

Bayala, Ngara Wingara (To Speak, Listen and Think) Bill 2023

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Bayala, Ngara Wingara (To Speak, Listen and Think) Bill 2023

Act no. , 2023

A Bill for

An Act to establish an Aboriginal and Torres Strait Islander Voice to NSW Parliament.

Second Reading Speech

Ms ESTHER CUMMINS(Oxley—Minister for Aboriginal Affairs):

Wiyabu, barraba yitirr Esther. Ngatha Birrbay galbaan djirang.
Hello, my name is Esther, and I am a proud Birrbay woman.

Ngatha marrung-ngarra, I pay my respect to the ngarragal, Elders, past and present and acknowledge our young Aboriginal and Torres Strait Islander Peoples as the leaders of Australia's future.

Wanyimbu wanyimbu ganyila, wanyimbu wanyimbu ganyiy.
Always was and always will be Aboriginal land.

It is an honour to serve in the role of Minister for Aboriginal Affairs in the Y NSW Youth Parliament for 2023 and present the *Bayala, Ngara Wingara (To Speak, Listen and Think) Bill 2023* for consideration by the Y NSW Youth 2023 Legislative Assembly.

I would first like to begin by recognising and thanking the Y NSW Youth Voice Coordinators, Hamani Tanginoa and Ethan Floyd, for their dedication and work in supporting and guiding the Aboriginal Affairs Committee throughout every aspect of our Bill writing process. I also extend my appreciation to all members of the Aboriginal Affairs Committee for their collaboration in writing this Bill.

The Aboriginal Affairs Committee collectively identified and discussed many systemic issues affecting Aboriginal and Torres Strait Islander Peoples within NSW which we believed needed to be addressed through legislation passed by the NSW Parliament. Together, we made the decision to focus our Bill on an Aboriginal and Torres Strait Islander Voice as we believed it would have the capacity to address all of these issues.

Ever since 1901, the voices, opinions, values and beliefs of Aboriginal and Torres Strait Islander Peoples have been underrepresented during the law and policy making process throughout Australia. This Bill legislates change for NSW. The Aboriginal and Torres Strait Islander Voice will advise the NSW Parliament on matters affecting Aboriginal and Torres Strait Islander Peoples in NSW while representing their diverse values, beliefs, and experiences.

This Bill is broken down into parts which enables the Voice to advise the Government on matters relating to us. These parts of the Bill explain the specifications of the Voice and how it interacts with both Aboriginal and Torres Strait Islander communities and the NSW Government, such as the establishment, functions and procedures of the Voice, regular interactions with the NSW Government, in particular meetings and briefings with both Cabinet and the Premier, and Addresses to the NSW Parliament.

Alongside the establishment of the Aboriginal and Torres Strait Islander Voice, a new agency will be constituted which will undertake the administration and logistics of the Voice. This will be known as the Office of the Aboriginal and Torres Strait Islander Voice.

The members of the Aboriginal and Torres Strait Islander Voice will be elected by Aboriginal and Torres Strait Islander Communities across NSW. Regulations over the Election, such as eligibility to vote and eligibility to nominate for election are outlined in this Bill.

This Bill also establishes Advisory Committees to the Voice to ensure that the Voice is as informed as possible on issues relevant to the focus of the committee and to ensure that people within communities who may not necessarily be represented by the Voice are included and heard. Additionally, Parliamentary Joint Committees will ensure that the recommendations and advice given to the NSW Parliament by the Voice are effective and made after consultation with people of both community and parliamentary perspectives.

In summation, this Bill covers all aspects of the establishment and operations of the Aboriginal and Torres Strait Islander Voice, its interactions with the NSW Government and provisions that are legislated ensuring there is transparency in the activities of the Voice and diverse representation within the Voice and its committees.

I want to close with a quote from the song ‘You’re the Voice’ by John Farnham, “We're not gonna sit in silence. We're not gonna live with fear.” The *Bayala, Ngara Wingara (To Speak, Listen and Think) Bill 2023* will make history and change Aboriginal and Torres Strait Islander People’s future in NSW. Under this Bill, NSW will see, for the first time since colonisation, Aboriginal and Torres Strait Islander Peoples represented equally and heard throughout the law-making process.

I commend the Bill to the House.

Explanatory Notes

Since 1901, Aboriginal and Torres Strait Islander Peoples have been underrepresented in democratic institutions across Australia. This means that indigenous voices are not effectively being heard and represented in laws and policies affecting them. Terra Nullius was declared in 1835 by Governor Richard Bourke, which was influenced by Captain Cook's declaration of Terra Nullius in 1770. This was the factor that led to the genocide, slavery, rape, loss of culture, loss of land and the denial of basic human rights for Aboriginal and Torres Strait Islander Peoples. Aboriginal and Torres Strait Islander Peoples were viewed as a nuisance and a disruption to the settlement of the Australian continent.

From the 1830s to the 1970s, under individual state and territory government 'Aboriginal Protection' policies, such as the Aborigines Protection Act 1909, indigenous lives were controlled by governments. For example, Aboriginal and Torres Strait Islander children were educated separately, many Aboriginal and Torres Strait Islander Peoples were forced onto reserves and were subject to night curfews, alcohol bans and lower wages and even more enforced restrictions. Assimilation policies were implemented as the Aborigines Act 1969 and its subsequent Aborigines Protection Act Amendments, which were in effect between 1969 until it was repealed in 1983 under the Aboriginal Land Rights Act. Under these policies, Aboriginal children were forcibly removed from their families, sent to missions or institutions or were placed into European families with the aim of stripping their cultures and transitioning them to have a Christian faith and be a part of mainstream Australian society.

The underrepresentation of Aboriginal and Torres Strait Islander Peoples in Parliament is blatantly clear when you look at the numbers; NSW Parliament first opened in 1856, and within 166 years there have only been three Members of Parliament who identify as either Aboriginal and/or Torres Strait Islander, with the first being The Honourable Linda Burney, Member for Canterbury who was elected at the 2003 NSW Election. Aboriginal and/or Torres Strait Islander representations have been limited. Currently there are two Members of Parliament that identify as Aboriginal and/or Torres Strait Islander, the two being Lynda Voltz, Member for Auburn and Member for Campbelltown, Greg Warren, who is of Yuin descent. This is two out of the 133 members of the parliament. Two people are unable to represent the diversity of Aboriginal and Torres Strait Islander cultures in NSW. Representation of Aboriginal and/or Torres Strait Islander Peoples at a federal level has increased, but this does not flow down to NSW. Not having Aboriginal and Torres Strait Islander Peoples represented in Parliament is an issue as their voices are not heard.

The Aboriginal and Torres Strait Islander Voice to NSW Parliament in the decision-making process is vital as it leads to better, more inclusive outcomes when co-designed by Aboriginal and Torres Strait Islander Peoples. The influence of Government frameworks and strategies requires prioritising and recognising the needs of Aboriginal communities. Communication is critical to implementing new strategies as Aboriginal lore was wiped out, and society has varying issues reflective of this. Prior New South Wales Governments have failed to consult Aboriginal and Torres Strait Islander Peoples on the programs and policies involving them, operating under a bureaucratic approach. Areas of concern include a lack of consultation with NSW Health and Aboriginal Medical Services in Western NSW, and prior NSW Heritage and Water Minister's failure to consult with Aboriginal knowledge holders in regard to the potential destruction of Aboriginal sites near water infrastructure. Approaches need to be considered specific to the needs of each community rather than providing a blanket approach to the needs of communities.

In September 2021, COVID-19 cases in Western NSW spiked to almost a thousand, specifically in areas near Walgett, which has a population of 1113 (21.2%) that identify as Aboriginal and/or Torres Strait Islander. The failure in the government's initiative to consult with Aboriginal Medical Services and resourcing for these services has resulted in one in five Aboriginal and/or Torres Strait Islander residents testing positive to COVID-19, which could have been easily avoided. As a result, the Walgett Aboriginal community will see a rise of illnesses due to complications of COVID-19.

Prior State Governments' failure to consult with Aboriginal knowledge holders has an impact on the protection of culture and heritage, as well as the way our river systems and water ownership works. Previously, water resource plans were designed by the NSW government to provide a set of regulations on how water in specific catchments is managed and accredited by the federal Minister for Water. However, in 2021, the authorities were unable to propose a WRP that outlined objectives or outcomes for Aboriginal and/or Torres Strait Islander Peoples.

The Aboriginal and Torres Strait Islander Voice to NSW Parliament is essential as it places Aboriginal and Torres Strait Islander Peoples at the forefront of matters that relate to them. As mentioned before, Aboriginal and/or Torres Strait Islander Peoples represent 1.5% of our elected representatives, for a state that has 278,043 Aboriginal and/or Torres Strait Islander residents; we need to ensure that Aboriginal and Torres Strait Islander Peoples are represented in Parliament and strengthen the relationship between our elected officials and the Aboriginal and Torres Strait Islander Communities within their electorate.

Without the acknowledgment and implementation of the Aboriginal and/or Torres Strait Islander Voice to NSW Parliament, the state will remain unable to move towards creating change for our First Peoples of NSW. The Aboriginal and/or Torres Strait Islander Voice to NSW Parliament will cover the consultations of various policies and legislation that potentially affect land and/or historical sites.

The Voice to NSW Parliament would be able to advise on formal matters and have the opportunity to be shared amongst parliamentarians. This is to direct governmental issues around various subjects such as Native Title and co-design policies in Parliament which help create a wider and stronger community.

The lack of Aboriginal and Torres Strait Islander representation in NSW Parliament has not been previously addressed with the model of a representative body. Over the past three decades, schemes have been implemented to tackle systemic disadvantages faced by Aboriginal and/or Torres Strait Islander Communities in democratically elected spaces. The Local Government Aboriginal Mentoring Scheme (1997) was introduced to encourage Aboriginal and/or Torres Strait Islander community members to nominate an Aboriginal and/or Torres Strait Islander candidate for upcoming NSW Council elections. A serving councillor would act as a mentor for the Aboriginal candidate to develop their understanding of the council's function and encourage them to seek election. However, this was only implemented for local NSW government authorities to address the issue of underrepresentation. Since the 1930s, there have been unsuccessful calls for dedicated Aboriginal and Torres Strait Islander seats in Parliament.

Although NSW has not introduced a representative body, there are other jurisdictions in Australia addressing this issue. In March 2023, South Australia implemented their First Nations Voice to Parliament and the Commonwealth Government proposed an independent, federal advisory body to represent the views of Aboriginal and Torres Strait Islander peoples.

The South Australian Parliament established a State First Nations and Local First Nations Voices, which was delegated to a prescribed number of regions for the purposes of the Act. The First Nations Voices are independent of control by the Crown and were not an agency of the Crown. The State First Nations Voice is composed of two elected presiding members of each Local First Nations Voice. The South Australian First Nations Voice is guided by Elders, Youth, Stolen Generations and Native Title Advisory Committees, where two members are nominated by each Local First Nations Voice. State Voice and Local Voice members are not eligible for any Advisory Committees. The South Australian Cabinet and Chief Executive must meet with the State First Nations Voice at least twice a year.

The Federal Government addressed underrepresentation in Federal Parliament by proposing an Aboriginal and Torres Strait Islander Voice that makes representations to the Parliament and Executive Government of the Commonwealth on affairs relating to Aboriginal and Torres Strait Islander peoples. This would operate under similar procedures to the South Australian Voice model.

The Youth Legislature of New South Wales enacts—

Part 1 Preliminary

1 Name of Act

This Act is the *Bayala, Ngara Wingara (To Speak, Listen and Think) Voice Act 2023*.

2 Commencement

The Act commences on the date of assent of this Act.

3 Relationship with other Acts and laws

This Act prevails to the extent of an inconsistency with another Act or law.

4 Objects

The objects of this Act are to—

- (1) establish an Aboriginal and Torres Strait Islander Voice to NSW Parliament,
- (2) interact with NSW Government and advise on matters relating to Aboriginal and Torres Strait Islander Peoples,
- (3) creation of The Office of the Aboriginal and Torres Strait Islander Voice to undertake administration of the Voice, and
- (4) conduct elections for representation of the Voice.

5 Definitions

The dictionary in Schedule 1 defines words used in this Bill.

Note— The *Interpretation Act 1987* also contains definitions and other provisions that affect the interpretation of this Bill.

Part 2 Aboriginal and Torres Strait Islander Voice

Division 1 Establishment of the Voice

6 Constitution of the Voice

- (1) The Aboriginal and Torres Strait Islander Voice is constituted by this Act and—
 - (a) is a body with perpetual succession allowing for the body to change and evolve;
 - (b) has its own common seal; and
 - (c) is, for the purpose of carrying out its functions, capable of holding, acquiring, dealing with, and disposing of real personal property.

7 The independence of the Voice

The Aboriginal and Torres Strait Islander Voice is its own body, void of direction or control by the Crown or any Minister or Officer of the Crown.

Division 2 Composition of the Voice

8 Representative regions for the Voice

- (1) The Aboriginal and Torres Strait Islander Voice is to be composed of elected members, representing regions derived from Aboriginal Nations and Traditional Areas.
 - (a) These areas will be determined through negotiations and agreements made between Local Aboriginal Community groups, facilitated by the NSW Electoral Commission;
 - (b) If no agreement can be reached within twelve months of the assent of this Bill, the regions for those areas will be based upon NSW electoral boundaries (as of May 2023)

9 Elected representative quotas

- (1) Each area will have three elected members and—
 - (a) they shall be elected through the process detailed in Part 5, which shall be carried out by the NSW Electoral Commission; and
 - (b) one of these three elected members must be a Traditional Custodian.

Division 3 Joint Presiding Members

10 The election of Joint Presiding Members

- (1) The Aboriginal and Torres Strait Islander Voice must elect two of its members to be joint presiding members.
- (2) The two presiding members must be of different genders.

Division 4 Terms and Conditions

11 Terms and Conditions of Membership

A member of the Aboriginal and Torres Strait Islander Voice holds office in line with Part 5.

12 Remunerations and expenses

A member of the Aboriginal and Torres Strait Islander Voice is entitled to such remuneration, allowances, and expenses as may be determined.

Division 5 Vacancies

13 Grounds for vacancies

- (1) The office of a member of the Aboriginal and Torres Strait Islander Voice becomes vacant if the member—
 - (a) dies; or
 - (b) resigns by written notice to the Governor; or
 - (c) has a conviction in NSW or elsewhere for an offence relating to the management of a corporation that was recorded; or

- (d) has a conviction in NSW for any other offence that is punishable by imprisonment for 5 years or more or is convicted elsewhere that in NSW for an offence, if committed in NSW, would be an offence punishable that was recorded within the last 5 years; or
- (e) has, within the last 5 years, been the subject of a finding by the Independent Commission Against Corruption that the person has engaged in serious corrupt; or
- (f) is a mentally incapacitated person; or
- (g) is or becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (h) is or was a director or person concerned in the management of a body corporate that is the subject of a winding up order or for which either of the following has been appointed during the last 3 years;
 - (i) a controller or administrator under the Corporations Act 2001 of the Commonwealth;
 - (j) a controller or administrator, other than a special administrator, under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 of the Commonwealth; or
- (k) is disqualified from holding office in or being concerned in the management of a corporation under any law of this or any other State or Territory or the Commonwealth; or
- (l) is an employee of, or a consultant to, the NSW Government.

Division 6 Functions of the Voice

14 Representations and advisement of the Voice

(1) The functions of the Aboriginal and Torres Strait Islander Voice are as follows—

- (a) to represent the diversity of Aboriginal and Torres Strait Islander peoples within NSW;
- (b) to provide advice to the NSW Parliament on matters affecting Aboriginal and Torres Strait Islander people;
- (c) if appropriate, to engage with and/or provide advice to organisations and other levels of government on policies, procedures and services that relate to matters affecting Aboriginal and Torres Strait Islander people within the state of New South Wales; and
- (d) to give names to regions established for the purpose of this Act.

15 Changes to the performance of the Voice

The Aboriginal and Torres Strait Islander Voice has such powers as may be necessary for the performance of the Aboriginal and Torres Strait Islander Voice's functions.

16 Other functions of the Voice

Other functions may be assigned to the Aboriginal and Torres Strait Islander Voice by the Governor at the approval of at least two-thirds of the Aboriginal and Torres Strait Islander Voice.

Division 7 Procedure of the Voice

17 Frequency of meetings of the Voice

- (1) The voice will meet throughout the year to fulfil its purpose and discuss issues raised.
- (2) These meeting dates and related details will be determined by the joint presiding members and/or the Aboriginal and Torres Strait Islander Voice based on a majority vote.
- (3) The Voice must meet a minimum of ten times a year but is not limited by this.

18 Joint Presiding Members

- (1) The two joint presiding members will preside over meetings of the Aboriginal and Torres Strait Islander Voice.
- (2) In the absence of one presiding member the other presiding member will continue to preside.
- (3) If both presiding members are absent, two members of the Aboriginal and Torres Strait Islander Voice will be selected to preside through a majority vote prior to the commencement of the meeting.

19 Agenda for the meeting of the Voice

The agenda of meetings will be decided prior to the meeting date by the joint presiding members and/or the Aboriginal and Torres Strait Islander Voice.

20 Mode of communication for the meeting of the Voice

- (1) A meeting of the Aboriginal and Torres Strait Islander Voice may be conducted remotely using audio-visual communication if appropriate or a member may attend an in-person meeting through audio-visual communication.
- (2) A member who attends a meeting remotely, in accordance with this subclause, is taken to be present at the meeting and will form part of any quorum for the meeting.
- (3) To avoid misinterpretation, a meeting of the Aboriginal and Torres Strait Islander Voice may be conducted by members attending in person, members attending by audio-visual communication or by a combination of both.

21 Minutes from the meetings of the Voice

The Aboriginal and Torres Strait Islander Voice must keep accurate minutes of all meetings.

22 Other procedures

In accordance with this Act, the Aboriginal and Torres Strait Islander Voice may determine its own procedures.

Division 8 Advisory Committees

23 Functions of Advisory Committees

- (1) The Voice will have an advisory committee that will advise them on issues related to each individual group's focus.
- (2) These groups will allow for the voices of those who wouldn't necessarily be represented by or whose importance to the Aboriginal and Torres Strait Islander communities will be under-represented by the Voice to be included.

24 Types of Advisory Committees

- (1) The advisory committees as they are under this act are—
 - (a) Aboriginal and Torres Strait Islander Elders Advisory Committee,
 - (b) Aboriginal and Torres Strait Islander Youth Advisory Committee,
 - (c) Stolen Generations Advisory Committee, and
 - (d) Native Title Bodies Advisory Committee.
- (2) Other advisory committees may be established with support from two-thirds support from the Voice.
- (3) An advisory committee may be removed if it has the vote of two-thirds support from the Voice.

25 Aboriginal and Torres Strait Islander Elders Advisory Committee

- (1) The committee would be made up of 25 members from across NSW.
- (2) These members are to be made of Elders from different communities across NSW.

26 Aboriginal and Torres Strait Islander Youth Advisory Committee

- (1) The committee would be made up of 25 members from across NSW.
- (2) These members are to be between the ages of 12 and 24.

27 Stolen Generations Advisory Committee

- (1) The committee would be made up of 25 members from across NSW.
- (2) These members are to be made of members of the Stolen Generations from different communities.
- (3) If the 25 members cannot be reached, the members could then include descendants of Stolen Generations.

28 Native Title Bodies Advisory Committee

- (1) The committee would be made up of 25 members from across NSW.
- (2) These members are to be made of representatives from different Native Title bodies.

29 Selection of members of the Advisory Committees

The members of these advisory committees would be determined by The Office of the Voice through a selection process open to all Aboriginal and Torres Strait Islander Peoples in NSW.

Division 9 Parliamentary Joint Committees

30 Composition of Parliamentary Joint Committees

(1) The membership of each Parliamentary Joint Committee will be 9 people—

- (a) 3 Members of Parliament who will be selected through the normal due process by the addition of the four joint committees to the list of standing committees; and
- (b) 3 Members of the relevant advisory committee who will be selected internally to be on the joint committees; and
- (c) 3 Members of the Voice who will be selected internally to be on the joint committees.

31 Types of Parliamentary Joint Committees

(1) The Parliamentary Joint Committees under this act are—

- (a) Aboriginal and Torres Strait Islander Elders Parliamentary Joint Committee,
- (b) Aboriginal and Torres Strait Islander Youth Parliamentary Joint Committee,
- (c) Stolen Generations Parliamentary Joint Committee, and
- (d) Native Title Bodies Parliamentary Joint Committee.

(2) Other Parliamentary Joint Committees may be established with two-thirds support from the Voice.

32 Role of Parliamentary Joint Committees

The role of these committees will be to provide clear recommendations and actions back to the Voice for consideration and to involve parliamentarians in the process both to inform the parliament and create greater transparency.

33 Presiding Member

- (1) A presiding member will be voted on by each committee;
- (2) this person must be Aboriginal and/or Torres Strait Islander.

Division 10 Accounts and Audits

34 Responsibility of accounts and other financial affairs

The Aboriginal and Torres Strait Islander Voice must keep proper accounting records in relation to its financial affairs and must have annual statements of account prepared in respect of each financial year.

Division 11 Duty to Act Honestly

35 Obligations to act honestly

A member of the Aboriginal and Torres Strait Islander Voice must always act honestly in the performance of the functions of their office, whether within or outside the state.

Division 12 Code of Conduct

36 Code of Conduct for the Voice

- (1) After consultation with the Aboriginal and Torres Strait Islander Voice, a Code of Conduct will be published for members of the Voice.
- (2) Members of the Aboriginal and Torres Strait Islander Voice must comply with the Code of Conduct.
- (3) All members of the Aboriginal and Torres Strait Islander Voice must attend eight out of the 10 yearly meetings.
- (4) All members must also attend a majority of their Parliamentary Joint Committee meetings.

Part 3 Interaction with NSW Government

Division 1 Meeting with Cabinet

37 Frequency of meetings with Cabinet

The Cabinet and Aboriginal and/or Torres Strait Islander Voice to Parliament should meet at least four times each year.

38 Setting agenda for meetings with Cabinet

Prior to meetings between the Aboriginal and Torres Strait Islander Voice and the Cabinet, the agenda will be determined by an agreement between the joint presiding members and the Premier.

39 Submissions to Cabinet

According to the Government Information (Public Access) Act 2009 and any other Act or law, information prepared by the Aboriginal and/or Torres Strait Islander Voice for the Cabinet will be taken to have been specifically prepared for submission to Cabinet.

Division 2 Addresses to NSW Parliament

40 Aboriginal and Torres Strait Islander Voice presents annual report and to address Parliament

- (1) The Aboriginal and Torres Strait Islander Voice must determine with the presiding officers of the Lower and Upper Parliament House, the days of each year to—
 - (a) Present to a joint sitting of Parliament a written report setting out a summary of its operations during the preceding year, as well as any other matters of interest to Aboriginal and Torres Strait Islander Peoples; and

- (b) Present to a joint sitting of Parliament, a written report setting out a summary of the operations of each subcommittee during the preceding year, which may be combined with the report under (1)(a); and
 - (c) Address a joint sitting of Parliament in relation, through one of the joint presiding members of the Aboriginal and Torres Strait Islander Voice, in relation to the reports.
- (2) To avoid doubt, the Aboriginal and Torres Strait Islander Voice must address the joint sitting of Parliament at least once a year.

41 The Aboriginal and Torres Strait Islander Voice to be informed of the introduction of Bills.

- (1) The Clerk of the Legislative Assembly or Legislative Council must notify the Aboriginal and/or Torres Strait Islander Voice of the introduction of Bills in the Council or Assembly, that are determined to be relevant to Aboriginal and Torres Strait Islander Peoples by the Clerk.
- (2) However, a failure to act in accordance with this subclause does not affect any Parliament proceedings or the validity of the Bill.

42 The Aboriginal and Torres Strait Islander Voice is entitled to address Parliament in relation to Bills.

- (1) The Aboriginal and Torres Strait Islander Voice is entitled to address one House of Parliament in relation to any Bill that has been introduced into the relevant House, through 1 of the joint presiding members of the Voice.
- (2) At least 7 days' written notice of the intention to address the relevant House must be given by the Aboriginal and Torres Strait Islander Voice to the presiding officer of the House.
- (3) However, the Aboriginal and/or Torres Strait Islander Voice does not need to give notice of their address to parliament in accordance with subsection (2), in the case where a Bill is to be debated or otherwise progressed urgently through the relevant House, it is not reasonably practicable to address Parliament in relation to Bills.
- (4) One of the joint presiding members of the Aboriginal and/or Torres Strait Islander Voice may—
 - (a) be admitted to the floor of the relevant House; and
 - (b) address the relevant House on behalf of the Aboriginal and Torres Strait Islander Voice to speak about the relevant Bill.
- (5) To avoid doubt, only 1 address may be made, and only 1 House addressed, in relation to each Bill.
- (6) Nothing in Section 4(b) prevents the relevant House from conducting its business (including, debating, or passing Bills the Aboriginal and Torres Strait Islander Voice wishes to address the House) prior to being addressed by the Aboriginal and/or Torres Strait Islander Voice.

43 The Aboriginal and Torres Strait Islander Voice may present a report to Parliament.

- (1) The Aboriginal and/or Torres Strait Islander Voice may provide to the Parliament a report on an agenda that is a matter of interest to Aboriginal and/or Torres Strait Islander people.
- (2) The President of the Legislative Council, the Speaker of the Legislative Assembly and the Minister must receive a copy of any reports regarding a matter of interest to Aboriginal and/or Torres Strait Islander people.
- (3) The President of the Legislative Council and the Speaker of the House of Assembly must, on the first sitting day after receiving a report, review it before their respective Houses.
- (4) After receiving the report, the Minister must as soon as is reasonably practicable (no later than 6 months after receiving the report) — provide a copy of the report to each Minister responsible for an area identified in the report as requiring action; and write a report setting out—
 - (a) each Minister's response to any section of Aboriginal and/or Torres Strait Islander report that falls within that Minister's responsibility; and
 - (b) the action taken in response to the report or if any actions have been proposed — whether by a public sector agency, the Minister, or any other body or person, in response to the report
 - (c) if no action is to be taken—whether by a public sector agency, the Minister, or any other body or person, in response to the report or a part of the report—the rationale for the lack of action.
- (5) The Minister must, within 6 sitting days after preparing a report under Subsection 4, provide a copy of the prepared report to be laid out before both Houses of Parliament.

44 The Aboriginal and Torres Strait Islander Voice may be requested to provide a report to Parliament.

- (1) The President of the Legislative Council or the Speaker of the House of Assembly may, by written notice, request the Aboriginal and Torres Strait Islander Voice to provide to the relevant Houses a report in relation to a specified Bill addressing the matters specified in the notice.
- (2) The President of the Legislative Council or the Speaker of the House of Assembly may, by written notice and with the agreement of the Aboriginal and Torres Strait Islander Voice, request a specified member of the Aboriginal and Torres Strait Islander Voice to attend and address the relevant House in relation to a specified Bill.
- (3) Without limiting clause (2), the Aboriginal and/or Torres Strait Islander Voice or a member of the Aboriginal and/or Torres Strait Islander Voice cannot be forced to provide a report or attend PParliament.
- (4) To avoid doubt, nothing in this clause limits the general privilege of Parliament to send for persons, papers, or records.

Division 3 Briefings with Chief Executives of Administrative Units

45 Frequency of Chief Executive Briefings

- (1) The Premier must, in accordance with any requirements set out in regulation, ensure a Chief Executive briefing or meeting, is held at least twice in each year between—
 - (a) Aboriginal and Torres Strait Islander Voice and;
 - (b) Chief Executive of each administrative unit specified by the Aboriginal and Torres Strait Islander Voice for the purposes of the Chief Executives present.

46 Purpose of Chief Executive Briefings

- (1) The Chief Executive's briefing is to allow the Aboriginal and/or Torres Strait Islander Voice—
 - (a) To be briefed by, and ask questions of, the Chief Executives present;
 - (a) The Chief Executives present at the briefing in relation to matters of interest identified by the Aboriginal and Torres Strait Islander Voice.

47 Procedure of the Chief Executive Briefing

The procedures for a Chief Executive's briefing under this section will be determined by agreement between the Aboriginal and Torres Strait Islander Voice and the Premier.

Division 4 Annual Engagement Hearing with Administrative Units

48 Frequency of Engagement Hearings

- (1) The Premier must meet, in accordance with any regulations to bring forth an engagement meeting to be held annually between the members of the Aboriginal and Torres Strait Islander Voice and—
 - (a) each Minister determined by the Aboriginal and Torres Strait Islander Voice for the agenda of the annual engagement hearing; and
 - (b) the Chief Executive of each administrative unit of the Public Service, determined by the Aboriginal and Torres Strait Islander Voice for the agenda of the annual engagement hearing.

49 Purpose of Engagement Hearings

- (1) The purpose of the engagement between the Aboriginal and/or Torres Strait Islander Voice is to ask questions and prioritise welfare and education to Aboriginal and Torres Strait Islander peoples and learn to budget and prioritise potential effects that may interfere with the Aboriginal and Torres Strait Islander peoples and establish—
 - (a) a structured welfare system for Aboriginal and Torres Strait Islanders.
 - (b) an efficient administrative unit to guide Aboriginal and Torres Strait Islander Peoples
- (2) Matters must be discussed with the Premier and the Aboriginal and/or Torres Strait Islander Voice.

- (3) The sessions must be in agreement with both the Premier and the panel.

50 Transcript of Engagement Hearings

The Premier must create a transcript outlining the annual engagement hearing with the Aboriginal and Torres Strait Islanders Voice.

Part 5 Creation of The Office of the Aboriginal and Torres Strait Islander Voice

Division 1 Establishment of the Office

51 Constitution of the office

- (1) The Office of the Aboriginal and Torres Strait Islander Voice is constituted by this Act.
- (2) The Office of the Aboriginal and Torres Strait Islander Voice is a new government agency body that falls in line with the Premier's Department Structure.
- (3) The Office of the Aboriginal and Torres Strait Islander Voice is a full-time office, and the holders of the office are required to hold it on that basis, except to the extent permitted by the Minister.
- (4) The Aboriginal and Torres Strait Islander Voice is not an agency of the Crown but is still a part of the public sector.

52 Use of staff of public service

- (1) The Aboriginal and Torres Strait Islander Voice may, by agreement with the Minister responsible for an administrative unit of the Public Service, make use of the services of the staff, equipment, or facilities of that administrative unit.
- (2) A Person may be employed in the public service under the *Government Sector Employment Act 2013 (NSW)* to enable the Voice to exercise its functions.

53 Resources

Before determining the resources to be provided to Aboriginal and Torres Strait Islander Voice for the purposes of this Act, the Premier must consult with such body and then, having regard to any submissions made during that consultation, determine the resourcing that, in the Premier's opinion, each body reasonably needs to carry out its functions under this Act.

Part 6 Other Provisions

Division 1 Confidentiality

54 Employees of the office and members of the Voice are bounded by confidentiality

- (1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—
- (a) as required or authorised by or under this Act or any other Act or law; or
- (b) with the consent of the person to whom the information relates; or

- (c) in connection with the administration or enforcement of this or any other Act; or
 - (d) for the purposes of referring the matter to a law enforcement agency; or
 - (e) to an agency or instrumentality of this State, the Commonwealth or another
 - (f) State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
 - (g) if the disclosure is reasonably necessary for the protection of the lawful interests of that person.
- (2) Subclause 1 does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under Subclause 1 for a particular purpose must not be used for any other purpose by—
- (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.
- (4) The regulations may make further provisions in respect of the disclosure of information obtained in the course of the administration of this Act.

Division 2 Obstruction

55 Employees of the office and members of the Voice must not obstruct the function of the Voice

A person must not, without reasonable excuse, obstruct, hinder, resist, or improperly influence, or attempt to obstruct, hinder, resist or improperly influence, the Aboriginal and Torres Strait Islander Voice, in the performance or exercise of a function under this Act.

Division 3 Protections, Privileges and Immunities

56 The protections, privileges and immunities of the Voice

- (1) No liability attaches to the Aboriginal and Torres Strait Islander Voice, a member of those bodies or any other person or body for any act or omission in good faith in the exercise or purported exercise of functions or powers under this or any other Act.
- (2) Nothing in this Act affects the privileges, immunities or powers of the Legislative Council or Legislative Assembly or their committees or members.
- (3) Nothing in this Act affects any rule or principle of law relating to—
 - (a) legal professional privilege; or
 - (b) "without prejudice" privilege; or
 - (c) public interest immunity; or
 - (d) cabinet in confidence or commercial in confidence information; or

- (e) any other requirement under a law that information be kept confidential.

Part 7 Rules of Election for the Aboriginal and Torres Strait Islander Voice

Division 1 Voter Roll

57 The State Electoral Roll

The State Electoral Roll will be taken to be the electoral roll for the purpose of an election under this Act.

Division 2 Declaration of Eligibility

58 Declaration of eligibility for election

(1) For the purposes of this Part, a declaration of eligibility in relation to an election means—

- (a) in the case of a declaration of eligibility to vote in an election—a declaration made in a manner and form determined by the returning officer declaring that a specified person—
 - (a) Identifies as Aboriginal and/or Torres Strait Islander; and
 - (b) is, to the best of the person's knowledge, eligible to vote in the election.
- (b) in the case of a declaration of eligibility to nominate for membership of the Aboriginal and Torres Strait Islander Voice—a declaration made in a manner and form determined by the returning officer declaring that a specified person—
 - (a) Identify as Aboriginal and/or Torres Strait Islander
- (c) In the case where the person's nomination relates to an area in relation to which the person is a Traditional Custodian—
 - (a) is a traditional custodian of the relevant area; and
 - (b) is not ineligible to nominate for an office of a member of an Aboriginal and Torres Strait Islander Voice in the election.

Division 3 Gender Representation

59 Gender quotas

- (1) The gender representation of members of the Aboriginal and Torres Strait Islander should reflect the following—
 - (a) One half of the membership (rounded down to the nearest whole number) are to be female persons;
 - (b) One half the membership (rounded down to the nearest whole number) are to be male persons;
- (2) In the case there is an additional office arising out of the rounding down – that member may be of any gender.

Division 4 Returning Officer

60 Nomination of the Returning Officer

The Electoral Commissioner for NSW, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for elections of the Voice.

61 Regulations and responsibilities

- (1) The regulations may make provisions for or with respect to the election of Members of the Aboriginal and Torres Strait Islander Voice.
- (2) The Returning Officer will be responsible for publicity of an election in each region.
- (3) The Returning Officer may authorise a specified person or body to assist in the publicity of an election, without limiting Section 57 (whether in a particular region or generally).
- (4) Publicity of an election under these rules must include –
 - (a) the description of the election process; and
 - (b) the period during which voting may take place; and
 - (c) The location or locations where –
 - (a) Nominations will be called; and
 - (b) voting will take place, in each region; and
 - (c) the eligibility of voters to vote in the election during the period in which voting may take place; and
 - (d) an explanation that each eligible voter can only vote once at an election in their region; and
 - (e) and may include any other information the returning office may think fits in relation to the election of the Voice.
- (5) To avoid doubt, nothing in this clause prevents any other person or body from distributing information relating to an election or otherwise engaging in publicising an election.

Division 5 Eligibility to Vote

62 Voting eligibility

- (1) To be eligible to vote, you will need to—
 - (a) identify as Aboriginal and/or Torres Strait Islander,
 - (b) be aged 18 years and over;
 - (c) enrolled on the State electoral roll; and
 - (d) has completed a declaration of eligibility in relation to voting in the election,

- (e) be eligible to vote in the election of The Aboriginal and Torres Strait Islander Voice for the region in which the person's principal place of residence (as recorded on the State Electoral Roll) is located.
- (2) However, a person is ineligible to vote if he or she is—
 - (a) Not Aboriginal or Torres Strait Islander;
 - (b) Under the age of 18;
 - (c) Currently serving a jail sentence of over two years;
- (3) To avoid doubt, an Aboriginal and/or Torres Strait Islander person is only eligible to vote in relation to the election of their regional representative for the Voice.

Division 6 Eligibility and Nomination for Election to the Aboriginal and Torres Strait Islander Voice

63 Nomination eligibility

- (1) To nominate for the Aboriginal and Torres Strait Islander Voice, you will need to be—
 - (a) identifying as Aboriginal and/or Torres Strait Islander
 - (b) enrolled on the State electoral roll; and either—
 - (a) whose principal place of residence (as recorded on the State Electoral Roll) is located within a particular region; or
 - (b) who is a traditional owner in relation to an area located wholly or partly within a particular region; and
 - (c) who has completed a declaration of eligibility in relation to nominating for the Aboriginal and Torres Strait Islander Voice Election.
- (2) However, a person is ineligible if he or she is—
 - (a) Not Aboriginal or Torres Strait Islander;
 - (b) Under the age of 18;
 - (c) Currently serving a jail sentence; or
 - (d) Has served a sentence of 2 years or longer, consecutively.

Division 7 Non-Partisan Representation

64 Candidate for membership of the voice must remain apolitical

- (1) Any person nominated for election must run as themselves and not be affiliated with a political party.
- (2) Individuals are still allowed to be members of political parties though must not affiliate their campaign with said party.

(3) Non-partisan representation will allow for--

- (a) Independent representation for areas and allowing for individual members to function a-politically; and
- (b) the ability for the Voice to hold government accountable and act on issues political parties do not want to touch on; and
- (c) allows for Aboriginal people to remain in control of the voice rather than political party executives rather in comparison to Aboriginal people on the ground.

Schedule 1 Dictionary

section 5

apolitical means to not be interested in political affairs and not affiliated with a political party or organisation.

Aboriginal means a person who—

- (a) is a member of the Aboriginal race of Australia, and
- (b) identifies as an Aboriginal person, and
- (c) is accepted by the Aboriginal community as an Aboriginal person, and the expression.

Aboriginal people has a corresponding meaning.

Clerk means the Clerk of a House and includes an officer of a House acting as the Clerk of the House.

Code of Conduct means an outline that governs the operations and actions of the Voice and affiliated bodies.

Declaration of Eligibility means a declaration of a person who is running for an election which proves they satisfy the requirements for election.

elder means an Aboriginal and/or Torres Strait Islander community leaders who are recognised by their community.

Electoral Commissioner means a person who is in charge of the NSW Electoral Commission.

electoral roll means a list of eligible voters for election.

Legislative Assembly means the Lower House of the New South Wales Parliament where the members are elected from New South Wales electorates.

Legislative Council means the Upper House of the New South Wales Parliament where the members are elected by the people of New South Wales.

Native Title bodies means community groups, individuals and organisations; excluding Land Councils, that have been granted land under both the NSW Native Act 1994 and Native Title Act 1993 (Cth), that operate within New South Wales.

NSW Electoral Commission means a body in which facilitates elections within New South Wales through their own distinct processes.

President means a person who is elected to the principal office holder of the Legislative Council.

presiding members means a person who is elected chair-people of the Voice, which leads the Voice and facilitates the activities of the Voice.

returning officer means a person who tallies votes and publishes the results of an election.

Speaker means a person who is elected to the principal office holder of the Legislative Assembly.

Stolen Generations means the generations of Aboriginal and Torres Strait Islander Peoples who children were taken from them with intention of removing culture and assimilating Aboriginal and Torres Strait Islander Peoples into Australian society.

Torres Strait Islander means a person who—

- (a) is a descendant of an indigenous inhabitant of the Torres Strait area within the meaning of the Commonwealth Act, and
- (b) identifies as a Torres Strait Islander, and
- (c) is accepted by the Torres Strait Islander community as a Torres Strait Islander.

Traditional Custodian means an Aboriginal and/or Torres Strait Islander Person who speaks for and cares for the land which their ancestors inhabited prior to the colonisation of Australia.

