take immediate action against disorderly councillors or members of the public in meetings, which I hope will lessen the need for councils to resort to the broken code of conduct process. By further providing that mayors be granted respect, by standing when they enter, councils can begin to build a culture where it is the accepted duty of the mayor to run a dignified and democratic council chamber.

Our Response

Mayors are first among equals. Two mayors were consulted for the writing of this submission. One councillor's order is another's disorder. It is our view that “disorderly councillors” be dealt with by their peers, the collective of councillors.

Section 8A(2)(e) of Local Government Act 1993 reads “Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions”. Autocratic mayors are remnants of a dark past. Transparency is achieved when the mayor and councillors are accessible and accountable to residents.

The word “dignity” does not appear in Local Government Act 1993. The word “represent” appears several times, including s8A(1)(a) “Councils should provide strong and effective representation, leadership, planning and decision-making”. The show of dignity may impede representation.

“Further providing that mayors be granted respect, by standing when they enter” is not the look of open accessible government.

Respect is earned through mutual respect, trust and leadership by the person holding the position of Mayor.

Page 4

Minister’s Foreword

General managers will no longer need to provide advice on motions requiring the expenditure of funds. Disputes over the future direction of a council and the spending of ratepayer money should rightfully occur between elected councillors.

Our Response

We will explain in our submission to the Model Code of Meeting Practice for Local Councils in NSW 2024 how this course of action is a recipe for bankruptcy and amalgamation for a Council.

Page 4

Minister’s Foreword

These changes will ensure that all material given to a councillor to make a decision in a council meeting is provided in a public fashion.

Our Response

There are still materials which should remain commercial-in-confidence.

Section 8A(1)(f) of Local Government Act 1993 states:

“Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way”.

It would be derelict of this duty for Council to disclose business dealings which involve commercial assets during negotiation.

Page 4

Minister’s Foreword

Local government is the legitimate third tier of Government in New South Wales. Through these reforms I aim to uplift the standards at council meetings so that they should, as best as possible, resemble the forthright and effective debate that occurs at the State and Federal levels. It is the duty of all councils to work together to provide outcomes that lead to better lives for the communities they are elected to serve. These outcomes are decided within the confines of the council chambers. It is critical that councillors can make these informed decisions in an environment that supports democracy, transparency and where elected representatives are given the respect they deserve.

Our Response

We too “aim to uplift the standards at council meetings”.

However we set the bar higher than “the forthright and effective debate that occurs at the State and Federal levels”.

“An environment that supports democracy, transparency and where elected representatives are given the respect they deserve” is not achieved by mandatory standing by councillors for the mayor as he/she enters the chamber.

Nor is it achieved with giving powers to the mayor to eject councillors from meetings.

These things will breed contempt.

Changes to the model code which increase representation, fairness and all other wholesome values embedded in Local Government Act 1993 should be pursued.

Not these proposed changes.

Page 6

What policy objectives inform the proposed amendments?

The proposed amendments to the Model Meeting Code have been foreshadowed in the discussion paper OLG issued in September, “Councillor conduct and meeting” (the September discussion paper).

A council chamber is a chamber of democracy, and the mayor as figurehead represents the authority of that council.

A key focus of the Government’s reform agenda for the regulation of council meetings, is to promote community confidence in councils’ decision making by ensuring that the forum in which decisions are made is conducted in a way that is befitting to a democratic institution comprising of elected representatives.

As observed in the September discussion paper, council meetings can be conducted without the appropriate level of dignity or reverence that suggests the importance of the debate and the need for civility. Councillors are not expected to agree with each other. In fact, debate is encouraged, but the debate should be fair and respectful.

Our Response

The author is quoting from a discussion paper “OLG issued in September”.

It carries all the authority of a letter written by the very department proposing these changes.

No information has been provided on the contents of the submissions received by OLG in relation to the discussion paper.

We had objections to the discussion paper OLG issued in September, “Councillor conduct and meeting” (the September discussion paper).

Too many to mention here. However, several topics covered in this discussion paper are being revisited here.

Is the Office of Local Government trying to give the public “consultation fatigue”?

The “need for transparency” and “closed council briefing sessions” were addressed in consultation for ‘Councillor conduct and meeting practices - A new framework’ from November 2024’.

“Councillor misbehaviour” and “exclusion by the Mayor” were addressed in consultation for ‘Councillor conduct and meeting practices - A new framework’ from November 2024’.

Councillor misbehaviour and “unbecoming conduct” were addressed in submissions to ‘Councillor conduct and meeting practices - A new framework’ from November 2024’.

The favouring of mayors in the “Privileges Committee” of ‘Councillor conduct and meeting practices - A new framework’ from November 2024’ is sadly repeated here.

Page 17 from ‘Councillor conduct and meeting practices - A new framework’ from November 2024’ states:

“The proposed reforms will confer the power on mayors to expel councillors for acts of disorder and to remove the councillor’s entitlement to receive a fee for the month in which they have been expelled from a meeting.”

Conferring of “power on mayors to expel councillors for acts of disorder and to remove the councillor’s entitlement to receive a fee for the month in which they have been expelled from a meeting” has been opened to public feedback previously.

Feedback for interpretations of “dignity or reverence for tradition” were obtained after public exhibition of ‘Councillor conduct and meeting practices - A new framework’ from November 2024’.

The expectation “to stand, where able to do so, when addressing a meeting and when the mayor enters the chamber” was proposed to the public in ‘Councillor conduct and meeting practices - A new framework’ from November 2024’.

Allowing “mayors to expel members of the public from the chamber” was flagged to the public in ‘Councillor conduct and meeting practices - A new framework’ from November 2024’.

The above recurrence of themes from ‘Councillor conduct and meeting practices - A new framework’ from November 2024’ to this consultation is by no means exhaustive.

You are having two bites of many cherries here.

Where is the feedback from consultation on ‘Councillor conduct and meeting practices - A new framework’ from November 2024’?

Was opposition to these reforms in ‘Councillor conduct and meeting practices - A new framework’ from November 2024’ so strong that a “fresh” consultation here is being done to seek justification for these draconian changes to Local Government Act 1993 and the Model Code?

Justification that was not got and is not forthcoming?

Does the office want feedback in duplicate? Or even triplicate?

You are not arbiter of “the importance of the debate and the need for civility”.

How is conferring powers to the mayor to eject councillors from meetings “fair”?

How is making a councillor stand for a mayor as they enter the room “respectful” to said councillor

How is it “dignified”?

Page 6

What policy objectives inform the proposed amendments?

The September discussion paper proposed the following reforms to the way council meetings are conducted:

- Conferring power on mayors to expel councillors for acts of disorder and to remove a councillor’s entitlement to receive a fee for the month in which they have been expelled from a meeting.

Our Response

Too many eggs in one basket.

What is to stop the mayor from being disorderly and ejecting councillor(s) along political lines?

What is to stop the mayor removing a councillor's entitlement to receive a fee along political lines?

Democracy starts with all councillors participating in the decision to eject one of their own and no one should be stripped of their stipend while in office.

They were elected fair and square.

Page 6

What policy objectives inform the proposed amendments?

The September discussion paper proposed the following reforms to the way council meetings are conducted:

- Requiring councillors to apologise for an act of disorder at the meeting at which it occurs and, if they fail to comply at that meeting, at each subsequent meeting until they comply. Each failure to apologise becomes an act of misbehaviour and may see the councillor lose their entitlement to receive their fee for a further month.

Our Response

The collective of councillors need to judge what is "an act of disorder".

Shouldn't "failure to apologise" go to a conciliation meeting?

None but the public should have the power to strip a councillor of their stipend.

Doing so implies they are unfit to govern and this should be decided by residents.

Page 6

What policy objectives inform the proposed amendments?

The September discussion paper proposed the following reforms to the way council meetings are conducted:

- Expanding the grounds for mayors to expel members of the public from the chamber for acts of disorder and enable the issuing of a penalty infringement notice where members of the public refuse to leave a meeting after being expelled.

Our Response

The power to expel members of the public should remain with the collective of councillors.

Further, councillors should agree that the member is not representing "diverse local community needs and interests" outlined in Section 8A(2)(a) of the Local Government Act 1993.

Page 6

What policy objectives inform the proposed amendments?

The September discussion paper proposed the following reforms to the way council meetings are conducted:

- Promoting transparency and addressing corruption risks by banning councillor briefing sessions. The community has the right to understand the mode of reasoning behind council decisions without material being provided to councillors by council staff behind closed doors.

Our Response

Many council decisions have information gathering preceding them.

Councillors are given the opportunity to explore a policy direction or project.

Often discussions go in and out of what can be made public and what should be kept “in camera”.

This precludes public viewing of the whole of these necessary briefings.

If the OLG continues to pursue this mandate then recording of briefings with censorship of commercial-in-confidence segments for public consumption is more appropriate.

Page 7

Promoting transparency, integrity and public participation

The proposed amendments will promote greater transparency and public participation by:

- Requiring councils to give reasons where they make a decision on a planning matter that departs from the staff recommendation, as recommended by ICAC.

Our Response

Staff recommendations often butt up against Local Government Act 1993. Section 8(A)(1)(a) states:

“Councils should provide strong and effective representation, leadership, planning and decision-making”.

On countless occasions we have seen planning decisions ride roughshod over the Local Government Act 1993.

We support the above reform on the condition that where the NSW Planning department overturns a decision, it also gives reasons.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Enhancing the authority of the mayor. The mayor will be permitted to call extraordinary meetings without a request and the restrictions on mayoral minutes will be removed.

Our Response

As mentioned, the words “dignity” and “dignified” do not appear in Local Government Act 1993.

Further mayoral authority risks undermining the council.

Each councillor is elected to govern.

They should not be drawn into the Council chambers at the whim of the mayor alone.

They should not be sprung with strategic motions in the guise of Mayoral minutes.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Requiring councillors to stand when a councillor addresses the meeting, or when the mayor enters the chamber, as well as by mandating modes of address at meetings.

Our Response

Councillors should be able to choose whether to stand and when.

“Strong and effective representation, leadership, planning and decision-making” is not affected by sitting or standing.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Removing the option for councils to reduce the duration of speeches, to ensure all councillors may have their say on important community issues.

Our Response

The collective of councillors should decide length of speeches.

Councillors have the opportunity to talk and write to each other before meetings regarding items.

We suggest a lower limit of 3 minutes and an upper limit of 7 minutes with scope for extensions by vote.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Making clear to the community that decisions are made in council meetings and not in other forums that the community can't access, like briefing sessions.

Our Response

That is already the case.

Preparation is done in briefing sessions and decisions are made in the gallery.

As mentioned elsewhere in this submission, briefing sessions are forums for questioning and analysis of proposals or policy, drifting in and out of public information and confidential matters.

We suggest minutes of all briefings appear in all reports for items which are briefed.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Refining the definitions of disorder to remove phrases that could be weaponised to impede debate.

Our Response

We see the powers of the mayor proposed to be conferred will be weaponised by the mayor against fellow councillors.

We also see binds on the mayor loosened.

The makings of dysfunctional councils.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Restricting the circumstances in which the council may withhold a leave of absence. Where a councillor gives an apology from attending a meeting, the council will be deemed to have accepted the apology and granted a leave of absence from the meeting unless the council resolves otherwise and gives reasons for its decision.

Our Response

Acceptance of an apology and granting of leave are two separate matters and should remain so.

There is a recurring theme here of facilitating absenteeism in local government. We refer to refusal of certain rights to participate via audio visual link and mayoral powers to eject councillors from chamber.

Absenteeism is undignified.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

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

Our Response

Directors and their managers should be able to decide among themselves who will attend meetings and by what means.

Sometimes a director via audio visual link is more appropriate than a live manager.

Page 8

Promoting the dignity of the council chamber

The proposed amendments will promote the dignity of the council chamber by:

- Strengthening the deterrence against disorder by codifying the common law position that allows councillors to be expelled from successive meetings where they fail to apologise for an act of disorder at an earlier meeting.

Our Response

Expulsion “from successive meetings where they fail to apologise for an act of disorder at an earlier meeting” is the way a mayor might see it.

An autocratic mayor ejecting a councillor from successive meetings along political lines because of refusal to apologise for an alleged act of disorder at an earlier meeting is a possible viewpoint of a councillor on the receiving end of this mandate.

This is an ingredient for chaos. Conciliation is in order.

Page 8

Depoliticising the role of the general manager

The proposed amendments will depoliticise the role of the general manager by:

- Removing the requirement for general managers to prepare reports for notices of motion. General managers will no longer be required to prepare reports on notices of motions with financial implications or to identify sources of funding where a notice of motion proposes expenditure that has not been budgeted for. These will be matters for the council to determine.

Our Response

Are you trying to send NSW councils broke?

How can councillors determine financial implications of expenditure or identify sources of funding for motions?

This is another ingredient for chaos.

Page 8

Depoliticising the role of the general manager

The proposed amendments will depoliticise the role of the general manager by:

- Providing that the mayor, not the general manager has discretion on whether council staff should respond to questions with notice. It will be open to the mayor to rule a question with notice out of order at the meeting if it breaches the disorder provisions of the council's code of meeting practice.

Our Response

The mayor or any councillor for that matter, is voting on a matter and so has an interest in the outcome.

The general manager, independent of interest, should answer or delegate as they do with a 'councillor request'.

The mayor should only be allowed to shut down questioning by ruling a "question with notice out of order at the meeting" where their decision is not overruled by the collective of councillors.

Page 8

Depoliticising the role of the general manager

The proposed amendments will depoliticise the role of the general manager by:

- Conferring responsibility on the council to determine staff attendance at meetings. Because councillors are best placed to determine what support they require from staff at meetings, it will be a matter for the council to determine which staff attend meetings.

Our Response

We support this reform providing support staff for meetings are suggested by the general manager in the first instance.

Page 9

Simplifying the Model Meeting Code

The proposed amendments will simplify the Model by:

- **Streamlining** the code by removing unnecessary provisions.

Our Response

Let's not throw the baby out with the bathwater while doing so.

Page 9

Simplifying the Model Meeting Code

The proposed amendments will simplify the Model by:

- **Removing** the non-mandatory rules governing public forums.
Councils will be free to determine their own rules for public forums.

Our Response

Oops, there goes the baby.

It seems counterintuitive to enshrine more mayoral powers but not community representation into a model code for a tier of government.

Page 9

Simplifying the Model Meeting Code

The proposed amendments will simplify the Model by:

- Simplifying the rules of debate by removing the provisions allowing motions to be foreshadowed.

Our Response

Foreshadowing of motions is vital to debate.

Amendments which are not in keeping with the original motion can be rejected on these grounds.

Foreshadowed motions need not be in keeping with the original motion.

Importantly, when action is needed on a matter and the original motion suggests a remedy that the collective of councillors want to resolve contrary to, the negative position cannot be resolved.

Inaction prevails.

Page 10

What are the next steps

The proposed amendments to the Act will:

- empower mayors to expel councillors from meetings for acts of disorder

Our Response

Giving the mayor a bigger whip will not make councils function better. Education of ALL councillors will.

Page 10

What are the next steps

The proposed amendments to the Act will:

- **remove a councillor's entitlement to receive a fee** for a month in which they have been expelled from a meeting

Our Response

These changes will foster inequality.

"Equality" is a word that is mentioned in Local Government Act 1993

Page 10

What are the next steps

The proposed amendments to the Act will:

- confer a right of review on councillors in relation to a decision to expel them from a meeting and the resulting loss of their entitlement to receive a fee.

Our Response

A "right of review" is not mentioned in 'Consultation draft of the new Model Code of Meeting Practice for Local Councils in NSW'.

Who is to carry out this review? Are they as independent as practicable?

Page 10

What are the next steps

Amendments will also be made to the Act and Regulation (as required) to empower councils to issue penalty infringement notices to members of the public who disrupt meetings.

Our Response

At least this mandate is not to confer this power on mayors alone.

19 February 2025

Submission on the

MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW 2021 2024

Page 5

3 BEFORE THE MEETING

Extraordinary meetings

- 3.3 The mayor may call an extraordinary meeting without the need to obtain the signature of two (2) councillors.

Our Response

Each councillor is elected to govern.

They should not be summoned to an extraordinary Council meeting at the whim of the mayor alone.

This change damages the integrity of extraordinary meeting protocol, risking frivolous council meetings.

Page 6

3 BEFORE THE MEETING

Notice to councillors of ordinary council meetings

- 3.77 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

Our Response

This 3 days should be extended to 5 days to allow adequate time for councillors to better consider matters.

Pages 6 - 7

3 BEFORE THE MEETING

Notice to councillors of ordinary council meetings

- ~~3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.~~
- ~~3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of~~

~~motion. If the notice of motion does not identify a funding source, the general manager must either:~~

- ~~(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or~~
- ~~(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.~~

Our Response

The general manager, directors and relevant departments are well placed to advise on “legal, strategic, financial or policy implications which should be taken into consideration at the meeting”.

Clauses 3.12 to 3.13(b) are necessary red tape to ensure Section 8 of Local Government Act 1993 is upheld.

Section 8 of Local Government Act 1993 states:

“8 Object of principles

The object of the principles for councils set out in this Chapter is to provide guidance to enable councils to carry out their functions in a way that facilitates local communities that are strong, healthy and prosperous”.

These objectives are assisted by the council executive, including through Clauses 3.12 to 3.13(b).

Removal of these sections does not achieve meetings which “are effective... and result in actionable outcomes for New South Wales communities” as outlined in ‘A new model Code of Meeting Practice Consultation Draft’.

Councils run the risk of not being “prosperous”, bankrupting themselves and being amalgamated.

We object to the removal of clauses 3.12 to 3.13(b).

Pages 7

3 BEFORE THE MEETING

Questions with notice

- ~~3.153 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.~~

Our Response

If you are trying to “restore dignity to the council chamber” as outlined in ‘A new model Code of Meeting Practice Consultation Draft’ you would be better to keep complaints about the general manager private.

Dealing with the implications of this change may also prove costly, in terms of Council, General Manager and Councillor reputational damage, as well as conciliation becoming harder to achieve.

If you want to disgrace councils then adopt this mandate.

We strongly disagree with this change.

Pages 10 to 12

4 PUBLIC FORUMS

- 4.1 The council may hold a public forum prior to ~~each~~ ordinary meetings of the council and committees of councillors for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of other committees of the council.
- 4.2 The council may determine the rules under which the public forum is to be conducted.
- ~~4.2 Public forums may be held by audio-visual link.~~
- ~~4.3 Public forums are to be chaired by the mayor or their nominee.~~
- ~~4.4 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by [date and time to be specified by the council] before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.~~
- ~~4.5 A person may apply to speak on no more than [number to be specified by the council] items of business on the agenda of the council meeting.~~
- ~~4.6 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.~~
- ~~4.7 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.~~
- ~~4.8 No more than [number to be specified by the council] speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.~~
- ~~4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.~~
- ~~4.10 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.~~

- ~~4.11 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than [number to be specified by the council] days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.~~
- ~~4.12 The general manager or their delegate is to determine the order of speakers at the public forum.~~
- ~~4.13 Each speaker will be allowed [number to be specified by the council] minutes to address the council. This time is to be strictly enforced by the chairperson.~~
- ~~4.14 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.~~
- ~~4.15 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.~~
- ~~4.16 Speakers are under no obligation to answer a question put under clause 4.15. Answers by the speaker, to each question are to be limited to [number to be specified by the council] minutes.~~
- ~~4.17 Speakers at public forums cannot ask questions of the council, councillors, or council staff.~~
- ~~4.18 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to [number to be specified by the council] minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.~~
- ~~4.19 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.~~
- ~~4.20 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies, and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.~~
- ~~4.21 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.20, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.~~
- ~~4.22 Clause 4.21 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in~~

~~accordance with the provisions of Part 15 of this code.~~

~~4.23 Where a speaker engages in conduct of the type referred to in clause 4.20, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.~~

~~4.24 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.~~

~~Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.~~

Our Response

Original clauses 4.2 to 4.24, which outline model procedure of public forum, should be retained. They provide for the coalface of democracy.

Section 8A of the Local Government Act 1993 states:

- (1) Exercise of functions generally The following general principles apply to the exercise of functions by councils--
 - (a) **Councils should provide strong and effective representation, leadership, planning and decision-making.**
 - (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
 - (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community.
 - (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
 - (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
 - (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
 - (g) Councils should work with others to secure appropriate services for local community needs.
 - (h) **Councils should act fairly, ethically and without bias in the interests of the local community.**

- (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.
- (2) Decision-making The following principles apply to decision-making by councils (subject to any other applicable law)--
 - (a) Councils should recognise diverse local community needs and interests.**
 - (b) Councils should consider social justice principles.
 - (c) Councils should consider the long term and cumulative effects of actions on future generations.
 - (d) Councils should consider the principles of ecologically sustainable development.
 - (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.
- (3) Community participation Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

Providing strong and effective representation in accordance with Section **8A(1)(a)** is done by mandating councils be available for open forum.

Acting in the interests of the local community in accordance with Section **8A(1)(h)** is achieved by mandating councils be available for open forum.

Recognising diverse local community needs and interests in accordance with Section **8A(2)(a)** is achieved by mandating councils be available for open forum.

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7 MODES OF ADDRESS

7.1 Where they can, councillors and staff must stand when the mayor enters the chamber and when addressing the meeting.

Our Response

The words “pomp” and “majesty” do not appear in Local Government Act 1993.

We have outlined opposition to this reform in our Submission to “A New Model Code of Meeting Practice Consultation Draft” .

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9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

Mayoral Minutes

- 9.9 ~~A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.~~
- 9.10 ~~Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the~~

~~recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.~~

Our Response

Are we to have meetings extended by business that can wait for the next ordinary meeting?

Are more items to be resolved without due notice and consideration?

Are complex and important items to be considered where the only time available for consideration is speaking time?

Are significant expenditures to be decided essentially as matters of urgency?

This is not in accord with Section 8A(1)(b) in that it doesn't provide "the best possible value for residents and ratepayers".

This is not in accord with Section 8A(1)(h) in that Councils would not be acting fairly "in the interests of the local community".

It is also not in accord with Section 8A(2)(c) in that there will be poor "long term and cumulative effects of actions on future generations".

We see many more deferrals of items. This will not "restore dignity to the council chamber" as outlined in 'A new model Code of Meeting Practice Consultation Draft'. It will deplete it.

We object to the deletion of these clauses.

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10 RULES OF DEBATE

~~Motions requiring the expenditure of funds~~

~~10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.~~

Our Response

Section 8A of the Local Government Act 1993 states:

- (1) Exercise of functions generally The following general principles apply to the exercise of functions by councils--
 - (a) Councils should provide strong and effective representation, leadership, planning and decision-making.
 - (b) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.**
 - (c) Councils should plan strategically, using the integrated planning and reporting framework, for the provision of effective and efficient

services and regulation to meet the diverse needs of the local community.

- (d) Councils should apply the integrated planning and reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements.
 - (e) Councils should work co-operatively with other councils and the State government to achieve desired outcomes for the local community.
 - (f) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
 - (g) Councils should work with others to secure appropriate services for local community needs.
 - (h) Councils should act fairly, ethically and without bias in the interests of the local community.**
 - (i) Councils should be responsible employers and provide a consultative and supportive working environment for staff.
- (2) Decision-making The following principles apply to decision-making by councils (subject to any other applicable law)--
- (a) Councils should recognise diverse local community needs and interests.
 - (b) Councils should consider social justice principles.
 - (c) Councils should consider the long term and cumulative effects of actions on future generations.**
 - (d) Councils should consider the principles of ecologically sustainable development.
 - (e) Council decision-making should be transparent and decision-makers are to be accountable for decisions and omissions.
- (3) Community participation Councils should actively engage with their local communities, through the use of the integrated planning and reporting framework and other measures.

The proposed omission of clause 10.9 will mean expenditure that will exceed revenue if councillors do not check funding sources themselves and collectively.

This is not in accord with Section 8A(1)(b) in that it doesn't provide "the best possible value for residents and ratepayers".

This is not in accord with Section 8A(1)(h) in that Councils would not be acting fairly, "in the interests of the local community" by not being prudent stewards of public money.

It is also not in accord with Section 8A(2)(c) in that there will be poor "long term and cumulative effects of actions on future generations".

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14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

Representations by members of the public

- ~~14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.~~

- ~~14.13 No more than [number to be specified by the council] speakers are to be permitted to make representations under clause 14.9.~~
- ~~14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.~~
- ~~14.15 The general manager (or their delegate) is to determine the order of speakers.~~
- ~~14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **[number to be specified by the council]** speakers to make representations in such order as determined by the chairperson.~~
- ~~14.17 Each speaker will be allowed **[number to be specified by the council]** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.~~

Our Response

Allowing councils alone to deal with the handling of applications to speak at council by deleting clauses 14.12 to 14.17 can lead to stifling of community input.

Section 8A of the Local Government Act 1993 states:

- (1) Exercise of functions generally The following general principles apply to the exercise of functions by councils--
 - (a) **Councils should provide strong and effective representation, leadership, planning and decision-making.**
 - (h) **Councils should act fairly, ethically and without bias in the interests of the local community.**
- (2) Decision-making The following principles apply to decision-making by councils (subject to any other applicable law)--
 - (a) **Councils should recognise diverse local community needs and interests.**

Providing strong and effective representation in accord with Section 8A(1)(a) is achieved by mandating councils follow a protocol when dealing with applications by residents to speak to council.

Acting without bias in the interests of the local community in accord with Section 8A(1)(h) is achieved by mandating councils follow a protocol when dealing with applications by residents to speak to council.

Deletion of clauses 14.12 to 14.17 here as well as original clauses 4.2 to 4.24 above allows councils to not adopt procedure for open forum, leaving the executive and councillors one opportunity to shut the public out of local government.

Recognising diverse local community needs and interests in accord with Section 8A(2)(a) is achieved by mandating councils follow a protocol when dealing with applications by residents to speak to council.

Is the objective here to centralise power and influence in the mayor first, councillors second and council executive third? If so, you would not last a week outside of government.

These reforms risk local government earning greater distrust from the public.

We strongly oppose these proposed changes.

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15 KEEPING ORDER AT MEETINGS

Acts of disorder

- 15.140 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act, the Regulation or this code, or
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
 - (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, ~~or alleges a breach of the council's code of conduct,~~ or uses any language, words or gestures that would be regarded as disorderly in the NSW Legislative Assembly, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting ~~or is likely to bring the council or the committee into disrepute.~~

Note: Clause 15.44 10 reflects section 182 of the Regulation.

Our Response

The use of “any language, words or gestures that would be regarded as disorderly in the NSW Legislative Assembly” is a problematic insertion.

We advise against it.

“Insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official” encapsulates all that should be covered.

Disorderly “language, words or gestures” that is directed as an insult is an insult.

Disorderly “language, words or gestures” that is not directed as an insult should not be under this code.

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15 KEEPING ORDER AT MEETINGS

Acts of disorder

15.12 A failure to comply with a requirement under clause 15.11 constitutes a fresh act of disorder for the purposes of clause 15.10.

15.13 Where a councillor fails to take action in response to a requirement by the chairperson to remedy an act of disorder under clause 15.11 at the meeting at which the act of disorder occurred, the chairperson may require the councillor to take that action at each subsequent meeting until such time as the councillor complies with the requirement.

Our Response

Carrots and sticks.

Clauses 15.12 and 15.13 are all stick. The power of the mayor to rule “a fresh act of disorder” is autocratic.

Have we learned nothing from the dictatorships of the last century?

“The chairperson may require the councillor to take that action at each subsequent meeting until such time as the councillor complies with the requirement”.

What if the mayor is wrong? In this instance clause 15.13 compounds the error.

A bigger whip will not move humans faster, especially when the one wielding it is not infallible.

Clause 15.13 may be disobeyed one day and this very code brought into question.

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17 DECISIONS OF THE COUNCIL

Rescinding or altering council decisions

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

Our Response

This clause presumes the mayor’s judgement is always sound.

Why can’t clause 17.19 be removed, allowing the same freedoms of debate ensconced elsewhere in this code?

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20 COUNCIL COMMITTEES

Attendance at committee meetings

~~20.8—A committee member (other than the mayor) ceases to be a member of a committee if the committee member:~~

- ~~(a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or~~
- ~~(b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.~~

~~20.9 — Clause 20.8 does not apply if all of the members of the council are members of the committee.~~

Our Response

The removal of clauses 20.8 and 20.9 allows a derelict councillor who misses “three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences” to continue on that committee.

Public duty is embedded in the principles of Local Government Act 1993.

The public vote and pay for representatives.

Removal of these clauses sells the NSW public short.

This is the third proposed reform that promotes absenteeism.

Where is the whip when it is needed?

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20 COUNCIL COMMITTEES

Closure of committee meetings to the public

20.20 The general manager must cause business papers for items of business considered during a meeting, or part of a meeting, that is closed to public, to be published on the council's website as soon as practicable after the information contained in the business papers ceases to be confidential.

Our Response

“Items which will again become confidential in the future may remain confidential” should be added to 20.20. This only includes items which “will”.