

Nightcap on Minjungbal

Questions from The Northern Star (media) dated 4 September 2020 and answers provided by Nightcap dated 17th September 2020.

1. *When will the DA be formally lodged with the council?*

The Development Approval application was first submitted to Council in November 2019. As is usual, certain requests for information were made by Council. Those responses were submitted in May 2020. There has since been further correspondence between the community and Council and a further submission is expected to be provided to Council in the coming 2-4 weeks.

A local firm of planning consultants (**PlanIT**) have been engaged by the community for the purposes of assisting in the production of the formal application process. The community is also working with a number of other professional consultants on matters such as bushfire management, ecology, cultural heritage, economics and engineering. Detailed reporting on these areas is effectively complete.

This is a complex application and one that has taken considerable amount of time to compile with supporting studies having been ongoing for nearly 3 years.

2. *How long has work been under way on this proposal?*

To the extent this question is a follow on from the immediately preceding question and reference to the terms of PlanIT's engagement, we are instructed that that firm of consultants was engaged in November 2017.

If your question is not specific to PlanIT's engagement, we ask you identify with some precision the "work" to which you are referring.

3. *What has led the group to propose a community like this at Mount Burrell?*

The Mount Burrell and Kunghur area was earmarked in Council strategic policy for the emergence of a new township and rezoned in 1986

Mount Burrell possesses all the attributes that make this unique opportunity successful. The natural environment, sustainable living opportunities (food, power, water, waste management) and cultural connection are keystones of what Rural Land Sharing Community members desire and what attracts them to the land. The fact this site also contains a zoned village opportunity and can bolster the development and emergence of a new rural township just makes this even more exciting.

4. *How are the indigenous influence upon the community incorporated into the proposal?*

The proposal will be in part guided by an Aboriginal Cultural Heritage Assessment Report which will be developed with registered members of the Aboriginal community. To date this has included consultation with the Tweed Byron Local Aboriginal Land Council, however a broader Aboriginal community consultation program is about to commence. The outcomes of this works will inform the overall project design and approval documents.

5. This question is 2-fold:

- a. Who is responsible for the protection of sacred sites on community land?**
- b. “how will that work in with your other plans for the community”?**

We will deal with each in turn:

a Who is responsible for the protection of sacred sites on community land?

The regulation of sacred sites, including archaeological sites, rests with Heritage NSW and Tweed Shire Council. However, the responsibility of the protection of sacred sites on community land ultimately rests with landowners. Commitments with respect to Aboriginal sites are provided in the project approvals and these will be included in relevant community plans and statements.

Ultimately cultural heritage matters and legislation is delivered at a number of levels including local, regional, State and Federal. In terms of protection, the proposal has undergone formal site investigations and preparation of a Aboriginal Cultural Heritage Management Plan (**ACHMP**) to accompany the DA. This sets out the framework of the proposal and outlines future steps including detailed site investigations, consultation, community engagement, and artefact mapping.

b “how will that work in with your other plans for the community”?

Firstly, we must ask you be more precise in terms of what is being put to our clients. Are you saying that there will be a conflict between the protection of sacred sites and the community? Is that your opinion/observation or based upon something that has been put to you by a third party. If that is what is being suggested, then we are somewhat at a loss as to the basis for such a concern/observation.

That being said, the community will adhere to any permit conditions imposed by Heritage NSW and/or Tweed Shire Council relating to Aboriginal heritage, including specific management plans outlined in the Aboriginal Cultural Heritage Assessment Report. This may include an Aboriginal advisory committee if such a committee is supported by Aboriginal stakeholders.

6. Are elders of the Minjungbal people involved in the community?

Yes: both Elders and senior people from the Minjungbul tribe are involved in the community, and have been from the community’s inception. The community has afforded the “True Blood-line-connected” Tribal people a place in the development.

Furthermore, the Aboriginal Cultural Heritage Assessment will undertake consultation with the Aboriginal community in accordance with agreed Government and Tweed Shire Council guidelines for Aboriginal community consultation.

In terms of the ongoing involvement of the Minjungbul tribe and the Minjungbal people, this will be primarily aimed at the provision of advice and guidance on matters that affect cultural heritage and the management of key natural values. The Tweed Shire Council Aboriginal Heritage Management Plan provides a framework to assist landowners and the Aboriginal

community to work together to manage and protect Aboriginal cultural values and this plan will be used to guide the involvement of the Aboriginal community after project approval, specifically this would be for ongoing land management and cultural heritage initiatives of the community such as bush regeneration and the creation of open spaces and reserves.

7. *Is the Minjungbul Elders Society associated with the community?*

The Minjungbul Elders Society (MES) is not on the Heritage NSW list of Aboriginal stakeholders for the Tweed Shire and as such have not been included in the Aboriginal Cultural Heritage Assessment to date.

Our clients are unaware of the MES or who purports to sit on that body.

As such, our clients are limited in terms of providing any form of meaningful response.

8. *What is the community's response to the allegation that the values of Minjungbul Elders Society are not aligned with those of the region's recognised elders?*

The Aboriginal Cultural Heritage Assessment provides equal opportunities for registered Aboriginal Parties to participate in the Aboriginal Cultural Heritage Assessment and the ongoing management and protection of Aboriginal cultural heritage values.

The diverse views and experiences of the Aboriginal community generally will be acknowledged and incorporated into the assessment and approval process. An objective of the Nightcap on Minjungbul project is to provide an opportunity for discussion and collaboration around the common interests of the protection of Aboriginal sites and values for the lands.

9. *Is it possible to buy in to the community?*

Yes

10. *If so, how many people have so far formally bought into the project?*

This is commercial in confidence at this point

11. *How many people have expressed interest?*

It is not possible to answer this question. That is not to say that our clients are being evasive, they are not. It is simply, the structure of the question does not lean to a straight-forward answer. What we can say however for the past couple of years, there has consistently been a steady line of enquiry from prospective community members.

Unfortunately, the vast, vast majority (in the region of circa 95%+) of those enquiries have not advanced beyond the initial stages of enquiry due to the defamatory publications placed online by Ms Norman. As per our letter of 4 September 2020, our clients have since obtained judgment against her, will shortly commence bankruptcy proceedings against her, and there is at present contempt proceedings on foot in the Supreme Court of New South Wales on account of her continued publication of defamatory content in breach of an injunction ordered against her in May 2020 by Supreme Court Justice Fagan. It is expected that a hearing on that application will take place in October 2020.

Enclosed herewith is:

- a) A copy of the April 2020 judgment of Fagan J;
- b) The restraining order against Ms Norman (**Injunction**);
- c) The amended statement of charge filed against Ms Norman on account of her breach of the Injunction.

12. Details relating to the becoming a community member:

Information is available on the community website.

13. When will the sale of the Mount Burrell property settle?

It is anticipated that the settlement will take place in mid-October 2020.

14. How many of those involved with Nightcap on Minjungbul were involved with the Bhula Bhula community?

Please clarify what you mean by “*involvement*”. What level of activity would constitute “*involvement*” for the purposes of your question.

15. I have heard some concerns from residents that this new community may proceed in a similar way to the discontinued Bhula Bhula project. That is to say, there have been concerns raised about the lack of development approval for the Bhula Bhula project and the subsequent circumstances which meant unit holders could not be part of the community they envisioned. What is your response to this?

Those concerns are entirely speculative and while (we expect) purportedly raised out of a sense of interest for prospective members of Nightcap on Minjungbul, they are motivated by self-interest and causing damage to the community. The factual basis for this statement is premised upon Ms Norman’s actions (and the current proceeding before the Supreme Court of New South Wales) as well as what appears from correspondence being received from certain former members. That correspondence, which is transmitted on a *without prejudice* basis and therefore not capable of being disclosed, seeks to fulfill the personal self-interest of former community members.

Nightcap on Minjungbul is not Bhula Bhula.

Certain characters, such as Ms Norman, are not and will not be involved with Nightcap on Minjungbul.

16. Are prospective members informed that the DA application has not yet been lodged?

As per the above, the DA application was submitted to Council in 2019. Prospective members are advised in very precise terms as to where the application process is at.

17. *Have the proponents directly consulted any of the neighbouring or nearby residents about your plans for Nightcap on Minjungbul? If not, do you plan to?*

There has been early consultation and pre-DA contact (including site walk over) with the Tweed Byron Local Aboriginal Land Council and the Rural Fire Service as well meeting/discussion with Tweed Shire Council in relation to the proposal.

Once approved, Council will undertake community consultation including public notification and advertisement, letters to adjoining owners and a forum for community feedback. Our clients will offer additional avenues (such as guided site tours, community information and engagement) under the community engagement strategy, which will be above legislative requirement. Our clients understand the importance of community notification, engagement and participation.

18. *How did Pete Evans come to be involved in Nightcap on Minjungbul?*

Pete Evans heard about the project through the local tribe and he contacted our clients via Gunham Badi.

19. *What are the proponents' view on concerns being expressed from some in the community about Mr Evans' involvement?.*

While we expect you will not reveal the identities of those persons that have purported to express those concerns, can you please confirm whether those concerns were expressed by former members of Bhula Bhula?

No concerns, whatsoever, have been raised with our clients directly in relation to Mr Evans's involvement.

Conclusion:

We trust the foregoing addresses your queries. There are a number of questions for which we require some clarification and upon receipt of same, we can provide further responses. We will await your response.

We invite you to provide us a draft of the story in advance of publication. You are aware of the Supreme Court proceedings that are ongoing involving Ms Norman. There are certain characters, including Ms Norman, who are intent on causing damage and loss to our clients and the community. What we wish to avoid is that your publication becomes a mouthpiece for those characters. As per our letter of 4 September 2020, our clients will not hesitate commence litigation against any party that causes unlawful damage to the Community or the reputation of those involved.