



Greens NSW submission to the  
**Consultation on Reforms to the Model Code of Meeting Practice**

28 February 2025



## Introduction

Local government is the level of government closest to the community and in the best position to identify and respond to community needs. It is an essential component of democracy.

The Greens welcome the review of the Model Code of Meeting Practice as an opportunity to improve transparency and accountability for elected representatives in local government, as well as improve open debate and the constructive free exchange of ideas and opinions.

In a functioning democracy, elected representatives can and should disagree. We support the stated intention of the Minister that the Code should support meetings to be effective, allow for robust and respectful debate, and result in actionable outcomes for communities. We also agree that code of conduct complaints have been misused to silence councillors from expressing contrary views. For example, recent interpretations of the *Local Government Act* 1993 and the Code of Conduct to the effect that the public voicing by a councillor of their disagreement with a council decision amounts to bringing the council into disrepute have inhibited healthy democracy. We also agree that General Managers should not be providing pre-emptive advice on motions in the business papers. However, we disagree that greater powers being vested in mayors to control the agenda and activities of their council will achieve the Minister's stated aim. Significant decisions such as expelling a councillor or determining urgency are best decided by a majority of councillors.

There is an opportunity in this review to strike the right balance between providing a forum for elected representatives to have free and open debate with input from and accountability to the community, while ensuring appropriate conduct and that council meetings are a safe workplace for councillors and council staff.

We appreciate the opportunity to provide a detailed response to the proposed reforms. This submission has been informed by the experiences of current and former Greens councillors, as well as the Greens NSW Planning and Environmental Law Officer, who supports Greens councillors in the performance of their duties. As of the elections held on September 14, 2024, there are 73 Greens Councillors elected to a broad range of councils across the state.

We would welcome the opportunity to discuss any part of this submission and can be contacted via the office of [REDACTED]

## Response to proposals in detail

### Before the meeting

The Greens do not support the vesting of significant additional power in the mayor, for example at clause 3.3 (and consequential amendment at 5.15) where it is proposed that the mayor may call an extraordinary meeting without the need to obtain the signature of two councillors. The mayor should require the support of additional councillors to be able to call an extraordinary meeting.

**3.8** *The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, unless the council determines otherwise, but only if all councillors have facilities to access the notice, agenda and business papers in that form.*

The Greens support this proposal and suggest that in addition it be made clear that a council may also decide to provide some or all Councillors with hard copies if requested.

**3.10** *A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted within such reasonable time before the meeting is to be held as determined by the council.*

The Greens are concerned that requiring extensive lead times for notices of motion could be used as a way of preventing debate on urgent or emergent issues impacting the community. We suggest that the Model Code of Meeting Practice prescribe the minimum notice for a notice of motion to be 3 business days before the agenda papers are published.

**3.17** *The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.*

Greens councillors have provided several examples of motions that have been deemed to be unlawful in the opinion of the general manager, and have been excluded from meeting agendas, which are later found to have been lawful. This provision as it stands poses a risk of misuse by a general manager who does not wish for a particular lawful motion to be included. We propose instead requiring the general manager to make a detailed written report to the meeting at which the motion was intended to be debated setting out the laws which the motion would transgress if adopted by council.

**3.18** *Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must, in consultation with the mayor, ensure that the agenda of the meeting:*  
*a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and b) states the grounds under section 10A(2) of the Act relevant to the item of business.*

The Greens are supporting of this clause and propose in addition that part a) requires the relevant item of business to be identified with sufficient detail to enable a member of the public

to be able to speak against consideration of the matter in a closed session (without disclosing details of the confidential information to be considered if the meeting is closed to the public).

### **3.25-3.27 Agenda and business papers for extraordinary meetings**

The Greens do not support the proposal to grant the mayor an individual veto power over urgency if all councillors are not present at an extraordinary meeting, noting that this is a common occurrence, particularly for very large councils.

### **Pre meeting briefing sessions**

The Greens agree with the Minister that confidential pre-meeting briefings regarding administrative decisions have the effect of reducing the transparency of and public trust in local government. However, many councillors find pre-meeting briefings useful. Briefings should be limited to discussion only of material available in the business papers. Transparency is an important principle of local government accountability to the community it serves, and residents should have all of the information available to councillors, with the exception of limited matters such as those listed in Section 10A of the *Local Government Act*. In addition, mayors should not be afforded greater access to information than other councillors. All information provided to councillors at a briefing session should be made available to the public in a timely manner. Greens councillors have experienced (in the current term) occasions where developers have been invited to give presentations to the Councillors in closed and confidential briefings.

We note there is some confusion and discrepancy between councils between the use of pre meeting briefing sessions and workshops for councillors.

It is the experience of Greens councillors that workshops can be very useful in supporting an understanding of the extent of the issues which must be decided regarding the Community Strategic Plan and Operational Plans. Transparency can be preserved if the content of the workshops is required to be published on the council webpage soon after the workshop (eg. within 7 days).

Where there are legitimately confidential issues that the councillors should be informed of (those that meet the criteria set out in Section 10A of the Act) a council should close its meeting to the public to consider the confidential issues. In this way it is clear to the public that confidential information has been considered by the councillors whereas if confidential briefings are held there is no public record of councillors being provided with the information.

### **Public Forums**

Public forums are an important part of participation and transparency for local government. Public forums should be a formal part of each council meeting and therefore recorded and broadcast in the same way. The Greens propose replacing the word “may” in clause 4.1 with the “must”.

## **Coming Together**

**5.19** *Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee where they are prevented from attending the meeting in person because of ill-health or other medical reasons or because of unforeseen caring responsibilities.*

It is the experience of Greens councillors that there are many reasons why a councillor might need to attend a meeting by audio-visual link in addition to medical or unforeseen caring responsibilities. For example, attendance while at work-related conferences or meetings elsewhere, difficulty with transport or bad weather conditions (noting councillors in some rural councils may be required to travel over 100km to attend meetings) and where there are caring duties which are not unforeseen but which are nevertheless required. If there is concern that attendance via audio-visual link may be misused or excessive, then we suggest placing a limit on the number of meetings attended in this way rather than very narrow permitted justifications.

## **Webcasting of meetings**

The Greens strongly oppose the perpetuation of outdated provisions which continue to allow some councils not to live-stream their meetings online in real time. Local government must remain relevant and accessible to the whole of the community. In 2025, it is no longer appropriate to allow councils to record audio only, and it is no longer appropriate to not require a live broadcast. Live streaming has occurred for a number of years now by a broad range of councils, demonstrating that this is implementable in a variety of settings. In addition, we suggest that recordings of meetings be required to remain available on the council's website for at least 12 months after the meeting, or for the balance of the council's term, whichever is the longer.

In addition, joint organisations should also be required to adopt the same transparency measures relating to webcasting meetings and should not be given the option to choose not to webcast meetings.

**5.44** *The attendance of other council staff at a meeting, (other than as members of the public) shall be as determined by the council from time to time.*

The Greens strongly support this change. The attendance of council staff to provide information to councillors should be up to the council and not able to be vetoed by the general manager.

## **Modes of Address**

The Greens do not support that councillors and staff should stand for the entrance of the mayor, nor does it support compelling councillors to stand to speak. This will not increase respect in the chamber or the efficiency of meetings - a good mayor earns respect of councillors, staff and the public in the chamber through fair, respectful and consistent chairing of meetings. It is also not in keeping with contemporary community expectations of elected representatives and has the unintended consequence of communicating that elected councillors are lesser to the mayor, undermining the collective democratic values of the council. Substantial decisions in local government are made by the whole of the governing body which is different to state and federal government.

The Greens understand that disability groups were not consulted at the time of publication of the discussion paper, and must be if this proposal is to be pursued. In addition, there is significant diversity in the physical infrastructure of council chambers across NSW in terms of size, layout, and furnishing which should be taken into account.

Standing to address the council meeting is also at odds with the common contemporary practice of using laptops or tablets to read business items and refer to notes while speaking. The Greens position is that a councillor should be able to choose to stand, or not, when addressing council.

In addition, the Greens support an additional gender neutral option of 'Mayor' also being an appropriate way to address the Mayor in addition to 'Mister Mayor' or 'Madam Mayor'.

### **Order of Business for Ordinary Council Meetings**

The Greens believe that confidential matters should be required to be the last item on the agenda. Placing confidential items of business early in the agenda of a council meeting can have the effect of 'clearing the gallery' and discouraging community members from attending meetings or streaming them, resulting in less public accountability for items on the agenda after the confidential matters.

### **Consideration of Business at Council Meetings**

#### **Mayoral Minutes**

Mayoral Minutes should not be used to ambush councillors by putting up at the last minute items which are not urgent, or which are complex and require councillors to be briefed and seek advice on the implications. The current clause 9.9 should be retained.

A better amendment would be to specify that Mayoral Minutes which do not meet urgency criteria are to be given notice of and included in the business papers in the normal way. This is available to Mayors now. To allow Mayors to circumvent a vote on urgency by the councillors on a matter which is complex or controversial via the use of a Mayoral Minute is undemocratic.

#### **Questions**

The Greens believe that councillors should be able to ask questions at council meetings regarding matters that are not on the agenda - if the general manager or relevant council employee is not able to answer the question without notice then they are able to take the question on notice. The importance of councillors asking questions has been recognised by public Inquiries as an important tool for councillors to exercise due diligence and ensure accountability of their council. Not allowing councillors to ask questions at council meetings unless it concerns a matter already on the agenda is another way that open and democratic debate has been shut down in local government.

## **Voting**

The Greens strongly support clause 11.11 and believe it should be mandatory and not up to each council whether or not it is adopted. The Act requires Councillors to be accountable to the community, and this is an important accountability mechanism.

## **Dealing with items by exception**

The Greens note that en globo provisions have been used to avoid or reduce debate. Councillors have come under pressure from their colleagues not to nominate items to be debated, notionally for timeliness, but the effect can be discouraging public discussion of an agenda item.

## **Closure of Council meetings to the public**

The Greens recommend that each decision to close a meeting must include a statement that the council has specifically considered the public interest in keeping the meeting open as required by the *Local Government Act 1993* and has positively determined that the public interest is best served by closing the meeting. Members of the public should be able to object to the closure of the meeting, without requiring an application to be made in a particular format, to restore public trust in local government decision making.

The Greens support the requirement for the general manager to consult with the council before publishing information on confidential decisions, however the consultation should take place at the meeting where the agenda item was considered so that publication of the minutes is not delayed.

## **Keeping order at meetings**

The Greens support allowing a point of order to be made on the basis of the principles.

Regarding acts of disorder, we note that whether or not something is considered an insult and 'anything that is inconsistent with maintaining order at the meeting' are broad and subjective. These terms are capable of being misinterpreted to mean just about anything that another councillor doesn't like. With regard to 15.10 d) we suggest that a better articulation would be to say 'clearly insults' and 'seriously inconsistent with maintaining order...' The reference to the NSW Legislative Assembly does not provide meaningful guidance for councillors.

The expulsion of an elected representative is extremely serious and should require a resolution being passed regarding the specific incident or behaviour. A mayor should not be pre-authorised to expel persons without the council considering the circumstances.

## **Decisions of the Council**

The Greens believe that the proposed clause 17.10 regarding rescission motions relating to development applications is not realistic and suggest 3 days rather than the proposed 1 day, and that this should be a mandatory, not optional part of the Code. Councillors often only become aware that a mistake has been made, or further information has become available in the 24 – 48 hours after a vote has taken place.

We also note that clause 17.12 can be abused by allowing a rescission motion to be brought at the same meeting as the original motion for the purpose of being defeated and preventing a rescission motion being heard again for 3 months. This prevents a rescission motion being

considered where there is a real prospect of a different outcome, for example where one or more Councillors were absent from the meeting.

### **Time limits of Council meetings**

The Greens agree that meeting times should be limited for the well-being and safety of both councillors and council employees, however councils should be able to determine their own meeting times. It is noted that the NSW Legislative Council has adopted a hard adjournment of 10:30pm.

### **After the meeting**

The Greens recommend that the vote of each councillor on each agenda item should be recorded for transparency and accountability.

We strongly support proposed clause 20.20 that the general manager must cause business papers for items of business considered during a meeting, or part of a meeting, that is closed to public, to be published on the council's website as soon as practicable after the information contained in the business papers ceases to be confidential. Further, we recommended that at a minimum a council must review the status of information considered in confidential session every 12 months for the current and previous term.