

# Darkinjung Delivery Framework

## Frequently asked questions



February 2019

### Who is Darkinjung Local Aboriginal Land Council (Darkinjung)?

- Darkinjung is one of 120 Local Aboriginal Land Councils in NSW established under the NSW *Aboriginal Land Rights Act 1983* (ALR Act).
- Darkinjung is the largest private land owner on the Central Coast and holds a portfolio of approximately 3,700 hectares.

### What is the Darkinjung Delivery Framework (Framework)?

- A comprehensive set of planning measures to assist Local Aboriginal Land Councils (LALCs) across NSW to achieve better economic outcomes from their land, meet the objectives of state level planning policy and strengthen the economic self-determination of Aboriginal communities.

### What are the key elements of the Darkinjung Delivery Framework?

- A **State Environmental Planning Policy (Aboriginal Land) 2019 (SEPP)**: A statutory planning framework to enable the preparation of development delivery plans for land owned by LALCs.
- A **Ministerial Direction (Development of Aboriginal Land Council Land)**: A direction enabling development delivery plans or interim development delivery plans to be considered in the preparation of planning proposals.
- A **Planning Circular PS 19-003: An independent review of planning proposals for Aboriginal Land Council land**: Formal guidance that will give LALCs the opportunity for an independent body to give advice on planning proposals for land subject to a development delivery plan or an interim development delivery plan, that is shown in the SEPP.
- The **Interim Darkinjung Development Delivery Plan**: A strategic plan of identified Darkinjung sites for development. It is the first interim development delivery plan that will be given effect under the new Ministerial Direction.
- A **Memorandum of Understanding (MOU)**: An agreement between the NSW Government and Darkinjung that sets out how the organisations will work together to create the pipeline of Darkinjung development projects.
- Ongoing capacity building: The NSW Government will continually look for opportunities to build the capacity of Darkinjung and other LALCs to plan and develop their lands via collaboration and education.

### What are the key elements of the SEPP?

- The SEPP will:
  - Guide planning and development decisions on land identified in development delivery plans prepared for land owned by LALCs.
  - Identify the process for finalising, reviewing and amending development delivery plans.
  - Make certain LALC development outlined in a development delivery plan as regionally significant so that those decisions would be made by the regional planning panel rather than the local council.

### Why is the Darkinjung Delivery Framework required?

- The Framework is a NSW Government response to the fact that Darkinjung, like all Local Aboriginal Land Councils (LALCs), faces issues utilising its land to achieve self-determination – land it has successfully claimed under the ALR Act.



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- The ALR Act was passed by the NSW Parliament to establish a network of Aboriginal Land Councils to acquire and manage land as an economic base for Aboriginal communities, as compensation for historic dispossession and in recognition of their ongoing disadvantage.
- In 2016 the NSW Parliament's Standing Committee on State Development *Inquiry into Economic Development in Aboriginal Communities* recommended that the planning system needed to better accommodate aspirations of the ALR Act.
- The Framework is an unprecedented attempt to bridge the disconnect between the planning system and the objectives of the ALR Act, for the Darkinjung people.
- The Framework also implements a key Direction of the *Central Coast Regional Plan 2036* (Regional Plan): To strengthen the economic self-determination of Aboriginal communities.

### **Why was Darkinjung chosen as a pilot to implement these measures?**

- Holding a portfolio of approximately 3,700 hectares, Darkinjung is the largest private land owner on the Central Coast with experience in planning and development.
- The Central Coast is unique as a region with just one LALC and one Local Government Area.
- Due to these factors, realising Darkinjung's aspirations for its land will not just benefit its people but the entire Central Coast community.
- Darkinjung is key to achieving the social, economic and environmental goals of the Regional Plan.

### **Who did the Department of Planning and Environment consult with in developing the Framework?**

- *The Darkinjung Delivery Framework – Consultation Paper* (consultation paper) was publicly exhibited from Friday 16 November to 14 December 2018 (28 days).
- The consultation paper outlined the proposed suite of inter-related actions including collaboration, education, revised processes, a new SEPP and Ministerial Direction to address some of the impediments faced by Darkinjung in best utilising its land to achieve self-determination.
- During exhibition, targeted consultation was undertaken with external stakeholders including: Darkinjung, Aboriginal Affairs NSW, Crown Lands, NSW Aboriginal Land Council, Office of Environment and Heritage, Department of Premier and Cabinet, Central Coast Council, Urban Development Institute Australia, Community Environment Network, Guringai Aboriginal Tribal Link Corporation and Barang Regional Alliance Central Coast.

### **What was the feedback on the consultation paper?**

- The Consultation Paper received 17 submissions that were generally supportive of the Framework.
- Key matters raised included:
  - The content and preparation of development delivery plans for other Local Aboriginal Land Councils.
  - Support for expanding the applicability of the SEPP and Ministerial Direction beyond the Darkinjung Local Aboriginal Land Council.
  - Need for further consultation with other LALCs, NSW Aboriginal Land Council and NSW Aboriginal Affairs regarding land use and development needs of other LALCs and relevance of the Framework.
  - Comments about the time-based thresholds for regional development identified in the SEPP.
- All issues raised during the public exhibition have been considered and amendments made to the final package where deemed appropriate.



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### **How can these measures be applied to other LALCs throughout the State?**

- Given the strong support for broader application of the Framework, the SEPP, Ministerial Direction and planning circular will have state-wide applicability, so the Framework can be applied to the land owned by other LALCs following preparation and endorsement of a development delivery plan for that land.
- The process, format and content of development delivery plans will be consulted in the coming month. This will form part of guidance materials for LALC.
- Other LALCs wishing to be considered for inclusion in the SEPP will need to write to the Minister for Planning requesting preparation of a development delivery plan and inclusion of applicable land in the SEPP.
- In making the request the LALC will need to satisfy at a minimum the following requirements:
  - A NSW Aboriginal Land Council endorsed Community Land and Business Plan.
  - Land currently in the LALC ownership.
  - A completed land audit.
- If satisfied the requirements have been met, the Minister will endorse creation of a development delivery plan in accordance with the SEPP and guidance material.

### **What land can LALCs claim?**

- The ALR Act facilitates the return of land in NSW to Aboriginal people through claims over Crown Land.
- Claimable land includes Crown lands that are not lawfully used or occupied, do not comprise land which are needed or likely to be needed as residential lands, and are not needed, nor likely to be needed, for an essential public purpose.
- The NSW Aboriginal land claims process does not affect private land.

### **How does the Framework affect my land?**

- The Framework currently applies to Darkinjung owned land with potential expansion to other LALC owned land when a development delivery plan is prepared and endorsed.
- Any planning or development proposals resulting from the Framework will be subject to standard public notification processes.

### **Will planning and development proposed by the Darkinjung be subject to the same environmental assessment and approval as other development?**

- Yes.
- One difference in the approval process is that development considered regionally significant will be determined by a regional planning panel rather than a local council.

### **Does the Framework affect native title?**

- No.
- Native title is the name Australian law gives to the traditional ownership of land and waters that have always belonged to Aboriginal people according to their traditions, laws and customs.
- The Commonwealth *Native Title Act 1993* sets out how native title rights are to be recognised and protected.



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- Native title rights are different to and separate from the statutory right of Aboriginal Land Councils to make claims for land under the NSW *Aboriginal Land Rights Act 1983*.

### **Does the Framework impact the assessment of Aboriginal Cultural Heritage?**

- No.
- Aboriginal cultural heritage will still need to be considered during planning proposals and development assessments.

### **Does the Darkinjung Delivery Framework impact the assessment of biodiversity?**

- No.
- Strategic Conservation Planning for the Central Coast will ensure that likely development impacts on threatened species and land of high biodiversity values are avoided and minimised wherever possible.
- Any other (residual) impacts will be offset through private stewardship agreements or other conservation measures consistent with the requirements of the *Biodiversity Conservation Act 2016*.

### **How will the Darkinjung Delivery Framework be evaluated?**

- The Framework will be subject to an evaluation in 18 months to review how the measures have been applied to Darkinjung.
- The evaluation will include widespread internal consultation and external consultation with Aboriginal Affairs NSW, NSW Aboriginal Land Council and councils but may also include other state agencies and the broader community where relevant.
- The evaluation may recommend amendments to the Framework, provisions in the SEPP, Ministerial Direction, planning circular and consultation processes.
- The Minister for Planning will consider the evaluation and may seek an independent review of the recommendations.

### **Where can I find out more?**

- More information is available at [www.planning.nsw.gov.au/centralcoast](http://www.planning.nsw.gov.au/centralcoast)
- Call us on (02) 4345 4400.
- If English isn't your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.
- Email [centralcoast@planning.nsw.gov.au](mailto:centralcoast@planning.nsw.gov.au)