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PO Box 762
Mossman Qld 4873

sustainabilitydouglas@gmail.com

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Ms Rachel Brophy
Chief Executive Officer
Douglas Shire Council

Via email: rachel.brophy@douglas.qld.gov.au

Dear Madam

VEHICLES ON WONGA BEACH – MONITORING COMPLIANCE

Douglas Shire Sustainability Group Inc. (DSSG) is an incorporated association active in the Douglas Shire since 2005, in support of sustainability in this region.

DSSG is a community-based environmental advocacy organisation whose objects include:

- To the protection and conservation of the unique environment in the Douglas Shire and its surrounds, including the Great Barrier Reef, the Wet Tropics and World Heritage areas;
- To promote social, economic and environmental balance;
- To promote and support environmentally sustainable practices, education and great environmental awareness amongst visitors to and residents of the Douglas Shire;

DSSG notes the commencement on July 1st 2021, of compliance monitoring and enforcement of the Local Laws regarding vehicles on Wonga Beach. We make the following comments and requests for information.

The regulatory regime

Attachment D Wonga Beach Foreshore Management Plan (Wonga FMP) - *ATV use conditions and community group terms of reference*, outlines the conditions and approval criteria for ATV use. This information has been adapted from the Interim Wonga Beach Foreshore Management Plan (DSC 2020a) (Interim Plan).

We assume that the Interim Plan is replaced by the Wonga FMP, and that this document together with the relevant Local Laws comprises the regulatory regime for ATV use on Wonga Beach.

Please advise us if this is not the case.

Community Group

The Wonga FMP asserts that the Community Group's sole function is to assist with the management of any issues arising from the use of vehicles on Wonga Beach.

To our knowledge, there has been just one meeting of the Community Group (September 2021) and only two residents attended. The Community Group is chaired by a Council employee.

DSSG's application for membership of the Community Group was declined.

We are concerned that the Community Group was consulted by Local Laws officers, on whether to issue an ATV approval to a non-resident of Wonga Beach, and that approval was thereafter issued. This is in clear breach of the conditions outlined in the Wonga FMP, which requires that only residents of Wonga Beach are eligible for approval; proof must be provided by a current provisional or full driver's licence with the applicant's current residential address clearly visible.

Is it the case that the Community Group and the Local Laws officers can override the conditions of the Wonga FMP? While acknowledging a Local laws Officer may have discretion on enforcement, we understand that a condition for approval cannot be discretionary. **Please confirm this.**

DSSG is aware of a number of problems arising between residents and ATV drivers. We are not confident these problems are being reported to Council. For example, we are aware of physical altercations between residents and ATV riders over noise and disturbance. We are also aware of a number of injuries arising from ATV riding, including a collision with a parked 4x4 vehicle on the beach and several multi vehicle collisions resulting in medical attention, and even emergencies. **Is Council aware of these problems and if so what action was taken?** We also understand that complaints have been made about ATV 'tours' being offered out of Pinnacles to tourists. **Can you advise what action was taken about that specific complaint?**

Relationship with Queensland Police

DSSG is concerned that Queensland Police (QP) are not resourced or inclined to enforce relevant aspects of the Wonga FMP or Local Laws. We understand that QP have advised Council it does not have jurisdiction to actively enforce issues arising from beach driving.

In addition QP have expressed concern at the skill level of Local Laws officers in regards to enforcement.

Are Council Local Laws Officers able to regulate issues like wearing of helmets, passenger seats, age of passenger / driver, intoxication, speeding or hooning?

Are Council officers delegates of Queensland state legislation that applies to these issues, or do they need to contact QP to enforce these matters? Is there a MoU with QP on this issue?

Approvals

We are advised that as at October 2021, Council had received 25 applications from residents for a permit to drive their ATV or UTV on the northern section of Wonga Beach. Of these, 23 have been issued and two applications are pending, awaiting further information.

This seems like a very small number of approvals for a resident population of 900, indicating the support or demand was grossly overestimated, or there is a high incidence of non-compliance. **Can you confirm the current number of approvals?**

In our view, it is entirely unacceptable that the number of approvals is limitless and ignores the possible consequence of population growth. Council should give consideration to an annual approval cap. The resilience of the beach to vehicle impacts will be largely dictated by traffic volume (and driver behaviour). Ongoing monitoring of vehicle-related impacts on beach fauna including shorebird feeding and breeding, by DSSG, suggests even current levels of vehicle numbers are problematic and reinforces the absolute necessity that the numbers are in some way capped.

In our view, approvals for vehicular access should exclude the Northern end of Wonga Beach which is within the World Heritage Wet Tropics Littoral area, and is particularly sensitive.

Enforcement activity

We note that recent CEO Reports to Council have not included information about enforcement or approval activity under the ATV use and conditions, or the Local Laws. The Council web site does not include any data on this activity and as there have been no Community Group meetings, there is no publicly available information about compliance and enforcement.

Can you please provide us with a de-identified list of complaints made about ATV use at Wonga Beach, and Council's enforcement response?

We also note that there was a random beach patrol planned for the pre-Christmas period 2021. We were advised that the aim was to identify drivers who do not have a permit, and that the enforcement strategy was that those without proof of residency in Wonga will be issued a fine and residents will be given a warning and an application form for an approval. **Can you confirm this occurred and the outcome of the random beach patrol?**

Can you also advise if random beach patrols have been conducted since 2021 or if Council is relying only on complaints to drive enforcement response?

Between 1 January 2022 and 12 September 2022, 72 random beach checks by DSSG members have identified:

- 201 instances of failure to wear helmets,
- 32 of illegal seating, many of which included under 8 year-olds (also mostly without safety headwear),
- 68 occasions of estimated speed exceeding the permitted max,
- 39 prohibited vehicle types (4x4 many with licence plates recorded) including 13 motorbikes.

In addition, DSSG members have observed 18 access location being used, of which 6 are under heavy use. Only 4 of these are designated beach access points under the FMP.

These figures suggest current levels of vehicle compliance monitoring and enforcement are ineffective or insufficient.

Our members have raised several concerns about the enforcement policy to be applied, and the resource and skill level of Local Laws officers. These concerns include:

- **How often will an offender receive a warning before a fine is issued?**
- **Does a serious infringement (risk to safety for example) automatically result in a fine?**
- **Is an information notice enforceable?**
- **What is approved safety training?**
- **Who assesses if an ATV is in a good state of repair?**
- **On what evidence is a speeding infringement issued? Do Local Laws Officers have speed guns?**
- **S11 (1) of Local Law 1 - An approval holder must ensure that each condition of an approval is complied with. Maximum penalty – 50 penalty units. Is this being applied as maximum \$50 regardless of how many conditions are breached at the time, or \$50 per breach?**
- **Under what circumstances will an approval be revoked?**

Our members believe the approval of ATVs on Wonga Beach remains controversial, posing a significant risk to the environment including wildlife, and to people. It also breaches the rate-payers right to peaceful enjoyment of the area, and has proven to be a flash point for conflict in the community.

Whilst the FMPs clearly indicate the established limits surrounding vehicle beach access in the Shire, since the commencement of permitted driving on Wonga beach, DSSG has documented increasing and ongoing vehicle activity with multiple conspicuous access points to the beach southward of Rocky Point to Saltwater River. This apparent expansion of Shire beaches being treated as roadways is a serious concern, a situation surely aggravated by the example of Wonga beach where driving is sanctioned by Council and enforcement is ineffective.

We suggest that making public the outcomes of the approval process and enforcement actions will assist in identifying the pros and cons of the approval regime, and discourage expansion of the practice within the Shire.

We look forward to your response.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Didge McDonald', with a long horizontal flourish extending to the right.

Didge McDonald
President

CC: Mayor and Councillors

Michael.Kerr@douglas.qld.gov.au

Lisa.Scomazzon@douglas.qld.gov.au

roy.zammataro@douglas.qld.gov.au

Peter.McKeown@douglas.qld.gov.au

Abigail.Noli@douglas.qld.gov.au