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Douglas Shire Council

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Attention:

Mayor Michael Kerr via Michael.Kerr@douglas.qld.gov.au

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Chief Executive Officer via: mark.stoermer@douglas.qld.gov.au

Dear Mayor, Councillors and CEO

DOUGLAS SHIRE FORESHORE MANAGEMENT

DSSG has attached comments regarding Council's Draft Foreshore Management Plans (FMPs)

Douglas Shire Council has delegated stewardship of the foreshore and its fringing forests, listed as critically endangered under the Australian Government's Environment Protection and Biodiversity Conservation Act, and has a responsibility to manage both for the benefit of current and future generations.

A failure by Council to properly manage the foreshores is a failure of stewardship.

The implementation of comprehensive and effective FMPs plays a big role in ensuring the quality of that management.

DSSG appreciates Council's plan to focus resources on management of some of the Shire's foreshore areas and believes that, generally, the FMPs have identified actions that, if implemented, will achieve much in helping to restore and maintain the natural assets of beaches that most visitors seek, respect and treasure.

In summary, we can expect to see immediate action (in next 12 months), specifically:

- sign posting, formalising and maintaining access tracks at all beaches, except for the central residential area at Oak Beach;
- dune revegetation and regeneration of cleared land in all precincts at Cooya Beach, Four Mile areas of Solander Boulevard and Port Douglas town beaches, in Newell Beach Park precinct and the central residential area at Oak Beach;
- weeds eradicated and effected areas revegetated in all areas of Cooya Beach and all areas of Newell Beach, precincts 3 and 4 at Wonga Beach, and Sand St in Four Mile.
- monitoring of wildlife in most areas, and
- community awareness campaigns in many areas.

We have attached detailed feedback, including some recommendations. We hope you find this useful. Please advise if we can provide more information.

Yours faithfully

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

Didge McDonald
President

FEEDBACK FROM DOUGLAS SHIRE SUSTAINABILITY GROUP INC (DSSG) RE DRAFT FORESHORE MANAGEMENT PLANS (FMPs) – JUNE 2021

Introductory comments

In Douglas Shire, the foreshore (below the high tide mark) is an area designated in Schedule 2 of the *Marine Parks (Declaration) Regulation 2006* as part of the Great Barrier Coastal Marine Park and the fringing (littoral) forests are protected under the Nature Conservation Act. The area of the Great Barrier Reef Coastal Marine Park consists of the tidal waters and land (waters and land between the high and low tide marks). The tidal area is within a declared Marine Park and the littoral forests are listed as critically endangered under the EPBC Act. Authority to regulate activity in these areas is delegated to Council. This delegation attracts a responsibility to act in accordance with relevant Government legislation, management plans and policies to protect this special environment.

Douglas Shire Council has stewardship of the foreshore and its fringing forests, and must manage it for the benefit of current and future generations of Australians and others.

People choose to live in this special place because of its world class environment. We expect that the relatively high Council rates are applied commensurately to fund the necessary work to protect the environment at highest possible standards. This includes sufficient skilled enforcement resources, ecological advice and program management.

A failure by Council to properly manage the foreshores is a failure of stewardship. The implementation of comprehensive and effective FMPs plays a big role in ensuring the quality of that management.

Overview Document – Regional Foreshore Management Plan

In our view the FMPs must form part of a suite of documents, led by a Shire-wide or regional overview document which provides context for the individual FMPs. An overview document would compare and prioritise management actions across the Shire, in the context of the region. It allows us to easily see and understand the management issues in common and the relevant differences between the areas. An overview document would create the framework and include the general principles of foreshore management.

For example, we are told that there is a total shoreline length of 111 km, but there is no breakdown of what proportion of that is taken by each beach that has a dedicated FMP. We understand that Wonga Beach, for example, is almost as long as the other four beaches combined. This fact impacts on the allocation of resources and priorities. It also allows us to understand the relative importance of 'good' and of 'bad' management decisions and implementation.

An overview document would include review mechanisms and feedback loops to ensure the entire plan is relevant and is meeting the objectives.

Scope of work by consultants

The draft FMPs do not include an adequate description of the background leading to their development, the brief given to the consultants by Douglas Shire Council and the constraints which govern the plans.

DSSG assumes that the short time frame for the development of the FMPs has imposed constraints on consultation processes and on site visitation and assessment. We note much of the content is based on desktop assessments.

We also assume the potential management actions are constrained by budget.

It would be more transparent to discuss these constraints or boundaries in the FMP.

We are concerned that, due to what we assume are constraints on time and resources, generalised assumptions have been made about the presence of significant species and management actions are designed accordingly. For example, it is assumed no significant species frequents the Four Mile foreshore, and so no monitoring has been recommended there. It is dangerous to make such assumptions without evidence. In the absence of clear evidence, the Precautionary Principle should be applied. At least a risk mitigation measure should be put in place.

DSSG is concerned at the lack of scrutiny of the environmental impact of permitting vehicles on Wonga Beach – we assume this was a constraint imposed by the Council. See further comment on this issue below.

We are also concerned at the lack of discussion around the impact of Climate Change. Again, we assume this is a constraint imposed by the Council.

We recommend that the FMP include discussion of constraints / boundaries that have impacted the scope of management actions and priority allocation.

Where there is no clear evidence on which to base decisions, the Precautionary Principle must apply.

Engagement

The FMPs include reference to previous engagement outcomes that are relevant to foreshore management. These include the 2018 consultation on the Resilient Coast Strategic Plan, the Draft Vehicles on Beaches Policy and Interim Foreshore Management Plan for Wonga Beach (2019), and the 2020 consultation on beach infrastructure at Newell Beach.

The process to develop draft FMPs in 2021 included an electronic survey which ran from 31st March to 23rd April 2021 (23 days) and received a total of 317 responses from residents and community groups throughout the Douglas Shire.

Wonga Beach -- 86 responses - 500 dwellings, 975 residents (8%)

Four Mile Beach - 85 responses - 1,200 dwellings, 3,500 residents (2.4%)

Oak Beach - 41 responses - 25 dwellings on foreshore and approx. 25 on escarpment, 195 residents (21%)

Newell Beach - 43 responses – 200 dwellings, 336 residents (12.8%)

Cooya Beach - 63 responses – 200 dwellings, 546 residents (11.5%)

We are uncertain how submissions from community groups such as DSSG were considered in this process. DSSG represents over 100 members who live in all areas of Douglas Shire.

Approximately 12,250 people live permanently in Douglas Shire – survey responses of 317 represent merely 2.5% of the residents of Douglas Shire.

The weight of the survey responses should be considered in light of the way questions are posed, acknowledging potential bias in formulating the questions and in reaching conclusions from the data. For example, one survey question was asking respondents whether they considered the foreshore as an extension of their backyard. Response to this question were picked out for special

commentary in the FMPs. For example, the Four Mile FMP includes “Almost one in four respondents are using the foreshore area as an extension of their yard.” We are of the view that nothing can be gleaned from this question. At most, it is comment about how much people are attached to, familiar with and feel ownership of the foreshore area.

DSSG members attended the public engagement sessions that were held as part of this process. We observed very small numbers in attendance.

Surveying the community opinion by way of small special interest groupings is a divisive process. In our view it demonstrates that Council is not encouraging community cohesion.

While it is legitimate to consider the views of those who replied to the survey, it is hardly statistically representative, and should not form the basis of FMPs. Relying on assumed ‘culture’ or ‘values’ to justify failures in enforcement, underpin policy and as a basis for foreshore management actions would surely demonstrate poor environmental stewardship. The beaches should be managed for all beach users, not just residents.

The foreshore areas in Douglas Shire sit between two World Heritage Areas – the Wet Tropics WHA and the Great Barrier Reef. The foreshore areas are part of the GBR Marine Park and should be managed strictly in accordance with the relevant legislation, policies and management plans.

Driving on Beaches – Wonga Beach

DSSG members regularly report the unlawful use of motor bikes and ATVs on all beaches in the Shire, however Wonga Beach is the only beach where Douglas Shire Council permits this activity. DSSG is strongly opposed to this permit process and is of the view it is unlawful action.

The Wonga Beach FMP assumes that Councils Interim FMP has adequately considered and effectively mitigated the consequences of beach driving. This is not the case and failure to do so is a significant omission in the FMP, especially since beach driving is clearly shown as a prominent threat in all areas of Wonga. We note that the Coastal Management Plan¹ stipulates the following:

“Prior to allowing beach driving, the relevant authority should have a qualified and experienced ecologist prepare a report identifying the relevant ecological and species values of the beach. The report should recommend how adverse impacts on these values (caused by beach driving) can be minimised.”

DSSG recommends the FMPs must consider all the threats posed by the permitting of ATVs on Wonga Beach and apply treatments to mitigate or eliminate these threats. If the threats cannot be eliminated or sufficiently mitigated, the beach driving must be prohibited on all foreshore areas, including Wonga Beach.

We note that the Interim FMP referenced permitted ‘quad bikes’, yet the FMP now sanctions ATV’s which includes a heavier (and more damaging) range of vehicles.

DSSG recommends that ATV be defined to exclude the heavier range of vehicles.

The FMP does not take a future focus, or consider cumulative impact in assessing and treating threats. For example, the potential number of permitted vehicles travelling on Wonga Beach is capped only by residential status – potentially 975 at this point in time.

¹ [Coastal Management Plan \(www.qld.gov.au\)](http://www.qld.gov.au)

The Management Action included in the FMP is to enforce driving on hard sand only. Despite the difficulty in enforcement, erosion is just one impact of beach driving. There are no management actions for species disruption and death, for example.

DSSG recommends that the FMP include Management Actions to enforce all impacts of permitted beach driving on Wonga Beach

DSSG is of the view that without amendment on the question of ATVs, the FMP will serve to assist Douglas Shire Council to damage the environmental values of Wonga Beach.

Building Positive Behaviour Change and Enforcement

We understand that building positive behaviour change requires education, clear rules and fair enforcement.

We note that the FMPs include some community education action, particularly around weeds and the use of ATVs on Wonga Beach:

‘Undertake a community education program to communicate knowledge around foreshore weeds, including transfer and establishment, awareness and management’.

‘Undertake a community awareness program, including mail-outs to ATV users and foreshore signage informing of appropriate speeds and environmental impacts of ATV use on the beach and the region’s values, information to be provided at campgrounds and tourist-related businesses.’

DSSG believes that the education program should also include a statement of the ‘clear rules’ around these actions. For example, it must be made clear that removal of vegetation from the foreshore is unlawful and set out the penalty for a breach of the rules.

We suggest that the action around debris on Four Mile Beach does not comprise education for the purpose of building positive behaviour change. It appears to be about placating residents who wanted Council to rake the length of Four Mile beach. The fact that Council chooses to explain this by way of restrictions imposed by the GBR Marine Park Zoning is challenging, especially when Council chooses to ignore those restrictions when it comes to permitting ATVs on Wonga Beach or failing to enforce vegetation removal laws, for example.

‘Provide community education material regarding the limitations placed on Council to remove debris along the foreshore and beach which sits within the Great Barrier Reef Marine Park Zone’.
DSSG recommends this action be removed as it is designed to explain why Council doesn’t take a particular action – it does nothing to educate.

DSSG has written to Council on several occasions about damage to our foreshore areas. We note that enforcement has, to date, been inadequate. We are of the view that without enforcement, FMPs will fail in the longer term. DSSG repeats our call for the adoption of a Council enforcement policy. This will serve as a guide for residents, visitors and staff as to what to expect when laws are breached. See **Attachment A**.

DSSG recommends the adoption by Council of an enforcement policy so that it is clear what will happen when rules are breached.

Management Plans

DDSG acknowledges that generally, the FMPs have identified management needs and actions that if implemented, will achieve much in helping to restore and maintain the natural assets of beaches that most visitors seek, respect and treasure.

We note that the FMPs use the adaptive management approach to address the threats and challenges that have been identified.

The challenge in using the adaptive management approach lies in finding the correct balance between gaining knowledge to improve management in the future and achieving the best short-term outcome based on current knowledge².

We would like to see a review period articulated in the FMPs, to ensure management actions are updated and refreshed as new knowledge is gained.

Management Objectives

We note that the Management Objectives are the same for each plan, with the exception of Cooya Beach which includes an additional objective to “Maintain the cultural value of the beach”, and Oak Beach which includes “Proactively undertake waste management along the foreshore”. We also note that the Four Mile Beach plan does not include an objective to “Monitor the presence and health of potential turtle and shorebird nesting sites in foreshore areas.”

DSSG notes that the Management Objectives “are based on the community values identified through the engagement process.” It seems to us that basing the Foreshore Management Objectives, and therefore the Plan, on the views of residents, as gleaned by a short electronic survey and poorly attended engagement sessions, is irresponsible.

We note the inclusion of the following statement in the introductory comments for each FMP: ‘These actions have been tailored to incorporate what the community values about their foreshore and how the foreshore is used’.

We hope it is more accurate to say that the Objectives are based on the Coastal Management and Engineering - Dune Protection and Management strategic actions outlined in the Resilient Coast Strategic Plan³, and reflect the Council’s obligations under relevant government legislation, policy and plans. It is appropriate to say the Objectives take into consideration the community values identified through the engagement process.

We make further comments on the Engagement Process elsewhere in this response.

DSSG believes the Management Objectives could be improved. We recommend the Management Objectives be amended as follows:

² Allan, Catherine; Stankey, George Henry (2009-06-05). [Adaptive Environmental Management: A Practitioner's Guide](#). Springer Science & Business Media. ISBN 9781402096327.

³ [Resilient-Coast-Strategic-Plan.pdf \(douglas.qld.gov.au\)](#)

Maintain, *and where necessary restore*, the overall natural form and function of the beach.

Restore or, when that's not possible, rehabilitate ~~Enhance and maintain vegetation condition~~ littoral forests and dune vegetation through regeneration and revegetation, for vulnerable species and to prevent dune erosion⁴.

Build *and measure* positive behaviour change outcomes to minimise adverse impacts of foreshore use.

Proactively undertake weed management to restore native vegetation habitats.

Monitor *and report on* the presence and health of potential turtle and shorebird nesting sites in foreshore areas.

Enforce illegal clearing local laws to prevent *further removal of foreshore vegetation and* establishment of unauthorised and informal beach access tracks.

DSSG notes that the Management Objectives do not readily align with the Objectives articulated in each list of Management Actions. This leaves the reader with a task of aligning Management Objectives with Objectives for Action. To complicate things further, each FMP has different Objectives for Action. While this might serve to illustrate the differences in each beach area, it also highlights the ineffectiveness of the planning process and the need for an overview document.

Aside from Wonga FMP re ATV activity, there are no clear actions in any FMP to address enforcement, particularly of unlawful clearing of vegetation.

We recommend that the Action objectives be linked to the Management Objectives and that all FMPs include action for enforcement of unlawful removal of vegetation.

Management Prioritisation

Immediate Priority (within 12 months)

- Monitoring for turtle and nesting birds is an immediate priority in Cooya, Oak, Newell and Wonga FMPs.
- Formalising and maintaining defined access tracks is an immediate priority in all FMPs. We note there are 191 access tracks across the five beaches. Only 40 of these are 'formal' leaving a total of 151 informal access tracks.
- Dune revegetation and regeneration of cleared land is an immediate priority in Cooya, in two precincts in Four Mile and in one precinct in Newell and Oak FMPs. There is no immediate priority for dune revegetation and regeneration of cleared land in Wonga FMP.
- Eradication of weeds and revegetation is an immediate priority in Newell and Cooya, in two precincts (4 and 5) at Wonga, and one precinct at Four Mile. It is not a priority action in Oak FMP.

⁴ Assisted natural regeneration involves creating the right conditions for damaged ecosystems to bounce back. It usually includes managing threats such as weeds and grazing, and applying triggers such as fire to stimulate regeneration. Revegetation is used where the ecosystem is too damaged to regenerate naturally and the appropriate plants have to be reintroduced, for example by planting or direct seeding.

- Community awareness campaign has immediate priority in Newell, Four Mile and one precinct at Oak (re weeds) and in Wonga (re ATVs)

Medium Term Priority (2 – 3 years)

- Dune revegetation and regeneration of cleared land is a medium priority at precinct 6 of Four Mile – the Four Mile Beach Park and at precinct 2 – Sand Street. It is also a medium priority in 3 precincts in Newell FMP.
- Community awareness about weeds is a medium priority in Wonga and Cooya FMP.
- Revegetation of land cleared for access and designated for conservation is a medium priority in Wonga FMP.

Future Priority (within 5 years)

- Wonga Beach – revegetation of conservation land in Native Title precinct, and formalising boat ramp access in precinct 4
- Four Mile Beach – dune revegetation and regeneration of cleared land in precinct 7 – southern Four Mile Beach
- Oak Beach – dune revegetation and regeneration of cleared land in precinct 1 and 2, Eradicate weeds and revegetate in precinct 1 and formalise and maintain defined access tracks in precinct 3.

In summary, we can expect to see immediate action in sign posting and the formalising and maintaining of access tracks at all beaches, except for the central residential area at Oak Beach. In addition we can expect to see dune revegetation and regeneration of cleared land in all precincts at Cooya Beach, Four Mile areas of Solander Boulevard and Port Douglas town beaches, Newell Beach Park precinct and the central residential area at Oak Beach. Weeds will be eradicated and effected areas revegetated in all areas of Cooya Beach and all areas of Newell Beach, precincts 3 and 4 at Wonga Beach, and Sand St on Four Mile. We will also see monitoring of wildlife in most areas, and community awareness campaigns in many areas.

DSSG is of the view that the following changes to priority are necessary:

Precinct 6 Four Mile – immediate priority for dune revegetation and regeneration of cleared land.

Precinct 3 Oak Beach – immediate priority for formalising defined access tracks.

Precinct 2, 3 and 4 Newell – immediate priority for dune revegetation and regeneration of cleared land.

DSSG notes that Newell, Oak and Four Mile beaches were identified in the Resilient Coast Strategic Plan as Pilot sites for dune protection and maintenance actions.

We observe differences between descriptions of revegetation actions in some FMPs. (See **Attachment B**) For example:

Four Mile, Oak and Newell FMP actions seem to require ‘local environment and community groups’ partnerships or collaborations to undertake the revegetation work. DSSG wonders if this means that the work will not proceed if there is no community group interested in doing this work.

We note that it is proposed to revegetate with ‘low-growing species to maintain views’ in Four Mile, Oak and Newell areas. We assume this is to placate residents who currently have sea views from their property. We note that a majority (if not all) of those residents have created the view by

unlawfully removing vegetation. We also note that efforts to revegetate these areas in the past have been unsuccessful, presumably because those residents have removed the plantings⁵.

Whilst we understand this is a compromise position aimed at preventing further destruction of Council revegetation, DSSG believes that without appropriate and effective enforcement there will be no compliance.

Including these actions as 'values' to be protected by the FMPs is a reward for unlawful activity and an attempt to justify poor stewardship. In the meantime, the cost of that compromise to all other beach users is a sacrifice of the values described in the Four Mile FMP:

Residents and visitors of Four Mile Beach value the tropical atmosphere and beauty of the beach, particularly the secluded nature of the beach from the busy town and residential areas. Essential to this seclusion is the well-established natural vegetation buffer that provides protection from storms and cyclones. Four Mile Beach is also appreciated for its abundant plant and birdlife and views of the ocean and surrounding hills.

DSSG recommends that the revegetation of all identified areas be completed using the full range of native species available and not be restricted to low-growing species.

We note discrepancies between the tables of management actions and the summaries at the appendices. For example Appendix C of Wonga Beach FMP lists some of the management actions. It does not list them all. It would be helpful to describe what will be included in the appendix summaries. In the relevant appendix for Four Mile Beach, precinct 6 is incorrectly described as north of the park. It is actually south of the park.

⁵ [Revegetation Plan \(douglas.qld.gov.au\)](http://douglas.qld.gov.au)

EXTRACT FROM CORRESPONDENCE TO DOUGLAS SHIRE COUNCIL RE ENFORCEMENT POLICY - 2017

We note that DSC has not adopted an enforcement and compliance policy, and we would urge DSC to do so. An enforcement and compliance policy will:

- provide clear guidelines on enforcement options available to council where there has been a failure on behalf of an individual or business to comply with community and/or legislative standards; and
- openly document how council will as a requirement of meeting its statutory obligations, exercise its compliance and enforcement actions;
- articulate the level of interaction and involvement between authorised persons, Councillors, business and individuals where compliance and enforcement activities are deemed necessary;
- provide information on how council expects its residents and visitors to comply with the intent of the Acts, Regulations, Local Laws and Planning Scheme applicable to the region; and
- instil community confidence in the manner in which council deals with compliance and enforcement activities and the impartiality of council's decision-making process.

In addition, a compliance and enforcement policy will provide guidance for authorised persons in the application of their discretion, and provide support for their decisions. Of course, authorised persons must be adequately trained and appropriately resourced in order to fulfil their duties.

Examples

[Enforcement guidelines for councils - December 2015 - NSW Ombudsman](#)

[Enforcement Guidelines | City of Darwin | Darwin Council, Northern Territory](#)

[Enforcement Guidelines | City of Darwin | Darwin Council, Northern Territory](#)

[Responsive regulation | John Braithwaite](#)

REVEGETATION MANAGEMENT ACTIONS

Four Mile FMP has two actions regarding dune revegetation:

Precinct 1- Commence a dune protection and maintenance program in partnership with local environmental and community groups using the northern end of Four Mile Beach as a pilot site. Undertake dune revegetation with native species (see Attachment C) within a 5 m buffer landward of the HAT mark with low-growing species to maintain views and to stabilise the dune to protect against erosion.

And

Precinct 4, 6 and 7

Undertake dune revegetation in collaboration with local environmental and community groups to plant native species (see Attachment C) within a 10 m buffer landward of the HAT mark with low-growing species to maintain views, and regenerate land that has been cleared and to stabilise the dune protecting against erosion.

Oak FMP

Commence a dune protection and maintenance program in partnership with the community using Oak Beach as a pilot site. Undertake dune revegetation with native species (see Attachment D) within a 5 m buffer landward of the HAT mark with low-growing species to maintain views, regenerate land that has been cleared and to stabilise the dune to protect against erosion.

Newell FMP

Commence a dune protection and maintenance program in partnership with community and environmental groups using Newell Beach as a pilot site. Undertake dune revegetation with native species (see Attachment D) within a 10 m buffer landward of the HAT mark with low-growing species to maintain views, and regenerate land that has been cleared and to stabilise the dune protecting against erosion.

Cooya FMP

Undertake dune revegetation with native species (see Attachment D) within a 10 m buffer landward of the HAT mark and regenerate land that has been cleared and to stabilise the dune protecting against erosion.

Wonga FMP

Undertake revegetation with native species (see Attachment E) within a 10 m buffer landward of the HAT mark to begin regeneration of land designated to Conservation that has been cleared for informal access and to protect against erosion.

Newell, Oak and Four Mile beaches were identified in the Resilient Coast Strategic Plan as Pilot sites for dune protection and maintenance actions.