

Item No: 12.3

Subject: **DRAFT CODE OF MEETING PRACTICE (COMP)**

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Approvers: Sue Meekin, Director Corporate Performance
Craig Swift-McNair, General Manager

File No: 22/77236

Purpose of the Report: To present the Draft Code of Meeting Practice for consideration by Council for the purpose of public exhibition.

Alignment to Delivery Program: Strategy 11.1: Facilitate community led decision-making that is open, honest and ethical and benefits the broad community.

Recommendation:

- A. THAT Council endorses the Draft Woollahra Municipal Council Code of Meeting Practice for the purpose of public exhibition for a period of 42 days from 11 May 2022 to 22 June 2022, as presented as **Attachment 1**.
- B. THAT Council note that the Draft Woollahra Municipal Council Code of Meeting Practice includes all mandatory provisions of the prescribed Model Code of Meeting Practice issued by the Office of Local Government; the inclusion of a range of non-mandatory clauses as presented in **Attachment 2** and the inclusion of a range of additional Woollahra-specific supplementary provisions as also presented in **Attachment 2**.
- C. THAT a further report be prepared to Ordinary Council meeting on the 27 June 2022 following the close of the public exhibition period to consider public submissions received.

Executive Summary:

The purpose of this report is to present a Draft Code of Meeting Practice and to seek endorsement from Council to publicly exhibit the Code for a period of 42 days as required by legislation.

Discussion:

By way of background, the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the Local Government Act 1993 (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

The Office of Local Government (OLG) released *Circular 21-35* notifying councils of the prescription and commencement of a new Model Code of Meeting Practice to apply to all councils across NSW from 19 November 2021. The Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) was published in the Gazette on 29 October 2021 and Councils must ensure that their new Code complies with the provisions of the Model Code as soon as possible and no later than 12 months after each Ordinary Council election.

Until Council adopts a new Code of Meeting Practice, its existing Code of Meeting Practice will remain in force. If Council fails to adopt a new Code of Meeting Practice, any provisions of the council's adopted meeting code that are inconsistent with the mandatory provisions of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that they are inconsistent with the mandatory provisions of the Model Meeting Code.

The Model Code applies to all meetings of Council and Committees of Council of which all the members are Councillors (i.e. Council and the Finance, Community & Services, Environmental Planning and Strategic & Corporate Committees) and does not refer to advisory committees or working parties.

Key points

The Model Code of Meeting Practice issued by the OLG has two elements:

- **mandatory provisions** (indicated in **black font**)
Mandatory provisions must be included in the Draft Code of Meeting Practice. These provisions reflect existing meetings provisions of the Act and update/enhance meeting provisions previously prescribed under the Regulation to reflect contemporary meeting practices by councils and to address ambiguities and areas of confusion in the existing provisions based on feedback from councils. **Blue text** denotes changes made by the OLG in 2021, therefore these are also mandatory.
- **non-mandatory provisions** (indicated in **red font**)
Non-mandatory provisions detail areas of meeting practice that are common to most Councils, but where there may be a need for some variation in practice between Councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as best practice for the relevant area of practice.

Historically, the Woollahra Code of Meeting Practice has also included supplementary provisions specific to Woollahra, noting these are not inconsistent with the mandatory provisions. These supplementary provisions include matters such as late correspondence, safeguards and tabling of petitions to name a few.

The draft Code as presented in **Attachment 1** incorporates some of the Woollahra supplementary provisions (indicated in **green font**) as well as incorporating mandatory and non-mandatory provisions for consideration by Council and the community. An explanatory note is also provided on the cover page of the Draft Code of Meeting Practice to highlight the changes proposed to the Model Code and to assist readers in identifying the changes proposed.

Key Changes

The key changes as noted by the OLG to the new Model Code include the following:

1. New provisions that allow Councils to permit individual Councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory, therefore Councils can choose not to adopt them or to adapt them to meet their own needs. Staff do recommend the inclusion of these provisions given the necessity to hold Council and Committee meetings during the COVID-19 pandemic.

It is important to note that the repeal date for section 237 of the Regulation which exempts Councils from the requirement under clause 5.2 of the previous iteration of the Model Meeting Code for Councillors to be personally present at meetings in order to participate in them has been extended to **30 June 2022**. If Councils have not adopted a new meeting code that allows Councillors to attend meetings by audio-visual link by the 30 June 2022, Councillors will not be permitted to attend and participate in meetings.

2. Amendments have also been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.

3. An amendment has also been made to the Model Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that Council business papers include a reminder to Councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.

In preparing the Draft Code of Meeting Practice, Councillors were provided with a Councillor Briefing note and the proposed changes for consideration at a Councillor Briefing Session on the 20 April 2022. Councillors were also invited to provide feedback on key changes proposed in the Draft Code of Meeting Practice by close of business on 28 April 2022 and some of the feedback received has been incorporated into the Draft Code, provided as **Attachment 1**.

The General Manager, Director Corporate Performance and Manager Governance and Council Support have reviewed the proposed new Draft Revised Code of Meeting Practice and this is now presented for consideration by Council.

A summary of all the changes proposed has been prepare and is provided as **Attachment 2**.

Options:

Council in its consideration of the Draft Code of Meeting Practice, may consider the inclusion of the non-mandatory provisions and also to determine whether Council wishes to include the additional supplementary provisions within the Draft Code of Meeting Practice (specific to Woollahra).

Pending Council's consideration and feedback, staff will arrange the public exhibition of the Code for a period of 42 days as required by legislation.

Community Engagement and / or Internal Consultation:

Public exhibition is proposed for a period of 42 days from 11 May to 22 June 2022, via the following means:

- advertising in the Wentworth Courier;
- advertising at Council's Customer Service Centre and Woollahra Libraries; and
- promotion and advertising via the 'Your Say' engagement portal on Council's website.

It is recommended that public exhibition be Submissions received will be reported back to the Finance, Community & Services Committee meeting for consideration.

As mentioned previously, Councillors were provided with a Councillor Briefing note and the proposed changes for consideration at a Councillor Briefing Session on the 20 April 2022. Councillors were invited to provide feedback on key changes proposed in the Draft Code of Meeting Practice by close of business on 28 April 2022.

Key issues raised at the Councillors Briefing and by Councillor feedback post session included reference to the introduction of public forums, limitation on the number and duration of speeches, use of mobile phones, late correspondence submission timeframes, access to late correspondence, identification of budgeting/funding sources, deadlines for submission of Notices of Motion and/or Questions with Notice to name a few.

Feedback received has been considered by staff and incorporated into the Draft document for consideration by Council prior to the public exhibition (where possible).

Policy Implications:

The Draft Code of Meeting Practice once adopted following public consultation will replace the current Code of Meeting Practice.

Financial Implications:

Existing budget is available for the cost of advertising of the Code of Meeting Practice.

Resourcing Implications:



Nil

Conclusion:

All Councils are required to adopt a new Model Code of Meeting Practice by 30 June 2022, based on the Model Code of Meeting Practice produced by the Office of Local Government. The new Code must be publicly exhibited for a period of 28 days and public submission period of 42 days.

It is recommended, subject to consideration by Council, the Draft Code of Meeting Practice, as presented in **Attachment 1**, be publicly exhibited from 11 May to 22 June 2022. A further report will then be prepared for consideration by Council following the public exhibition period.

Attachments

1. Draft Code of Meeting Practice (CoMP) - based on Model Code of Meeting Practice for Local Councils in NSW 2021 (*circulated under separate cover*) 
2. Summary of changes to the Draft Code of Meeting Practice (CoMP) [↓](#) 



**Summary of Changes
Draft Code of Meeting Practice – May 2022**

A summary of the key changes to the Code of Meeting Practice for consideration by Council is shown below, noting this does not include all the changes however lists the more significant ones for consideration by Council.

Clause numbering may change as a result of Council's consideration of the CoMP.
Relevant page numbers are also provided for ease of reference.

- **Blue text** denotes changes made by the OLG in 2021, therefore these are mandatory.
- **Red text** denotes provisions of the Model Meeting Code that are not mandatory (for consideration by Council).
- **Green text** denotes additional provisions that are already included in our existing Code of Meeting Practice or are new suggestions, which are recommended to be included to provide supplementary provisions/policy positions, noting that these are not considered to be inconsistent with the mandatory provisions. **Yellow highlighted text** is also supplementary for consideration by Council.

| Type of Change (i.e. mandatory, non-mandatory, or additional supplementary provision) | Category | Clause/s | Page/s |
|---------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|--------------|----------|
| Additional Provision (WMC) | Timing of ordinary council meetings | 3.1 | 5 |
| Non-Mandatory | Notice of Motion – consideration of legal, strategic, financial or policy implications | 3.11 to 3.12 | 7 |
| Additional Provision (WMC) | Alteration of Committee Meeting commencement time | 3.13 | 7 |
| Mandatory OLG changes 2021 CoMP | Statement of ethical obligations | 3.23 | 9 |
| Additional Provision (WMC) | Confidential agendas, business papers and annexures for council/committee meetings | 3.33 to 3.36 | 10 |
| Non-Mandatory | Pre-meeting briefing sessions | 3.37 to 3.42 | 10 & 11 |
| Additional Provision (WMC) | Public Forums (Matters not on the Council Agenda) | 4.1 to 4.2 | 11 & 12 |
| Non-Mandatory | Public Forums (Matters on the Council Agenda) | 4.3 to 4.26 | 12 to 14 |
| Mandatory OLG changes 2021 CoMP | Attendance by Councillors at meetings | 5.2 | 15 |
| Non-Mandatory | Coming together – cancellation of meeting due to quorum or health & safety | 5.14 to 5.15 | 16 & 17 |

| Type of Change (i.e. mandatory, non-mandatory, or additional supplementary provision) | Category | Clause/s | Page/s |
|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|---------------|----------|
| Mandatory OLG changes 2021 CoMP | Meetings held by audio-visual link | 5.16 to 5.18 | 17 |
| Mandatory OLG changes 2021 CoMP | Attendance by councillors at meetings by audio-visual link | 5.19 to 5.30 | 17 to 19 |
| Mandatory OLG changes 2021 CoMP | Webcasting of meetings | 5.34 to 5.39 | 19 to 20 |
| Additional Provision (WMC) | Transcripts and Audio Recordings | 5.40 | 20 |
| Mandatory OLG changes 2021 CoMP | Attendance of the General Manager and other staff at meetings via audio link | 5.45 | 21 |
| Additional Provision (WMC) | Modes of Address | 7.1 to 7.5 | 23 |
| Additional Provision (WMC) | Order of Business | 8.1 to 8.5 | 23 & 24 |
| Additional Provision (WMC) | Councillor Reports/Councillor Updates | 8.4 | 24 |
| Additional Provision (WMC) | Seating arrangements | 8.5 | 24 |
| Non-Mandatory | Mayoral Minutes (source of funding) | 9.10 | 26 |
| Additional Provision (WMC) | Submission of late correspondence | 9.14 | 26 |
| Additional Provision (WMC) | Reading late correspondence at committee meetings | 9.15 | 26 |
| Non-Mandatory | Motions requiring expenditure of funds | 10.9 | 29 |
| Additional Provision (WMC) | Limitations on the number and duration of speeches. | 10.22 & 10.23 | 30 |
| Non-Mandatory | Voting at Council Meetings | 11.11 | 33 |
| Additional Provision (WMC) – recommended for deletion | Voting on planning decisions | 11.16 | 33 |
| Additional Provision (WMC) | Extend or restrict number and duration of speeches | 12.5 | 34 |
| Non-Mandatory | Dealing with items by exception | 13.1 to 13.7 | 35 |
| Mandatory OLG changes 2021 CoMP | Obligations of councillors attending meetings by audio-visual link | 14.20 | 39 |
| Non-Mandatory | Expulsion from meetings | 15.15 & 15.16 | 42 |
| Mandatory OLG changes 2021 CoMP | How disorder by councillors attending meetings by audio-visual link may be dealt with | 15.21 & 15.22 | 43 |
| Mandatory OLG changes 2021 CoMP | Use of mobile phones and the unauthorised recording of meetings | 15.25 | 43 |
| Mandatory OLG changes 2021 CoMP | Conflicts of Interest | 16.2 | 44 |

| Type of Change (i.e. mandatory, non-mandatory, or additional supplementary provision) | Category | Clause/s | Page/s |
|---------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-----------------|---------|
| Non-Mandatory | Rescinding or altering council decisions | 17.12 to 7.14 | 46 |
| Non-Mandatory | Recommitting resolutions to correct an error | 17.15 to 17.20 | 46 & 47 |
| Non-Mandatory | Time Limits on Council Meetings | 18.1 to 18.5 | 47 |
| Mandatory and Additional Provision (WMC) | Minutes of meeting (reference to declarations of interest) | 19.2 (a) & (f) | 48 |
| Additional Provision (WMC) | Access to late correspondence | 19.8 | 48 |
| Additional Provision (WMC) | Referrals on requests of Councillors to Full Council | 20.23 | 52 |
| Additional Provision (WMC) | When a Committee substantially changes a staff recommendation | 20.24 | 52 |
| Additional Provision (WMC) | Submission of late correspondence | 20.25 | 52 |
| Additional Provision (WMC) | Reading late correspondence at committee meetings | 20.26 | 52 |
| Additional Provision (WMC) | Representation to committee meetings by the public | 20.27 | 52 |
| Mandatory and Additional Provision (WMC) | Minutes of meeting (reference to declarations of interest) | 20.28 (a) & (f) | 53 |
| Non-Mandatory | Minutes of council committee meetings (all voting at Committees) | 20.29 | 53 |
| Additional Provision (WMC) | Petitions | 22.1 to 22.4 | 54 |
| Additional Provision (WMC) | Disclosure and Misuse of Information | 23.1 to 23.6 | 55 |
| Additional Provision (WMC) | Procedural Motions | 24.1 | 56 |
| Additional Provision (WMC) | Revision of the Code of Meeting Practice | 25.1 | 57 |