



## **INTRODUCTION OF THE ABORIGINAL LANGUAGES BILL 2017**

Paper presented by **The Hon. John Ajaka MLC**  
President of the Legislative Council  
Parliament of New South Wales

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## Introduction of the Aboriginal Languages Bill 2018

### The Aboriginal Languages Bill 2017

On 11 October 2017 the New South Wales (NSW) Minister for Aboriginal Affairs, the Hon Sarah Mitchell MLC, introduced the Aboriginal Languages Bill into the Legislative Council. Debate on the Bill commenced that day and continued the following week. The Bill received unanimous support in both Houses and, following the making of five amendments, the Bill was agreed to and received assent on 24 October. The Act will commence on proclamation, expected later this year.

The objects of the bill were:

- to acknowledge the significance of Aboriginal Languages to the culture and identity of Aboriginal people
- to establish an Aboriginal Languages Trust governed solely by Aboriginal people to 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.

Unusually, the bill included a preamble, a particularly powerful preamble, which has both symbolic and practical meaning:

“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 New South Wales:
- (e) It is acknowledged that Aboriginal people are the custodians of Aboriginal languages and have the right to control their growth and nurturing:

The Legislature of New South Wales therefore enacts:”

## **The significance of the legislation**

The contributions during from the second reading debate in the Legislative Council give a sense of the significance of the Aboriginal Languages Bill.

From the Minister for Aboriginal Affairs, the Hon. Sarah Mitchell MLC, said:

“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 song lines 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.”(Second reading speech 11 October 2017).

The Leader of the Opposition, the Hon Adam Searle MLC, noted:

“We should remember that more than 250 Aboriginal Australian language groups were present on the continent at the time of European settlement in 1788. Today, only around 120 of those languages are still spoken, and many are at risk of being lost as elders pass away...

In one sense there is nothing in this legislation that could not be undertaken without there being a special Act of Parliament; each of these steps could be taken by administrative action alone. But the fact of this bill and its contents, the fact that the collected, elected representatives of all the people of this land acting together are consciously willing these courses of action and are committing to them in the context of all that was done to destroy Aboriginal language, culture and identity in the past, this small step today has important symbolic resonance. However, let it not be merely symbolic.

I note that legislation does not seek to protect or to preserve Aboriginal languages, rejecting the language of past colonial injustice, but rather seeks to reawaken them, as if they were a strong flame that has been caused to die down to embers, but not extinguished, continuing to glow and to smoulder until given oxygen and nourishment, to be given support, they grow back into their full glory once more.”(Second reading debate, 11 October 2017).

### **Marking the significance of the introduction of the legislation**

Some weeks before the introduction of the Bill the Clerk and I were approached by the Minister and her officers. It was pointed out that this legislation had been fifteen years in the making and was part of a long journey that, in the last 18 months, had been the subject of state-wide consultation with Aboriginal language stakeholders. There was considerable interest in the legislation and its development and its final form would be watched by Aboriginal people throughout NSW, across Australia and also by first peoples in other parts of the world, such as North America. We were asked whether we would be open to the incorporation into the proceedings in the House of a culturally appropriate ceremony to mark the introduction of the Bill that would be both symbolic and potentially transformative. The legislation would be introduced in the Legislative Council as the Minister for Aboriginal Affairs was a Member of the Legislative Council and the Premier had advised that she would be given this honour in view of her hard work to bring the legislation forward.

Fortunately, only a couple of months before, during the 48th Presiding Officers and Clerks Conference, hosted by the Parliament of NSW in Sydney, we had heard a presentation by the Hon Chester Borrows MP, then Deputy Speaker of the New Zealand House of Representatives. Chester Borrows had outlined a number of recent innovations in the New Zealand Parliament which had made parliament more accessible to citizens and more relevant to their lives. One of those innovations was the relaxation of rules to facilitate the observance of some aspects of “Tikanga Maori” or Maori culture, particularly following debate on Treaty of Waitangi settlement bills. He gave the example of permitting “waiata”, the singing of songs or hymns from the public galleries, and the saying of a “karakia” or prayer by a member at each sitting.

These additions are not only respectful to Maori; they increase the relevance of the House of Representatives to all New Zealanders lives and now we see it as normal process of running of parliament.

His presentation concluded with a video of one of the songs being sung in the public gallery. It was spine tingling and inspirational.

Inspired by Chester Borrow's presentation and the example of the New Zealand House of Representatives, I felt empowered to be able to embrace the Minister's request. I consulted the Clerk and the advice received was that, provided the House clearly approved any innovative procedures (on motion), the House could temporarily suspend any of the rules that might otherwise stand in the way of incorporating any ceremony that could practically be incorporated into the procedures of the chamber.

During a number of meetings with the Minister's staff and departmental staff a range of ideas were discussed, including:

- a welcome to country,
- a smoking ceremony,
- Aboriginal elders and language group representatives being admitted to the floor of the chamber,
- a message stick being carried with the Bill and presented to the Minister,
- Aboriginal languages being spoken in the chamber,
- music and dance.

The legislation would still need to go through all of the relevant stages namely: initiation by notice of motion; the moving of a motion for leave to introduce the bill; the presentation, first reading and printing of the bill; the second reading; consideration in committee-of-the-whole; third reading; forwarding to the other House for concurrence. Further, whatever innovative procedures were adopted needed to be carefully crafted so as to address any anxieties or misgivings from traditionalists who might be uncomfortable with departing from the long-standing traditions of the House.

### **Innovative procedures**

On Tuesday 10 October the Minister for Aboriginal Affairs gave a Notice of Motion for leave to introduce the bill. She also gave a Notice of Motion seeking the support of the House for a series of procedures to be followed the next day. On Wednesday 11 October the Minister moved the latter motion and the House agreed to suspend standing orders. As a result, the introduction of the Aboriginal Languages Bill proceeded as follows:

- Immediately following the House agreeing to a motion for leave to introduce the Bill, the President left the Chair with the sitting interrupted.
- Members then proceeded to the forecourt in front of Parliament House, for a spoken Welcome to Country from a representative of the Gadigal clan of the Eora nation, the traditional owners of the land on which the Parliament meets, and a smoking ceremony.
- Members then returned to the chamber and awaited the arrival of the President, the Minister for Aboriginal Affairs and Aboriginal elders.
- Once the President and Ministers had taken seats on the benches (note the President did not yet return to the President's chair as the House was not yet again in session), Aboriginal elders and others came onto the floor of the chamber and positioned themselves around the end of the table.
- The elders and other participants then conducted a message stick ceremony, in which they each spoke or sung words about the significance of the legislation, with the message stick passed around the table and held by each participant in turn as they addressed members.
- The final message stick ceremony participant handed the message stick to the Minister for Aboriginal Affairs.
- Upon the message stick ceremony participants then taking their seats in the President's Gallery, the Usher of the Black Rod announced the President, who took the Chair and indicated that the House was again in session.
- Two Aboriginal elders, Uncle Gary Williams and Aunty Irene Harrington, were invited to take seats on the dais.
- The Minister then proceeded through the remaining usual formalities in introducing the Bill and commenced her second reading speech.
- Early in her second reading debate, the Minister invited Dr Ray Kelly, academic researcher at the Purai Global Indigenous and Diaspora Research Studies Centre at the University of Newcastle, to come to the lectern at the Table to translate her acknowledgement of the traditional owners into Dhungutti.
- Towards the end of her speech, the Minister again invited Dr Ray Kelly to the lectern at the Table to remark on what the Bill means to the first peoples of NSW.
- Following the Minister's speech, the leader of the opposition and two cross bench members commenced their second reading speeches, and the debate was then adjourned for five calendar days.

(A copy of the procedural motion moved by the Minister and agreed to by the House which facilitated these events is attached, and also attached is a copy of how the events were recorded in Minutes of proceedings.)

## Members' responses

The response of Members to the innovative procedures, particularly the message stick ceremony on the floor of the chamber, was overwhelmingly positive. The views expressed on the record by members during the second reading debate were unanimously supportive of the approach taken:

The very moving message stick ceremony that took place on the floor of this Chamber was significant and substantial not only for those of us who were in the Chamber at the time but for a range of people, whether they be first peoples, white Australians or multicultural Australians. (The Hon Mick Veitch MLC, second reading debate 17 October 2017)

I support the Aboriginal Languages Bill 2017 and express my appreciation to the Minister for its introduction and the way we were taken through the ceremonies last week. The ceremonies were quite remarkable and we will remember them for a long time. (Mr Scot Macdonald MLC, second reading debate 17 October 2017)

I thank everyone who took part in the smoking ceremony on 11 October. They included: Dr Ray Kelly; 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. I take this opportunity to congratulate President the Hon. John Ajaka for being open to new and modern procedures and for allowing members of the Aboriginal community onto the floor of the Chamber. That is a very worthy precedent. Suddenly there were no strangers in the House; those present were part and parcel of this place. It was a wonderful ceremony that brought members and Indigenous people together in this place and rightfully on their land. I hope the Government will continue to uphold the symbolic and sincere intentions of that wonderful ceremony in its practical implementation of this important legislation. (The Hon Shaoquett Moselmane MLC, second reading debate, 17 October 2017)

Last Wednesday saw the celebration of a special occasion for this Parliament and for Aboriginal people across New South Wales. I place on record my appreciation and thanks to the President and members of the House for agreeing to the performance of and participation in the ceremonies. I acknowledge the assistance of the staff of the Parliament: the Clerk, David Blunt; the Usher of the Black Rod, Susan Want; and the many others who helped create a meaningful day for us all. (The Hon Sarah Mitchell MLC, Minister for Aboriginal Affairs, speaking in reply, second reading debate 17 October 2017.)

## The message stick

Whilst noting the significance of the message stick ceremony, a number of members also took the opportunity during the second reading debate to reflect on the potential for further future appropriate symbolism in the chamber. A specific suggestion was made by one member about the form that symbolism could take, centred on what would happen to the message stick that had been handed to the Minister for Aboriginal Affairs at the conclusion of the message stick ceremony and subsequently presented to the Presiding Officers:

This Chamber must do a lot more over time to reflect the substantial contribution of the first peoples of New South Wales to the development of this State... It is my view, and I had a quiet conversation with the Minister about this, that that message stick should be placed on the table of the House so that the important conversation that commenced with that wonderful, moving ceremony will be conveyed and remembered not just by the people that are here now but those who follow in our footsteps, for all time. It will be a very important message. People will refer to the message stick and this central piece of legislation around retaining, nurturing and regaining Aboriginal language. It will be here. I appreciate that a range of processes have to take place with the local Indigenous community as well as our own processes in order for that to happen. It is not an easy thing and I accept that. We cannot just put something on the table of the Chamber, but we should work towards making a gesture like that. It is more than just a symbolic gesture. We should be looking at other ways for this Chamber to reflect the contribution to this State of the first people of this State. We must do more than just have several busts of white Australian men, display the Aboriginal flag or acknowledge country at the start of each sitting week. There is plenty we can do. There should be physical attachments to the first peoples of this State somewhere in this Chamber. I have raised this with the Minister and I know it is in good hands. I would like to explore further how we can make that happen. (The Hon Mick Veitch MLC, second reading debate 17 October 2017.)

The Deputy President, the Hon Trevor Khan MLC, responded:

I will raise a couple of issues. One arises from what my friend the Hon. Mick Veitch had to say about the absence of appropriate symbolism in this place. I noticed that he directed his comments to the Minister. I am sure that it is appropriate that he direct his observations to the Minister, but, as you would know, Mr President, such items of significance are a matter for this House. It is within our power. It is not the Government's power, because this is a Parliament. The Parliament is not part of the Executive, so we should have this discussion amongst ourselves and with appropriate people outside this place; we are in control of our own destiny. Just as we perform a recognition of country—hopefully, respectfully—each Tuesday, we should consider the symbols of this House and consider what is appropriate. I encourage the Minister to be involved. I encourage the Leader of the Opposition and the Deputy Leader of

the Opposition to be involved. I encourage the Hon. Mick Veitch and the Hon. Shaoquett Moselmane to be involved. The Hon. Shaoquett Moselmane has played a significant role in these matters. It is a matter for all of us. (The Hon Trevor Khan MLC, Deputy President, second Reading debate 17 October 2017.)

After the third reading of the bill in the Legislative Council the Bill was delivered to the Legislative Assembly together with the message stick. The message stick was returned with the Bill after it had passed the Assembly.

Given the contributions of members about the message stick, consultation immediately commenced about options for its ongoing display and use. As the Bill had been introduced in the Council it was felt appropriate that it primarily be displayed in or near the Legislative Council chamber.

In 2007 Clive Lucas, Stapleton and Partners Pty Ltd, one of Sydney's leading firms of heritage architects, prepared the first Conservation Management Plan (CMP) for Parliament House. The CMP describes the heritage significance of the Parliament and various parts of the building complex, and sets out conservation policies to guide decision making about the precinct. As the proposal put forward during debate was for the message stick to be displayed in the chamber, Clive Lucas, Stapleton and Partners were engaged to prepare concept plans that would be appropriate and sympathetic to the heritage significance of the chamber. The concept plan provided for the message stick to be located in a display case in an existing bookshelf in the President's Gallery. Once concept plans were received and deemed suitable, further consultation took place with a range of members.

In addition to members, however, it was critically important that the Aboriginal community was also consulted. Through the office of the Minister for Aboriginal Affairs, arrangements were made to consult with two interested groups of elders: the Aboriginal Languages Establishment Advisory Group (ALEAG) and the NSW Coalition of Aboriginal regional Alliances (NCARA). A number of meetings were held during which valuable feedback was received in relation to the concept plans and, specifically, in relation to the interpretative wording to be included to explain the message stick. The final wording agreed was as follows:

"This original message stick, presented to the Parliament of New South Wales, is a physical symbol of the Languages that the Aboriginal Languages Act 2017 seeks to acknowledge, nurture and grow. It is a commemoration of the introduction of the bill in the Legislative Council, the first of its kind in the world, and the first occasion on which an Aboriginal Language was spoken in debate by a non-member. It is a reminder of the two-way ongoing dialogue between the Aboriginal community and the New South Wales Parliament."

The Aboriginal elders from the ALEAG and NCARA also provided valuable feedback on the circumstances in which the message stick would be removed from the display case for placing on the Table of the chamber during significant proceedings. It was agreed that these would include the opening of Parliament, and other special occasions at the discretion of the President. (It is envisaged this might include, for example, during debate on legislation

of specific relevance to the Aboriginal community in NSW.) The ALEAG agreed that it (and the Aboriginal languages Trust once established) would provide a list of Aboriginal Language groups, from which an elder would be nominated on rotation to remove the message stick from the display case on those special occasions, briefly address members from the bar of the House in language, and then hand the message stick to the Usher of the Black Rod for placement on the Table.

On the final sitting day before the 2018 winter recess the House agreed to a motion, moved by the Minister for Aboriginal Affairs, authorising the permanent display of the message stick in the President's Gallery and the arrangements for its removal and placement on the Table during proceedings on the opening of Parliaments or during other special occasions. (The resolution of the House is attached.)<sup>1</sup>

### **Innovation in parliamentary practice and procedures**

The historic proceedings that took place on 11 October 2017 on the introduction of the Aboriginal Languages Bill involved innovations to three long-standing rules of the House:

- Standing Order 196(3) sets out that “no person other than a member, a Clerk-at-the-Table or an officer attending on the House may enter any part of the chamber reserved for members, while the House is sitting.” The message stick ceremony took place during an interruption to proceedings, so that the House was technically not in session. However, once the President took the chair and proceedings resumed, two Aboriginal elders, who are stakeholders of the bill, were invited by the President to sit on the dais during the debate, and Dr Ray Kelly, an Aboriginal academic researcher, who is not a Member of the House, was invited onto the floor of the House. Each of those events was specifically provided for in the procedural motion, moved by the Minister for Aboriginal Affairs and agreed to by the House.
- Dr Kelly, a non-member, was invited to address the House from the lectern at the Table.
- Dr Kelly was invited to address the House, in part, in a language other than English. Dr Kelly's full speech was recorded in Hansard, published on the parliamentary website, and noted in the official Minutes of Proceedings of the House.

Procedurally, each of these three innovations was facilitated, on this special occasion, because they were agreed to by the House on a motion of which notice had been given the previous day. The motion commenced by stating that standing orders be suspended to allow the specified steps to take place. If a similar request was to be received from a Minister or other member for innovations to be adopted to mark the significance of the introduction of another Bill or other special occasion, I would approach the request in the same way as this one – cautiously but with an eye to ensuring the relevance and accessibility of parliamentary proceedings. I would also ensure that any such innovative proceedings were the subject of detailed consideration and consultation with Members, and that they were authorised by the House through a motion of which notice has been given.

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<sup>1</sup> Also that week, the Minister for Aboriginal Affairs informed the House that the NSW Budget had allocated \$2.8 million to establish the Aboriginal languages Trust under the Aboriginal Languages Act.

In conclusion, in addition to the message stick ceremony, there were 3 major innovative practices adopted for the debate on the Bill:

1. A stranger (non-member), was permitted to enter the chamber during the debate.
2. A stranger (non-member) was permitted to speak in the debate
3. A language other than English was spoken in the chamber

From this experience, I would submit that, it is clear to all involved, that Westminster traditions can be respected whilst Parliaments can still be a platform, that is open to innovation and culturally appropriate practices and symbolism.

Or as I have on a number of occasions stated:

*“It is a matter of evolving in a positive way the traditions and practices of the Chamber.”*

APPENDIX 1

Minutes of Proceedings for the introduction and debate on the Aboriginal Languages Bill 2017.

APPENDIX 2

Resolution of the House regarding the Message Stick.

**4. PROCEEDINGS ON THE ABORIGINAL LANGUAGES BILL (Formal Business)**

Mrs Mitchell moved, according to notice: That standing orders be suspended to allow government business relating to the Aboriginal Languages Bill to proceed as follows:

1. On 11 October 2017 business be interrupted at 11.15 am to allow government business notice of motion for leave to introduce the Aboriginal Languages Bill to be called on forthwith,
2. On the motion for leave to introduce the Aboriginal Languages Bill being agreed to, the President immediately leave the Chair until the conclusion of an event to commemorate the introduction of the Aboriginal Languages Bill.
3. On the President resuming the Chair following the commemoration of the introduction of the bill:
  - (a) two Aboriginal elders be permitted to take chairs on the dais, and
  - (b) consideration of the Aboriginal Languages Bill continue.
4. During debate on the second reading of the bill, the Minister for Aboriginal Affairs be permitted to invite Dr Ray Kelly, Academic Researcher, Purai Global Indigenous and Diaspora Research Studies Centre, University of Newcastle, onto the floor of the House to speak in relation to the bill, either in Aboriginal language, in English, or in both, after which the Minister may continue her speech.
5. On the Minister having concluded her second reading speech, debate ensue as follows:
  - (a) the Leader of the Opposition be permitted to commence his contribution to the second reading of the bill for not more than 10 minutes,
  - (b) following the Leader of the Opposition, two cross bench members be permitted to commence their contributions to the second reading of the bill for not more than five minutes each, and
  - (c) at the conclusion of these contributions, the President adjourn the debate without a question being put, and set the resumption of the second reading debate as an order of the day for five calendar days ahead.

- (6) On resumption of the second reading debate of the Aboriginal Languages Bill:
- (a) the Leader of the Opposition be entitled to speak first and conclude his speech, and
  - (b) the cross bench members who have previously spoken in the debate be permitted to conclude their contribution at any time during the debate without interrupting another member speaking.
7. Time limits for debate on government bills apply to this debate.

Question put and passed.

**21. ABORIGINAL LANGUAGES BILL 2017**

Mrs Mitchel moved, according to notice: That leave be given to bring in a bill for an Act relating to Aboriginal languages.

Question put and passed.

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According to resolution of the House this day, the President left the Chair until the conclusion of a welcome to country and smoking ceremony in the Parliament forecourt to commemorate the introduction of the Aboriginal Languages Bill 2017, followed by a message stick ceremony in the Chamber.

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The House resumed at 12.01 pm.

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According to resolution of the House this day, the President invited Aboriginal elders Aunty Irene Harrington and Uncle Gary Williams to take chairs on the dais.

Aunty Irene Harrington and Uncle Gary Williams took chairs to the right and left of the President.

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The President acknowledged the presence of Aboriginal elders and community members and the message stick ceremony participants.

Bill presented.

Bill read a first time and ordered to be printed.

Mrs Mitchell then moved: That this bill be now read a second time.

Debate ensued.

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According to resolution of the House this day, Dr Ray Kelly, Academic Researcher, Purai Global Indigenous and Diaspora Research Studies Centre, University of Newcastle, addressed the House from the floor of the Chamber.

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According to resolution of the House this day, Mr Searle, Revd Mr Nile and Ms Walker commenced their contributions to the second reading of the bill.

According to resolution of the House this day, resumption of the second reading debate set down as an order of the day for five calendar days ahead, Mr Searle speaking.

**38. MESSAGE STICK**

Mrs Mitchell moved, according to notice:

1. That this House notes that:
  - (a) on 11 October 2017, during a special ceremony to commemorate the introduction of the Aboriginal Languages Bill 2017, a message stick was passed between Aboriginal elders representing Aboriginal Language groups, who addressed members, then handed to the Minister for Aboriginal Affairs and later that day presented to the Parliament of New South Wales,
  - (b) on 17 October 2017, during the second reading debate on the Aboriginal Languages Bill 2017 members reflected on the significance of the message stick ceremony and suggested that it should be displayed permanently in the Chamber to acknowledge the substantial contribution of the Aboriginal community to the development of the State,
  - (c) the President, on behalf of the House, consulted with the Aboriginal Languages Establishment Advisory Group (ALEAG) and the NSW Coalition of Aboriginal Regional Alliances (NCARA) on the appropriate means by which to have the message stick permanently displayed in the Parliament, and
  - (d) the President commissioned LSJ Heritage Planning & Architecture to design a cabinet to display the message stick and a description of its significance.
2. That this House authorises the President to facilitate the following works related to the permanent display of the message stick:
  - (a) that the display cabinet be located on the northern wall of the Chamber in the space currently occupied by the middle row of the bookshelves in the President's Gallery, and
  - (b) that the display cabinet will contain the following description: "This original message stick, presented to the Parliament of New South Wales, is a physical symbol of the Languages that the Aboriginal Languages Act 2017 seeks to acknowledge, nurture and grow. It is a commemoration of the introduction of the bill in the Legislative Council, the first of its kind in the world, and the first occasion on which an Aboriginal Language was spoken in debate by a non-member. It is a reminder of the two-way ongoing dialogue between the Aboriginal community and the New South Wales Parliament."

3. That, during the present session and unless otherwise ordered:
- (a) the message stick presented to the New South Wales Parliament on 11 October 2017, during the ceremony to mark the introduction of the Aboriginal Languages Bill 2017 in the Legislative Council, be placed on permanent display in the President's Gallery,
  - (b) the House authorise the placement of the message stick on the Table during proceedings on opening of Parliament, or during other special occasions at the discretion of the President,
  - (c) on those occasions set out in paragraph (b), an Aboriginal Language group, selected on a rotational basis from a list of Aboriginal Language groups maintained by the President and the Aboriginal Languages Establishment Advisory Group and, once established, the Aboriginal Languages Trust, nominate an elder who will be invited to:
    - (i) remove the message stick from the display cabinet,
    - (ii) briefly address members from the Bar of the House in their language,
    - (iii) hand the message stick to the Usher of the Black Rod for placement on the Table.

Debate ensued.

Question put and passed.

## The Aboriginal Languages Bill 2017

### Introduction:

27 January 1788—

As a young student many years ago, we studied the arrival of the first fleet in Australia – Sydney in 1788 – 230 years ago. We also studied our first people – our indigenous Australians’ arrival some 40,000 years earlier. Much later research showed it was more like 50,000 years and recently more like 60,000.

At the time of the first fleet, over 250 Aboriginal Languages of different dialect were spoken and today it is around 120 languages, less than one half, and of course the fear - the reality – is that as Elders pass away, more and more languages are lost.

### Speech:

On 11 October 2017 the New South Wales (NSW) Minister for Aboriginal Affairs, the Hon Sarah Mitchell MLC, introduced the Aboriginal Languages Bill into the Legislative Council.

The Bill received unanimous support in both Houses and received assent on 24 October.

The objects of the bill were:

- To acknowledge the significance of Aboriginal Languages to the culture and identity of Aboriginal people
- To establish an Aboriginal Languages Trust, governed solely by Aboriginal people, to 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.

Some weeks before the introduction of the Bill the Clerk of the Parliaments, Mr David Blunt, and I were approached by the Minister and her officers. It was pointed out that this legislation had been fifteen years in the making and was part of a long journey that, in the last 18 months, had been the subject of state-wide consultation with Aboriginal language stakeholders.

There was considerable interest in the legislation and its development and it was going to be watched by Aboriginal people throughout NSW, across Australia and also by first peoples in other parts of the world.

I was asked whether as presiding officer, I would be open to the incorporation into the proceedings in the House, of a culturally appropriate ceremony to mark the introduction of the Bill that would be **both** symbolic and potentially transformative.

The legislation would be introduced in the Legislative Council, as the Minister for Aboriginal Affairs was a Member of the Legislative Council.

At this point in time, I had been President for approximately eight months.

Fortunately, only a couple of months before, during the 48th Presiding Officers and Clerks Conference, hosted by the Parliament of New South Wales in Sydney, we had heard a presentation by the Hon Chester Borrow MP, then Deputy Speaker of the New Zealand House of Representatives. The Hon. Chester Borrow had outlined a number of recent innovations in the New Zealand Parliament, which had made the parliament more accessible to citizens and more relevant to their lives.

One of those innovations was the relaxation of rules to facilitate the observance of some aspects of the Maori culture. His presentation concluded with a video of one of the songs being sung in the public gallery.

Inspired by the Hon. Chester Borrow's presentation and the example of the New Zealand House of Representatives, I felt empowered to be able to embrace the Minister's request. I consulted the Clerk and the advice received was that, provided the House clearly approved any innovative procedures (on motion), the House could temporarily suspend any of the rules so as to permit any ceremony, to be incorporated into the procedures of the chamber.

During a number of meetings with the Minister's and departmental staff a range of ideas were discussed, including:

- A welcome to country
- A smoking ceremony
- Aboriginal elders and language group representatives being admitted to the floor of the chamber
- A message stick being carried with the Bill and presented to the Minister
- Aboriginal languages being spoken in the chamber
- Music and dance.

On Tuesday 10 October 2017 the Minister for Aboriginal Affairs initiated the introduction of the bill by giving a Notice of Motion for leave to introduce the Bill.

The Minister also gave a Notice of Motion seeking the support of the House for a series of procedures to be followed the next day.

On Wednesday 11 October the Minister moved the latter motion and the House agreed to suspend standing orders to allow the introduction of the Aboriginal Languages Bill to proceed as follows:

- Immediately following the House agreeing to a motion for leave to be given for the introduction of the Bill, the President left the Chair with the sitting interrupted
- Members then proceeded to the forecourt in front of Parliament House, for a spoken Welcome to Country from a representative of the Gadigal clan of the Eora nation, the traditional owners of the land on which the Parliament meets, and a smoking ceremony
- Members then returned to the chamber and awaited the arrival of the President, the Minister for Aboriginal Affairs and Aboriginal elders

- Once the President and Ministers had taken seats on the benches (noting that the President did not yet return to the President's chair as the House was not yet again in session).
- Aboriginal elders and others came onto the floor of the chamber and positioned themselves around the end of the table
- The elders and other participants then conducted a message stick ceremony, in which they each spoke or sung words about the significance of the legislation, with the message stick passed around the table and held by each participant in turn as they addressed members
- The final message stick participant handed the message stick to the Minister for Aboriginal Affairs
- The message stick participants then taking their seats in the President's Gallery, the Usher of the Black Rod announced the President, who took the Chair and indicated that the House was again in session
- One male and one female Aboriginal elder were invited to take seats on the dais
- The Minister then proceeded through the remaining usual formalities in introducing the Bill and commenced her second reading speech
- Early in her second reading debate, the Minister invited Dr Ray Kelly, academic researcher at the Purai Global Indigenous and Diaspora Research Studies Centre at the University of Newcastle, to come to the lectern at the Table to translate her acknowledgement of the traditional owners into Dhungutti
- Towards the end of her speech, the Minister again invited Dr Ray Kelly to the lectern at the Table to remark on what the Bill means to the first peoples of New South Wales
- Following the Minister's speech, the leader of the opposition and two cross bench members commenced their second reading speeches, and the debate was then adjourned for five calendar days.

The response of Members to the innovative procedures, particularly the message stick ceremony on the floor of the chamber, was overwhelmingly positive. The views expressed on the record by members during second reading debate were unanimously supportive of the approach taken.

***I will take this opportunity to now play a video depicting some of the events that occurred in the Chamber.***

Whilst supportive of the message stick ceremony, a number of members took the opportunity during the second reading debate to reflect on the potential for future appropriate symbolism in the chamber:

During the second reading debate a specific suggestion was made about what form that symbolism could take, centred on what would happen to the message stick that had been handed to the Minister for Aboriginal Affairs, and subsequently presented to me as the Presiding Officer.

Given the contributions of members about the message stick, consultation immediately commenced about options for its ongoing display and use.

As the Bill had been introduced in the Council it was felt appropriate that it primarily be displayed in or near the legislative Council chamber.

The final concept plan provided for the message stick to be displayed in a display case in an existing bookshelf in the President's Gallery.

Further consultation took place with a range of members. In addition to members, it was critically important that the Aboriginal community was also consulted.

Through the office of the Minister for Aboriginal Affairs, arrangements were made for me to consult with two interested groups of elders: the Aboriginal Languages Establishment Advisory Group (ALEAG) and the NSW Coalition of Aboriginal regional Alliances (NCARA).

A number of meetings were held during which valuable feedback was received in relation to the concept plans and, specifically, in relation to the interpretative wording to be included to explain the message stick.

The final wording agreed by all was as follows:

“This original message stick, presented to the Parliament of New South Wales, is a physical symbol of the Languages that the Aboriginal Languages Act 2017 seeks to acknowledge, nurture and grow. It is a commemoration of the introduction of the bill in the Legislative Council, the first of its kind in the world, and the first occasion on which an Aboriginal Language was spoken in debate by a non-member. It is a reminder of the two-way ongoing dialogue between the Aboriginal community and the New South Wales Parliament.”

The Aboriginal elders from the ALEAG and NCARA also provided valuable feedback on the circumstances in which the message stick would be removed from the display case for placing on the Table of the chamber during significant proceedings.

It was agreed that these would include the opening of Parliament, and other special occasions, at the discretion of the President. (It is envisaged this might include, for example, during debate on legislation of specific relevance to the Aboriginal community in New South Wales.)

ALEAG agreed that it (and the Aboriginal languages Trust once established) would provide a list of Aboriginal Language groups, from which an elder would be nominated on rotation to remove the message stick from the display case on those special occasions, briefly address members from the bar of the House in language, and hand the message stick to the Usher of the Black Rod for placement on the Table.

On the final sitting day before the 2018 winter recess the House agreed to a motion, moved by the Minister for Aboriginal Affairs, authorising the permanent display of the

message stick in the President's Gallery and the arrangements for its removal and placement on the Table during proceedings on the opening of Parliaments or during other special occasions.

In conclusion, in addition to the message stick ceremony, there were 3 major innovative practices adopted for the debate on the Bill:

1. A stranger (non-member), was permitted to enter the chamber during the debate
2. A stranger (non-member) was permitted to speak in the debate
3. A language other than English was spoken in the chamber.

From this experience, I would submit that, it is clear to all involved, that Westminster traditions can be respected whilst Parliaments can still be a platform that is open to innovation and culturally appropriate practices and symbolism.

Or as I have on a number of occasions stated:

*"It is a matter of evolving in a positive way the traditions and practices of the Chamber."*

Thank you.

