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30 September 2018

Douglas Shire Council
PO Box 723
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Attention: Chief Executive Officer

Via email: enquiries@douglas.qld.gov.au,

CC: Mayor and Councillors via email: Julia.leu@douglas.qld.gov.au,
Abigail.Noli@douglas.qld.gov.au, david.carey@douglas.qld.gov.au,
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Dear Mr Stoermer

RE: DRAFT LOCAL LAWS.

Douglas Shire Sustainability Group Inc. (DSSG) makes the following submissions regarding Douglas Shire Council's (DSC) proposed new local laws.

In its response to DSSG "*Report addressing Douglas Shire Sustainability Group's (DSSG) six discussion papers relating to environmental action*", dated 22 March 2017, DSC wrote:

1. In relation to DSSG's request for a sustainable events policy:
"Council is currently undergoing a Local Laws review, part of this process involves exploring opportunities to incorporate sustainability themes and best practice into existing local laws, such as requiring Waste Minimisation and Recycling Plans to be submitted as part of approvals and also for consideration for Council funding. This work will also consider Resource and Performance Agreements (RPAs) and application requirements".
2. In relation to DSSG's request for more effective weed and pest control in Daintree Coast area:
"Council's Local Laws are currently being reviewed and provide the opportunity for Council put in place stronger restrictions in relation to animal keeping and other potential environmental issues."

Generally, DSSG supports the proposed new local laws and subordinate local laws. In particular, we applaud the move for mandatory de-sexing of dogs and cats, and the need for DSC approval to breed dogs and cats in the Douglas Shire.

DSSG remains concerned about the numbers of dogs and cats residing in Daintree Coast area, including the conservation zone. In the longer term we support phasing in a total ban on keeping dogs and cats in the conservation zone.

Having good laws is just one part of the picture however, and we are concerned at the lack of enforcement of local laws, particularly in Daintree Coast area where domestic animals pose a significant threat to wildlife.

DSSG is pleased to see that portable and temporary signage has been moved out of the Planning Scheme and into local laws. We urge DSC to also move the vegetation management code out of the Planning Scheme into local laws. This will facilitate compliance and enforcement.

DSSG is aware that significant unauthorised clearing of vegetation is occurring in the Daintree Coast area, and we urge more visible laws and active enforcement. Vegetation clearing is a major threat to bio-diversity and to the health of the reef and the rainforest. It must be regulated effectively.

We note that Local Law 1 includes reference to DSC's sustainability principles as a criteria in deciding an application for approval to undertake a prescribed activity¹. We note that this device is applied in Subordinate Local Law 1 to a number of prescribed activities², in the following form (generally).

“Additional criteria for the granting of approval

The following are additional criteria for the granting of an approval— (b) that the proposed activity does not conflict with and is in keeping with the local government's adopted Sustainability Principles³; and.....”

We note that DSC's Environmental Sustainable Principles are:

1. Preserve and restore the natural environment
2. Utilise resources efficiently
3. Protect and enhance biodiversity
4. Monitor and reduce Council's environmental footprint
5. Strengthen Council's resilience to climate change
6. Display strong environmental leadership

DSSG would like to see the inclusion of conditions⁴ relating to sustainable events in appropriate subordinate local laws, for example market stalls (Schedule 9) and entertainment events (Schedule 19). We see this as more effective because penalties apply for non-compliance with conditions.

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:

¹ Section 7(2) Local Law 1

² Schedules 8 – 26, 28-32 and 34-35 inc.

³ Douglas Shire Council Corporate Sustainability General Policy adopted 28/3/2017

⁴ Per s8 Local Law 1

- 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 process⁵.

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.

We have attached some examples of Local Government compliance and enforcement policies for your information.

Thank you for the opportunity to comment

Yours faithfully



Laurene Hull
Secretary

Attachments:

Model Council Enforcement Policy, LGA SA 2009

Model Compliance and Enforcement Policy NSW Ombudsman 2015

Sunshine Coast Council Compliance and Enforcement Policy 2009

Cessnock City Council Compliance and Enforcement Policy 2013

⁵ Sunshine Coast Council Compliance and Enforcement Policy 2009