

**Submission
No 156**

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

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Submission to the Inquiry on the planning system and the impacts of climate change

Robyn Flynn,

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1. Describe a specific example you are aware of where the NSW planning system has failed to protect nature.

Forty-one Anderson Avenue, Tuross Head (DA2248/1983) is an example of the NSW planning system completely failing to protect the unique biodiversity of the NSW far south coast.

This 10 ha block abuts Coila Lake foreshore and Coila Wetlands. Coila Creek Delta is listed as a Wetland of National Importance in the Directory of Important Wetlands and is a haven for migratory wading birds, local shorebirds and raptors.

Eurobodalla Shire Council (Council) approved 60 dwellings on this land in 1984. In the 1990's an agreement with the owner saw Council undertake sewerage works and agree to this work representing a 'commencement' of works to the site. Under the *Planning and Assessment Act 1979 (NSW)* and associated Regulations, (the 1979 Act) this 'commencement' keeps the DA alive to this day.

In 2022, following the election of a new Council, a submission adding 12 dwellings was submitted and the new Council referred the decision to long-standing staff members who approved the modification.

Unfortunately, the 1979 Act applies to this DA and no Environmental Impact Assessment is required. Friends of Coila, of which I am a founding member, have written to the Commonwealth Minister for the Environment on several occasions requesting she intervene under the Environmental Planning and Biodiversity Assessment Act, however, a Construction Certificate is likely to be issued shortly with bulldozers to follow.

A Senior Ecologist completed an Ecological Assessment revealing:

- a) Native vegetation consistent with at least two Threatened Ecological Communities listed under the Biodiversity Conservation Act.
- b) A likelihood of seven threatened flora species and 18 threatened fauna species.
- c) The site is immediately next to Migratory Shorebird important habitat considered essential to support critical life stages of migratory species.
- d) The assessment concludes "The Project would result in unavoidable and direct impacts.... Approximately 16.49 ha of native vegetation will be impacted by the Project without mitigation."

2. Share how these experiences have impacted you, your community or local wildlife.

This land has been 'banked' meaning former owners have sold the land with the DA attached and grown wealthier from storing the land. Many locals and I have worked tirelessly to try and mitigate the effects on Coila Wetlands, Coila Lake and the land at 41 Anderson Avenue. We've

presented to Council – both the previous and the current Council, met with Council members and written to Councillors and Council staff on numerous occasions.

Council refuse to request an Environmental Impact Assessment (EIS) and have written claiming they cannot legally modify consent. We recognise this as untrue as legal provisions exist to facilitate a modification. Council also respond referring us to the NSW state government.

We've written many times to relevant members of the NSW State Government (both past and present) requesting assistance. The state government consistently refers us back to Council.

We've also written to relevant members of the Commonwealth government however no level of government is able to assist save these Coastal Wetlands and the Lake foreshore.

Many community members juggle meetings with full time work. We all grow tired of it. Many like me are retired and expected to spend our retirement with grandchildren, gardening and playing golf. Instead we find ourselves fighting with three unresponsive, uncoordinated levels of government which show no interest in saving these very special, biodiverse Coastal Wetlands from damage.

This work ultimately has a depressing effect on your life and we find members grow tired of the struggle and need to take regular mental health breaks.

Meanwhile, we cannot stop trying to save this land which is highly valued for the wildlife photography and leisure opportunities. Many community members use the walkway by the Lake for exercise and leisure. We despair that in a time of such rapid species loss in Australia, old legislation favoring wealthy developers still applies to tracts of Nationally Important Coastal Wetlands which support critical life stages of migratory species. Coastal Wetlands are also known to store vast amounts of carbon and keeping them in tact is one of the few mechanisms we have to fight impending climate change.

This work reveals in stark reality the very worst failings of the very laws which are meant to protect the Australian environment. It exacerbates the lingering sense of doom and displays clearly Australia's and New South Wales' particular lack of commitment to any real action over climate change.

3. Explain why protecting your local environment is important to you, and what you hope to see change in the future.

Coila Lake's foreshore and wetlands hosts an almost magical walk by the Lake, through the only accessible Wetlands in Tuross Head. It's used widely by bird photographers and tourists.

Like many in the community, this area is important to me for the opportunity to exercise and to relax while noticing the abundant vegetation and bird life. I love the opportunity to see Eastern Curlews which visit around September from China and Russia and would love my grandson to have this opportunity. There are also Bar-tailed Godwits which arrive from the Arctic and Siberia around the same time.

There is a sense of well-being and deep joy in being amongst the abundant plants and the local and visiting bird life with Royal Spoonbills, Caspian Terns, Pied Sooty Oystercatchers and even seeing the Fairy Wrens and Egrets sport different plumages as the seasons change.

This place of abundance is rejuvenating for many of us, but will soon be damaged beyond repair as bulldozers clear the way for 72 homes. I will not be able to take my grandchildren to this magical place to see Eastern Curlews and Bar-tailed Godwits visiting from far-off lands.

My hope is that there is a moratorium on any other Development Approvals issued under the *Environmental Planning and Assessment Act 1979 (NSW)*. It is both ethically unscrupulous and morally irresponsible to grow wealth by damaging Coastal Wetlands and to permit others to do so. Particularly, when it is also likely to exacerbate the accelerating pace of climate change.

- I hope Development Applications from now only remain active for a maximum of five years before they are deemed beyond their use-by date. As environmental variables change – so should Development Applications.