

Subject: FW: Submission re RCC draft Code of Meeting Practice
Attachments: BES letter to RCC Chair - Breaches of Due Process.pdf

From: Lyn Walker [REDACTED]
Sent: Wednesday, 27 July 2022 3:24 PM
To: Rous County Council <council@rous.nsw.gov.au>
Subject: Submission re RCC draft Code of Meeting Practice

To: the General Manager
Rous County Council

From Ballina Environment Society
bes<bes2478@gmail.com>

Re: Submission RCC draft Code of Meeting Practice

Ballina Environment Society has objected previously to a Breach of Rous County Council Code of Meeting Practice (attached, see p2 in particular). We have not yet received any reply to our objection. Given that ROUS has not recognised the Breach in any way this Society recommends that the RCC Code of Meeting Practice specifically spells out the detail thus:

"The rules of debate require that the mover and seconder of a motion speak to the motion and give their reasons for so moving it at that time."

If they do not wish to speak at that time that is their right. At the end of the debate they will still have the right to respond to what has been raised by other councillors in the debate as is clearly specified in the model code. Their right to speak twice will not be affected.

In our attached letter we clearly specify, with examples of the actual debate of 16/02/2022 why this requirement, which we believe is implicit in the Model Code of Conduct, is necessary.

It is our intention to write to the Dept of Local Government asking them to make the requirement as above explicit in the Model Code, using the RCC example as detailed in our attached letter.

Sincerely

Dr Lyn Walker
for
Ballina Environment Society
27th July 2022.

The Chair
Rous County Council,

Dear Cr. Mustow

Re: Breaches of Due Process in RCC meeting 16th Feb 2022

Ballina Environment Society believes that two significant breaches of Due Process occurred specifically relating to the Agenda Item Motion 12.1 Dunoon Dam. Please note: [Due Process here means the legal definition \(not the common confusion with normal processes or democracy\)](#). The breaches go to unfair disadvantage, being deprived of the opportunity to be informed to the level at which they could speak against other points from more historically experienced members and breach of RCC Code of Meeting Practice which also caused unfair advantage.

1. Unfair treatment

The motion on a complex and controversial issue, acknowledged by the Chair to be so, should never have been accepted by the Chair and/or General Manager at that time; It disadvantaged members opposed to the motion and that it would do so should have been obvious before the meeting started.

1.1. There were five new members (of eight in total) two of whom had been appointed only twelve days before the meeting. These were the two opposing the motion.

1.2. There was no prior appropriate data/opportunity to question, discuss, obtain original documents, and otherwise explore widely to fill in the background. For new councillors a wide-ranging workshop or detailed comprehensive staff report would have been appropriate as preparation AND plenty of time to ingest all the details. Neither were provided.

1.2.1. The Hydrosphere report for the Dec 2020 change and July 2021 confirmation was insufficient for three reasons:

- a) It lacked some of the reference points that led to the 2020 decision to delete the Dunoon Dam from the IWCM.
- b) On critical matters of the CHIA and the EIA the original material was interpreted, not presented. Some interpretations are disputable.
- c) The Hydrosphere report was 115 pages of fine print long.

1.2.2. The staff contribution failed new members in two ways:

- a) The reasons given for the 2020 changes were inaccurate as no mention was made of the role of the CHIA 2013 report which had not been made available to Councillors and to the public until 2020.
- b) The Agenda was crammed full of data that even the returning members found so formidable that a motion was created to stop such overcrowding in the future.
- c) The Agenda was disorganized without separation of attachments and Agenda items; it is difficult to navigate. One Councillor presented a request for more information to be able to get to grips. It was a reasonable request highlighting previous preparation failures. However, the Chair did not exercise due regard to facilitate this

request, egregious because the motion should not have been there without that opportunity.

2. **Breach of RCC Code of Meeting Practice.**

There is no such procedure by which the mover and seconder of the motion can claim as they did to "reserve the right to speak".

2.1. The rules of debate, plainly described in the RCC Code, are such that the mover moves the motion and speaks to the reasons for it. Secunder likewise. If they don't wish to speak that is their problem. In the end, they have the right of reply i.e., to respond to what has been raised in the debate. However, this does not include the right to introduce new material having passed up the opportunity to do so. The effect of introducing new material at the end is to:

2.1.1. Deprive the other members of the right to speak against the reasons for the motion.

2.1.2. Confer a huge advantage to the mover and seconder who can then speak without fear of refuting. In this case, the mover (and seconder) took advantage and made substantial claims that were easily challengeable as not being accurate. The four most egregious claims are:

- a) *That the motion would allow RCC to listen to the traditional owners which we haven't done.* The traditional owners were inside and outside the meeting at the time making their wishes against the motion very clear. They were very clear also that the CHIA 2013 represented their united views about the sacred land and therefore they were not going to repeat them as the motion required.
- b) *That those used as authority against the dam did in fact support it being back on the table when challenged.* I attach Prof White's refute to this claim (as reported in the Echo).
- c) *That the petition presented by Cr Cadwallader did not contain contradictions to the imperative of having everything on the table.* There were eight requests in the petition and seven of them were for taking things off the table. Although four (of seven) were for short-term getting started they were also available in the long term. In addition to these four, there were three others requested to be removed from the table.

BES believes that it is up to the Chair and the GM to make restitution for these breaches. BES would like to be advised on how this will be done.

Regards
Claudia Caliari and Lyn Walker
Ballina Environment Society