

NSW Office of Local Government

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

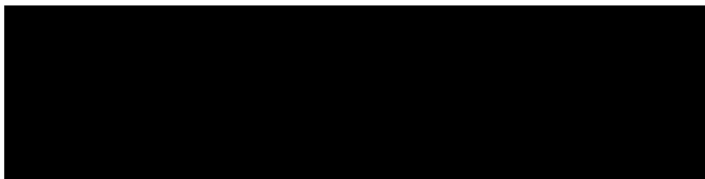
26 February 2025

Dear Sir/Madam,

MODEL MEETING CODE AMENDMENTS

Please find following, Wollondilly Shire Council's submission to the proposed Model Meeting Code amendments.

Yours faithfully,



Chief Executive Officer

Introductory comments

Wollondilly Shire Council appreciates the opportunity to provide feedback on the proposed amendments to the Model Code of Meeting Practice for Local Councils in NSW.

Building on the principles outlined in our previous submission to the Councillor Code of Conduct Consultation Draft, we strongly support the Government's focus on fostering transparency, respect, and accountability. These objectives are tightly aligned to our enduring commitment to strengthening local democracy and enhancing public trust and to our organisational vision; *'Making Wollondilly even better, together.'*

We acknowledge the value of reforms that aim to improve the dignity and efficiency of council meetings, such as empowering the Mayor to manage order and ensuring transparency through public access to meeting materials.

However, we caution that some amendments, particularly constraints such as the prohibition of pre-meeting Councillor briefings and a greater centralisation of decision-making authority in the Mayor, may inadvertently hinder informed decision-making, limit the provision of candid, frank and fearless advice, reduce collaboration, and potentially erode trust among Councillors and between Councillors and staff.

These potential constraints directly conflict with the over-arching, higher priority intent to drive higher-quality, more comprehensively informed decision-making by Councillors, some of whom understandably rely on the candid discourse afforded to them in pre-meeting briefing sessions.

To fully realise the intended policy outcomes, we recommend a balanced approach that integrates transparency with practical and fit-for-purpose governance. This includes retaining/reimagining pre-meeting briefings with safeguards, promoting public recognition of exemplary Councillor behaviour, and introducing 'tailoring' provisions for councils with strong governance records.

These measures, coupled with clear guidelines and additional training for Councillors, will ensure the reforms foster constructive collaboration while maintaining the flexibility and functionality essential to supporting and enhancing the effective and efficient operation of council. Our feedback reflects a nuanced perspective, shaped by our strong track record of strong, consistent governance and active community engagement.

We encourage the Office of Local Government to carefully consider the potential unintended consequences of these reforms and to adopt a measured, inclusive approach that empowers all councils to tailor the more operational/procedural aspects of any legislated frameworks as relevant and appropriate, in order to deliver outcomes that best reflect the propensities and needs of their communities. Please see following,

our responses to the OLG's targeted and general questions.

TARGETED QUESTIONS:

2.1 Will the proposed amendments made in the consultation draft of the Model Meeting Code achieve the policy outcomes identified in the paper?

- Somewhat, although the amendments will have unintended consequences as outlined in this submission and so some should be reconsidered.
- We agree that the proposed amendments address key policy objectives such as transparency, orderly conduct, and public confidence in council meetings.
- Strengthening the Mayor's authority aligns with the goal of promoting effective leadership and maintaining dignity in council chambers (*e.g., allowing Mayors to call extraordinary meetings and expel Councillors for disorder*).
- Measures such as public release of confidential documents and extending the availability of meeting recordings will go towards enhancing public trust (*to the balance of the council term or at least 12 months in an election year*). This is something we do already.
- However, banning pre-meeting Councillor briefings and centralising information provision and decision-making power in the Mayor may unintentionally hinder Councillors' ability to make fully informed decisions and may not comprehensively achieve the intended outcome of improving transparency and deliberation quality.

2.2 Are there any other amendments you would suggest that will achieve these policy outcomes?

- An alternative model, rather than completely banning briefings, that achieves the objectives without the negative unintended consequences could involve clearly categorising Councillor briefings as follows:
 1. **Business paper briefings**, which are published online for public viewing. These briefings are focussed on a "run-through" of the Council meeting business paper, after publication of the papers, and are an opportunity for staff to brief Council on the reports and recommendations, and for Councillors to ask questions regarding the papers.
 2. **Information sharing briefings**, which are closed to the public to enable Councillors to be briefed on matters relating to the operation of Council in a format that enables open discussion whilst also not allowing decision-making. These could include transparency measures such as:

- Ensuring the briefing content is recorded and summarised for public availability after the meeting to maintain transparency.
 - Allowing Councillors to seek clarification in private without discussing substantive decision-making to enhance informed decision-making.
3. **Workshops**, which are strategic sessions such as annual planning for Council's Delivery program and Operational Plan, which are closed to the public to enable open discussion but also do not involve decision-making and this only occurs when the matter is publicly reported to the Council meeting.
- Provide clear guidelines for the use of Mayoral minutes to prevent misuse and ensure fair access to decision-making processes for all Councillors.
 - Require Councillors to inform the Mayor and all Councillors of the funding source and impact on Council's Budget and Long Term Financial Plan for motions and Notices of Motion before the Council formally considers the item.
 - Establish a "reality-check" mechanism for handling Councillors' disclosures of pecuniary and non-pecuniary interests to reduce frivolous or vexatious complaints, addressing concerns raised in the draft's focus on disclosures. This could come through targeted training and a simple, step-by-step decision-tree framework to guide Councillors in determining the nature of an interest. This could be an AI powered, decision-tree tool made available by the OLG for use by all Councils to ensure consistency of approach and responses.

2.3 Will the proposed amendments have any unintended consequences?

- **Suboptimal decision-making and Chilling effect on discourse**

Banning pre-meeting briefings and centralising information provision through the Mayor may mean Councillors are less informed on matters being considered by Council, which could potentially lead to sub-optimal decision making. It may also discourage Councillors from seeking clarification on matters they will determine during public or confidential meetings, potentially leading to partially informed decisions or causing unnecessary delays during formal meetings, directly conflicting with the OLG's goal of driving effective and efficient meetings.

- **Perception of Power Centralisation**

Expanded Mayoral powers could create tensions among Councillors, particularly in politically divided councils, and risk alienation and distrust.

This could also extend to overuse of the Mayor's discretionary powers, particularly in relation to the ability to expel/penalise Councillors for disorderly conduct. The practical application of these powers may result in complaints as those subject to such actions may challenge the basis for the decision, and conversely, where the power is not exercised in circumstances where others believe it should.

This situation has the potential to further erode trust and goodwill within the elected body and create an environment which surfaces perceptions of favouritism and discrimination.

- **Reduced consideration of the financial implications of decisions**

Currently the CEO is required to advise Council of the financial implications of a motion prior to formal consideration to ensure Council is aware of the impacts on Council's financial position. Without this advice Council may be unaware of the full financial implications prior to voting on an item.

This situation could introduce an unnecessary, administrative burden as **any** motion, without the financial reality check at the outset, will be allowed to be put forward and discussed, with the financial implications only considered downstream after the fact.

This could extend meeting times, directly impact resources and create unrealistic community expectations which will need to be managed also, particularly when motions of interest without viable funding options are publicly surfaced.

We propose an alternative where councillors are held accountable for sourcing and validating funding sources before putting forward any motions. This maintains the intent of change, whilst also ensuring Councillors are fully aware of the implications of a proposal prior to decision-making.

- **Overloading Staff Resources**

Increased requirements for the formalisation of information-sharing mechanisms, will strain staff capacity and divert resources from operational priorities.

- **Oversimplification in Public Forums**

In public settings, Councillors may oversimplify complex issues to avoid misinterpretation and/or protect their own reputation, reducing the quality of debates.

The draft highlights the proposal to eliminate private councillor briefings as part of promoting transparency, while simultaneously acknowledging potential risks such as 'personal slanging matches' or using meetings for political grandstanding

This implies that discussions in public settings may sometimes become less focused, and Councillors might seek to simplify or alter their contributions to manage public perception. Our discussions with Councillors during the development of our submission to the Councillor Code of Conduct Consultation Draft, surfaced this risk already.

Additionally, the lack of a contained, controlled setting to seek clarification on complex or sensitive matters may lead to incomplete or rushed deliberations during formal meetings.

These risks align with the concern about reduced debate quality in public meetings.

- **Lack of the ability to tailor provisions to suit local circumstances**

The proposed amendments appear to introduce a ‘*One size fits all*’ approach for the purposes of simplification of the rules, which conflicts directly with the overarching intent which recognises the need for, and benefits of, localised decision-making. This approach may also create inefficiencies and unnecessary barriers for those councils which demonstrate strong governance under the current, more locally tailored model.

Again, in the spirit of localised decision-making, we ask that the OLG consider more closely what is ultimately prescribed, and maximise flexibility for how Council operates locally by providing decision-making to the elected body as to how the objectives are implemented.

- **Councillor/Mayor Determining Staff Attendance at Meetings**

The proposed amendment (and how it may be interpreted by various parties), granting Councillors and/or the Mayor the ability to determine which staff should attend council meetings is impractical and inconsistent with the Act.

Under the current governance structure and in line with the Local Government Act, the **General Manager/Chief Executive Officer (GM/CEO)** is the only individual with the authority to direct staff.

This separation of powers ensures a clear distinction between the operational and political roles within Council, a principle essential for maintaining professionalism and avoiding potential conflicts of interest.

The GM/CEO is best placed to determine which staff members are needed to provide technical expertise and specific operational support during meetings, ensuring decisions are comprehensively informed and support is appropriate to need. The reality is the GM/CEO also determines to whom questions from Councillors are directed so should also remain responsible for which staff attend.

Staff members may be pulled away from core duties to attend meetings unnecessarily, impacting service delivery and operational efficiency. This again is a direct conflict with the overarching goal of enhancing the efficiency and effectiveness of councils.

The current approach, where the *GM/CEO determines staff attendance*, should, be retained as it ensures alignment with operational priorities and the best use of staff time, preserving the integrity of council decision-making and ensuring operational efficiency and effectiveness as it relates to the provision of advice and support in meetings.

This structure avoids the politicising of staff/roles, and maintains accountability within an already tried and tested, resilient, legislated and purposefully established chain of command.

2.4 Are there any other amendments the Government should consider?

- Introduce public recognition mechanisms for exemplary Councillor conduct, such as annual awards or recognition for positive contributions to council operations and community relations.
- Expand mandatory training for Councillors on governance, conflict resolution, and ethical decision-making to reduce complaints, improve meeting conduct and support collaboration.
- Provide tailored provisions allowing councils with demonstrated, strong governance to retain confidential briefing sessions, subject to ministerial review and revocation if standards are not maintained.

GENERAL FEEDBACK:

3.1 Please provide any other feedback on the proposed amendments.

- While the focus on transparency and improved meeting dignity is commendable, reforms should avoid a ‘one-size-fits-all’ approach. Councils with a history of effective governance and public trust should have flexibility in adapting the new rules.
- Clarity is needed on what constitutes ‘confidential briefings’ and the specific thresholds for matters that require confidentiality under the Local Government Act.
- Establishing a fair and independent review process for Councillor complaints is essential to address concerns about potential bias or misuse of the expanded powers granted to the Mayor.
- Simplify (and clarify) ‘public-facing materials’ to ensure transparency efforts do not inadvertently overwhelm and/or disengage the community.

- The proposed different rules for Councillors and staff audio-visual link attendance should be consistent. The draft proposes that Councillors can attend online subject to extenuating circumstances, whereas it appears that staff cannot attend online at all. There may be circumstances where key staff are unable to attend in person due to extenuating circumstances and this should be allowed so as to not negatively impact on Council's access to information and decision-making.
- Generally, however, we do not support the proposed changes in regards to audio-visual link attendance, noting the advancements in audio-visual/remote technology enable greater accessibility and flexibility for all attendees and that we have had no issues or concerns raised, or manifest from, the current arrangements.

More broadly, the consistent theme when capturing feedback from staff and the elected body on the proposed amendments was the need for much greater clarity, particularly in their practical application.