

**Ministers Review – Model Code of Meeting Practice for Local Councils in NSW**

Draft Model Code of Meeting Practice

ITEM		COUNCIL RESPONSE
3.4	3.4 Notice period for meeting is clear in Model Code.	Further clarification is required on the specific time required to issue the completed business papers to Councillors.
3.7	3.7 refers to 'business proposed however does not specifically detail 'business papers/reports'.	Inclusion of 'business papers/reports' in clause 3.7
3.8	3.8 Should also include a timeframe in which business papers should be issued.	Further inclusion and clarification for <b>Addendum reports</b> to be included to specify required notice periods and scope for administration, and clarification if permitted.
3.10	3.10 Removal of specific time period	<p><b>Council does not support the removal of the specific time period to be replaced with 'within a reasonable time'.</b></p> <p>This is an ambiguous statement and can compromise Council staff to accept or reject a NOM.</p> <p>The specific time period allows Council to align to reporting deadlines to meet NOM report requirements.</p>
3.13	3.13 Removal of 'A NOM for the expenditure if funds on works/services other than what's provided in the adopted operational plan must include a funding source'.	<p><b>Council does not support the removal of 'the inclusion of a funding source' as this provided a clear direction on funding allocation and Council can directly report or manage budgets from that line item.</b></p> <p>This inclusion also provides an indication of scope based on the budget available, to manage community and Councillors expectations on what is achievable within the available budget.</p> <p>This provided effective financial management and sound governance.</p>
3.13	3.13 Removal of 'A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general	<p><b>Council does not support the removal of this clause.</b></p> <p>Complaints against the general manager should be facilitated through the correct and fair process to be properly investigated. Removal of this clause can politicise the role</p>

	<p>manager or a member of staff of the council.'</p>	<p>and cause great reputational damage for Council.</p> <p>Complaints against Council staff should also be facilitated through an internal a non public process to fairly assess claims. Staff at all levels at Council should be protected by privacy laws for identification.</p> <p>Eg. Steve Brown from the outdoor team was observed to be having lunch in Council park when he should be mowing a lawn.</p> <p>Sally Brown from the Library enforced an unfair Council Policy and charged a room hire fee for my constituent's study room.</p> <p>Sarah Brown at the Childcare does not meet the expected standards for my constituent's daughter's care.</p>
3.16	<p>3.16 Removal for the general manager or their nominee to be permitted to respond to a question with notice submitted under clause 3.142 only by way of a report included in the business papers for the relevant meeting and not permitted to respond in the meeting 'orally'.</p>	<p><b>Council does not support the removal of 'or orally in the meeting'.</b></p> <p>To make informed decisions Councillors are required to have access to information. The opportunity for Council staff to respond 'orally' in Council meeting to provide Councillors with any specific information that may not be include in the report is imperative for Councillors to make informed decisions and demonstrated sound governance.</p> <p>Removal of this clause limited Councillors to only refer to information available in business papers and may not provide all the information, or context required, to make informed decision.</p>
3.17	<p>3.17 Inclusion and clarification of redacted information.</p>	<p><b>Council recommends the inclusion and clarification of redacted information in clause 3.17.</b></p> <p>The General Manager must not include in the agenda of the meeting business in their opinion considered unlaw. The General manager to exclude OR is permitted to redact information in the report.</p> <p>Alternately, a statement to clarify that information cannot be redacted and the option is to only exclude.</p>

3.25	3.25 Business may be considered at an extraordinary meeting of the council 'at which all councillors are present' and remove the chairperson decision to be replaced with 'if Council resolves to deal with business on the grounds that it is urgent'.	<p><b>Council does not support the additional inclusion to this clause 'at which all Councillors are present'.</b></p> <p><b>Council does not support the removal of the Chairpersons decision to deem a matter to be of urgent nature and addresses and replace with 'if Council <u>resolves</u> to deal with business that it is urgent'.</b></p> <p>Councillors may take leave and be unavailable for periods. This should not impact Council to have the ability address urgent matters. Not all Councillors are available for all meetings, therefore this clause can impact Council to be agile to respond to urgent matters.</p> <p>The Chairperson of an extraordinary meeting should have the ability to consider business on the grounds of great urgency. It should not be required to be 'resolved by Council' and dilute the authority of the Chair.</p> <p>Council supports the inclusion that the Chairperson should state the reason for urgency, and it be noted in the minutes.</p>
3.33	3.33 Removal of Pre-briefing session	<p><b>Removal of Pre-briefing sessions.</b></p> <p>Inclusion clarifying if this also includes staff meetings (non General manager/CEO) with Councillors requesting further information.</p>
4.2	4.2 Removal of all guides relating to Public Forums to permit 'Council to determine rules'.	<p><b>Council supports the inclusion of a framework relating to Public Forums and recommends this not completely be removed.</b></p> <p>The framework acts as a guide to ensure consistently across NSW Councils. A framework will also clarify requirements and reduce the risk of debate on how they should be conducted for each individual Council.</p>
5.3	5.3 Board of Joint organisations	<p><b>The Code is a tool for NSW Councils, however, point 5.3 states that Council must not adopt clause 5.3.</b></p> <p>If the Clause does not relate to NSW Councils, it should be deleted to avoid confusion (as Code is for NSW Councils).</p>

7.1	7.1 Standing when the Mayor enters the Council Chamber.	<p><b>Council supports the inclusion to stand when the Mayor enters the Chambers.</b></p> <p>It should be further clarified in this point that it is only required at the commencement of a meeting, and not on every occasion that the Mayor enters the Chambers (if they leave for break, recess or otherwise).</p> <p>Council does not support the requirement for the Mayor to stand each time the re-enter the room following the commencement of the Council Meeting, or to apply this requirements to Committees and other meetings of Council.</p>
7.2	7.2 Addressing the Mayor	Should also include 'Lord Mayor' for NSW Councils with this title.
9.10	9.10 Mayoral Minutes removal of funding source	<p><b>Council recommends the inclusion of a funding source for all Mayoral Minutes that require an expenditure of funds.</b></p> <p>This ensure that staff can administer appropriately, understand the impact on other projects, and provides scope for delivery (based on the budget available).</p> <p>This inclusion supports sound governance throughout a Council term when new expenses may arise, and permit Council to manage budgets.</p>
10.9	10.9 Motions requiring expenditure of funds	<p><b>Council does not support deleting 10.9 and recommends the inclusion of a nominated funding source.</b></p> <p>Inclusion of funding source are critical to the effective management of Council finances.</p>
10.28 11.4	10.28 and 11.4 Joint organisation board meetings	As it states Councils must not adopt clause 10.28 and 11.4, and the Code is for NSW Councils, it is recommended both these clauses be deleted.
11.12 11.13	11.12 and 11.13 Voting on planning decisions.	<b>Council supports this inclusion</b>
12.12	12.12 Councillor and staff to stand when addressing the meeting.	<b>Council does not support the new inclusion that requires Councillors and staff to stand each time when addressing the meeting.</b>

		<p>If this is required for every interaction, it will impact the flow and slow down the pace of the meeting.</p> <p>Council meetings are live streamed, with video screens available in the Council Chambers. Desk microphones also highlight which microphone is on to clearly identify who is speaking at any given time.</p> <p>It is unnecessary to expect Councillors and staff to stand every time they address the meeting, noting that often staff comments could be a 'Yes' or 'No' response.</p> <p>It is also impractical for the General manager and mayor who are seated on a stage/riser at the head of the Chamber to stand when addressing the Chamber.</p>
14.19 14.20 20.20 20.21	<p>14.19 Business papers in closed meeting to be made available after information in business papers cease to be confidential.</p> <p>14.20 General manager to consult with council before publishing on councils website</p> <p>20.20 and 20.21 – Comments in this section also relate to Clause 20.20 and 20.21 relating to committees.</p>	<p><b>Council does not support the inclusion of this clause due to the practicalities and application of this clause and challenges to effectively maintain.</b></p> <p>Reports could cease to be confidential weeks, years or decades following and software would need to be procured to manage and monitor all confidential items to ensure this can be achieved.</p> <p>The assessment on whether a matter is no longer 'confidential' is also ambiguous and an assessment of the General Manager, who may not have been involved in the original report if time had lapsed.</p> <p>14.20 is then be included for the General manager to consult with council before publishing on councils website under clause 14.19.</p> <p>There is no detail or framework detailing how this should happen, in a Council Meeting, or otherwise to facilitate the consultation again leaving problematic and open for interpretation.</p> <p>Council recommends not proceeding with the inclusion of clause 14.19 and 14.20.</p> <p>Council recommends not proceeding with the inclusion of clause 20.20 and 20.21.</p>

15.1	15.1 Acts of Disorder	<p><b>Council does not support the inclusion ‘that would be regarded disorderly in the NSW Legislative Assembly’.</b></p> <p>The Code related to NSW Councils and should not refer to protocols and legislative requirements of the Legislative Assembly.</p> <p>This inclusion assumes that Councillors and Council staff are aware of legislative requirements, Policy and Protocols of the Legislative Assembly. Councillors have not been mandated to understand this legislation specifically on their onboarding programs as training relates to NSW Councils and role as Councillors, not the Legislative Assembly.</p> <p><b>All references in the Code and matters should relate to NSW Councils, and the Act, and Regulations specific to NSW Councils.</b></p>
15.1	Acts of Disorder – deletion of ‘alleges a breach’ and ‘bring Council into disrepute’.	<p><b>Council does not support the deletion of item 15.1 the ‘alleges a breach of the councils code of conduct’ and ‘or is likely to bring the council or the committee into disrepute’.</b></p> <p>Both items should remain as defined acts of disorder as they:  Ensure councillors conduct themselves appropriately in Council meetings without discussing matters that are governed by other instruments and processes such as the “Code of Conduct”; and  Ensure that councillors are careful to temper themselves to ensure that they don’t put Council into disrepute.</p>
18.1 18.2	18.1 and 18.2 Times on Council meetings	<p><b>Council does not support the replacement of ‘specified time’ to ‘the Council may determine’.</b></p> <p>When Council adopts their own Code, the specified times are adopted in the Code and maintained for the Council term, unless, resolved differently by Council. This forms the framework for delivery.</p> <p>Removal of ‘specified time’ to leave Council to determine outside of the Code is not preferred.</p>

		The 'specified time' adopted in the Code can also ensure WH&S measures are applied to Councillors and staff in the administration and attendance of Council meetings.
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### **Meeting Conduct**

<b>ITEM</b>		<b>COUNCIL RESPONSE</b>
1	Conferring power on mayors to expel councillors for acts of disorder and to remove a councillor's entitlement to receive a fee for the month in which they have been expelled from a meeting.	<p><b>Council notes and supports Acts of Disorder and the right of explosion should be dependant on this section.</b></p> <p>It is requested that the aspect are review to ensure more precise clarification including clear description of the threshold for act of disorder and steps to meet the threshold, the expulsion must be clear of any conflict of interest, to ensure clear direction and administration.</p>
2	<p>Requiring councillors to apologise for an act of disorder at the meeting at which it occurs and, if they fail to comply at that meeting, at each subsequent meeting until they comply.</p> <p>Each failure to apologise becomes an act of misbehaviour and may see the councillor lose their entitlement to receive their fee for a further month.</p>	
3	Expanding the grounds for mayors to expel members of the public from the chamber for acts of disorder and enable the issuing of a penalty infringement notice where members of the public refuse to leave a meeting after being expelled.	Council requests further clarification regarding the details of the proposed 'penalty infringement' with the Model Code, and its administration.
4	Promoting transparency and addressing corruption risks by banning councillor briefing sessions. The community has the right to understand the mode of reasoning behind council decisions without material being provided to councillors by council staff behind closed doors.	<p>Council requests clarification be clear on what is considered a 'Councillor briefing session'. Does this also include Councillor meetings to discuss Council matters?</p> <p>If a Councillor is unable to attend the committee meeting, can they request to have a separate meeting to clarify information with staff?</p>

### **Participation**

<b>ITEM</b>		<b>COUNCIL RESPONSE</b>
5	Removing pre-meeting councillor briefings. It is the Government's expectation that any material provided to councillors, other than the mayor, that will affect or impact or be	Further clarification is requested to be included specifically to each clause included below.

	considered by councillors in their deliberations or decisions made on behalf of the community must be provided to them in either a committee meeting or council meeting. The restriction on briefing sessions will be prescribed in the Regulation.	
6	Requiring information considered at closed meetings to be made public after it ceases to be confidential, as recommended by ICAC. The general manager will, after consulting with the council, be required to publish business papers for items considered in closed meetings on the council's website after the information in them ceases to be confidential.	<p>The practical application of this clause 14.19 is challenging to maintain. Reports could cease to be confidential weeks, years or decades following and software would need to be procured to manage and monitor all confidential items to ensure this can be achieved.</p> <p>Further information is provided below in relation to this specific clause and how it could be practically administered.</p>
7	Requiring recordings of meetings to be published on council websites for longer. Recordings must be published on council websites for the balance of the council term, or, in the case of an election year, for at least 12 months.	<b>Council supports the proposal and considers this current practice.</b>
8	Providing that councils must not make final planning decisions without a staff report containing an assessment and recommendation, as recommended by ICAC.	<b>Council supports the proposal and considers this current practice.</b>
9	Requiring councils to give reasons where they make a decision on a planning matter that departs from the staff recommendation, as recommended by ICAC.	<b>Council supports this inclusion.</b>

### **Council Chamber**

<b>ITEM</b>		<b>COUNCIL RESPONSE</b>
10	Enhancing the authority of the mayor. The mayor will be permitted to call extraordinary meetings without a request and the restrictions on mayoral minutes will be removed.	<b>Council supports this inclusion.</b>
11	Requiring councillors to stand when a councillor addresses the meeting, or when the mayor enters the chamber, as well as by mandating modes of address at meetings.	<b>Council supports the proposal for Council Meetings only</b> , to stand when the Mayor enters the Chamber at the commencement of the Council meeting. However further clarification required when the Mayor leaves and re-enters the room at other times throughout the meeting.



		<p>It is not practical to stand each time the Mayor leave and reenters the room following breaks or recess and this should be specified in the Code it is only applicable at the commencement of the Council meeting.</p> <p>Clarification that this is not applied to all committee and meetings of Council, as the Mayor is not always the Chairperson and it is not practical for these meetings.</p>
12	Removing the option for councils to reduce the duration of speeches, to ensure all councillors may have their say on important community issues.	<b>Council supports this inclusion.</b>
13	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.	<b>Council supports the proposal and considers this current practice.</b>
14	Refining the definitions of disorder to remove phrases that could be weaponised to impede debate.	<b>Council supports this inclusion.</b>
15	Providing as a default that councillors are to attend meetings in person. Councillors will only be permitted to attend meetings by audio visual link where they are prevented from attending a meeting in person because of ill health or another medical reason or unforeseen caring responsibilities. Councillors will not be permitted to participate in meetings at which a mayoral election is being held by audio visual link. To facilitate this, the rules governing attendance at meetings by audio visual link will be mandated.	<b>Council supports the proposal and considers this current practice.</b>
16	Restricting the circumstances in which the council may withhold a leave of absence. Where a councillor gives an apology from attending a meeting, the council will be deemed to have accepted the apology and granted a leave of absence from the meeting unless the council resolves otherwise and gives reasons for its decision.	
17	Removing the option for staff to attend meetings by audio visual link.	<b>Council supports this proposal for Council meetings only, however not for committee and other meetings of Council.</b>
18	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	
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### **General Manager / CEO**

<b>ITEM</b>		<b>COUNCIL RESPONSE</b>
19	Removing the requirement for general managers to prepare reports for notices of motion. General managers will no longer be required to prepare reports on notices of motions with financial implications or to identify sources of funding where a notice of motion proposes expenditure that has not been budgeted for. These will be matters for the council to determine.	<p><b>Council does not support the removal of NOMs.</b></p> <p>The report of the CEO to Councillor NoMs invariably provides the background context of the subject. The background reports to the NoM largely helpful for Councillors.</p>
20	Providing that the mayor, not the general manager has discretion on whether council staff should respond to questions with notice. It will be open to the mayor 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.	
21	Conferring responsibility on the council to determine staff attendance at meetings. Because councillors are best placed to determine what support they require from staff at meetings, it will be a matter for the council to determine which staff attend meetings	
22	All references to 'General Manager'	<p><b>Should be referred to as 'General Manager/CEO'</b></p> <p>Inclusion of title CEO is required.</p>

### **Briefing Sessions**

<b>ITEM</b>		<b>COUNCIL RESPONSE</b>
23	Decision making by councillors must be through a resolution adopted at a council or committee meeting.	
24	<p>Information is to be provided to councillors through clear and established channels:</p> <ul style="list-style-type: none"> <li>– information may be provided to councillors by staff in response to a request for information or action made through the councillor request system,</li> <li>– general information to assist councillors' understanding of sector</li> </ul>	

	<p>wide issues (e.g. legislative changes), should be received from the general manager (and other external sources),</p> <ul style="list-style-type: none"> <li>– training materials to meet learning and development requirements come through established training programs,</li> <li>– information to enable councillors to understand the function, service delivery standards, strengths, weaknesses, threats and opportunities of council operations should be provided in periodic workshop format (e.g. an annual strategic planning workshop), and</li> <li>– information requiring a specific decision or resolution of council is to be provided by the general manager as a part of a report prepared for the business papers of a council or committee meeting.</li> </ul>	
25	The distribution of information in a meeting or format that is not consistent with the above pathways (e.g. through briefing sessions), is not permitted.	
26	The mayor will not be subject to these restrictions and may receive information in order to undertake their functions under the Act.	<b>Councillors do not support this inclusion as they have advised they should have equal access to information to that of the Mayor.</b>