

## Attachment One – Public Submissions

### Submission from David Milledge

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4 November 2013

Strategic Planning Section, Ballina Shire Council

Attn: Klaus Kerzinger

Re: Proposal to reclassify Lot 5 DP 843369, Old Bagotville Road, Wardell from community land to operational land

I wish to object to the proposal to reclassify Lot 5 DP 843369, Old Bagotville Road, Wardell from community land to operational land. The principal reasons for my objection are the exceptionally high biodiversity value of the land and its strategic location in relation to the adjoining Ngunya Jargoan Indigenous Protected Area (IPA). The Ngunya Jargoan IPA was formally declared under Commonwealth legislation in February 2013, although planning for its dedication had been underway for a number of years.

Neither of these issues is addressed in Ballina Shire Council's Planning Proposal (Ballina Shire Council 2013) for reclassification, which represents a failure of the planning process.

As a wildlife ecologist currently undertaking monitoring surveys in the Ngunya Jargoan IPA, I am well aware of the area's biodiversity values (e.g. Graham and Morrison 2009, Andren *et al.* in press). These values are recognized to an extent by the 7(I) Environmental Protection (Habitat) zoning under the *Ballina Local Environmental Plan 1987*, and the proposed E2 Environmental Protection Zone under the *Ballina Local Environmental Plan 2012*, applying to part of Lot 5.

The vegetation communities in Lot 5 provide habitats for a range of Threatened fauna species listed as vulnerable under the NSW *Threatened Species Conservation (TSC) Act 1995*. I have personally recorded populations of the Wallum Froglet *Crinia tinnula* and Wallum Sedge Frog *Litoria alongburensis* chorusing in the Paperbark *Melaleuca quinquenervia* wetlands in Lot 5 and have recorded other Threatened species, including the Long-nosed Potoroo *Potorous tridactylus*, Eastern Blossom-bat *Syconycteris australis* and Grey-headed Flying-fox *Pteropus poliocephalus* in habitats similar to those in Lot 5 in the adjoining Ngunya Jargoan IPA. In addition, habitats suitable for the Pale-vented Bush-hen *Amaurornis olivaceus*, Red-backed Button-quail *Turnix maculosus*, Ground Parrot *Pezoparus wallicus*, Grass Owl *Tyto*

*longimembris* and several microchiropteran bat species also occur in Lot 5. Three of these Threatened species, namely the Wallum Sedge Frog, Long-nosed Potoroo and Grey-headed Flying-fox are also listed as vulnerable under the Commonwealth's *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*. The local Long-nosed Potoroo population is of special significance as it represents probably the only remaining population with long-term viability prospects on the NSW north coast (Andren *et al.* in press).

The eastern section of Lot 5 intrudes into the south western part of the Ngunya Jargoona IPA and as such provides habitat connectivity between areas along its south western boundary to the north and south, and also fragmented connectivity to important fauna habitats further to the west.

Council does not appear to have taken any of the biodiversity values of Lot 5 into account in the Planning Report recommending its reclassification from community to operational land (Ballina Shire Council 2012), nor has it recognized the biodiversity conservation context of the land. It has also, apparently, not considered the interests of the local indigenous community and their commitment to manage the Ngunya Jargoona IPA for biodiversity conservation.

Despite Council's claim that the change of classification from community to operational land "will not result in direct impacts on critical habitat or threatened species, populations or ecological communities or their habitats" (under Part 3 – Justification, Section C, 7.; Department of Planning and Infrastructure Practice Note PN 09-003 considerations), this is clearly erroneous. Apart from misconstruing the Practice Note question, which states "Is there *any likelihood* that ... threatened species .... will be *adversely affected* as a result of the proposal", and **not** "will there be any direct impacts", the proposed change will directly affect the threatened species referred to above. A change in classification from community land to operational land of all land within Lot 5 ignores its biodiversity conservation values and environmental context and implies that the entire Lot is suitable for commercial development. The Planning Report states that "Council may deal with operational land without any restrictions under the LGA".

Council should have undertaken a Threatened Species Assessment (s.5A, *EPA Act 1979*) and also referred the proposal to the Commonwealth Government in relation to species listed under the *EPBC Act 1999* and the potential adverse impacts on the Ngunya Jargoona IPA.

As a major stakeholder in local biodiversity conservation and a representative of the interests of the local indigenous community, Ballina Council would be in a much stronger position to negotiate a balanced outcome for the use of Lot 5 with the NSW Roads and Maritime Services or other party if Lot 5 remains classified as community land and, if and when, part of the land is approved for future development.

I would be grateful if you would acknowledge receipt of this objection and also note that I wish to make an oral submission to the proposed public hearing on this matter.

**References:**

**Ballina Shire Council 2013.** Planning Proposal BSCPP 12/007. October 2013. Reclassification of Land. Lot 5 DP843369, Old Bagotville Road, Wardell. Unpubl. report. Ballina Shire Council, Ballina, NSW.

**Graham, M. and Morrison, J. 2009.** *A Property Management Plan for "The Jali Lands" (Wardell and Cabbage Tree Island, Northeast New South Wales)*. Report to NSW Department of Environment and Climate Change and the Jali Local Aboriginal Land Council. Buckombil Conservation Services, Buckombil, NSW.

**Andren, M., Milledge, D., Scotts, D. and Smith, J.** *in press Aust. Zoologist* The distribution of the Long-nosed Potoroo on the NSW far north coast.



**David Milledge**

**Wildlife Ecologist**

Submission from Hon. Jan Barham MLC

**The Hon. Jan Barham MLC**  
**The Greens**

Legislative Council, Parliament House  
Macquarie Street, SYDNEY 2000

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Thursday, 7 November 2013

Strategic Planning Section,  
Ballina Shire Council  
Attention: Klaus Kerzinger

Dear Mr Kerzinger,

**Re: Proposal to reclassify Lot 5 DP 843369, Old Bagotville Rd, Wardell, from community land to operational land**

I am writing to object to the proposal listed above, on the grounds that the land (i) has significant biodiversity value, and (ii) adjoins the Ngunya Jargoan Indigenous Protected Area (IPA). The planning proposal for this reclassification has failed to take into account each of these issues.

The biodiversity values of the affected land are reflected the zoning of part of the lot as 7(1) Environmental Protection (Habitat) under the *Ballina Local Environmental Plan 1987* and the proposed E2 Environmental Protection Zone classification under the *Ballina Local Environmental Plan 2012*.

I am also aware that leading wildlife ecologists within the region recognise the area's biodiversity values, including its importance in providing habitat for a range of threatened species such as the Wallum Froglet, Wallum Sedge Frog, Long-nosed Potoroo, Eastern Blossom-bat and Grey-headed Flying-fox. Some of the fauna species that have been observed in this area are listed as vulnerable under NSW and/or Commonwealth threatened species legislation.

I note that the eastern section of the lot adjoins the Ngunya Jargoan IPA and provides important strategic connectivity of fauna habitat within the area. The proposal would therefore impact on the biodiversity conservation being undertaken by the local Aboriginal community in managing the IPA. I note that I have previously spoken in the Parliament about my concerns regarding the fragmentation of habitat for threatened species in this area:

<http://www.parliament.nsw.gov.au/prod/parliament/hansart.nsf/V3Key/LC20130312061?open&refNavID=undefined> and I have sought answers from the Government about the adequacy of environmental assessments relating to the Pacific Highway upgrade: [http://www.parliament.nsw.gov.au/Prod/parliament/hansart.nsf/V3Key/LC20130313024?open&refNavID=HA8\\_1](http://www.parliament.nsw.gov.au/Prod/parliament/hansart.nsf/V3Key/LC20130313024?open&refNavID=HA8_1).

SOCIAL & ECONOMIC JUSTICE – ECOLOGICAL SUSTAINABILITY – GRASSROOTS DEMOCRACY – PEACE & NONVIOLENCE

I suggest that the proposed change in classification from community land to operational land is likely to have an adverse impact on threatened species through the direct impact on critical habitat on the lot, and through the disruption to habitat connectivity with the adjoining IPA. A Threatened Species Assessment and a referral to the Commonwealth Government relating to the vulnerable species listed under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* should have been undertaken in relation to this proposal. Given the failure to appropriately address the issues raised in this objection, the proposal should be refused.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'J. Barham', written in a cursive style.

The Hon. Jan Barham MLC

Submission from Jali LALC



of land. It provides employment and training. As a virtue of its high significance it also attracts significant interest, funding and partnerships from other agencies, as listed above.

Impacts to the adjacent lands directly affect the values of the IPA, provide a risk to important habitat, to local aboriginal sites and cultural complexes, and break up the important connectivity with surrounding land.

The Jali community is managing the land for the benefit of the community, the region and the viability of the national reserve system. It is a large part of the wildlife corridors in the region. In addition some individual species such as the nationally vulnerable potoroo may have their last viable habitat on the north coast at the IPA.

As such the LALC would appreciate and expect the support of council in to continue the mission of the IPA and its numerous project partners. Reclassifying community held land directly adjacent to the IPA to a zoning which allows the potential sale and development does not enhance this important asset of the region.

It diminishes the IPA and the projects run with partner agencies through at least the following points:

- Reclassification allows for the potential for sale and development which would lead to the destruction of habitat for the only viable population of the nationally Vulnerable Long-nosed Potoroo in coastal NENSW. A population which is being actively managed and monitored by the IPA work teams.
- Removing important wildlife corridors extending from Ngunya-Jargoona IPA.
- Removal of a valuable buffer between the IPA, cane farms and quarries to the west
- These points all diminish the value of the IPA as a whole and the primary cultural and natural reasons for which it was declared (and through which it is currently able to attract significant amounts of grant funding and provide employment and training for the local community).

This land is a highly valuable parcel of community land that must be managed for its natural and cultural values consistent with the provisions of the Local Government Act. It should remain as community land where it can both support and be supported by the significant values of the Ngunya Jargoona IPA.

Rather than act in a way that diminishes the value of the IPA the Jali LALC invites the council to discuss with us potential management arrangement for the land utilising the existing green team. In this way the lot 5 will not simply be preserved as community land but actually be sustained and improved. As the land is directly adjacent to the IPA this work would also improve the values of the IPA and the region in general.

The Jali LALC also cordially invites council staff and councillors to visit the IPA and learn some of its natural and cultural values.

Yours Sincerely



Cullimurra Wola  
Acting CEO  
Jali LALC