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MEDIA RELEASE

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PILOT OF SPECIALIST APPROACH FOR SENTENCING ABORIGINAL OFFENDERS

Eligible Aboriginal offenders will receive a more culturally-specific and community-based approach to sentencing, as part of a new pilot in the NSW District Court.

Attorney General Mark Speakman today announced the Walama List pilot will start operations in February 2022 at the Sydney Downing Centre District Court. Offenders will be drawn from Sydney, Parramatta, Campbelltown and Penrith District Courts.

“The Walama List pilot aims to bring more community involvement into the judge’s sentencing process, building trust in the justice system and improving the diversion of Aboriginal and Torres Strait Islander offenders into critical support services that tackle the causes of offending behaviour,” Mr Speakman said.

“This program harnesses the wisdom of Aboriginal Elders and respected community members in sentencing discussions, along with providing wraparound support services and intensive monitoring before sentencing.

“We’re working hand-in-hand with Aboriginal communities to address the disproportionate rates of Aboriginal incarceration, drive down reoffending and find solutions that work.”

Minister for Aboriginal Affairs Don Harwin said this pilot will support the whole-of-government commitment to improving the lives of Aboriginal people under the National Agreement on Closing the Gap.

“This groundbreaking initiative goes to the heart of our commitment under the National Agreement, by embedding Aboriginal customs and learnings into the justice system and supporting Aboriginal people to drive better outcomes.”

Chief Judge of the District Court, Justice Derek Price AO, said the Sydney Walama List pilot is the next step in the District Court’s commitment to developing a Walama Court, and with it, culturally appropriate responses in sentencing Indigenous offenders.

“The support of the Attorney General and funding for the pilot enables the essential involvement of Elders in sentencing conversations and importantly for Elders to be remunerated for their participation,” Justice Price said.

“The pilot will be capably managed by her Honour Judge Dina Yehia SC, who brings all of

the knowledge from her role as Chair of the Walama Court Working Group and from years of working with Aboriginal legal services early in her Honour's life in the Law."

The Walama List pilot will operate one week per month with the capacity to accommodate up to 50 participants at a time. Offenders who plead guilty can participate in a tailor-made program that includes drug and alcohol treatment, counselling and other therapeutic supports prior to being sentenced.

The Aboriginal Services Unit (ASU) in the Department of Communities and Justice will provide on-the-ground support for the operations of the pilot.

Director of the ASU, Edwina Crawford, said the pilot will build on the success of other Indigenous sentencing courts across NSW, which have been shown to reduce the risk of reoffending and improve community confidence in the criminal justice system.

"We know from the [success of Circle Sentencing](#) that sharing decision making between Aboriginal people and the judiciary can transform formal court proceedings and have a profound and lasting impact on offenders," Ms Crawford said.

Certain offences including prescribed sexual offences and a range of serious violent offences are excluded from the pilot.

Participants receive ongoing supervision by caseworkers, Community Corrections and the Walama List judge to ensure compliance with program conditions.

WALAMA LIST FACTSHEET¹

WHAT IS WALAMA?

‘Walama’ is a word from the Dharug language meaning **‘come back’** or return. In the context of the Walama List, it is a coming back to **identity, community, culture, and a healthy, crime-free life.**

The Walama List will provide a therapeutic and holistic approach to sentencing eligible Aboriginal and Torres Strait Islander offenders. Walama will achieve this by working with Elders and respected community members, government, and non-government services to address

underlying needs and risk factors related to offending behaviour. The Walama List aims to reduce re-offending, keep communities safe and reduce the overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.

WALAMA LIST OBJECTIVES

- Reduce the risk factors related to re-offending.
- Reduce the rate of breaches of court orders.
- Reduce the overrepresentation of Aboriginal and Torres Strait Islander persons in custody in NSW.
- Increase compliance with court orders.
- Increase community participation and confidence in the criminal justice system; and
- Facilitate a better understanding of any underlying issues which may increase the likelihood of re-offending.

¹ Judge Yehia *Walama List factsheet* (Department of Communities and Justice, 2021) 1-4

WHO CAN PARTICIPATE IN WALAMA LIST?

The Walama List Pilot will start in the NSW District Court at the Downing Centre in 2022. It will be a sentencing court only for adult Aboriginal and Torres Strait Islander offenders with matters before the NSW District Court.

Eligibility for the Walama List requires that the offender:

- has sentence proceedings listed in the NSW District Court Downing Centre
- is descended from an Aboriginal person or Torres Strait Islander, identifies as an Aboriginal person or Torres Strait Islander, and is accepted as such by the relevant community
- has pleaded guilty to the offence(s)
- has signed an Agreed Statement of Facts on Sentence; and
- consents to having their matters dealt with in the Walama List.

WHAT HAPPENS IN THE WALAMA LIST?

Walama List proceedings will involve Elders and other Respected Persons (ERPs) in sentence proceedings and is a critical component of a community-led sentencing approach.

The Walama List is set up by a Practice Note of the NSW District Court.

The ERPs assist in the Walama List by sitting with the presiding Judge during a Sentencing Conversation and Case Plan Conversations and providing advice regarding the background of the offender and the possible reasons for the offending behaviour.

The ERPs may be required to explain relevant kinship connections of the offender, how a particular crime has affected the Aboriginal community and advice on cultural practices, protocols, and perspectives relevant to sentencing.

The ERPs symbolise the importance of Aboriginal and Torres Strait Islander cultural authority in decision-making and respect for the judicial process in sentencing.

ROLE OF ELDERS AND RESPECTED COMMUNITY PERSONS (ERP'S)

ERP's of the Walama List give honest and fearless advice to the Walama List Judge, informed by their cultural knowledge, wisdom, and experiences. They advise the Judge on cultural issues relating to the offender and their offending behaviour.

The voices of ERP's are a powerful cultural aspect of the Walama List and their participation sends a clear message to the offender that the offences committed are not condoned by either Aboriginal and Torres Strait Islander or non-Aboriginal communities.

The ERP's will provide valuable insight to the sentencing proceedings by informing the court about cultural, historical, and social issues relating to the offender's background and community in a culturally safe way.