

# Submission

## Amendments to the Model Code of Meeting Practice for Local Councils in NSW

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26 February 2025

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This submission has been made on behalf of Council in response to the Office of Local Government's A new model Code of Meeting Practice Consultation draft (December 2024).

Council provides the following comments to the proposed changes to the Consultation Draft Model Code of Meeting Practice:

### **Clause 3.12 & 3.13 – Notice of Motions**

*Not Supported*

The removal of these clauses does not allow for informed decision-making, for Councillors and/or the General Manager to not identify a funding source puts Council at financial risk. A report by the General Manager provides Council with all the required information to make a decision in the best interest of the Community.

### **Clause 3.13 – Questions with Notice**

*Not Supported*

The removal of this clause would not be conducive to positive and respectful interactions between Councillors and Staff. If Councillors chose to publicly make allegations of wrongdoing by the General Manager or Staff this would result in a breach of their obligations under the Work, Health and Safety Act 2011 section 29(b) and could also expose Councillors to potential defamation claims and reputational risk to Council. It would be unfavourable for Councillors to make allegations or complaints about staff when it is important to note that Code of Conduct complaints or allegations cannot be made in a public forum.

### **Clause 3.33 to 3.38 – Pre-Meeting Briefing Sessions**

*Not Supported*

The removal of these clause would be taking away an opportunity for Councillors to ask questions and receive information and these sessions are the best way for Councillors to get clear and honest information at the same time, helping everyone to make well-informed decisions. While individual Councillors can ask for information, briefings ensure all Councillors get the same details quickly and together and promotes debate.

The current rules already manage these sessions, so the focus should be on making sure they're followed, not removing them. Taking away briefings would put a heavy workload on both Councillors and staff, especially in smaller councils, and add to the financial pressures local governments are already facing.

### **Clause 4.2 to 4.24 – Public Forums**

*Not Supported*

The removal of these clauses as optional additions means councils no longer have guidance on how to establish rules for public forums, which could affect the ability to create a safe, fair, and orderly environment for members of the public to address the council.

## **Clause 5.19 – Attendance by Councillors at meetings by audio-visual link**

### *Not Supported*

The addition of this clause would restrict Councillors' ability to participate remotely in meetings and disadvantages those with work or caregiving responsibilities, potentially deterring a diverse range of people from running for office. This limitation could also increase the risk of failing to achieve a quorum, preventing the council from conducting its business and leading to negative consequences for the community.

## **Clause 5.43 & 5.44 – Attendance of the General Manager and other Staff at meetings**

### *Not Supported*

The removal of approval of the General Manager in clause 4.53 and shifting the responsibility to Council undermines the statutory role of the General Manager in managing staff and the efficient and effective operation of the organisation

The removal of clause 5.44, similarly to the addition to restrict Councillors' ability to participate in the meetings via audio visual link, places staff at a disadvantage as it would inhibit the availability of subject matter expert staff to assist Councillors make informed decisions.

## **Clause 10.9 – Motions requiring the expenditure of funds**

### *Not Supported*

The removal of this clause could open Council to substantial financial risk. Implications to Council budgets must always be considered in decision-making by Councillors. Councils have tight budgets aligned with the suite of Integrated Planning and Reporting documents. Any variations need to be considered by Council.

## **Clause 10.17 – Foreshadowed amendments**

### *Clarification sort*

We seek further clarification of the removal of this clause and the change from Foreshadowed Motions to Foreshadowed amendments, is the intent that a foreshadow amendment can be a direct negative of the motion put? More clarity would be helpful on when the foreshadowed amendment would be considered, for example, can it only be considered after the original motion has been lost?

## **Clause 14.19 & 14.20 – Resolutions passed at closed meetings to be made public**

### *Not supported in full*

The inclusion of this clause, while we agree with the principle of transparency and making business papers available to the public, as recommended by ICAC, we are concerned about the practical implementation of this. As currently written, the amendment places an excessive and ongoing responsibility on the council to review past business papers, assess whether the reasons for confidentiality have expired, consult with the council, and then publish them. Determining when information moves from confidential to public domain is a complex task, and existing mechanisms under GIPA already provide adequate solutions for this.

## Clause 15.10, 15.12 to 15.13 – Acts of disorder

### *Clarification sort*

We seek clarification of the inclusion of these clauses as the definition of disorderly conduct is based on the practices and expectations in the NSW Legislative Assembly, it is difficult to define Conduct defined by other protocols that are otherwise irrelevant to the operation of council meetings. For greater clarity, expectations should be included the Code.

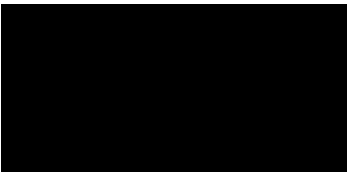
## Clause 20.20 & 20.21 – Closure of committee meetings to the public

### *Not supported in full*

The inclusion of this clause, while we agree with the principle of transparency and making business papers available to the public, as recommended by ICAC, we are concerned about the practical implementation of this. As currently written, the amendment places an excessive and ongoing responsibility on the council to review past committee agendas, assess whether the reasons for confidentiality have expired, consult with the council, and then publish them. Determining when information moves from confidential to public domain is a complex task, and existing mechanisms under GIPA already provide adequate solutions for this.

Thank you for the opportunity to make a submission. We look forward to seeing the final Model Code of Meeting Practice.

Kind Regards,



**General Manager**