



25 February 2025

Office of Local Government
Council Governance Team
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Dear Office of Local Government

Model Meeting Code Amendments

Thank you for the opportunity to provide submissions in relation to the proposed amendments to the Model Code of Meeting Practice for Local Councils in NSW (Model Meeting Code).

Tweed Shire Council resolved to support the following submission at this its meeting held on 20 February 2025.

Will The Proposed Amendments Made In The Consultation Draft Of The Model Meeting Code Achieve The Policy Outcomes Identified In This Paper?

The policy objectives identified in the paper are:

1. promoting transparency, integrity and public participation
2. promoting the dignity of the Council chamber
3. depoliticising the role of the general manager
4. simplifying the Model Meeting Code

In relation to the goal of ***"promoting transparency, integrity and public participation"***, Council makes the following submission:

Removing pre meeting briefings (workshops)

The removal of clause 3.33-3.38 which will result in pre meeting briefings (also known as councillor workshops) to no longer be held is strongly opposed. These sessions, when run in accordance with the current model code requirements, do not function as a forum for debate or decision-making. Their purpose is to allow good communication between the elected body and Council staff so that Council staff can more effectively and efficiently allocate resources (e.g. these sessions can signal to staff the level of and/or type of advice required in a report). From a councillor perspective, these sessions can provide training and advice on Council services to enable the councillors to have a better understanding of Council, which in turn results in better decision making. If Councils are required to form

subcommittees to replace workshops, then administrative costs will sharply increase. The administration for Committee meetings is labour intensive for administration staff, report writers (typically professionals and subject matter experts), the executive and the councillors. Council will not receive any additional funding and will therefore need to reduce service levels in other areas or look to a rate increase to implement this.

Requiring information considered at closed meetings to be made public after it ceases to be confidential

Clause 14.18 has been amended to allow the making of closed resolutions public "where practicable". The addition of where practicable is supported as it may not always be practicable to make these resolutions public. However, the overall impact of this change will be increased administrative costs for Council to monitor, review and effectively implement this change. This may include seeking external legal advice in relation to release of some information. Therefore, this amendment is not supported.

Requiring Recordings of meetings to be published on Council websites longer

The amendment to 5.37 (5.38 in draft) to provide additional requirements in relation to the publishing of meeting recordings is supported as it promotes greater transparency to the public.

Providing that Councils must not make final planning decisions without a staff report containing an assessment and recommendation, as recommended by ICAC

Council is supportive of the addition of clause 11.12 requiring a staff report containing an assessment and recommendation as this information promotes informed decision making.

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

Council is supportive of the addition of clause 11.13 Councils to give reasons where they make a decision on a planning matter that departs from the staff recommendation as this promotes greater transparency in decision making and is considered better practice from a legal perspective.

In relation to the goal of "***promoting the dignity of the Council chamber***", Council makes the following submission:

Requiring councillors to stand when a councillor addresses the meeting, or when the mayor enters the chamber

Tweed Shire Council opposes the addition of clause 7.1 requiring councillors and Council staff to stand when the mayor enters the meeting and addresses the meeting. This is an archaic practice that is not efficient and will not bring dignity to the chamber. Where there are councillors with mobility issues, this may in fact highlight these issues and impact the individual dignity of these councillors. Tweed Shire Council's two Council chambers are not currently setup to allow speakers to stand and be able to talk into a microphone, as the

microphones are designed for sitting speakers. This rule will affect the broadcasting of meetings and there will be an additional cost to the ratepayer to change technology to allow Council to implement this change.

Removing the option for Council to reduce the duration of speeches

The removal of clause 10.24 which allows Council to resolve to shorten the duration of speeches to expedite the consideration of business at a meeting is opposed. The Council should be allowed to determine a limit which applies to all speakers which, in the view of the Council, allows for robust debate while also promoting timely meetings. Tweed Shire Council often has large meeting agendas. Without speech limitations, these meetings may not be able to be conducted within the time allocated for meetings. This may result in meetings having to be suspended and conducted over more than one day. This will not be a good outcome for the community.

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

The current Code already mandates that decisions cannot be made at pre meeting briefings. Please refer to Council's response on removing pre meeting briefings.

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

Council opposes the amendment of clause 15.11 (15.10 in draft) to replace the reference to the code of conduct with a reference to "any language, words or gestures that be regarded as disorderly in the NSW Legislative Assembly". Councillors are not members of the NSW Legislative Assembly and as such, should not be expected to be familiar with these standards of conduct. This change is likely to be poorly understood by councillors, staff and the general public.

Council is supportive of the addition of 15.13 which penalises a councillor who fails to take action to remedy an act of disorder as it provides incentive for councillors to take appropriate action.

The removal of clause 15.2 from the model code is supported by Council as non-adherence to the principles contained in clause 2.1 should be allowed to be raised as a point of order.

Providing as a default that councillors are to attend meetings in person.

The amendment to clause 5.19 where councillors seeking to attend by audio visual link can only do so if they are prevented from attending by medical or unforeseen caring responsibilities is not supported. While it encourages greater in person participation by councillors at meetings which Council is supportive of, there are some Councils, such as those in the western division, where councillors must travel long distances to attend. These councillors should be provided with the option to attend by audio visual means. Perhaps a compromise is that attendance virtually can be for no more than 25% of the scheduled meetings in a calendar year.

The addition of clause 5.20 to prohibit audio visual attendance at a mayoral election is supported. All councillors should physically attend the mayoral election meeting.

Restricting the circumstances in which the Council may withhold a leave of absence

The moving of the second paragraph of clause 5.4 to 5.7 where it is expanded upon to require that where an apology is not accepted that the resolution include the reason for its decision in its resolution increases transparency of decision making while simultaneously promoting respectful conduct within the chamber. In short, if Council is not willing to accept the apology, then the councillor requesting the leave of absence and the general public should be provided with the reason as to why it was not accepted. This amendment is supported.

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

The removal of clause 5.44 which allows the General Manager and other Council staff to attend by audio visual link is supported. While this may result in questions being taken on notice, due to the absence of a subject matter expert, if a staff member is on leave (sick, carers or other), they should not feel obligated to attend a meeting via audio-visual means. Likewise, to the suggestion made for councillor remote attendance, consideration could be given to limiting the number of meetings able to be attended virtually to no more than 25% of those scheduled in a calendar year, to account for times when senior staff may be away from the Shire on Council business but still able to participate in the meeting virtually.

In relation to the goal of ***"depoliticising the role of the general manager"***, Council makes the following submission:

Removing the requirement for general managers to prepare reports for notices of motion

The removal of clauses 3.12 and 3.13 from the model code will reduce the involvement of the General Manager in the Notice of Motion process. While this may assist in depoliticising the process, it will also have the impact of reducing the quality of Council decisions as pertinent information that is currently provided to the Council to ensure informed decision making will no longer be provided. Councils are complex organisations delivering a large number of services with a myriad of interdependencies, projects and plans. Tweed Shire Council has a \$292 million annual budget with in excess of 6000 budget line items. Tweed Shire Council suggests that councillors be asked to nominate which service area the funding will be derived from instead of the budget item. Council staff could then provide advice on what impact this decrease in funding would have on the service level of the nominated service. This amendment is opposed by Council.

Providing that the mayor, not the general manager has discretion on whether Council staff should respond to questions with notice

While Council supports the intent of the amendment of 9.16 (9.15 in draft), to have the mayor be responsible 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, it will likely lead to a less efficient Council meeting.

Conferring responsibility on the Council to determine staff attendance at meetings

The amendment of clause 5.43 (5.44 in draft) to have the attendance of Council staff at a meeting determined by Council from time to time is opposed by Tweed Shire Council. The consultation draft paper suggests that councillors are best placed to determine what support they require from staff at meetings is incorrect. This statement does not consider the separation of the elected body from Council staff in accordance with the model councillor and staff interaction policy and that the General Manager is responsible for directing staff. The General Manager is best placed to understand which staff have knowledge and/or involvement with matters, the expertise of staff, and the award, human resource and WHS considerations with staff attending meetings.

In relation to the goal of "***simplifying the Model Meeting Code***", Council makes the following submission:

Streamlining the code by removing unnecessary provisions

The removal of clause 3.23 which will remove the statement reminding councillors of their oath of affirmation and obligations under the Code of Conduct to disclose and manage conflicts of interest will reduce the promotion of transparency and integrity. This statement informs the public, some of whom may not be familiar with councillor obligations, that the councillors have committed to conducting themselves in a manner that upholds integrity and strong ethical standards. This amendment is not supported.

Council opposes the removal of 3.15 from the model code. The current clause restricts the use of questions with notice being used as a weapon to attack the general manager and/or staff in a public forum. The removal of the clause will permit councillors to air personal grievances, defamatory and unfounded allegations and/or unwarranted criticism. The councillor handbook identifies the relationship between councillors, the general manager and staff as being key to allowing a Council to function effectively. The removal of this clause is likely to negatively affect these relationships and thus the overall effectiveness of Council. If a councillor has a concern with the performance of the general manager, the annual performance review and mid-term review is the appropriate forum to raise these concerns. Other measures such as raising matters of concern with the Mayor, NSW Ombudsman, the OLG or the ICAC are also open to councillors, where rules of procedural fairness will be upheld. The removal of the clause could have the adverse outcome of the general manager or staff making defamation claims against a councillor if statements made in a public forum are unfounded and cause reputational damage.

The removal of clause 5.8 requiring, where practical, for a councillor given a leave of absence to notify the general manager at least two days in advance if they decide to attend will simplify the Code. It may have an impact on the efficiency of meeting administration however the impact is considered minor. Council neither supports nor is against this proposed amendment.

The removal of clause 8.2 specifying the order of meeting business will simplify the Code however the benefits of the amendment are negligible. Council neither supports nor opposes the amendment.

The amendment to clause 10.3 simplifies the process for councillors withdrawing a motion. There is no requirement to notify the general manager, notification to the general manager would assist from administrative viewpoint. The amendment, while not ideal, is supported.

Removing the non-mandatory rules governing public forums

The addition of clause 4.2 to allow Councils to determine the rules which the public forum is to be conducted simplifies the Code however this is potentially at the cost of transparency, integrity and public participation. Tweed Shire Council has a community where participation in public forums is highly valued. Speakers often have questions where staff refer them to the Code. The speakers also should be treated fairly and consistently, which the current Code allows. While this does lengthen the document, it provides assurance to the community that there is consistent treatment of public forum applicants.

Simplifying the rules governing public representations to the Council on the closure of meetings to the public

The amendments to section 14 on representations by members of the public on the closure of Council meetings to the public, simplify this section code which is rarely used. It is therefore supported.

Simplifying the rules for dealing with urgent business without notice at meetings

The amendment to clause 3.29 (3.25 in draft) and addition of clauses 3.26 and 3.27 to allow Council to resolve to deal with additional urgent matters at an extraordinary meeting is supported as it continues to allow flexibility and responsiveness from Council when urgent matters arise. The requirement that all councillors must be present provides safeguard against abuse as does the addition of clause 3.27. Conversely however, a councillor or councillors could deliberately absent themselves thereby frustrating the orderly dealing of the business item. The requirement that the resolution states the reason for urgency increases transparency and accountability.

The amendment to clause 9.3 and addition of clauses 9.4 and 9.5 to allow Council to resolve to deal with additional urgent matters at Council meetings is supported as it continues to allow flexibility and responsiveness from Council when urgent matters arise. The requirement that all councillors must be present provides safeguard against abuse as

does the addition of clause 9.5. The requirement that the resolution states the reason for urgency increases transparency and accountability. These amendments are supported.

The amendment to 9.14 (9.13 in draft) to allow a question for an item not on the agenda and without notice where “the Council by resolution, and the mayor determines otherwise” is required if the change to clause 9.3 is adopted.

Are There Any Other Amendments You Would Suggest That Will Achieve These Policy Outcomes?

Office of Local Government (OLG)

Representatives from the OLG will periodically attend meetings or review meeting recordings. These representatives should be obligated to report instances of poor meeting behaviour (i.e., non-compliance with the Code) to the Minister for Local Government. Options should be available to issue Performance Improvements Notices to one or more councillors as opposed to the Council as a whole where non adherence to the Code is limited and consistent from one or more councillors. This approach would assist in depoliticising the role of the general manager while also promoting the dignity of the Council chamber.

Will The Proposed Amendments Have Any Unintended Consequences?

Increased meeting related costs

As noted in the above response, a number of the proposed amendments will result in increased meeting related costs particularly in relation to additional administration and increased allocation of senior executive time. As there is no indication of increased funding to offset these costs, this will likely result in a negative impact on operational delivery. For this reason, those changes which will result in increased costs are opposed.

Capacity to respond to Questions With Notice

The current model code allows responses to questions with notice to be in report format or oral format. Oral responses are recorded in written format in the meeting minutes. Responses to questions with notice can require research and input from multiple parties. The draft Code proposes removing the ability to respond orally. It is unclear the purpose of removing this option. There is no restriction on the complexity of questions. Requiring a written report for each question with notice would place additional strain on Council’s limited resources and would shorten the timeframe to prepare a response. This would have the impact of reducing the quality of responses and is therefore not supported.

Concentration of information to the mayor to the disadvantage of other councillors

The amendments, particularly those related to pre meeting briefings will result in the mayor receiving more information than that provided to the other councillors. Council decisions are made by all councillors, where each councillor’s vote carries the same weight except in the case of drawn vote, where the mayor receives a casting vote. The other councillors

should have the same right to receive information outside the proposed restrictions that the mayor will receive.

Are There Any Other Amendments The Government Should Consider?

Petitions

Council often receives petitions from residents in relation to matters of concern in the community. As a result, Council has made additions to our Code in relation to petitions. These additions provide guidance to the public, councillors and staff in relation to the treatment of petitions allowing a fair and consistent approach. Council would welcome guidance on the treatment of petitions or other mechanisms for the community to make submissions to the councillors as a whole in relation to business paper items into the model code as an optional provision.

Unauthorised recording of meetings and public gallery etiquette

In response to incidents within the public gallery where attendees made unauthorised recordings and there were etiquette issues, Council made additions to our Code to provide guidance to the public who attend the meetings. These additional clauses assist to maintain order in the public gallery.

If you have any questions in relation to this letter, please contact [REDACTED]
Acting Manager Corporate Governance on [REDACTED]

Yours sincerely

[REDACTED]

Troy Green PSM
General Manager