

**DRAFT MOCK BILL – FOR COMMENT ONLY
(NOT NSW GOVERNMENT POLICY)**

NEW SOUTH WALES FIRST LANGUAGES BILL 2017

[This is a mock-up of the legislation, which outlines the proposed main sections of the legislation based on what we heard in the first round of conversations and is intended to be for discussion purpose only. There are many blank parts to the mock legislation which will be filled in through the course of the second round of conversations. The final Bill for Parliament should reflect what we heard from all the languages conversations, submissions and letters, but may be different from this mock-up as it goes through the formal drafting and approval processes].

NAME OF ACT

This Act is the New South Wales First Languages Act 2017.

LONG TITLE

An Act to acknowledge the First Languages of New South Wales, to resource and empower First Peoples to nurture and grow their languages, to establish an [Authority / Federation / Council / Commission / Trust] to resource, coordinate and support local activities that nurture and grow First Languages; and for other purposes.

OBJECTS OF THE ACT

- (a) To acknowledge First Peoples' custodianship of their languages and their rights and obligations to the continued growth of their languages;
- (b) To acknowledge that First Languages are indivisible from land, and the culture and identity of First Peoples of NSW;
- (c) To acknowledge that First Languages are a unique and valuable part of the intangible cultural heritage of the State of New South Wales and to all of humanity;
- (d) To establish an [Authority/Federation/Council/Commission/Trust] comprised of and led by First Peoples to direct the NSW Government on First Languages, and assist First Peoples in coordinating and sustaining local efforts to nurture and grow First Languages;
- (e) To empower and support the First Peoples of NSW to teach and promote their languages, and to direct the teaching and use of languages within schools and other government institutions; and
- (f) To ensure consistency with the Aboriginal Land Rights Act 1983 and the Aboriginal Cultural Heritage Act.

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PREAMBLE

[To be drafted by an Aboriginal writer/poet in consultation with the language advisory group – it could also be a dialogue between two generations (father-son; aunt-nephew) to demonstrate transmission over time] which includes:

- acknowledgement that past NSW Government actions deliberately tried to destroy Aboriginal languages;
- reflection on the resilience of languages within First Peoples; and
- recognition of the efforts of the past and current generations of First Peoples and others in reawakening, nurturing and growing First Languages, so that there will be enjoyment and enrichment of future generations; and
- elements of language or languages.

COMMENCEMENT

This Act commences on

[Typically this is the date of assent or commencement date by proclamation. The latter date is generally used if Regulations or other subordinate legislation has to be made. In our case we might not commence the Act until the Authority/Federation/Council/Commission/Trust is established].

DEFINITIONS

In this Act:

- *First Peoples* means ... [need to reference Aboriginality, kinship, lore and protocols]
- *First Languages* means a language, or dialect of a language, of the traditional custodians of the land in the State of New South Wales
- *First Languages Activities* means an activity intended to reclaim, revive, revitalise, nurture, foster, promote, raise awareness of First Languages of NSW
- *Authority/Federation/Council/Commission/Trust* means ...
- *First Languages Strategic Plan* means the plan prepared under section X of this Act
- *Function* includes a power, authority or duty, and exercise a function includes perform a duty.
- *Intangible cultural heritage* means ... [definition in Aboriginal Cultural Heritage Act]
- *Land* includes waters and natural resources associated with the land
- *Specialists* means qualified professions (such as linguists) as well as First Peoples who hold knowledge on First Languages [needs refinement].

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STATEMENTS OF RECOGNITION

In enacting this Act, Parliament acknowledges:

- (a) First Peoples of NSW are the owners of their languages, and have the right to control the growth and development of their languages;
- (b) First Languages are a unique and valuable part of the intangible cultural heritage of the State of New South Wales; and
- (c) The role of the NSW Government is to empower and support ... **[and require the accountability of NSW Government agencies in achieving the objects of the Act].**

[Given that there is to be a preamble, need to consider which provisions go in the body of the legislation (and are therefore legally operative) and what goes into the Preamble (which influences the interpretation of the body of the legislation)].

NSW FIRST LANGUAGES AUTHORITY/FEDERATION/COUNCIL/COMMISSION/TRUST

Objective

The objective of this [Authority/Federation/Council/Commission/Trust] ... is to provide a focussed, coordinated and sustained effort in local First Languages activities.

Establishment

A First Languages [Authority/Federation/Council/Commission/Trust] is to be established ...

[details of the Authority/Federation/Council/Commission/Trust including independence from government, relationship with the Minister and Department (for Aboriginal Affairs), incorporation model, how funded, whether it can employ staff].

Functions

The [Authority/Federation/Council/Commission/Trust] has the following functions **[for discussion]:**

- (a) to provide specialist advice and direction for First Language Activities in NSW;
- (b) to adapt and promote effective First Language Activities;
- (c) to identify priorities for First Language Activities;
- (d) to manage the funding for, coordination of, and investment in, local First Language Activities and activities that support local First Language Activities;
- (e) to promote education and employment opportunities in First Languages;
- (f) to provide advice and recommendations to NSW Government on First Languages;
- (g) to develop resources to support First Languages Activities; and
- (h) to foster the use and appreciation of First Languages.

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Membership / Board / Committee of the Authority / Federation / Council / Commission / Trust

There is to be a state-wide board for the [Authority / Federation / Council / Commission / Trust]...comprising representation/membership [for discussion – options might include]:

- State-wide representation of each language group
- Qualifications (or equivalent) along with standing in community
- Existing interest and involvement in languages, connection to community, and driving language development within community
- Initially Ministerial appointment.

Functions (if different from the Authority/Federation/Council/Commission/Trust)

Delegation

- (1) The [Authority/Federation/Council/Commission/Trust] may delegate to an authorised person the exercise of any functions, other than this power of delegation.
- (2) In this section, authorised person means:
 - (a) any person employed in [the Authority/Federation/Council/Commission/Trust] and
 - (b) [others? board members?].

Transitional Arrangements

[Aboriginal Affairs role will be to “incubate/establish” the Authority / Federation / Council / Commission / Trust in the initial two year period].

NSW FIRST LANGUAGES STRATEGIC PLAN [or INVESTMENT STRATEGY]

- (1) The [Authority/Federation/Council/Commission/Trust] is to oversight the preparation of the NSW First Languages Strategic Plan.
- (2) The Strategic Plan is to make provision for the following:
 - (a) targeting of funding and investment in local Language Activities and activities that support or foster local Language Activities
 - (b) programs that will establish an Aboriginal languages sector in NSW, including workforce and organisational development required
 - (c) public, private and community partnerships
 - (d) any other matter that the [Authority/Federation/Council/Commission/Trust] considers are appropriate revival programs.
- (3) The [Authority/Federation/Council/Commission/Trust] is required to prepare a new strategic plan every 5 years.

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- (4) The [Authority/Federation/Council/Commission/Trust] is to publish the NSW First Languages Strategic Plan on a publicly accessible website.

Review of strategic plan (or investment strategy)

- The [Authority/Federation/Council/Commission/Trust] is to conduct an annual review of the strategic plan and to prepare a report on [achievement of Strategic Plan goals/objectives and the objects of the Act].
- [Need to include provisions about local data collection, design and evaluation].

Tabling of plan and reports

The Minister [through the Authority/Federation/Council/Commission/Trust] is to lay (or cause to be laid) before both houses of Parliament a copy of the review report.

[Note the standard clauses relating to tabling of reports will be inserted here]

MISCELLANEOUS

Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[This is a standard regulation making power].

Review of Act

- (1) The Minister, with the concurrence of the Authority/Federation/Council/Commission/Trust, is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act – and for every 5 years thereafter
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Consequential amendments

Amendments to *Geographical Names Act* – [details of amendments].

Amendments to *Education Act* [or similar] – [details of amendments].

Other Amendments – [details of amendments].