



Local Aboriginal Land Council
DARKINJUNG

Darkinjung LALC Kariong
Planning Proposal

FREQUENTLY ASKED QUESTIONS

October 2023

Who is Darkinjung LALC?

Darkinjung Local Aboriginal Land Council (LALC) is an incorporated body constituted under the amended Aboriginal Land Rights Act (ALR Act). Since its creation, Darkinjung LALC has consistently focused on improving the health and wellbeing of the community.

Darkinjung LALC is located on the Central Coast of NSW, and its boundaries stretch from Catherine Hill Bay to the north, Hawkesbury River to the south, the Pacific Ocean to the east, and the Watagan Mountains to the west.

For more information on Darkinjung LALC visit:

www.darkinjung.com.au

What is the Kariong Planning Proposal Site?

The Kariong site is a 13ha parcel of land located at 300 Woy Woy Road, Kariong. It is in direct proximity to the existing housing estate in Kariong and is well serviced, with access to water, electricity, sewage, shops and public transport. It is approximately 4.88 km from Gosford CBD.

The land was granted to Darkinjung LALC under the provisions made in the Aboriginal Land Rights Act 1983 (ALR Act)

What is proposed for the Kariong site?

The Kariong site offers the opportunity to provide up to 50 residential dwellings on lots of varying sizes, while also managing and protecting the site's ecological and Aboriginal cultural significance.

In line with Darkinjung LALC's mission to protect Aboriginal cultural heritage and the environment, the development has been planned carefully to mitigate risks and impact. For this reason, more than 50% of the site (7.1ha) will be protected under Environmental Conservation (C2) zoning and will not be developed.

The remaining 5.9ha will include a park (occupying 0.4ha and zoned as Environmental Management C3) and the rest will be zoned under low-density residential zoning, with 50 low-density dwellings of varying typology.

Darkinjung LALC has undergone a rigorous and thorough process to identify and mitigate impacts of the site, and has detailed plans for the development of the site, including the number of residential lots, and the area zoned for environmental conservation.

The use of the site has been planned and designed following ecologically sustainable and conscious principles, with the aim to strike a balance between development, environmental preservation, economic sustainability, social wellbeing and cultural conservation.

How will the development protect Aboriginal heritage?

Darkinjung LALC sought an independent Aboriginal Cultural Heritage Assessment Report, which included consultation with a number of Registered Aboriginal Parties (RAPs) to assess the land and its cultural heritage value.

According to the assessment report, Aboriginal sites within the area zoned for low-density residential housing have not been identified; however, some archaeological sandstone sheets have been detected. These sensitive sandstone sheets will be inspected by a RAP representative after vegetation removal but before ground levelling works, to verify if they contain Aboriginal engravings or grinding grooves.

If any Aboriginal engravings, grooves or other cultural remnants are identified during the development process, a 20-metre buffer zone will be placed between the site and the construction zone, with high visibility fencing installed prior to works commencing and remaining in place to prevent access and inadvertent harm.

The mitigation measures proposed will ensure that any Aboriginal sites are conserved in-situ and avoided, thus satisfying the principle of inter-generational equity*.

*Inter-generational equity requires the present generation to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.

Source: Principles of Ecologically Sustainable Development, Land and Environment Court of New South Wales

Why does Darkinjung LALC own this land?

The land was granted to Darkinjung LALC under the provisions made in the ALR Act, to compensate Aboriginal peoples for the historic dispossession of land they have experienced and in recognition of their ongoing disadvantage and their enduring spiritual connection to Country.

Does Darkinjung LALC represent all Aboriginal persons in the community?

The ALR Act states that the objectives of each Local Aboriginal Land Council are to “improve, protect and foster the best interests of all Aboriginal persons within the Council’s area and other persons who are members of the Council”.

Local Aboriginal Land Councils must also operate so as “to relieve poverty, sickness, suffering, distress, misfortune, destitution and helplessness of Aboriginal persons within the Council’s area”.

Has the local Aboriginal community been consulted by Darkinjung LALC?

Darkinjung LALC undertakes regular engagement and consultation with the Aboriginal community. Darkinjung LALC is made up of a membership base of over 750 members who must prove that they are an Aboriginal person to become a member. The members of the Council are consulted for any major decision that Darkinjung LALC wants to make, such as the acquisition of land. Darkinjung LALC must implement the wishes of its members as decided at a meeting of the Council with respect to the acquisition, management, use, control and disposal of land, as part of its functions determined by the ALR Act.

As part of the planning process for the Kariong site, Darkinjung LALC sought an independent Aboriginal Cultural Heritage Assessment Report (ACHAR), which engaged various Registered Aboriginal Parties (RAPs) to assess the land and its cultural heritage value. The RAPs were consulted throughout the assessment process and signed off on various mitigation measures and strategies in place if any Aboriginal sites are discovered during development.

What is the proof of Aboriginality process?

The Aboriginal Land Rights Act 1983 states that to be a member of a Local Aboriginal Land Council (LALC) you must be an Aboriginal person.

1. In 1978, the Commonwealth Government adopted a three-part definition, comprising Aboriginal descent, identification, and community recognition. This definition was subsequently incorporated into legislation including the NSW Aboriginal Land Rights Act 1983. By this definition, Aboriginal person means a person who is a member of the Aboriginal race of Australia, and
2. Identifies as an Aboriginal person, and
3. Is accepted by the Aboriginal community as an Aboriginal person

Darkinjung LALC believes that individuals who self-identify as Aboriginal and claim to represent a particular Aboriginal community yet lack sufficient proof of ancestry and/or community acceptance of their Aboriginality, do not have cultural, legal nor moral standing to speak on any Aboriginal community's behalf. Further, such individuals do not have the lived experience of being Aboriginal, are not familiar with Aboriginal knowledge, culture and traditions, and do not have the intergenerational knowledge to speak as cultural custodians.

Darkinjung LALC has been the Aboriginal cultural authority for the Central Coast since 1983, making it both the private landowner and cultural custodian of the Kariong site.

Who will benefit from the Kariong site?

Community is at the core of Darkinjung LALC's operations. The proposal will not only benefit the Aboriginal community, but also the Central Coast as a whole.

Darkinjung LALC is a not-for-profit organisation committed to the protection and conservation of Aboriginal heritage and to support the development and wellbeing of the Aboriginal community. Darkinjung LALC is undertaking the development of the Kariong site so that it has the resources necessary to fulfil the public and cultural responsibilities towards Country and its community.

Development at Kariong will provide an income to fund community goals, empowering Darkinjung LALC to attain self-determination by harnessing the developable land at the site to facilitate tangible economic, social and cultural prosperity for Darkinjung members.

How will the Kariong site assist with the current housing shortage?

The availability of housing is an increasing challenge across Australia, including the Central Coast. The Kariong site will provide up to 50 residential dwellings, providing some relief to the shortage.

In line with the Federal Government's commitment to deliver social affordable housing, the Kariong site will dedicate approximately 10% of the site to affordable housing.

What are the environmental impacts of the project?

Protecting the environment and contributing to the wellbeing of the land and the community are at the core of Darkinjung LALC's mission and values.

Through conscious design and planning, the Kariong site will achieve positive outcomes for the community as well as the preservation of natural and cultural elements.

While the development will have impacts on biodiversity, these impacts have been assessed extensively and determined to be acceptable and manageable with appropriate mitigation measures in place. An independent Biodiversity Certification Assessment Report was undertaken to determine the impact of proposed development on the site, and the assessment has determined the site has satisfactory mitigation measures and strategies in place to minimise impact.

**Are there
Aboriginal
significant sites in
the vicinity of the
Kariong site?**

Darkinjung LALC is committed to conserving the land and protecting the cultural significance of the area.

Thorough mitigation strategies as noted above have been developed to manage the situation should Aboriginal cultural assets be discovered during the development process of the residential zone.

The area known as 'Kariong Sacred Land' is not in the vicinity of the project. The site referred to as 'Grandmother Tree' is located 1 km away from the development zone.

**What is the
impact on local
biodiversity?**

Whilst the housing development will have impacts on biodiversity, these impacts have been assessed extensively and determined to be acceptable and manageable with appropriate mitigation measures in place.

Not only will biodiversity impacts be adequately avoided and minimised within the development footprint (5.7ha), Darkinjung LALC also intends to establish a biodiversity stewardship site on the remaining 7.1ha of conservation lands that form part of the broader Kariong site. If established, this biodiversity stewardship site—the first by any LALC in NSW—would help to further offset the biodiversity impacts of the development and provide a long-term and secure future for biodiversity on the site, demonstrating Darkinjung LALC's commitment to protecting biodiversity and the environment.

**Can the land
become national
park?**

Some members of the community have suggested that the Kariong site should become a national park and alternative compensation be given by the government to Darkinjung.

The Minister for Planning and Public Spaces has been clear that there is no opportunity for alternative compensation in the current fiscal environment.

It is important to acknowledge that land rights aren't about reclaiming land to add to the public estate. Land rights are about prioritising self-determination, a goal attainable only with access to economic resources.

What is a Development Delivery Plan (DDP)?

A Delivery Development Plan (DDP) is a plan made under the State Environmental Planning Policy (SEPP) (Planning Systems) and approved by the Minister for Planning, to set out the objectives for identified land owned by a Local Aboriginal Land Council (LALC).

On 16 December 2022, the Darkinjung LALC DDP was approved by the Minister for Planning under the provisions of the State Environmental Planning Policy (SEPP) (Planning Systems) 2021.

The intention of the DDP is to deliver future land uses and public benefits, including conservation of sensitive land, provision of community facilities, and educational programs/activities that promote Aboriginal cultural heritage, within the Central Coast LGA.

For more information regarding DDPs, visit the Department of Planning and Environment's website at:

www.planning.nsw.gov.au/policy-and-legislation/aboriginal-land-use-planning/darjinjung-local-aboriginal-land-council-case-study