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**Aboriginal Languages Legislation NSW
Community Consultations – Final Report**
May 2017 - July 2017



27 July 2017

Aboriginal Affairs NSW
Head Office
Level 3, 35 Bridge St
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Community Consultations – Final Report

On behalf of Beetson and Associates, I am pleased to present this Report on the series of community consultations held across NSW to gain feedback on the proposed Aboriginal Languages Legislation NSW 2017.

The consultations took place at locations across the State from May 2017 until July 2017.

I am honoured to have had the opportunity to facilitate these discussions and hope the community responses outlined in this Report, and those contained in the detailed Proceedings Reports (also submitted by Beetson and Associates), provide a strong foundation for the ongoing development of this important legislation.

As I have said at each of the consultations, I believe this legislation to be one of the most important pieces of work since the Aboriginal Land Rights Act.

With this in mind, Beetson and Associates has worked hard to ensure this summary does the best it can to capture the key issues and views of the community in an accurate manner. As it is a summary, there are some limitations on the level of detail included. Please do not hesitate to get in touch if we have missed anything, or if you would like additional information about any of the points raised. More detail is also contained in the 100+ pages of the accompanying Proceedings Reports, which include specific feedback on the topics raised at each consultation.

Thank you to Aboriginal Affairs NSW for the opportunity to work on this important piece of legislation, and most importantly, thank you to all of the community members who shared their views and to those that have done so much over so many years to keep Aboriginal languages alive and strong.

Yours sincerely

Professor Jack Beetson

Beetson and Associates

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1. Background

Beginning May 2017, Beetson and Associates worked with Aboriginal Affairs NSW to carry out 14 public consultations across NSW. The consultations aimed to gather community views on the draft Aboriginal Languages Bill 2017 and supporting items, including a Strategic Plan and proposal for the establishment of a Centre for Aboriginal Languages NSW.

Each consultation took the form of a half-day workshop, with the discussion led by Jack Beetson. Jack is a Ngemba man who has been working in education, development and community engagement for over thirty years.

An Executive from Aboriginal Affairs NSW attended each consultation, as well as other Aboriginal Affairs staff from the team working on the Aboriginal Languages Legislation and Regional offices.

This Report is based on the notes and observations from each of the consultations. Further detail is available in the Proceedings Report produced for each location, and in the publicly released Communiqués, shared with attendees who provided email addresses and placed on the Aboriginal Affairs website (<http://www.aboriginalaffairs.nsw.gov.au/languages-legislation>). Proceedings Reports were not released publicly but are available on request to Aboriginal Affairs.

As requested, Beetson and Associates have attempted to provide the Report in plain English and in a style that accurately summarises the views of the community as they were expressed during the consultations.

2. Schedule of Consultations

#	Date	Location	Venue
1	Tuesday 2 May 2017	Lightning Ridge	Aunty June & Uncle Roy Room "Walanbaa Dhurali" (<i>Come Grow Strong</i>) 115 Pandora St, Lightning Ridge
2	Wednesday 3 May 2017	Bourke	Diggers on the Darling 23-25 Sturt St, Bourke
3	Friday 5 May 2017	Moruya	Performing Arts Centre St Mary's Catholic Primary School Queens St, Moruya
#	Tuesday 9 May	Wilcannia	Wilcannia Community Hall Myer Street, Wilcannia
4	Wednesday 10 May	Broken Hill	"Ivory Room" - Musicians Club 276 Crystal St, Broken Hill
5	Thursday 11 May	Dubbo	Yarradamarra Centre - Room YG04 Dubbo TAFE - Myall St, Dubbo
6	Tuesday 16 May	Wagga Wagga	Tolland Community Centre 41 Bruce Street, Wagga Wagga

7	Wednesday 17 May	Griffith	Griffith Local Aboriginal Land Council Community Centre 5 Wiradjuri Place, Griffith
8	Friday 19 May	Dareton	Dareton Senior Citizens Club Millie Street, Dareton
9	Tuesday 23 May	Tamworth	Tamworth TAFE (Binaalba Building) Janison St, Tamworth
10	Tuesday 6 June	Lismore	Lismore Workers Club 225 - 231 Keen Street, Lismore
11	Wednesday 7 June	Coffs Harbour	Cavanbah Centre, 191 Harbour Drive, Coffs Harbour
12	Thursday 8 June	Taree	TIDE Indigenous Services 82 Victoria Street, Taree
13	Wednesday 14 June	Sydney	National Centre of Indigenous Excellence 166-180 George Street, Redfern
14	Friday 23 June	Western Sydney	Butucarbin Aboriginal Corporation, 28 Pringle Road, Hebersham
#	Wednesday 12 July	Moree	Pius X Aboriginal Corporation, Anne Street, South Moree

Note: Beetson and Associates staff, facilitator Jack Beetson and note-taker Joe Boughton-Dent, were not at the workshops in Wilcannia and Moree.

3. Number of Attendees

A total of 244 people took part in the consultations across the 14 locations. A further 25 attended the Wilcannia and Moree workshops. (269 participants in total)

4. Format and Questions Posed to the Workshop Attendees

Consultations were held on weekdays, beginning at approximately 9:45am and running until around 2pm. The locations were based on input Aboriginal Affairs staff received from regional offices and language contacts. Some additional locations were added to the schedule when requested and if this was not possible, people were given alternative ways to provide feedback directly to Aboriginal Affairs.

Each consultation began with a Welcome to Country, acknowledgement and introductions. In some locations this also included a cultural presentation, with local groups sharing some of their work with language.

Facilitator Jack Beetson structured each consultation based off a short slide presentation that included background information and the main elements of the proposed Languages legislation (draft Bill, Strategic Plan, Centre for Aboriginal Languages NSW). However, participants were encouraged to

provide whatever feedback they wished and the presentation was mainly used as a way to begin discussion, explain detail and assist in making the best use of the available time.

An example of the consultation format is included below. Typically Beetson introduced each topic or session, presented background material and/or focus questions and then asked participants to share their thoughts.

Example of Consultation Format

- Registration
- Welcome to Country
- Introductions
- Agenda of the Day
- Why Are We Here?
- The Journey So Far
- What Has Changed Since 2003? (the date of last Languages Policy)
- Current Proposal
- Draft Bill and Recognition Statements
- Strategic Plan
- Centre for Aboriginal Languages NSW

For the sessions on each of the main elements of the legislation (draft Bill, Strategic Plan, Centre for Aboriginal Languages NSW) focus questions were used to prompt discussion.

Bill

- What should the legislation be called?
- Do the acknowledgement statements capture all the right things?
- How should the Bill both recognise past struggles and celebrate the diversity of Aboriginal languages in NSW?
- Do you agree with the definition of a NSW Aboriginal language?
- How do we ensure Aboriginal authority/ownership?

Strategic Plan

- What's your aspiration/vision for your language?
- What would you like to see at the local, regional or State-wide level to support Aboriginal language revival?
- Do the five proposed elements of the Strategic Plan cover key issues?
- What does success look like? What should we use to measure success?

Centre for Aboriginal Languages NSW

- Are the functions of the Centre, listed in the draft Bill, sufficient?
- The draft Bill proposes the Centre will be part of Aboriginal Affairs and managed by the Head of Aboriginal Affairs – are there other options that should be considered?
- What appropriate governance structure should oversee the Centre?
- What other responsibilities should the Centre have?
- What relationship should the Centre have with existing regional language bodies?

5. Method of Gaining Input and Obtaining Information

As indicated above, each consultation was run as an open discussion, with the slide presentation and focus questions used to help generate feedback as required. Participants were encouraged to use the consultation as a way to have a say on whatever they felt was relevant.

Beetson expressed his view that the best way for the legislation to be effective was for Aboriginal people to really own it. He similarly encouraged attendees to do the same with each consultation – to own it and make it theirs.

6. Broad Overview of the Discussion

The discussion ranged across many topics and viewpoints, so summarising it is challenging. However there were a number of key themes that came up regularly. These are outlined in the section below.

While they include lots of different aspects relating to language, it is possible to connect them to an underlying concern. Community wants to ensure things are done the right way, for the right reasons, with benefits shared equally and fairly. Aboriginal ownership and control were seen as fundamental to achieving this – with true authority needing to remain in the hands of each language group.

While people wanted significant changes and improvements, it is very important to note they were supportive of legislation going ahead.

7. Key Themes

The following Key Themes represent the broad topics raised across the consultations:

Context

Participants said legislation must do a better job, right from the outset, of telling the full story of Aboriginal languages. Items that have been grouped under this heading for the purpose of this Report include recognition of elders, the importance of language, the importance of the legislation, acknowledgement of the damage done to languages by the State, the continuing strength of many languages, that some languages have been lost and that others have been asleep and are being woken up. There were also concerns raised that people may mistakenly believe there is only one Aboriginal language, and the diversity of the different languages needs to be made clear. In general there was criticism that the draft lacked passion, meaning and inadequately captured the richness of Aboriginal languages and their connections (see below).

Connection

Connection was a repeated theme at all of the consultations. Participants were concerned that language was being addressed in a siloed way that ignored its connection to things like culture, identity and in particular, land. It was stated that Aboriginal languages were deeply interlinked to these areas and participants repeatedly said the current draft and the processes around the development of the legislation needed improvement. Participants at the consultations raised concerns around how proposed legislation fit with the Land Rights Act and work being carried out by the Office of Environment and Heritage. It was the view of community members that until this lack of connection is fixed there is no way that the legislation can be made right.

Ownership and authority

This was one of the biggest concerns raised at the consultations. It was raised at each consultation, and repeatedly throughout every session within consultations. Participants said Aboriginal ownership and authority in regard to Aboriginal languages must be at the heart of the languages legislation. Participants wanted it stated clearly upfront and then to underlie every clause of the Bill, being the driving principle behind its intent and actions. Discussion on this theme also included concerns about rights, oversight, control, the role of the Minister, the role of the Government, and mechanisms for authority and decision-making. It was stated that ownership and authority of Aboriginal languages rests with each language group. Ideas for representative bodies were discussed, with much of the discussion also linking to topics raised when addressing the idea of a Centre for Aboriginal Languages NSW. Concerns were raised about the possibility of having any true Aboriginal ownership and control considering legislation puts authority in the hands of parliament and the Minister. A treaty was seen as one way of addressing this (see Treaty below).

Name

At each consultation attendees were asked for their thoughts on the name of the legislation. A range of views were expressed. Many people did not believe the current name was adequate, however ideas of an alternative were varied. Some groups wanted terminology such as First Nations used, while other groups wanted Aboriginal kept. First Languages of NSW was raised, as was First Nations Peoples Languages, Our Languages and other variations, including a preference for something in language. The word Indigenous was rejected.

Aims and measurement

Attendees discussed some of the practical aims of implementing legislation and their hopes of what could be achieved. Many talked about seeing and hearing language in everyday life as the goal. This included links to greater opportunities for teaching and learning, naming more things in language (roads, buildings, places etc), ability to interact with Government services in language, speak language in courts and have more access to interpreters. Many people said they just hoped to be able to speak their language one day. The consultations also touched on ways to measure progress, with a range of indicators discussed. Participants wanted opportunities for local data collection, carried out by local Aboriginal people, to be part of the approach to measurement.

Resources

Participants wanted commitments to funding to be included throughout the legislation and its related components. The legislation was seen as not genuine unless these commitments were made. It was stated that funding needed to be new money otherwise it would stretch existing amounts too thinly and cause division, leaving people in a worse place than they are currently. Resources needed to be long term and secure. Allocations needed to support all language groups and should not end up with bodies, organisations, individuals or institutions just because they are good at those skills needed to secure grants within the Government funding process.

Review

People wanted regular review of legislation, as an important way to make improvements and address issues that may have been overlooked at earlier stages. These reviews should not be seen by Government as an opportunity to wind things back or turn off the tap for resources. It was important to participants that any review would be carried out on behalf of the community, with responsibility for review sitting with a body or individual that is directly accountable to the community.

Strategic Plan

Participants wanted something that could be reviewed and built on. The proposed content and terminology relating to the Plan did not really engage people. The low level of detail presented meant it was hard for people to comment in anything other than a broad way. People agreed with the elements of the Strategic Plan as listed (Aboriginal authority, ownership and control, Reviving and nurturing Aboriginal languages, Wellbeing and Education, Developing the language workforce, Wider appreciation and use) but wanted Communication added. Regarding the greater detail of what would go into a Strategic Plan and what its aims and priorities should be, much of this can be gauged from the other key themes outlined in this document.

Workforce Development

Participants wanted references to 'workforce development' to be changed to 'Aboriginal workforce development', to ensure Aboriginal people benefit.

Follow-through

At some consultations people said they were sick of talking about things and what they wanted was action. The alternative view was also expressed - that the process was too rushed and people were being forced to fit a timeline that suited what Government wanted. Participants stressed that in taking part in these consultations and offering their views they expected to see their concerns addressed, otherwise it was just a tick-a-box exercise and a waste of time.

Teaching and Learning

Many concerns were raised regarding the teaching and learning of language. This included the lack of proper payment and recognition for Aboriginal Education Officers (AEOs), lack of language uptake from schools and Principals despite opportunities, poor integration/implementation of existing language policies and initiatives within the Department of Education, language being taught the wrong way by the wrong people, the wrong languages being taught in schools (not the language of the land but based on the available teachers), adults and community members having no access to language, the need to teach elders and adults prior to teaching children, different views on who can learn a language and who can teach it, appropriation by linguists, the need for Aboriginal linguists, the institutionalisation of language within TAFE, Universities and Schools, accreditation practices excluding Aboriginal speakers of language and favouring non-Aboriginal people because of their qualifications, the lack of proper payment and recognition of Aboriginal speakers of language and the protection of intellectual property for those who share their knowledge.

Language Centre

Locating a Language Centre in Aboriginal Affairs was rejected. People wanted any Language Centre (or multiple Centres) to be independent of Government or Government departments. In general people liked the functions that were identified for a Language Centre and added others, with a priority placed on the sharing and coordination role. Options for the Language Centre that were suggested were Local Language Centres, Regional Language Centres, Virtual Language Centres, Mobile Language Centres. Other ideas put forward include basing Language Centres at existing locations or organisations, such as Land Councils. Most consultation groups did not want a Language Centre based in Sydney. Participants wanted any Language Centre to be staffed by Aboriginal people and to be easily accessible. The feedback on a Language Centre also linked with people's views about oversight, authority and decision-making as it applied to the legislation in

general. If people were talking about anything other than a local Language Centre they began discussing what the best governance structure would be, and this generally included ideas for a structure that could be representative of language groups and able to act as an authority – providing direction to the Minister and oversight of related activities. When this kind of structure and governance was discussed it was then seen as the way decisions and priorities could be set more broadly. Many people said they believed the Centre would need to be an authority otherwise it could not perform the functions required. However people also said that decisions around languages would need to be made at the local level.

Use of plain English and Language

People said it was vital that legislation is easy to understand. They wanted the meaning to be straight forward and for it to be written in plain English. People asked for translations to be provided, and for Aboriginal language to be incorporated. It was raised that this would be difficult because there are so many Aboriginal languages in NSW. Some suggestions on how to address this were put forward, but people had different views on what would be acceptable.

Consultation process

There was criticism of the consultation process for the legislation. The main criticisms were that it was rushed, that the right people were not in the room, that the voice of elders and language speakers in particular were missing, that language teachers had not been given permission to attend from their schools, that there were locations and language groups missing from the schedule, that people wanted to see the next draft of the Bill after their feedback had been incorporated, that the Minister needed to hear what people had to say, that more should have been done to let people know about consultations, that Land Councils should have more attendees and that it was unclear how it fit with the Aboriginal Land Rights Act and the consultations on Aboriginal Cultural Heritage reforms that are coming up.

Need to build on existing work

Attendees at the consultations wanted legislation to build on existing language work being carried out by people and organisations and not drawing resources away from them or weakening what is already being done.

Borders

Participants said Aboriginal language groups extend across the State's borders and that it was important this was addressed in legislation or through inter-government arrangements.

Coordination – Government and other

People criticised the lack of coordination across Government departments and between Local, State and Federal Government. They wanted to know how the proposed legislation fits with Commonwealth language activities and funding. They hoped that legislation would lead to greater coordination and unity in the approach, with the opportunity for NSW legislation to create a benchmark that could be adopted across the country. The approach of the AECG and Aboriginal Language and Culture Nests was criticised.

Diversity and localised approach

Participants said legislation must reflect the full diversity of Aboriginal languages. There are numerous Aboriginal languages in NSW, and a number of language groups extend across borders. Within languages there are also variations and dialects. Participants said legislation must respect

and reflect this diversity and be workable in a way that allows localised authority, as presently exists.

Danger of division and disputes

People were worried that if things were not done the right way, legislation could create greater divisions and disputes over languages. It was pointed out that the damage done to Aboriginal languages to this point means that so much to do with language is missing or disputed. Consultation participants spoke of the need to bring people together to heal and work together. They said this would require hard work and resources and legislation should support it.

Treaty

It was raised that legislation works in a way that means ultimate authority does not rest with Aboriginal people. Participants said having a treaty was the way this could be overcome and that NSW should be leading the country in treaty discussions.

Definitions and word choices

A range of views were expressed on whether the definitions and terms included in the legislation were appropriate or adequate. People wanted to be sure that whatever was being used was consistent with other legislation and did not undermine existing rights or laws. Words such as 'occupant' were rejected, and concern was raised around instances in the legislation where 'community' seemed to apply to the wider community, rather than just the Aboriginal community. There was also discussion around 'people' and 'peoples', the definition of languages applying just to NSW territory (and not recognising that languages extend across the State's borders) and whether a definition needed to be included for the word 'protection' to help overcome the negative connotations the word carries as a result of past Government action. Alternatively 'protection' could be dropped altogether. Some people had issues with the words 'revive' and 'revival'. Some thought 'recognise' could be replaced with something stronger. In general people wanted more thought put to the words used within legislation and a way to offer some peace of mind that the choices were sound and not undermining established rights and definitions or creating loopholes.

Correct use and appropriate benefit

Concerns were raised around the protection of intellectual property and the commercialisation of language. People wanted ways to ensure protocols about language use were being followed and a way to address misuse. In general attendees wanted to make sure that language was being used in the right way and that any benefits stemming from the use of language were ending up in the right places.

Nature of language

Attendees wanted legislation to incorporate written, oral and non-verbal forms of language and did not want aspects such as dance and culture excluded. The evolution of language was also discussed, with people wanting it recognised that language was alive and developing. Attendees wanted Aboriginal English to be considered.

Political process

Concerns were raised about the impact of the political process on the crafting and implementation of legislation. People were particularly worried that what they were expressing in the consultations would be ignored, watered down or dropped out of legislation as it progressed through to becoming law. They said they had no confidence in parliament acting on their behalf and that there was no

Aboriginal voice for them in parliament. Others were concerned that there was not enough capacity to push back if and when the legislation and languages became a public target for prominent opponents.

Independent legal advice

Attendees at the consultations were concerned they did not have independent legal advice to act on their behalf and ensure legislation was being crafted as they intended and for their benefit.

Compensation

Participants wanted to know if compensation for the loss of language would form part of language legislation. It was also stated that Government funding that goes towards languages should be viewed as compensation rather than grants. It was hoped this would assist members of the public to understand why resources are being directed towards languages, increasing the likelihood of support.

Repatriation

Participants discussed the idea of repatriation of language materials to get them returned to the locations and language groups they originated from. A regional or local language Centre was seen as a place where they could be stored safely and in a way that meant access could be determined by the right people and getting materials would not take as long as it does now.

8. Recommendations

The community consultations provided a lot of clear feedback that can be used to improve the draft Bill. The key themes outlined in this Report give a guide to where participants felt the legislation fell down and how it can be improved. Community concerns did not just apply to the legislation itself, but also to how the legislation has been developed. Outlined below are specific recommendations that have been drawn from the views of consultation participants. In general it is important that the feedback outlined in this Report, and that provided in greater detail within the Proceedings Reports and public Communiqués, is used as the basis for developing the next draft of the legislation. It is also worth restating that participants were keen for legislation to proceed.

Context

Recommendation:

- Draft a Preamble to the legislation and seek feedback at a second round of community consultations (see Consultation process recommendations below). The Preamble should deal with items such as ownership, sovereign rights, acknowledgement of the past, languages that have been lost or are sleeping, the strength, resilience and importance of languages today and the connections with culture and land. The Preamble needs to capture the passion and meaning that lies at the heart of the connection Aboriginal people have to languages.

Connection

Recommendations:

- Legislation and consultation process needs to be revisited to better reflect the indivisible links between language, land and culture.
- Specifically, work needs to be done to examine how proposed legislation links to the Aboriginal Land Rights Act and the Aboriginal Cultural Heritage reforms.
- Follow-through on request during consultations for Aboriginal Affairs to work in coordination with key bodies and groups.

Ownership and authority

Recommendations:

- Clearly state Aboriginal ownership of Aboriginal languages prominently within the legislation at the outset.
- Ensure Aboriginal ownership and control underpins the entire legislation by having it forefront in the mind of the drafters as they write the revised legislation.
- Re-write relevant sections of the legislation and the associated elements to reflect the Government and Minister's role as supporting the community rather than directing or doing.
- As above, re-write relevant sections to reflect community as responsible for languages, with Government and Minister in supporting and resourcing role.
- Seek further views from community on possible governance structures to enable oversight of the legislation and related elements, including the Aboriginal Languages Centre (or Centres).

Name

Recommendation:

- Report back to consultation groups on the suggested names for the legislation and the arguments that were put for and against. Seek further guidance from the community on their preference and suggested ways to resolve the issue.

Aims and measurement

Recommendation:

- Incorporate community's request that local data collection is carried out by local Aboriginal people.

Resources

Recommendation:

- Include commitment of resources within legislation and related elements.

Review

Recommendation:

- Include a regular review of the legislation – with the review to be carried out on behalf of the Aboriginal community and providing an opportunity to make beneficial changes as required.

Strategic Plan

Recommendation:

- Add Communication as an element of the Strategic Plan.

Workforce Development

Recommendation:

- Change to Aboriginal Workforce Development.

Teaching and Learning

Recommendations:

- Make the improvement of teaching and learning of Aboriginal languages a significant focus of legislation and the related elements, including examining ways to:
 - Address community based learning and teaching opportunities.
 - Address barriers to language speakers becoming teachers – particularly issues related to accreditation.
 - Ensure adequate payment and recognition for language speakers undertaking teaching roles.
 - Allow approaches to teaching and learning to be localised.

Language Centre

Recommendations:

- Remove reference in legislation to Language Centre being established within Aboriginal Affairs.
- Seek further guidance from community on preferred model for Language Centre and advice on how to progress this aspect of legislation if no clear position emerges.

Use of plain English and Language

Recommendations:

- Write legislation in plain English so that it can be easily understood.
- Explore other ways to increase the accessibility of the legislation and related elements – for example including simply worded definitions and glossaries, creating translations in Aboriginal languages.

Consultation process

Recommendations:

- Follow up with a second round of consultations so people can examine changes and make further comments.
- Provide clear indication of what has changed and why it changed – illustrating how specific feedback from the first round of consultations was included in the new draft.
- Work to ensure additional consultations include strong representation from elders and language speakers.

Borders

Recommendation:

- Legislation to acknowledge language groups in NSW extend beyond the borders of the States.

Coordination – Government and other

Recommendation:

- Work to provide clarity on how legislation links to Federal language initiatives, and how it would interact across Government and other related groups in NSW.

Diversity and localised approach

Recommendations:

- Legislation to be drafted in such a way as to ensure authority and decision-making remains locally with each language group.
- Legislation to reflect the full diversity of languages in the State (and stretching across its borders).

Independent legal advice

Recommendation:

- Explore options for Aboriginal community to access independent legal advice for review and input into future drafts of the legislation.