

Legislative Council Hansard – 11 October 2017 – Proof

ABORIGINAL LANGUAGES BILL 2017*Introduction*

Bill introduced on motion by the Hon. Sarah Mitchell.

The PRESIDENT: According to the resolution of the House this day, I will now leave the chair until the conclusion of proceedings to commemorate the introduction of the bill.

The House resumed at 12 :01 .

The PRESIDENT: According to resolution of the House this day, I invite Aunty Irene Harrington and Uncle Gary Williams to take their seats on the dais. I welcome into the Chamber Aboriginal elders and Aboriginal language stakeholders, and acknowledge the message stick ceremony participants.

First Reading

Bill read a first time and ordered to be printed on motion by the Hon. Sarah Mitchell.

Second Reading

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (12:03): I move:

That this bill be now read a second time.

I acknowledge the traditional owners of the land on which Parliament now stands, the Gadigal people of the Eora Nation. I also pay my respects to their elders both past and present and extend that respect to the many First Peoples of New South Wales who are here today. I will now invite Dr Ray Kelly into the House to translate this acknowledgement in Dhungutti.

Dr Ray KELLY: Ngay nirray Sarah Mitchell irri irri barri gandiya gadigal. Ngayya ngarra ngarra thurriyay Eora nation. Ngayya ma arri wiyan garr'kung marrurri galay, ngayya irri wiyan Gurri yayirri barray yayirri.

The Hon. SARAH MITCHELL: I also acknowledge the elders and the other participants in the message stick ceremony. Message sticks have been used by First Peoples for thousands of years to communicate between nations and within clans, to share good news, to welcome and to pass on information. They were carried on long journeys and passed through generations. They are physical manifestations of the languages that this bill seeks to acknowledge, nurture and grow. Thank you Uncle Ray Davison, Ray Ingrey, Rhonda Ashby, Jaycent Davis, Aunty Di McNaboe, Uncle Gary Williams, Aunty Irene Harrington, Murray Butcher, Ronan Singleton and Aunty Maureen Sulter for being here today to support this bill, and for all your incredible work to support language revival in their communities.

The Aboriginal Languages Bill 2017 that I am introducing today reflects your passion and your love for your languages, and will provide tangible support for your efforts to reawaken and share your languages. You are true ambassadors for your language and culture, inspiring others on their own journey of cultural renewal. As the English flag was being raised not far from this Parliament in 1788, the Eora language would have been heard. Eora was just one of an estimated 35 first languages, and the more than 100 dialects of those languages, spoken on the lands of what is now New South Wales. First People's languages belong to the land, and to its custodians. Languages hold knowledge of country, the stories of its creation, its seasons, and First People's connections with and obligations to it. Languages also speak of First People's connections to each other. Languages are part of the songlines going across this State, connecting people, places, and time, and connecting the current generations to the past, to their ancestors and to the future.

Past governments, through their assimilation policies and practices, tried to eliminate First People's languages. Speaking language was forbidden on Aboriginal reserves and missions, people were arrested for daring to speak their language in public, and children were removed because their parents or grandparents were heard uttering their language. During conversations on the draft bill Uncle George Fernando from Gingi Mission outside Walgett recollected how old people were imprisoned for speaking Gamilaraay. At Wagga Wagga Dr Stan Grant Senior shared similar memories of police arresting his relative for being heard to speak Wiradjuri in public.

But while the land appeared to fall silent, the languages were only sleeping and awaiting reawakening. The languages continued to be passed on in secret through the generations. They were also recorded by well-meaning non-Aboriginal people, and kept for future generations by libraries and other cultural institutions. Reawakening languages has a ripple effect within families, extending through Aboriginal communities and out into the broader community. First People's languages are dynamic, from rebuilding the language from historical sources and remaining speakers right through to becoming an everyday language. First languages like Gamilaraay and Gumbaynggirr Ger have words for everyday things and are used in daily conversations, on the street and in social media.

Reawakening languages is neither a quick nor an easy task; it is a generation-long journey. Too often, those who started the journey do not get to see the destination. But their vision and their aspirations, personified in the message stick ceremony, remain strong. Last year the inquiry into reparations for the Stolen Generations tabled its report to this House. I was proud to be a member of the committee that conducted the inquiry. We heard firsthand how the loss of connection to culture and language caused trauma to the members of the Stolen Generations. We also heard of the healing power of reconnecting with culture and language. Rhonda Ashby, teacher at the Gamilaraay Aboriginal Language and Culture Nest in Lightning Ridge who participated in our message stick ceremony today, told the committee:

I think it's a part of our identity; it's a part of our soul. Language is a part of culture, culture is a part of language—the two are married. If we do not know where we come from, we do not know where we are going. It is like a tree without roots; it won't grow. We have lost our identity. That is why this language journey we are on is important.

The healing power of learning and using languages is not limited to members of the Stolen Generations. For Aboriginal students, learning an Aboriginal language strengthens their identity and engagement at school and in learning. A more cohesive school environment is fostered by all students having an appreciation of Aboriginal language and culture.

Despite the hard work, there is still much more to be done. According to the 2016 Census, across Australia only one in 10 First Peoples spoke their language at home. Of the 170 first languages reported in the Census, only 69 first languages had at least 100 speakers and almost all first language speakers lived outside the capital cities. But there is some good news. In New South Wales about 1,800 First Peoples spoke their language at home—an increase from about 1,200 in 2011—and Wiradjuri was the most widely spoken New South Wales first language, with 355 speakers, which is a significant increase from the 109 speakers in 2011.

First People's languages are also important to everyone in New South Wales. First language is a part of the shared history and heritage of this State; part of the oldest continuing culture in the world. First languages contain knowledge of the environment and the history of New South Wales, telling of ice ages and geological events from thousands of years ago. Our history did not begin with Europeans in wooden vessels, and our collective identity has long drawn on First People's culture and language. Our particular vernacular has incorporated terms from first languages, many of our place names have come from first languages, and First People's stories have become woven into Australian folklore. The Government's positive journey to help reawaken first languages started in the early 2000s with two related initiatives: the funding of the local community language revival efforts, which led to the 2004 New South Wales Aboriginal Languages Policy and the establishment of the New South Wales Aboriginal Languages Research and Resource Centre; and the teaching of first languages within schools, which led to the introduction of the Aboriginal Languages K-10 syllabus of 2003.

By the time the Ministerial Taskforce on Aboriginal Affairs conducted its statewide consultations in 2012, there was a strong groundswell to increase efforts to support communities to revive their languages and for greater opportunities for students to learn first languages within schools. In response, Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE]—the New South Wales Government plan for Aboriginal Affairs—included the Aboriginal Language and Culture Nests initiative, to foster Aboriginal languages in Aboriginal communities, schools and the wider community.

The nests are networks of communities bound together by their connection to an Aboriginal language. Each nest has a base school, language teacher and tutors, schools teaching language and a keeping place to manage language resources. Aboriginal communities are closely involved in nest planning and decision-making. The five nests by location and language are: Dubbo, Wiradjuri; Coffs Harbour, Gumbaynggir; Lismore, Bundjalung; Wilcannia, Paakantji; and Lightning Ridge, Gamilaraay. Across the five nests there are nearly 70 schools delivering Aboriginal language programs to more than 6,300 students, employing 55 language teachers and tutors—notably, the number of students has increased from 5,300 in 2016.

The bill also had its genesis in OCHRE, which committed to renewing the 2004 Aboriginal Languages Policy. Reviews of that policy, and a similar Federal Government policy, found that Aboriginal language policies were not achieving their objective because of a lack of accountability mechanisms and authority for the agency responsible for their implementation. Something more than policy was required to realistically achieve aspirations for reawakening, nurturing and growing New South Wales first languages. Overseas, our counterparts in New Zealand and Canada have enacted legislation to drive efforts to recognise and raise awareness and use of their indigenous languages. Visitors to New Zealand appreciate how widespread Maori language is in everyday life. Those laws provided the model for a proposal for a New South Wales Aboriginal Languages Act.

I take a moment to thank the former Minister for Aboriginal Affairs, Ms Leslie Williams, for bringing forward the proposal for this bill. In March 2016 the former Minister met with key language stakeholders and identified the need for this legislation. In November 2016 the New South Wales Government announced the drafting of a New South Wales Aboriginal languages bill. In January this year I became Minister for Aboriginal Affairs and since that time we have consulted widely on a draft bill. The initial draft bill had three parts: acknowledgement or recognition statements; development of a strategic plan; and a Centre of Aboriginal Languages in New South Wales. The draft bill included statements that recognised the connection between Aboriginal language, culture and identity; the rights of Aboriginal people to learn and maintain their languages; the role of the New South Wales Government; and the need for action to revive Aboriginal languages. The draft bill also provided for the development of a five-year strategic plan to protect and strengthen Aboriginal languages through programs, partnerships and funding. There will also be annual reporting to Parliament on performance against the strategic plan.

Between May and August this year Aboriginal Affairs held community conversations on the draft bill to make sure that it met First People's aspirations. The community conversations took the form of 32 workshops in 16 locations across New South Wales in two rounds. Those 16 locations were: Lightning Ridge, Bourke, Moruya, Wilcannia, Broken Hill, Dubbo, Wagga Wagga, Griffith, Dareton, Tamworth, Lismore, Coffs Harbour, Taree, Sydney, Mount Druitt and Moree. Round one conversations were facilitated by independent facilitator Professor Jack Beeton and proceedings were recorded by Mr Joe Boughton-Dent. The round one workshops commenced with a demonstration of local language and culture to establish a positive and practical context for the workshop discussion, including original songs and storytelling in language; demonstration language classes; and students speaking about their experiences of learning a language, and what language and culture meant to them. Participants also told personal stories of the transformative effect of languages within them, their family and community.

Round one conversations attracted 269 participants and more than 60 media reports. There was strong support for legislation at the workshops and in the media coverage. However, there were concerns with the draft bill as it was written at the time. The draft bill used words that were not easily understood or were problematic such as "protection", which is burdened by its historical association with the Aborigines Protection Act. It was perceived as government taking ownership and control of languages. The term "recognise" was also seen as too closely associated with the campaign for recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution. Workshop participants stressed that the bill must be easily understood and meaningful to Aboriginal communities. There were also concerns that the draft bill appeared to give the Government ownership and control of First People's languages. All workshops were unequivocal that Aboriginal ownership and control of Aboriginal languages must be fundamental to the bill.

The Government's role was to facilitate and resource local communities to further nurture and grow their languages, and to promote language use within government agencies and the wider community. Professor Beeton provided Aboriginal Affairs with an independent report on the round one conversations, which documented these concerns and recommended a number of changes to the draft bill. Aboriginal Affairs held a second round of community conversations to seek specific feedback on the proposed changes to the draft bill. The round two conversations attracted 108 participants. It also sought the views of the informal community advisory group established to guide the development of the bill and invited written submissions throughout the community consultation period.

The bill before the House today reflects the outcomes of community conversations to date—conversations that will continue after the bill becomes law. The objects of the bill are: to acknowledge that Aboriginal languages are part of the culture and identity of Aboriginal people; to establish an Aboriginal Languages Trust governed by Aboriginal people that will facilitate and support Aboriginal language activities to reawaken, nurture and grow Aboriginal languages; and to require the development of a strategic plan for the growth and development of Aboriginal languages. A preamble was preferred over recognition statements to give the bill a narrative. Dr Ray Kelly, Aboriginal author and academic whom we heard from earlier, provided a submission to Aboriginal Affairs to inform the development of the preamble. The preamble now provides:

WHEREAS

- (a) The languages of the first peoples of the land comprising New South Wales are an integral part of the world's oldest living culture and connect Aboriginal people to each other and to their land;
- (b) As a result of past Government decisions Aboriginal languages were almost lost, but they were spoken in secret and passed on through Aboriginal families and communities;
- (c) Aboriginal people will be reconnected with their culture and heritage by the reawakening, growing and nurturing of Aboriginal languages;
- (d) Aboriginal languages are part of the cultural heritage of all people in New South Wales; and
- (e) It is acknowledged that Aboriginal people are the custodians of Aboriginal languages and have the right to control their growth and nurturing.

The preamble combines Dr Kelly's submission, feedback from the community conversations and the original acknowledgement statements. Preambles are rare in modern legislation, but in legislation that does include a preamble—such as the Aboriginal Land Rights Act 1983—it has both symbolic and practical meaning to all who read it.

I also bring to the attention of the House the definitions of an "Aboriginal language" and an "Aboriginal language activity". An "Aboriginal language" is a language or a dialect of a language of the traditional custodians of the land comprising New South Wales. The community conversations raised two practical issues with this definition.

First, although Aboriginal languages cross State and Territory borders, this legislation remains focused on efforts within the borders of New South Wales. I hope, however, that our leadership in this area will lead other States and Territories to enact similar legislation in their own jurisdictions. Secondly, as well as New South Wales being multicultural in the global sense, New South Wales is also multicultural in the sense that many Aboriginal and Torres Strait Islander peoples now call New South Wales home. Aboriginal languages from outside New South Wales do not fall within the operation of this Act, and I understand that this broadly aligns with cultural protocols on using Aboriginal languages outside their homelands.

An "Aboriginal language activity" is defined as an activity intended to reawaken, grow, nurture, promote, or raise awareness of Aboriginal languages. The draft bill used various synonyms of revival or development to capture the broad spectrum of Aboriginal language activities. The community conversation shone a very narrow beam on the diversity of language activities occurring at the national, State, regional, and local levels. Some of these activities are funded by State or Commonwealth governments, some are funded by institutions such as universities, some are funded privately through fundraising, and others have no funding at all. Some languages are in the early stages of reawakening while other languages can be studied at tertiary level. Some activities are large linguistic research projects; others are a couple of elders meeting around a kitchen table to talk in and about language. All activities are steps on the language journey, regardless of scale, and are not intended to be excluded by this definition. The draft bill proposed a centre for Aboriginal language in New South Wales within Aboriginal Affairs. Community conversations strongly supported an independent statutory entity, such as a trust, led by an Aboriginal board, instead of the proposed centre.

Part 2 of the bill establishes the Aboriginal Languages Trust. The trust is constituted as a New South Wales government agency, the affairs of which are to be conducted on a not-for-profit basis, as per clause 4. The objectives of the trust are to provide a focused, coordinated and sustained effort in relation to Aboriginal language activities at local, regional and State levels, as per clause 5. The functions of the trust are:

- (a) to bring together persons with relevant professional qualifications in languages and persons with knowledge of Aboriginal languages to provide advice and direction for Aboriginal language activities,
- (b) to promote effective Aboriginal language activities,
- (c) to identify priorities for Aboriginal language activities,
- (d) to manage the funding for, coordination of and investment in Aboriginal language activities at local, regional and State levels,
- (e) to promote education and employment opportunities in Aboriginal language activities,
- (f) to develop resources to support Aboriginal language activities,
- (g) to provide guidance to the Government and its agencies on Aboriginal languages,
- (h) to liaise with the Geographical Names Board on the use of Aboriginal languages in the naming of geographical places,
- (i) to encourage the wider use and appreciation of Aboriginal languages,

The affairs of the trust will be managed by a board. The board will have between five and 11 members, who will be appointed by the Minister. The Minister can appoint only Aboriginal persons with relevant skills, expertise or experience and with appropriate standing in the Aboriginal community, as per clause 8 (2). This addresses two concerns raised in the community conversations: first, a lack of Aboriginal control over the implementation of the legislation apparent in the draft bill; and, secondly, a concern that the Minister would favour non-Aboriginal academics over Aboriginal people with connection to culture and community who do not have formal qualifications. There is also no requirement for appointees to represent particular organisations or professional disciplines. This is in keeping with good governance practice of appointing boards with a diverse range of skills and experience, rather than strictly subject matter experts.

The Minister retains certain oversight powers over the trust, which are exercised through appointing trust members, approving its strategic plan and issuing directions to the trust. Ministerial directions are to be published for transparency and to maintain the trust's independence. These powers provide appropriate ministerial oversight and accountability and should not undermine the objective of Aboriginal ownership and control. The trust will not be able to employ staff directly but, like similar statutory entities, staff will be employed to assist the trust to perform its functions. For the first two years Aboriginal Affairs staff will be provided to the trust. Aboriginal Affairs will also provide administrative and other practical assistance to the trust during its establishment phase. The trust will be required to prepare a five-year strategic plan for approval by the Minister for Aboriginal Affairs. The trust can determine the form and the content of the strategic plan, subject to any regulations made in relation to the strategic plan. The trust also prepares an annual report of its achievements against the strategic plan, as per clause 14.

The conversations emphasised the importance of resources for local language activities and Aboriginal workforce development as key elements of the strategic plan. Today is an historic day for this State, for our Aboriginal communities, and for this Parliament. I am so proud that this House is able to play a part in ensuring that the First Peoples of this State have their languages acknowledged, reawakened and nurtured. It is with great pride and privilege that I commend the bill to the House. I will now introduce Dr Ray Kelly, an academic researcher of the Purai Global Indigenous and Diaspora Research Studies Centre at the University of Newcastle, to remark on what this bill means to the First Peoples of New South Wales.

Dr Ray KELLY: I begin by acknowledging that I am speaking today on the land of the Gadigal people of the Eora Nation. I pay my respect to elders past and present and to all other Eora people here today. I thank Minister Mitchell and the honourable members in this place for the opportunity to speak and to address them on this important occasion. Today we have heard about the historical dislocation and displacement of Aboriginal people from country, land and leadership. I do not want to dwell on that, but I will reflect on those people who are no longer with us in this journey. Over the years many sacrifices were made as elders in our communities with little or nothing continued to teach our kids and tell them about their sense of belonging and place in a country that, at times, did not honour that.

That is the essence of what this language bill is about. It is much more than just communicating; it is about talking about that which is us. We were once a people of a land who communicated across the country in ways that we are yet to rekindle. We gathered in kiparras, not unlike this, where people would rise and talk about the issues of their communities. We would send our representatives off to eastern kiparras, just like this place. What is obvious to us today is that we have work to do. We have been given a place to start from in this bill, which provides frameworks and financial support to get business going. But the business that we have to do belongs to us back out on country and back in our communities.

We talk about the issues that are affecting us. Today we heard the eloquence of my brother who spoke about disparity and about this being one of the richest States and countries, while our people are still on the fringe. This cannot continue to happen. We believe we have a way of finding solutions. It is about us talking amongst ourselves. It is about us finding the language, conversations and leadership to bring about change. We want to invest in children and in our young people. We want to give them the blue sky. We want to say, "Paint your vision; tell us what you want in the future and then we will build the framework to get you there." This is what we have been talking about forever, not just within the past five or 10 years. It goes as far back as the start of the Aboriginal Protection Board.

This is that far back. So the work for us is going to be difficult—it is going to be a challenge. We have diverse issues in our communities that we will need to sit down to have conversations about. We will need to have, dare I say it, political arm wrestles. But we will find solutions because we know, from talking to each other, that we all hold the same principles.

The old people talk about the land, they talk about the mother in the land, they talk about the father, they talk about our sense of belonging to each other. We are hoping to rekindle and re-establish those songlines across this State and to talk about those relationships of family and kinship. We want to see our children uphold the concept of excellence. This is a part of our traditional teaching. To be smart, to be clever, is not to be mystical and magical. To be able to equate and to make something work, this is what our people did. This is how we taught our children—sometimes in reverse. My grandmother would say, "Ray, you can't see for looking, boy", and today I understand what she meant; I am a little bit older than that now.

I commend you all for the enacting and the carriage of this bill. I want to see it through. I want to do it because those people who gave their time, their effort and their lives for this important day have not lived to see it. But it is as if there is a chuckle in the back of the room; I believe their spirits are here with us—they are going to see us through and we are going to see major changes in our communities. Why? Because we are going to be in leadership. I am going to finish with a little song. It is a song about the seven sisters that travelled the entire length of this country, but it certainly makes its pathway across our communities in New South Wales. It upholds the sense of the grandmother, and the grandmother in terms of law leadership.

[Songs in language to be provided]

Ladies and gentlemen, thank you very much for this movement today.