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**Subject:** Model Meeting Code amendments (attn: Council Governance Team)  
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[Ku-ring-gai Council - Model Meeting Code amendments.pdf](#)

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Good afternoon,

Ku-ring-gai Council welcomes the opportunity to provide feedback on proposed amendments to the Code of Meeting Practice.

Council is broadly supportive of amendments aimed at improving transparency, integrity and good governance.

However, we feel that the OLG should reconsider some of the proposed amendments for the reasons outlined in the attached.

This submission was approved unanimously at the 18 February Ordinary Meeting of Council.

If you have any questions regarding any of the issues raised, feel free to contact me directly.

Kind regards

Chris

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## **Ku-ring-gai Council Submission on amendments to the Model Code of Meeting Practice**

Ku-ring-gai Council supports the objectives of the proposed reforms to promote transparency, integrity and public participation, promote the dignity of the council chamber, depoliticise the role of the general manager and simplify the Model Meeting Code.

We believe it is essential to have a clear, unambiguous and practicable Code of Meeting Practice. This not only supports the overall functioning of councils but also promotes sound public decision-making, enhances credibility and fosters community trust. The conduct of efficient meetings serves as a sign of good governance. Well-managed meetings demonstrate a strong partnership and effective relationship between the council's governing body and its administration.

Council welcomes the opportunity to provide feedback on the proposed amendments to the Model Code of Meeting Practice. Council is broadly supportive of the proposed amendments but would like to provide comment on the following:

### **Questions with notice**

Ku-ring-gai Council recommends retaining clause 3.15 which prevents councillors from putting complaints or allegations about the general manager or staff as questions with notice.

This 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. There are more appropriate mechanisms to deal with allegations of wrongdoing via internal and external grievance procedures.

We also recommend changes to clause 3.16 to allow for an oral response to a question with notice to be provided if it is recorded verbatim in the minutes of the meeting.

### **Pre-meeting briefing sessions**

Ku-ring-gai Council has previously expressed concerns with the proposed ban on private pre-meeting briefing sessions with councillors (clauses 3.22 - 3.38). Individual councillors have the right to request information and advice from staff. We believe that pre-meeting briefings provide the best opportunity to provide councillors with the same information and advice at the same time.

Public briefings limit the ability of councillors to seek frank, honest, apolitical and impartial advice on complex policy, operational, and financial matters and objective information on the risks and benefits of options that they need to consider.

### **Public Forums**

Ku-ring-gai Council recommends retaining the (optional) provisions under section 4 relating to the conduct of public forums or replace them with separate guidelines.

Removal of these provisions means that councils have no guidance on how to set rules for public forums that provide a safe, fair and orderly way for members of the public to address council. This may lead to inconsistent opportunities for community participation across the state and omission of key procedures and protocols that are there to protect councillors and members of the public and deal with disorder.

### **Attendance by councillors at meetings by audio-visual link**

Ku-ring-gai Council does not support the amendments to clause 5.19 that would limit the circumstances where councillors may attend meetings by audio-visual link. The current arrangements reflect modern standards and community expectations around attendance at meetings, and consistent with arrangements in place for NSW and Commonwealth parliamentary committees.

Restricting the ability of Councillors to participate remotely in council meetings disadvantages those with work or carer commitments and may discourage them from running for office. The changes would also place a stronger requirement on Councillors to provide evidence of medical or carers responsibilities (including sensitive personal and/or health information) to support their request, and the general manager may be expected to decide on whether these grounds are sufficient under clause 5.20.

### **Attendance of the general manager and other staff at meetings**

Ku-ring-gai Council does not support the amendment to clause 5.43 that confers responsibility on council to determine staff attendance at meetings.

This amendment undermines the statutory role of the General Manager in managing staff and the efficient and effective operation of the organisation. The General Manager possesses in-depth knowledge of staff availability, expertise and which staff are best suited to attend specific meetings to ensure efficient and effective decision-making. It is also unclear how this would be implemented in practice and staff may be subject to repeated or contradictory requests to be present or excluded from a given meeting.

### **Voting on planning decisions**

Ku-ring-gai Council supports the new provision that a staff report must be provided on a final planning decision put to councils (new clause 11.12). This is consistent with current practice at Ku-ring-gai Council.

However, we do not support the new clause 11.13 that would require councils to provide reasons for its decision. While it is intended to improve transparency and accountability, it may be impractical where there are dissenting views. This provision would require councillors to agree on their reasons for amending or rejecting the officer's recommendation. However, each councillor will have their own views on why they support or do not support a particular motion. This amendment would require councils to debate and vote on their reasons for making a decision as well as the decision itself, undermining the efficient operation of council meetings.

### **Resolutions passed at closed meetings to be made public**

Ku-ring-gai Council has significant concerns with proposed requirements that business papers be published once their content is no longer confidential (new clauses 14.19 and 14.20). While we support improvements to transparency and public access to information, these amendments are completely unworkable as drafted.

This could give rise to an open-ended duty on the general manager to continually monitor all previous business papers, determine whether all the reasons for them being made confidential have lapsed, consult with the council and then publish them. Such a duty may be unworkable.

Identifying the exact point at which information transitions from confidential to public domain is complex. This requires careful consideration of legal obligations, privacy law, commercial-

in-confidence agreements, legal proceedings and ongoing investigations. This would require ongoing assessment and monitoring of all confidential papers and consultation with multiple third parties.

The proposed amendments make no allowance for public interest considerations (e.g. release of personal and other confidential information that is of little or no benefit to the public) or the partial release of information (i.e. with redactions).

It is also unclear whether these amendments are intended to apply retrospectively (i.e. to business papers already dealt with under previous terms of council).

The Office of Local Government may also need to review against offences relating to unauthorised disclosure of information under section 664 of the Local Government Act.

Implementing this requirement would require additional staff resources (with the expertise to make decisions about information release) and time for document review, redaction and re-publication.

Members of the public and stakeholders may also challenge general managers to release information under this requirement.

There are already more appropriate mechanisms in place for members of the public to seek access to this information via the Government Information (Public Access) Act 2009.

Ku-ring-gai Council suggests a more efficient and effective approach would be to require that Councils review papers after the end of each council term to identify any that can be released (in accordance with information access and other relevant laws), and/or a requirement that councils notify the public that anyone may seek access to confidential business papers by lodging an information access (GIPA) request and publishing any business papers released on the website.

### **Acts of disorder**

Ku-ring-gai Council does not support the amendments to clause 15.11 that define an act of disorder as including conduct that would be regarded as disorderly in the NSW Legislative Assembly.

Conduct should not be defined by other protocols that are otherwise irrelevant to the operation of council meetings. The rules and practices of the Parliament are specified in Standing and Sessional Orders and open to significant discretion of the Speaker. In line with current House procedures, what constitutes an act of disorder could include:

- Persistently and wilfully obstructing Council business or disregarding the authority of the Chairperson
- Use of offensive words or language, gestures or behaviours that are discriminatory (e.g. sexist, racist or homophobic).

### **Time limits on council meetings**

Ku-ring-gai Council recommends retaining the current version of clause 18.1. The most practical way for council to determine a time to conclude meetings is to explicitly note it in the Code of Meeting Practice. A clearly specified limit on the duration of meetings also supports efficient conduct of the meeting and planning for staff, security and other administrative arrangements.