

Submission
No 62

**INQUIRY INTO PLANNING SYSTEM AND THE IMPACTS
OF CLIMATE CHANGE ON THE ENVIRONMENT AND
COMMUNITIES**

Organisation: Dalmeny Matters
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Submission to Inquiry into the planning system and the impacts of climate change on the environment and communities

To the Director, Portfolio Committee No. 7 - Planning and Environment,

Thank you for your invitation to make a submission to this inquiry. Dalmeny Matters is a community group formed in response to the sale of public land adjacent to Dalmeny village on the South Coast of NSW in order to implement a development proposal for low-density housing subdivision.

The development proposal is concerning to residents and relates to the terms of reference for this Inquiry, as an example of a development proposed:

- (i) in flood and fire prone areas or areas that have become more exposed to natural disasters as a result of climate change,
- (ii) in areas that are vulnerable to rising sea levels, coastal erosion or drought conditions as a result of climate change, and
- (iii) in areas that are threatened ecological communities or habitat for threatened species

The failure of our efforts to make our concerns heard by Local and State Government is a good example of how unresponsive the current Planning System can be to community groups raising legitimate concerns around the risks they will face as a result of inappropriate housing development in their areas.

It has been our experience that the current Planning System:

- Places the values, needs and expectations of community members far below those of the development industry.
- Does not support Local Government sufficiently to enable implementation of the objectives in State and Regional level planning documents such as the South East and Tablelands Regional Plan 2041, 2041 NSW Housing Strategy and the NSW Saving our Species Program.

- Places much of the burden of delivering housing targets on Local Councils, which are facing serious staffing and budgetary issues. This is resulting in a sell-off of public land to developers without the benefit to the community of affordable or social housing creation, and approval of inappropriate development proposals in order to meet these targets.
- Is not designed to be responsive to current recommendations to mitigate risks associated with climate change and loss of biodiversity.
- Significantly undermines work being done by other departments to protect vulnerable communities, biodiversity, threatened species' habitat, waterways and the economies of coastal towns.
- Does little to prevent housing development in inappropriate locations or to incentivise affordable development in existing urban centres close to services.
- Offers nothing that might enable Local Councils to withstand legal challenges from developers, should they attempt to refuse or modify development applications or land-zoning which has become inappropriate due to climate change associated risks.

Recommendations:

We recommend that this Inquiry:

- 1) Include local community members in Planning System processes in a meaningful way through proper consultation at all stages of planning, development proposals, applications and approvals processes. There should be a particular focus on education and involvement of the community in centres where affordable housing should be provided through an increase of density, in-fill and retrofitting of existing dwellings.
- 2) Establish a system to identify inappropriate development proposals and development applications for immediate review in order to protect communities, emergency services volunteers, biodiversity, waterways and future infrastructure.
- 3) Recognise that pressure on Regional Local Councils from Government and communities to increase housing supply is resulting in a sell-off of high environmental value public land and approval of inappropriate developments.
- 4) Incentivise affordable housing development in existing urban centres by better resourcing Local Council planning departments, developing policy to ensure affordable housing forms a proportion of new developments, investigating changes to the developer

contributions scheme and easing restrictions that form a barrier to increasing density in areas appropriate for affordable housing.

- 5) Identify a mechanism which will allow Local Councils or Regional Planning Panels to refuse or modify development proposals that do not align with the objectives of Strategic Planning Documents such as the Draft South East and Tablelands Regional Plan 2041 and the NSW Saving our Species Program without fear of unaffordable legal repercussions from developers
- 6) Trigger land zoning reviews of land currently zoned for development in isolated and peri-urban bushfire prone land, threatened species' habitat, riparian zones, wetlands, lake and estuarine catchments or areas at risk from climate change related sea level rise, coastal erosion and flooding. This should not fall solely on Local Councils as they are not sufficiently resourced to achieve this objective

Planning System Failure Example: Dalmeny Development Proposal

[Inconsistency with Strategic Planning Documents](#)

[Lack of Assessment of Past Planning Decisions](#)

[Lack of Community Consultation](#)

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Inconsistency with Strategic Planning Documents

In many communities along the NSW coast, including Dalmeny, current development applications and proposals seriously undermine the objectives of NSW Strategic Planning to:

- **Protect communities and infrastructure from climate change impacts**
- **Protect environmental assets**
- **Enhance biodiversity**
- **Increase threatened species numbers**
- **Secure water resources**
- **Improve the resilience and sustainability of housing, and**
- **Create walkable towns**

Dalmeny Matters would like to draw this Inquiry's attention to the development proposed for a 100 hectare parcel of bushland in Dalmeny on the NSW South Coast. This area was earmarked for urban expansion in 1987. The housing market rise has seen developers pushing for a Development Control Plan to allow the area to be cleared and subdivided for low density housing.

This is in spite of significant community objections based on the risks to our community and the local environment.

There are several factors which make the area proposed for development in Dalmeny inappropriate for housing subdivision:

- There is significant **economic risk** to the community from inappropriate development.
- Potentially 600 additional houses will be at **risk from bushfire**, and local evacuation services and communication infrastructure are currently inadequate.
- The **Draft South East and Tablelands Regional Plan 2041** specifically lists this land as "not suitable for intense uses such as housing subdivision". (pg 41 Sensitive Estuaries see text box below)
- Development of the catchment zone will increase the **risk of flooding**.
- The area is **threatened species' habitat**.

Lack of Assessment of Past Planning Decisions

The development proposed for Dalmeny serves as a good example of how the Planning System currently places more emphasis on a planning decision having a long history, rather than its being appropriate in relation to current climate change associated risks, community expectations, or the objectives of strategic planning documents.

When Local Environment Plans are updated, historical planning decisions tend to be maintained without current environmental assessment or assessment of climate change associated risks because of Local Government resource restrictions as well as pressure from land owners wishing to protect investment certainty.

When the Eurobodalla Shire Council recently voted to sell public land and begin the drafting of a Development Control Plan for the 100 hectare area, it was not required by the current Planning System to reassess whether the 1987 decision to zone this area for Urban Expansion was still appropriate, safe or consistent with the objectives of current strategic planning documents.

Relying on decisions made in 1987 is highly inconsistent with modern society's expectations in all areas of social consequence.

Our community group has since raised this issue with the Eurobodalla Shire Council, the Office of Local Government, NSW State Planning, our local MP and the then NSW Ministers for Planning and the Environment. Each of these institutions responded to inform Dalmeny Matters that the Council were not required to reassess the appropriateness of the historical decision, and that the matter was a Local Council decision only.

NSW Planning representatives have assured Dalmeny Matters representatives that housing development on such a constrained and risk-prone site would not be considered appropriate by today's standards, and that historic zoning is carried forward rather than reviewed and updated.

Lack of Community Consultation

Dalmeny Matters has experienced a long and frustrating process of trying to convince our Local Council, representatives of NSW State Planning and Ministers to take our real and scientifically-based concerns seriously. Responses from these different levels of Government have been unhelpful and patronising, generally advising our community group to 'take it up with' another level of Government.

Over 80% of residents in NSW live within 50 km of the coast and all may be vulnerable to the effects of climate change. Developments close to estuaries, and in low lying areas are particularly vulnerable.

Inappropriate developments, often approved by Local Councils beholden to planning decisions that are decades old, carry significant risks to communities both economically and in regards to the increase in flood, bushfire and storm events associated with climate change.

It is vital that locals, who may well be the most familiar with the real risks presented by inappropriate development in their local area, are included in a meaningful way and have a voice in Planning System decision making. Local community members may include experts in relevant scientific fields, Traditional Owners, long-time residents with the benefit of extended close observation of the area and people with past experience working for Local Council or Regional and State Planning. It is patronising to have their feedback dismissed and a waste of a freely available and valuable resource.

Local Councils

"Housing shortages in Eurobodalla extend across all markets but are particularly exacerbated in the low to middle income brackets and for smaller dwelling types. There is an acute need for

social housing associated with high unemployment, domestic violence and vulnerable people. In all housing sectors, supply has not been able to keep up with demand...

(The) Housing market is primarily supplied by the private sector who are profit driven. Money will be invested in the most secure and certain markets where the best return on investment can be obtained. To ensure a supply of affordable housing and rental properties will require some level of government intervention”

Eurobodalla Shire Council Submission to the NSW Government Regional Housing Taskforce

It has been our experience dealing with Eurobodalla Shire Council regarding the development proposed for Dalmeny, that the Council is facing serious issues that are affecting planning and development.

The Dalmeny development for example is facing significant delays, apparently due to staffing shortages, and this seems to also be affecting DA assessment periods for the whole Shire. Other important projects are also delayed, including the Biodiversity Strategy, and the Council is currently trying to deal with budgetary issues by reducing Capital Works programs and identifying public land to sell.

These issues, combined with a housing shortage and the pressures from Government and community to act on this, seems to be leading to approval of inappropriate developments and sale of public land to development companies. This is not translating to more rental availability, greater housing diversity or more affordable or social housing locally. Eurobodalla currently has no Affordable Housing Contributions Scheme. Zoning of these areas is generally for low density greenfield development.

Community consultation and involvement are lacking and there is a need to educate and include locals in a meaningful way if a strategy of increasing density in appropriate areas is to be successful. The community needs to benefit from development through upgrade of and better access to services and facilities.

Economic Risk

The current Planning System is allowing investment certainty for developers to be given precedence over local economies and implementation of the goals and objectives of Strategic Planning documents.

“Focusing on centres

Strategic centres are a logical focus for growth and investment, given they are often well serviced by utilities, public transport, walking and cycling infrastructure, education, health and community infrastructure, as well as shopping, community and commercial services.”

Draft South East and Tablelands Regional Plan 2041 (p 88)

Strategic Planning documents such as the Draft South East and Tablelands Regional Plan 2041, the Housing 2041 NSW Housing Strategy, and the Eurobodalla Housing Strategy recognise the real need for an increase in affordable and social housing, and smaller housing close to town centres to keep young people, families and key workers in the area thus protecting local economies.

These objectives would benefit communities and the environment however many coastal towns, including Dalmeny have recently seen the implementation of much older planning proposals, including 'zombie developments' which are economically inefficient and carry serious risk.

Inappropriate development carries economic risks for individuals, communities and Local Government. In the context of climate change, developments placed in areas vulnerable to bushfire, flooding, erosion and sea level rise place communities at risk. They will face the economic implications of experiencing natural disasters, high building costs to meet necessary bushfire and other safety standards, as well as ongoing high insurance costs that can prove unaffordable, leaving residents uninsured and vulnerable.

For Local and State Governments, approval of Urban Growth projects in vulnerable areas carries the risk of a loss of infrastructure investment when these areas are hit by natural disasters.

In terms of economic efficiency, it is recognised that increasing density in local centres makes better use of existing services and infrastructure.

Dalmeny, like many coastal towns currently facing inappropriate developments:

- Has an aging population
- Relies on a seasonal tourist economy
- Has few local services, with residents forced to travel hours for specialist health care, a shortage of GP's and childcare
- Has a very high proportion of holiday homes
- Has a severe lack of affordable and social housing leading to homelessness issues
- Has a lack of housing diversity with most of the existing stock being 3 and 4 bedroom houses occupied by 1 or 2 people

The Dalmeny development proposal is an example of poor planning, currently allowed under the Planning System that will:

- Add hundreds of additional houses to the edge of a small village with no services other than an IGA supermarket
- Increase urban sprawl
- Include NO affordable or social housing (confirmed by Eurobodalla Shire Council)
- Be unaffordable for local workers and young families, including costs to the developer of clearing, biodiversity offsetting and infrastructure contributions, plus high building costs on bushfire prone land
- Increase car dependence, fuel consumption, and cost of living for residents
- Place further strain on nearby services which are already struggling
- Fail to improve housing diversity, being for low density, single detached housing

Eurobodalla Shire Council Officers have indicated that additional services and infrastructure have not been planned/budgeted for Dalmeny, including impacts on schools, medical services, public transport, community and recreation facilities.

Bush Fire Risk

Risks associated with bushfire were not assessed by Eurobodalla Shire Council prior to the decision to begin drafting a Development Control Plan for the 100 hectare Dalmeny development proposal, and assessment of these risks is not currently required by the Planning System where land is zoned for urban expansion.

“Rural areas can also be at risk from bushfire and the clearing for house sites, bushfire asset protection and associated infrastructure, particularly local roads, has increased clearing rates. Clearing associated with rural residential subdivision is the major source of vegetation removal in the region.”

Draft South East and Tablelands Regional Plan 2041

Dalmeny is a small village with no bushfire or heatwave refuge. The only Neighbourhood Safer Space is the local campground, which provides no protection other than being an open space. Our community includes many vulnerable older residents, including two large aged-care facilities.

The closest evacuation centres are in Narooma to the South, with Moruya farther away to the North. These were stretched beyond capacity in 2019/20 with many residents camping on town

ovals, the golf course and other public land without protection or facilities. Petrol and supplies were scarce.

80% of the Eurobodalla Shire was affected in the 2019/20 fires, however the 100 hectares proposed for development in Dalmeny were not affected and form a refuge for threatened species.

Residents of Dalmeny were recently told by Dalmeny RFS volunteers that in the event of a bushfire they would be unable to attend or protect their properties, there simply isn't capacity.

The proposed development would potentially place 600 additional houses adjacent to the State Forest on bushfire prone-land, with the potential to double the size of our village. In emergency evacuations there would likely be up to 1000 additional cars on local roads.

Bushfire experts such as Professor David Lindenmayer are recommending that NO new peri-urban housing areas be created on bushfire prone-land.

Risks to Sensitive Estuaries

The heavily forested land is the catchment area for a sensitive estuary, Mummaga Lake. The current and Draft South East and Tablelands Regional Plan 2041 specifically states that the catchment area of Mummaga Lake is *'not appropriate for housing subdivision.'*

However because of a long history of zoning for urban expansion, and pressure from the development companies that own the land, Local Council has disregarded this objective of the Regional Plan and is currently in early planning stages for a low density housing development.



Sensitive estuaries

Sensitive estuaries have been mapped as part of the region's high environmental value lands. These estuaries and their catchments are particularly susceptible to the effect of land use development and are not suitable for intense uses such as housing subdivision.

- **Eurobodalla Local Government Area:** Bengello Creek, Bullengella Lake, Coila Lake, Congo Creek, Corunna Lake, Cullendulla Creek, Durras Creek, Kellys Lake, Kianga Lake, Brou Lake, Lake Brunderee, Mummaga Lake, Lake Tarourga, Little Lake, Maloneys Creek, Meringo Creek, Nangudga Lake, Saltwater Creek and Tilba Lake.
- **Bega Valley Local Government Area:** Back Lagoon, Baragoot Lake, Bournda Lagoon, Boydtown Creek, Bunga Lagoon, Curalo Lagoon, Cuttagee Lake, Fisheries Creek, Merrica River, Middle Lagoon, Nadgee Lake, Nadgee River, Nullica River, Saltwater Creek, Shadrachs Creek, Table Creek, Wallaga Lake, Wallagoot Lake and Woodburn Creek.

Flood Risk

The development proposed for Dalmeny will increase the risk of flooding in already flood-prone areas due to urban storm water discharge in high rainfall events.

Mummaga Lake has already been deemed at high risk from stormwater runoff due to existing urban catchments. If the new land releases are developed, the Lake will be further impacted due to the potential clearing of over 100 ha of bush and wetlands, which currently slow and filter stormwater before it enters the lake system.

[The 2017 Marine Estate Threat and Risk Assessment \(TARA\)](#) report indicates that the second greatest risk to Estuaries, statewide is Urban Stormwater Discharge.

The photos below show flooding experienced in 2010 in the residential areas adjacent to the Land Release Area, including the area where Council reportedly plan to make a new access road for the development, which is shown here completely underwater.



Mort Ave and Binalong St, potential access road site for the Dalmeny Development



Dalmeny Rural Fire Station

Threatened Species Loss

It is vital that Local Government is properly supported to implement the objectives of Strategic Planning documents. In regards to objectives that relate to biodiversity loss, there needs to be a mechanism that will allow these objectives to be implemented with urgency. The current system is unable to do this and developments are allowed to proceed on threatened species' habitat.

The area in Dalmeny proposed for development is recognised by the Eurobodalla Shire Council as threatened species' habitat, specifically for Yellow-bellied Gliders and Glossy Black Cockatoo, as well as other species listed as threatened in NSW and Nationally.

The stated objective of the NSW Saving Our Species is "to increase the number of threatened species that are secure in the wild in NSW and control the key threats facing them"; yet planning proposals such as the Dalmeny Development are being implemented by Local Councils on threatened species' habitat.

The NSW Saving our Species program is not translating to effective policy at a local level.

The current system of Biodiversity Offsetting, on which the Planning System relies to ensure environmental protection:

- Has been shown to be ineffective in preventing species decline
- Allows Local Councils to spend significant amounts of public money on planning before any biodiversity assessment is conducted - for example Eurobodalla Shire Council has approved a budget of \$100,000 for consultancy fees in the drafting of the Dalmeny

Development Control Plan, which takes place before Biodiversity Assessment as part of the Development Application process

- Does nothing to improve the Planning System in terms of triggering a review of land zoning when threatened species are present or incentivising more sustainable development in appropriate areas
- Makes it more likely that development will occur despite the presence of threatened species, because significant investment has already been made by developers and Local Government

In Eurobodalla Shire there exists a policy to protect populations of threatened Yellow-bellied Gliders, yet planning for the Dalmeny development in a known habitat area is in progress. The implementation of a draft Biodiversity Strategy for the Eurobodalla has been stalled due to staffing and budget restraints.

Opportunities to do Better

Eurobodalla Shire Council is facing significant staffing and budgetary issues. Planning for the Dalmeny Development Control Plan is stalled and this important area of bush habitat sits in limbo. Despite this, locals have been warned by the landowners not to trespass by walking through the bush trails. 40 hectares of the 100 total was until recently public land and any development would include public open space for recreation, but this will remain unavailable to the community while the area is effectively 'locked up' through Planning System delays.

There exists in Dalmeny a real opportunity to act to prevent an inappropriate and risky development, to protect threatened species' habitat and local waterways, and to redirect planning budgets and resources to much-needed affordable housing provision in nearby town centres.