

27 February 2025

The Hon Ron Hoenig MP  
Minister for Local Government  
C:/Office of Local Government

[olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Dear Minister Hoenig,

## **Submission – A new Model Code of Meeting Practice**

Council has not experienced the issues with the existing Code of Meeting Practice described in the Minister's foreword to the Consultation draft. Council is supportive of a uniform, clear and simplified Code of Meeting Practice that upholds the dignity of the chamber, promotes transparency and depoliticises the role of the General Manager. Legislating for the exception is poor policy practice and the introduction of external oversight for dysfunctional councils would offer a more effective approach than some of the changes proposed in the consultation draft.

### **Question 1: Will the proposed amendments made in the consultation draft of the Model Meeting Code achieve the policy outcomes identified in this paper?**

Council views that the proposed amendments will partially achieve the Policy outcomes identified in the paper. Council is **supportive** of the following changes to achieve these goals:

1. Planning Decisions being made with staff recommendations (addition of clause 11.12-11.13)

Council already complies with this practice. This will achieve the transparency outcomes sought by the OLG.

2. Clarification of apologies and leave of absences (addition of clause 5.7)

This will simplify this process in meeting practice.

3. Simplifying the definition of an act of disorder (clause 15.10)

Council supports simplification of the definition of disorder however the proposed changes to define disorder in accordance with the NSW Legislative Assembly does not adequately provide a definition. NSW Local Councils should not be defined by rules that have not been designed for the context of Local Government.

The OLG may draw from the NSW Legislative Assembly in defining disorder but must clearly state a definition and not refer to another rule. Council suggests it would be more effective to base disorder in the Model Code of Meeting Practice section 15.10(d) on clause 3.1 of the Model Code of Conduct.

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Council is **not supportive** of the following proposed amendments:

1. Removal of briefing sessions (removal of clauses 3.33-3.38)

Council has previously indicated there is no concern should the Minister determine that they are made open to the public. Our position remains that Briefings prior to a Council Meeting are critical. A well-run briefing session is not a decision-making forum. However Councillors need an environment which enables information to be shared and explained in a less formal environment and provides an opportunity to ask questions and "listen to understand" rather than "listen to respond" that may not be possible in a Council meeting.

The removal of pre-meeting briefings will decrease the efficiency of the council meeting and is likely to increase the number of deferral of items presented to Council. Further, abolishing briefings will likely extend the length of meetings, particularly requiring a mid-meeting meal break which is problematic in regional and rural Councils due to travel distances for Councillors, staff and members of the public. The imposition of additional levels of formalities in a council meeting are unnecessary and will only lead to excessive procedural delays rather than contributing to constructive discussions.

2. Amendments to the role of the General Manager (clause 5.44 and removal of clause 10.9)

The changes to the role of the General Manager and Mayor appear to only increase the ability of the Council to politicise the Code of Meeting Practice. For example, the removal of the General Manager to provide advice on Notices of Motion in the business paper limits the ability of the Council to understand the implications of the decision and form a balanced argument.

Council considers that the General Manager should determine which staff are present at meetings, as this maintains the operational functions being managed by the General Manager and is in accordance with prior improvements in the depoliticisation of staff (EG: recent amendments to senior staff contracts).

3. Additional power allocated to the Mayor (addition of clause 15.13 and 15.15-15.18)

The ability for the Mayor to expel Councillors or other individuals for acts of disorder risks further politicisation of the Code of Meeting Practice, and the protection of the need for a vote of the Council should be enshrined for all Councils. The further ability for the Mayor to continue to limit that person's attendance at future meetings furthers the risk of weaponisation of the Meeting Practice in the sector. This proposed amendment largely seems to address issue for dysfunctional councils and does nothing to enhance councils where the culture is already largely collaborative and congenial.

4. Changes to remote attendance at Council meetings (addition of clause 5.19)

Councillors, particularly in regional and rural areas are often not full time Councillors and have a wide range of responsibilities to support families and businesses. The remote attendance provisions have encouraged increased diversity of representation on Council. Council is concerned that the winding back of remote attendance to be limited to 'ill health or other medical reasons or because of unforeseen caring responsibilities' ignores the fact that

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sometimes roads are blocked, a car is broken down or they are away for work purposes in another location. These changes may adversely affect those in carer roles and young families, wiping out a lot of the demographic entities such as ALGA and ALGWA have sought to attract increased representation for at the last election. As an example, the high threshold for unforeseen caring responsibilities may give rise to disputes and require Councillors to disclose sensitive personal information. It is recommended that the OLG produce additional guidance on what meets the threshold of illness or unforeseen caring responsibilities.

#### 5. Addition to Modes of Address (addition of clause 7.1)

It is impractical to require Councillors to stand when speaking in the Chamber given that most Councillors operate off electronic business papers. Councillors are working from laptops and/or tablets for most Council meetings. Audio setup in the Chamber would likely need to be altered in order for voice to be captured from further away if standing during an address is mandated, thus providing additional expense to all Councils to cater for. Further, it could be considered discriminatory to those who are disabled in any way or have a physical limitation that makes standing for prolonged periods of time uncomfortable. It may provide as a deterrent to full participation for any Councillor who is physically impaired.

#### 6. Removal of foreshadowed motions (removal of clause 10.17)

Council does not agree with abolishing foreshadowed amendments. These enable a Councillor to raise an alternate course of action during debate on a motion or amendment, at a time other Councillors can bear it in mind while deliberating on the recommendation and an amendment.

### **Question 2: Are there any other amendments you would suggest that will achieve these policy outcomes?**

In the main, Council considers that the existing Model Code of Meeting Practice is appropriate for Council. Alongside the recent election of the new terms of Council, the current Councillors have stood for Council on the commitments of the existing meeting structures and schedules.

The proposed changes will require amendments to the meeting schedule and new training to be invested in by Council. Council requests that any proposed changes come into place as of October 2028. This will allow Council to adequately prepare for and for Councillors to run for Council with the set expectations of meetings.

A secondary suggestion is that the Minister, a GM or a Mayor should have the authority to engage an external authority to provide oversight and direction to a dysfunctional council. The external authority would be empowered by legislation through a body such as the OLG. This may seek to address any issues without the need of formal Administration intervention.

### **Question 3: Will the proposed amendments have any unintended consequences?**

#### 1. Ineffective provisions relating to limiting briefing sessions

Councillors require the ability to ask questions and receive advice from staff about their opinions as business papers are not a forum that effectively is able to convey all options. To do so would be an onerous task thrust upon the General Manager. Should Councillors not

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be afforded an outlet to ask such questions and seek clarification, this will present several issues:

- A. Councillors may resort to seek advice directly from staff, meaning that all Councillors may not receive the same information.
- B. Council Business Papers may exponentially increase in volume, impacting the ability of a Councillor to review the information and impact staff resourcing in preparing the papers, particularly when fortnightly Council Meetings are held.
- C. This amendment does not limit the ability of Councillors to caucus or meet separately which does not achieve the root causes from the recent ICAC investigations.
- D. Items contained within the Business Paper run a greater risk of being deferred to a later meeting if staff are unable to answer questions on the floor. This then slows down the determination of matters of public importance.
- E. The Consultation Draft covering notes on page 9 provides that Councillors can still meet for strategic planning workshops, and while the detail of the legislation is not available, Council notes that the Policy objective to improve transparency may not be

achieved if there are loopholes that better resourced Councils can exploit to still hold, in effect, briefing sessions.

## 2. Practicality of releasing confidential business papers

This amendment creates a requirement for Council to continually monitor all previous business papers, determine whether all the reasons for them being made confidential remain current, consult with the council and then publish them. It is anticipated that this is an impractical approach that Councils with less resources would be unable to complete without significant resource reallocation. Council agrees with the policy justification but requests this be amended to practical terms, such as:

*Before 31 December 2026, and each year there forward, Councils must review all prior business papers marked as confidential and publish any business papers on their website that no longer meet the requirements of the Local Government Act s 10A(2) reasons for confidentiality.*

## 3. Public Forums

Council submits that the sector would be best served by retaining the (optional) provisions under section 4 relating to the conduct of public forums or replace them with separate guidelines. The community must have a somewhat uniform experience of Local Government to ensure that there is consistency across the sector.

## **Question 4: Are there any other amendments the Government should consider?**

As a comment, the formal removal of gendered language from the CoMP is well overdue. In order to limit the potential loopholes of strategy sessions running effectively like briefing sessions, Council submits that a more efficient approach is that briefing sessions with the whole Council will be permitted but must be audio-recorded and notes of workshops be reported to Council.

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