



24/02/2025

Council Governance Team
Office of Local Government
Locked Bag 3015
NOWRA NSW 2541

Sent via email to: olg@olg.nsw.gov.au

Dear Council Governance Team

RE: MODEL MEETING CODE AMENDMENTS

I refer to the Office of Local Government (OLG) Circular 24-23 which notified councils about the release of the documents 'A New Model Code of Meeting Practice – Consultation Draft' (Consultation Draft) and 'Consultation Draft of the New Model Code of Meeting Practice for Local Councils in NSW' (Draft Model Meeting Code), and invited written submissions in response to the proposed amendments.

It is noted that the Consultation Draft and Draft Model Meeting Code collectively detail proposed changes to the way council meetings are conducted.

At its Ordinary Meeting on 11 February 2025, Council resolved as follows (ORD 9/25):

That Council endorse the submission on the proposed amendments to the Model Code of Meeting Practice, included as Attachment 3 of the report, to be sent to the Office of Local Government.

Please find **attached** the submission that was endorsed by Council to be provided to the OLG.

Thank you for the opportunity to make this submission and for your consideration. Please contact me via email at [REDACTED] or phone me directly on [REDACTED] if you would like to discuss it further.

Yours sincerely,

[REDACTED]

Andrew Carfield
GENERAL MANAGER

Cc: Local Government NSW
GPO Box 7003
Sydney NSW 2001
Sent via email to: lgnsw@lgnsw.org.au



ATTACHMENT – CAMDEN COUNCIL SUBMISSION TO THE OFFICE OF LOCAL GOVERNMENT RE: MODEL MEETING CODE AMENDMENTS

Camden Council (Council) thanks the Office of Local Government (OLG) for the opportunity to provide feedback on the proposed Model Meeting Code amendments. Council's submission will address each of the key outcomes outlined in the Consultation Draft.

Promoting transparency, integrity and public participation

Council generally supports each of the following proposed changes, and does not suggest any amendments to these:

- Requiring information considered at closed meetings to be made public after it ceases to be confidential.
- Requiring recordings of meetings to be published on council websites for longer.
- Providing that councils must not make final planning decisions without a staff report containing an assessment and recommendation.
- Requiring councils to give reasons where they make a decision on a planning matter that departs from the staff recommendation.
- Reaffirming that decision making by councillors must be through a resolution adopted at a council or committee meeting.

Restricting councils from holding briefing sessions

Council reiterates the relevant comments made in its 29 November 2024 submission to the OLG on the Councillor Conduct and Meeting Practices Discussion Paper (Council's November 2024 submission). These comments were:

- It would be counter-productive for briefing sessions to be banned entirely, for reasons including the following:
 - The mayor and councillors should equally be able to have open conversations with the general manager outside of meetings, and briefings enable complex issues to be candidly discussed in an informal context prior to decision-making
 - Concerns about transparency are mitigated by the provision of Council meeting reports which include reasons for staff recommendations and the existing ability of Councillors to ask questions
 - A ban could drive confidential discussions underground without the benefit of all Councillors having the ability to discuss matters together and openly.
- As an alternative, the following measures could be introduced:
 - Restrictions are limited to matters more commonly associated with corruption risks (such as development matters)
 - A robust governance framework is established which addresses matters of conflicts of interest and ensures the public is informed about what matters generally are covered
 - Briefing sessions are permitted and remain confidential where they relate to the types of matters listed at section 10A of the *Local Government Act 1993* (the Act), concerning the grounds on which a Council meeting can be closed to the public.



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Council further notes and endorses the views publicly expressed by Local Government NSW (LGNSW) in relation to the proposal to ban briefing sessions, namely that such a ban would be undesirable as briefing sessions lead to better informed decision-making once a matter comes to a meeting by providing opportunities for councillors to ask questions of staff (some of whom may not attend council meetings) which may be too sensitive to ask or respond to in public. Council also agrees with the argument made by the LGNSW that a ban on briefing sessions is inconsistent with the opportunity provided to NSW Ministers and Members of Parliament to receive private briefings on motions and legislation before they are debated in Parliament. The same standard should apply to elected representatives of councils as it does to elected representatives of Parliament.

Council also holds concerns with the proposed restrictions on how information is to be provided to councillors. It is uncertain to what extent councils will be able to proactively provide councillors with updates on operational matters such as events or assets, and so Council recommends that these types of updates (which do not relate to decisions to be made by council) are expressly provided for so that councillors can remain informed about local issues and thereby effectively fulfil their functions as representatives of the community.

In addition, given the associated proposal to ban briefing sessions, it appears that the proposed information channels will increase the reading burden on councillors as the consequence of restricting information flows to councillors to exclude briefings will be to increase, likely substantially, the size of reports. This may be an unintended outcome of the proposed changes and should be considered further before the final regulatory framework is established.

It is also unclear how a workshop is defined and in what ways it is to be distinguished from a briefing session, and so Council requests that each of the terms 'workshop' and 'briefing' are clearly defined so as to avoid ambiguity.

If restrictions on briefing sessions are introduced, Council supports the proposal for the mayor to be exempt from those restrictions. Such an exemption would appropriately recognise the distinct functions of the mayor under section 226 of the Act. However, Council also submits that it is reasonable for there to be an equitable provision of information to the mayor and councillors, particularly where that information may inform a decision to be made at a council meeting.

Promoting the dignity of the council chamber

Council generally supports each of the following proposed changes, and does not suggest any amendments to these:

- Enhancing the authority of the mayor by permitting the mayor to call extraordinary meetings without a request and removing the restrictions on mayoral minutes.
- Mandating modes of address at meetings.
- Removing the option for councils to reduce the duration of speeches, to ensure all councillors may have their say on important community issues.
- Making clear to the community that decisions are made in council meetings and not in other forums that the community cannot access, such as briefing sessions.
- Restricting the circumstances in which the council may withhold a leave of absence by, for example, treating an apology as akin to a request for leave of absence.



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- Refining the definitions of disorder to remove words that could be misused to impede debate and to include a reference to conduct that would be regarded as disorderly in the NSW Legislative Assembly.
- 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.

However, Council believes that the following proposed changes should be reconsidered.

Consistent with the feedback provided in its November 2024 submission, Council believes that it is impractical and inefficient for councillors and staff to be required to stand (where they are able) when the mayor enters the council chamber or when speaking, for several reasons. These reasons include that that may make it harder to hear councillors as they speak at a greater distance from the microphone (or require modifications to microphone placement/technology as an additional cost burden on councils), will likely reduce the efficiency and pace of meetings (many of which take place during evenings) and will also further zoom out the view of councillors on the livestream and audio-visual (AV) recording thereby making it more difficult for speakers to be identified. Effective leadership of a meeting will have a much more tangible impact on the dignity of the council chamber than a requirement to stand. Council supports the recommendation that LGNSW has made in relation to the proposed requirement to stand, being that it should be required only at a council's discretion. Making the relevant provisions non-mandatory rather than mandatory would resolve this concern.

Council also submits that there should be more flexibility with the mode of attendance than is provided for in the proposed changes. It is reasonable for only in-person attendance to be required for a mayoral election, as this enables the option of voting by secret ballot. However, the existing opportunity for councillors to otherwise request to attend a meeting by AV link, not just on grounds of illness or unforeseen caring responsibilities, should be maintained. This is particularly beneficial for accommodating councillors who may be travelling for work commitments but otherwise available to attend a meeting by AV link, as well as councillors who may have to travel a substantial distance to and from council meetings. In addition, the proposed change to the mode of attendance does not adequately acknowledge that current technology and experience has consistently demonstrated that hybrid meetings function effectively.

Similarly, the proposed change to remove the option for staff to attend a meeting by AV link is disadvantageous because it unnecessarily removes the flexibility to accommodate senior staff or other subject matter experts who may be the best persons to answer a question from a councillor, but for reasons such as a health issue or unforeseen caring responsibilities are unable to attend in person. It is preferable for there to be a consistent approach to this applied for both councillors and staff, with a flexible approach to attendance permitted comparable to what is currently available.

Depoliticising the role of the general manager

Council generally supports each of the following proposed changes, and does not suggest any amendments to these:



- Removing the requirement for general managers to prepare reports for notices of motion with financial implications.
- Questions to the general manager being put through the mayor, with the general manager having the discretion to request a response from council staff.

However, Council is of the view that it is undesirable to confer responsibility on the council to determine staff attendance at meetings. Consistent with their functions under the Act, the general manager has the required operational knowledge to assess which staff should attend a council meeting. The authority to determine this should therefore remain with the general manager. Alternatively, if it is still preferred that the governing body should have input into this, it could be prescribed that the general manager is to determine staff attendance in consultation with the mayor.

Simplifying the Model Meeting Code

Council generally supports each of the following proposed changes, and does not suggest any amendments to these:

- Streamlining the Model Meeting Code by removing unnecessary provisions.
- Removing the non-mandatory rules governing public forums.
- Simplifying the rules governing public representations to council on the closure of meetings to the public.
- Simplifying the rules for dealing with urgent business without notice at meetings.
- Simplifying the rules of debate by removing the provisions allowing motions to be foreshadowed.
- Mandating some current non-mandatory provisions, for example, allowing meetings to be cancelled or held by audio visual link in the event of natural disasters and public health emergencies and those governing councillors' attendance at meetings by audio visual link.

Conclusion

As detailed in the above submission, Council supports in principle most of the proposed Model Meeting Code amendments; however, submits that the proposed amendments would benefit from further refinement for the reasons that are articulated.



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