

Model Meeting Code Amendments - Online Submission Form : Entry # 12603

1. Your Details

I would like my name and personal details to be treated as confidential:

I consent to my details being shared

Name:

Darryl Hancock

Name of Organisation (If applicable):

City of Coffs Harbour

Role/Position:

Group Leader Legal & Governance

Postal Address:

██████████

Telephone:

██████████

Email:

████████████████████

Which of the following best describes you?

Council Regional

2. 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?

The proposed amendments to the Model Meeting Code of Meeting Practice will not achieve the policy outcomes identified in the paper.

- The removal of Clause 3.13 allows Councillors to ask a Question on Notice 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 Manager or a member of staff of the council. This Clause could be misused for political or personal reasons.
- The amendment to Clause 5.44 provides for the Council to determine staff attendance, rather than the General Manager. The Council only employs the General Manager and does not have any authority to direct staff, therefore we are unsure of the legality of this amendment to this Clause.
- Clause 7.1 proposes a more formal entrance to the Council Chamber by the Mayor, is this the intention of the new Model Code.
- The amendment to Clause 9.7, and removal of Clauses 9.9 to 9.10 allows for any business to be raised without appropriate notification and has the potential to result in exactly the opposite to promoting transparency, integrity and public participation.
- The removal of Clause 10.9 does not promote transparency and integrity, it also removes the financial discipline requirements of Councillors.
- The inclusion of Clauses 11.12 and 11.13 will assist in the providing clarity on planning decisions.
- The inclusion of Section 13 provides an opportunity to reduce the length of Council Meetings.

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

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No

2.3. Will the proposed amendments have any unintended consequences?

The proposed amendments to the Model Meeting Code of Meeting Practice have the potential for the following unintended consequences:

- Clause 3.3, allowing the Mayor the authority to call an extraordinary meeting without the need to obtain the signature of 2 Councillors has advantages, however it has the potential to be misused as there is no criteria for a meeting to be called.
- The proposed removal of Clauses 3.12 and 3.13, allows for Notice of Motions to be included in the agenda without review or challenge by the General Manager, may result in unlawful or unfeasible motions debated at Council meetings.
- The removal of Clause 3.13 has the risk of a Councillor asking a question with the sole intent of embarrassing another Councillor or a member of the Council staff. This could result in defamation action against Council if the publishing of a question resulted in an injury to a third party's reputation and causes a legally redressable injury.
- The amendment to Clause 3.17 requires that all Notices of Motion must be accepted and the General Manager cannot reject the Notice of Motion, unless the business is, or the implementation of the business would be, unlawful.
- The removal of pre-meeting Briefing sessions, Clauses 3.33 to 3.38 has serious implications as these sessions provide elected representatives an opportunity to ask questions of staff (some of whom may not attend Council meetings) which may be too sensitive to ask or respond to in public. The Briefing sessions are not a decision-making forum and are not where decisions are made. The City of Coffs Harbour appreciate that our community have a right to know what decisions are made by their elected representatives. However, the proposal to ban Councillor Briefings will result in elected representatives being less informed, which will in turn lead to poorer decisions. It is essential that the Mayor communicates with the General Manager outside of formal meetings. However, we have serious concerns with the proposal to specifically allow Mayors to be provided with information that may affect or impact or be taken into account by the Mayor in their deliberations or decisions, which is not also to be provided to other Councillors. All Councillors should continue to have a right to be provided with the same information that other Councillors receive from their council, which may affect or impact or be taken into account in their deliberations or decisions.
- The decisions are made during Council meetings, in full view of the public. By way of comparison, the NSW Government, Opposition and Crossbench are briefed on draft legislation before it's tabled in Parliament, and Ministers receive briefings from staff and departmental officers as part of the process of preparing draft bills and motions for consideration and before debating matters in Parliament. These private briefings lead to better informed MPs and more informed decision making once a matter comes to the public forum in Parliament.
- The modification to Section 4 reduces the clarity around public forums, their requirement and the processes to hold them. Is the intent to allow unlimited speakers at public forum, but as noted above the rules are to be determined by Council.
- The removal of Clause 10.17 in relation to Foreshadowed Motions, creates a real risk that a motion for a positive action to occur is lost and there is no mechanism to resolve a decision other than through another meeting and agenda item.
- The addition of proposed Clauses 14.19 has the risk of publishing information that may be commercial in confidence or initiate the release of private information in breach of the Privacy and Personal Information Protection Act 1998.
- The proposed Clauses 15.12 to 15.18 provides absolute power to the Mayor in taking discipline action against a Councillor.

2.4. Are there any other amendments the Government should consider?

No

3. General feedback

3.1. Please provide any other feedback on the proposed amendments.

- Councils are a valued third tier of government, not a sphere, because we need our masters' guidance not to go rogue.
- There are a number of areas in the proposed Model Code of Meeting Practice where Councils are required to insert their own rules, such as the number of days for something. Now there are quite a few areas which say, 'as determined by Council'. So how is this to be practically implemented if not in the Code.
- It would be beneficial to have consistent wording in Clauses 15.24 and 15.25. In Clause 15.24, the code refers to "Councillors, council staff and members of the public ..." while Clause 15.25 refer to "A person". Section 10(2) of the local Government Act 1993 includes the following "However, a person (whether a councillor or another person) ..."

Notes



Admin Notification (ID: 66d4f054bfdd8)

added February 28, 2025 at 8:36 am

WordPress successfully passed the notification email to the sending server.