



# The Indigenous Voice Proposals Webinar

1 February 2021

***This is a verbatim transcript of the webinar. For further information and clarification on the proposals, please review the resources on the [Indigenous Voice website](#).***

Dan Bourchier:

Good afternoon and welcome to this webinar about the discussions around proposals for the voice. I'm Dan Bourchier and it's great to be with you facilitating this discussion with the two people that have been leading the charge of having a tremendous amount of conversations across the nation about what that voice may look like, before you get to have your chance, to have your say, which is exactly where we're leading now.

Dan Bourchier:

To begin today I want to acknowledge the Ngunnawal traditional owners and custodians of this land. I particularly want to thank them for the sharing of their stories, their custodianship, their song lines around this important land. And wherever you're joining us from around the nation, I want to pay tribute to your elders and your custodians, and thank you for the continued work that's being done in managing land and culture, because of course all of these discussions tie in with where we're going to the future. What sort of Australia do we want to look like? And how exactly do we get there?

Dan Bourchier:

Today I'm very thrilled to be joined by Professor Marcia Langton AO, and Professor Tom Calma AO, to discuss the Indigenous Voice proposals. As the Senior Advisory Group coaches, they worked with the local and regional design group and the national co-design group to develop the Indigenous Voice proposals that have now been out in the public for some weeks. Among these three groups, there are an incredible group of 52 co-design members from right around the nation from a whole range of different backgrounds with so many different skillsets as well.

Dan Bourchier:

And you might've heard that earlier this month the interim report was released, and that detailed those proposals, local and regional voices, and a national voice. And it is a huge document that goes into detail about where we've come from, with a sense perhaps of where we're going. Today's webinar is going to be centred on the detail of these proposals, and how you can get involved, how you can have your say and provide feedback, and also lead part of the conversation into the future. And this is going to be the first of a series of webinars that look at the detail of these proposals, and what exactly these would mean day-to-day.



Dan Bourchier:

Introducing our panel that I'm very thrilled to be joined by, is Professor Marcia Langton AO, a descendant of the Iman people, and was born and raised in Queensland. She's an anthropologist, geographer, public intellectual. Professor Langton has held the Foundation Chair of Australian Indigenous Studies at the University of Melbourne since the year 2000, is a fellow of the Academy of Social Sciences of Australia, a fellow of Trinity College in Melbourne, and an honorary fellow of Emmanuel College at the University of Queensland. Great to have you along.

Professor Marcia Langton AO:

Thank you, Dan. Thank you to everybody for attending today.

Dan Bourchier:

Great. And we're going to be having some great conversations very soon. Professor Tom Calma is a Kungarakan and Iwaidja of Iwaidja heritage from the Darwin region. He's the chancellor of the University of Canberra, a professor at the University of Sydney, the National Coordinator for Tackling Indigenous Smoking, and has also served as race discrimination commissioner from 2004 to 2009, and Aboriginal and Torres Strait Islander Social Justice commissioner from 2004 to 2010 and is here. G'day.

Professor Tom Calma AO:

Good day, Dan. And hi viewers.

Dan Bourchier:

Good to have you along. Now, the way that this is going to work today is that I'm going to ask you and Tom a number of questions as part of today's webinar, to look at the details of the proposals, and also unpacking a bit what's in the interim report. You'll also have a chance to ask your questions, and I'd like to get those from you as we run towards the end of the session, we're putting those to both of the professors to have a look at in a bit more depth as well. You can ask those questions by clicking on the Q&A box on the dashboard at the bottom of your screen. Questions can be asked directly there and we'll come to those shortly. And to see questions that have previously been asked, just open the Q&A box to view them.

Dan Bourchier:

Now, I'm told that there are more than 500 people joining us today from right around the nation, and I'm sure that you, like me, have got lots of questions to ask. Of course, we're not going to be able to get to all of those unfortunately because of time constraints, but if there are questions that we can't answer today and that aren't covered off online, then the team will be looking at answering those and putting on, uploading a frequently asked question section to the website. So, I just want to let you know that that might happen, we might not get to all of those questions.

Dan Bourchier:

But without further ado, let's get into it. We know that there've been plenty of processes in the past. And in this report there's been an extensive body of work done looking at the key Indigenous local, regional and national models and structures. So, I thought that was a good place to start. Professor Langton, based on that, how did we get to this point?

Professor Marcia Langton AO:



Well, we did a comprehensive survey of our history in this regard, and also what exists today, and from page 194 onwards there's a very detailed appendix which sets out the history of representative and advisory bodies, both independently organised by Aboriginal and Torres Strait Islander people themselves, and also those bodies that were appointed by government. So, there's long history, as you know. And also, we did a scan of all the existing bodies, and there's a very long list of them at the back. And that's a very important list because our recommendations rest in a very key way on those existing bodies because of our recommendations on what the local and regional decision-making bodies would look like. And as you know, there's a number of options, and then of course how the local and regional voices determine the national voice, there are options.

Professor Marcia Langton AO:

And so, and in our terms of reference it's very clear that we're not to in any way take away the existing powers and responsibilities of any of those existing groups. And so, what we've done is built them into some of our core options. So, I can say more about that, but just as an introductory statement I think that explains some of the detail in answer to your question. But there is a lot of detail, and I encourage people to read the report.

Dan Bourchier:

Yeah. I want to pick up on one point there, Professor Calma, about looking at what's been done I guess and how that can inform what happens next. Why was that important?

Professor Tom Calma AO:

I think it's very important because we know that some bodies have had a number of years of life, and others are very short. And so, what we've also seen over the time is that there's been varying responses by governments to the way that they relate to Indigenous bodies. But what we know is that at this stage there hasn't been... well, there isn't any single body who can talk to the parliament and let them know about the views of Aboriginal Torres Strait Islander people. And that's really been one of the key prompts about what we wanted to do, was to create a structure that had some capacity to be able to influence policies and programmes that impact on us as Aboriginal Torres Strait Islander people.

Dan Bourchier:

Professor Langton, I guess to play devil's advocate a bit, why do we need an Indigenous Voice?

Professor Marcia Langton AO:

We didn't argue the case for an Indigenous Voice because it's pretty clear that that case has been argued repeatedly in a number of reports. So, Tom's report as Aboriginal and Torres Strait Islander Social Justice commissioner, *Our Future In Our Hands* 2009, then also before that there was the *Building a Sustainable National Representative Body Report* in 2008, and I believe you led that as well.

Professor Marcia Langton AO:

The 2017 final report of the Referendum Council, and the Joint Select Committee on the Constitutional Recognition and other matters. That made a very clear recommendation, so their recommendation was that the government establish a group like ours to design.

Professor Tom Calma AO:

Co-design, yeah.

Professor Marcia Langton AO:



To co-design. To co-design an Indigenous Voice. So, I'll just read that recommendation from the Joint Select Committee that followed the call for an Indigenous Voice in the Uluru Statement from the Heart.

Professor Marcia Langton AO:

"In order to achieve a design for the voice that best suits the needs and aspirations of Aboriginal and Torres Strait Islander peoples, the committee recommends that the Australian Government initiate a process of co-design with Aboriginal and Torres Strait Islander peoples, and this should consider national, regional and local elements of the voice and how they interconnect." We have an interconnections chapter.

Professor Marcia Langton AO:

"Be conducted by a group comprising a majority of Aboriginal and Torres Strait Islander peoples and officials, or appointees of the Australian Government." And our 52 members reflect that recommendation. And in addition, there are many others who are not from government, non-Indigenous Australians from several walks of life.

Professor Marcia Langton AO:

"And the co-design process should be conducted on a full-time basis and engage with Aboriginal and Torres Strait Islander communities and organisations across Australia, including remote, regional and urban communities." And now we're into the consultation phase and that's what we're doing now.

Professor Marcia Langton AO:

"Outline and discuss possible options for local, regional and national elements of the voice, including the structure membership functions and operations of the voice, but with a principle focus on the focal bodies and regional bodies and the design and implementation. Consider the principle's models and design questions identified by this committee as a starting point for consultation documents and a report to government." So, we reported to government last October, the government released our report I think it was on the 9th January.

Professor Tom Calma AO:

January, yeah.

Professor Marcia Langton AO:


And immediately opened consultations for a four-month period. Of course, written submissions close on March 31, but our consultations will continue. So, there is a summary of our recommendations starting at page 16 of our report, there's a four-page diagrammatic summary of our recommendations.

Professor Marcia Langton AO:

And it's very important that people understand the options that we've presented, because we haven't made final recommendations on everything and we want to hear what people think about model one or model two for a national voice, that is structural membership or a direct election. And obviously the structural membership relies very much on the principle of people in their local areas and their regions making decisions for themselves about how this works. And then there are options for the national voice on core membership numbers.

Professor Marcia Langton AO:

So, there are two options, a total of 18 members or a total of 16 members. So, in the first option you'd have the states and the Northern Territory, two members of different gender per jurisdiction, the ACT and Torres



Strait Island's two members of different gender per jurisdiction, and there's some debate about the populations and representations. So then the second option is a total of 16 members, two members from the states and the Northern Territory, and one member per jurisdiction from the ACT and the Torres Strait Islands with rotating gender of members. Or appointment of members, maximum of two appointed members from states and territories. Or be no appointments.

Professor Marcia Langton AO:

So, we've left all of the options open for people to give us feedback, which they can do either via a written submission or by filling out the survey form. And in addition, we will be consulting face-to-face to the greatest extent possible, I think we have about 60 meetings planned across the country.

Dan Bourchier:

Yeah, no mean feat in these unusual COVID-19 times as we're seeing more and more outbreaks every day. Professor Calma, I wonder if you might want to weigh in on that about the importance or what the need is for Indigenous Voice.

Professor Tom Calma AO:

Yeah. Look, I think the key thing is that we don't have a voice in a meaningful way at the moment to impact on or to inform governments and work with governments and bureaucrats and the parliament to be able to implement policies particularly, or legislation, that is going to be successful. Too often in the past we've had bureaucrats or government ministers determine a policy and then implement it, to find out that it's not successful. And of course it's the Aboriginal Torres Strait Islander community that gets blamed for it. And our position is that if we were involved at the outset, it would have been designed a bit differently and it's got a better chance of success.

Professor Tom Calma AO:

So, I guess this is looking at options to both get a voice to the parliament and to government at the national level on Commonwealth matters, or matters that impact across the board on Aboriginal Torres Strait Islander people, but also to create a mechanism at the local and regional level to be able to combine efforts. So that what's happening is that at the moment we've got mini individual organisations, who some may be able to get access to a minister and guide policy development, but by and large that opportunity's not there.

Professor Tom Calma AO:

With the exception of, I guess, two that we cite in the report. One is the Torres Strait and the Torres Strait Regional Authority, and the other is the ACT Indigenous representative body, who have those relationships with the governments, Commonwealth and with the ACT Government, to ensure that we are involved in policies that impact on us. So, that's the primary driver of this.

Professor Tom Calma AO:

And as Marcia had said, this is not something that's just come about. This has been a call dating back almost from the day of colonisation, and that we've been trying to get a meaningful approach. And there's been a number of attempts in the past, a number of major reviews and reports. And what we've done now is to look at all of those, work with a whole range of Aboriginal Torres Strait Islander experts and some non-Indigenous Australians working with us, to come up with a number of models that we presented to government in our interim report that we... and we call that stage one.

Professor Tom Calma AO:



That we now move into stage two, and that's to go and work with the community to test those models. And that's really important, and why it's so important for everybody who's online today and other Australians to really have a close look at what we're proposing. Tell us if it works or it doesn't work. And so that by the end of the day, by the time we get our final report done, it will reflect something that's going to work.

Dan Bourchier:

Yeah. Thank you. And as you pointed out, the report is available online. There's also a couple of ways it's been distilled into our conversation guide into different executive summaries and the like. So, there's lots of ways to I guess dissect and have a look at that information. Professor Langton, you touched on a bit of the national component a moment ago when you were last responding. I wonder if we might go to the local and regional voice, how would that look, or how could that look, on the ground?

Professor Marcia Langton AO:

Well, we've left that pretty much entirely to Aboriginal and Torres Strait Islander people to tell us how it should look, and hence the options that we've presented. I think what we've done is consider all of the available options, and distil them down to the ones that we've presented here.

Professor Marcia Langton AO:

So, it might be the case that an area already has an assembly, Victoria for instance has its Treaty Assembly. The Torres Straits have their Torres Strait Regional Authority, and there are other areas, the ACT Tom has mentioned, that also have assemblies that already exist. Other areas might also want to develop a local or regional assembly in order to deliberate on their local and regional issues and to elect or appoint a member or two members to the national voice. So, that will look very different from place to place. So, we've recognised that there's no one-size-fits-all, and that people will have to make up their own minds about how they want to organise themselves locally.

Dan Bourchier:

And I guess that depends on where you are in the country, whether you're urban, regional, how people communicate, whether it's easy to get people together physically or not?

Professor Tom Calma AO:

Yeah.

Professor Marcia Langton AO:

Yeah, exactly. And in that very long list of existing organisations in the back of our report, you'll see for instance that there are at least two in New South Wales, and also the Murdi Paaki arrangements. So, New South Wales people are going to have to have a discussion about their existing bodies, and how they want to include those into these arrangements. Do they want to have a New South Wales Assembly? Or do they want to go about it in a different way?

Professor Marcia Langton AO:

So, we've also I think considered details like member terms. Four-year terms with staggered terms with half the membership changing every two years, a limit of two consecutive terms. Or a three-year fixed term and a limit of two consecutive terms.

Professor Marcia Langton AO:



We've also recommended that the national body will engage with local and regional voices and state assemblies where they exist for community input into policy development. Provide feedback to local and regional on how advice has been used. And the local and regional arrangements will advise on systemic issues associated with national policies and programmes, and local and regional input and advice on national policies and programmes and matters of national importance. And later in the report we go into some detail about that.

Professor Marcia Langton AO:

I think there's a lot to consider in this report, and so we've mentioned for instance the Aboriginal and Torres Strait Islander local councils in Queensland and the Northern Territory. And we hope to consult with them in some fashion to hear what they have to say about how they can have a greater say in public policy programme service delivery affecting their lives, and how they want to determine their regional governance structures and be established as local and regional voices in this design.

Professor Marcia Langton AO:

We've also advised here in the report that the local and regional groups will advise state and territory governments. So, we want to see all Australian Governments involved in this because many of the programmes that affect Aboriginal and Torres Strait Islander people are determined, funded and implemented by state and territory governments, not by the Commonwealth Government. The Commonwealth Government does have some responsibilities, but it doesn't have all the responsibility. And so, the local and regional bodies, we hope, would have very strong relationships with their state and territory governments.

Professor Marcia Langton AO:

We want to see shared decision-making advice to governments and others, national engagement. But what is out of scope for what we're recommending is administration of programmes and funding. So, we very strongly recommend that the national voice and the local and regional voices are not responsible for programmes and funding, but have shared decision-making with governments.

Dan Bouchier:

Why is that important about the funding point that you make?

Professor Marcia Langton AO:

Well, if you look back at the history of the organisations, and there have been many in our history, it was a mistake to have all of the funding for Aboriginal and Torres Strait Island affairs in the first instance placed with ATSIC. Because then, over time, parts of that arrangement were taken away and handed over to, say for instance, health or...

Professor Tom Calma AO:

Education.

Professor Marcia Langton AO:

Education also. And it caused too much conflict. And it didn't really work, it wasn't an efficient way. And now we completely understand, thank you, that a great deal of the money that funds Aboriginal and Torres Strait Islander matters does not come solely from the Indigenous Affairs Portfolio at the Commonwealth level, but comes rather from other departments such as education and health or environment, and also from state and territory governments. So, it doesn't make any sense anymore to have this body and its parts responsible for



funding and programme delivery, because we've reached a stage where we need shared decision-making and collaboration.

Dan Bouchier:

Professor Calma, I wonder if you might want to pick up on the working with all levels and layers of government. Why that's important, but also I guess the challenge of getting the model right wherever you are in the country.

Professor Tom Calma AO:

Yeah. Yeah, thanks Dan. And I think Marcia covered off on a lot of this. But I think the other one level of government is with local government, which is really important, and so that being party to some of the discussions that we've had with state and territory governments. This is where one of our real big challenges is going to be, is how do we ensure that there is a structure in place that does allow the voice and the coordination to take place? I guess we really highlighted how the Torres Strait Regional Authority and the ACT Indigenous representative body can work, and work very collaboratively, and importantly be able to guide the way policies and programmes work.

Professor Tom Calma AO:

Now, that may work in some jurisdictions that may be a bit smaller, but how do we do it in the bigger ones? Which is our challenge. And that's why we've not been prescriptive, as Marcia mentioned. There's flexibility in the number of regions, and how those regions interact. We've been buoyed by the way National Cabinet has come together and are working together, and that's the state and territories as well as the federal government. If some of that can be extended down to the local and regional level, that'll be good. But that's a job for Minister Wyatt to be able to take carriage of.

Professor Tom Calma AO:

And we really would welcome submissions from state and territory governments as to whether they think it can work or not. We've had, as part of this process, a senior officials group, which comprises senior people from each of the states and territories and the local government associations. So, they haven't had a say, but they've been monitoring and providing some feedback as we're going along. So, we're pretty confident that we're not too far out in all of this, but there is still a way to go, which is important.

Professor Tom Calma AO:


But I think the other really important recognition is that our group had over 70 meetings of 52 members, both as the local and regional co-design, which is one group, and the national co-design. Plus we had a linkages group, which drew from both those groups, to see that things were coordinated and that they would work. So, that's important, and we believe that it'll be there.

Professor Tom Calma AO:

But paramount to the success of this has been the principles that we developed at the very outset to guide the way that we were going to conduct our business. And they're really important principles for all of us to consider. Empowerment, inclusive participation, cultural leadership, community-led design, non-duplication and links with existing bodies, respectful long-term partnerships, which are important, transparency and accountability, capacity-driven, and data and evidence-based decision-making.

Professor Tom Calma AO:





So, it's really important that we all understand those principles, because I think that's what collectively we believe should be the way forward for all of Aboriginal Torres Strait Islander affairs and the way that we go about our business. And so, we'd welcome any challenges to those principles that people might have, because at the end of the day, after we go through the consultation process, we will develop the final report that'll go to government, so we need that report to be as robust as possible. And we can get rid of some of those kinks or what we might think might or might not work, so that we've got something for government to seriously consider, and then to take to their parliamentary colleagues for implementation.

Dan Bourchier:

And I guess that's what's driving this whole consultation process right now. That having these very conversations that we're having. There are more questions about local and regional, I'm conscious though that we are going to run up against the clock. So, there's plenty more to read, but I wonder if, to kind of move us to the next point Professor Langton, the bridge between local, regional and national is one that is difficult. I think pre-COVID states and territories would say that, and most others would agree. Have you looked at the way to connect those two bodies as a part of this report?

Professor Marcia Langton AO:

Indeed we have. But I just want to say first, I don't think it's as difficult as it looks. Look, there will be teething problems, and we've discussed that and so we know that there will be transitional arrangements that develop over time, and we've mentioned that very explicitly even in the summary. During the last year, we've come up against a worldwide pandemic, the COVID-19 pandemic, and the first worldwide pandemic since the...

Dan Bourchier:

Spanish flu.

Professor Tom Calma AO:

Spanish flu, yeah.

Professor Marcia Langton AO:

The Spanish flu in 1918. There have been other health threats such as H1N1 SARS and so on. And it has to be said, and I've been communicating with Fiona Stanley about this, that the Australian Indigenous response to the COVID-19 pandemic has been the most successful response in the world for Indigenous people, and probably the most successful response of all.

Professor Marcia Langton AO:

And so, why did we have so few deaths in our community and so few positive cases? Because we already have an extraordinary network of local and regional bodies who immediately collaborated. And our health sector put into place a plan, and they had already developed plans during the H1N1 epidemic, and were very quick to respond with a national plan for this pandemic. And also they set up a national advisory body with experts from our Indigenous health sector, and everybody collaborated through communications, through all of the social distancing and other behaviours, wearing masks and so on, areas closed their borders, Aboriginal land was closed off. And the response has been brilliant, and hence the most successful response probably in the world. I've talked to Fiona and she thinks so too, and so do a number of our other experts agree.

Professor Marcia Langton AO:

So, we can do this. So, we're proposing that there be between 25 and 35 regions, and here we need to hear from people. What's the number of regions? Once the number is finalised after stage two, these consultations,



a breakdown will be provided for each state and territory. Communities and governments in each state and territory would then work together to determine the detail of the regions in their jurisdictions based on agreed parameters and guidance.

Professor Marcia Langton AO:

And then there'd be a transition to voice structures. So, we say transition pathways will look different in each community and region, depending on the extent of any existing arrangements that can be built on. Where limited or no similar arrangements exist, and there are some areas in Australia where there are none of these arrangements, we hope that transitional groups will emerge with a broad range of stakeholders and design their voice arrangements, and we've gone into further detail on that.

Professor Marcia Langton AO:

So, we have given guidance on the advice of the local and regional bodies to the national voice, so they would advise only on national matters of importance. But we've also given advice for instance on the recognition of these local and regional voices, recognition will be based on meeting minimum expectations, and we've set those out in the report. And they go to the principles that Tom just mentioned, such as inclusive participation, cultural leadership, community-led design, capability-driven and so on. And details of the local or regional mechanism are either through an independent panel assessment or joint assessment between communities, and the relevant governments will be developed for the final report.

Professor Marcia Langton AO:

We've also provided options for dispute resolution, decision-making protocols, say for instance the question of a majority versus consensus comes up. In some areas people like to have a majority, in other areas, say where it's based more on cultural authority, people prefer a consensus. What do the local and regional areas want? What do people want?

Professor Marcia Langton AO:

Nomination eligibility of members, a fit and proper person, codes of conduct et cetera will be progressed during stage two. So, we've recommended an ethics council in order to allow for the development of a system so that nominees have the legitimacy and the standing that won't be questioned, and bring the arrangements into disrepute later.

Professor Marcia Langton AO:

But also in order for this system to have authority, there would have to be legislation at the Commonwealth level, with formal agreement by state territories, ideally through matching legislation and local governments, and options to be developed during stage two and finalised after the final report. So, there's a lot of work for people in the regions to do to consider all of these issues. And again, I say please read the report and think about these matters very carefully. Have meetings and give us advice on the questions that we're putting to you.

Dan Bouchier:

And you're right, there's so much detail in there. Professor Calma, on that jumping into the national body, Professor Langton mentioned that there could be a model of 16 members or 18 members, with a number of different avenues of how to get those members in. What would that group actually be doing?

Professor Tom Calma AO:



The group would I suppose have a number of functions that we've identified. In essence, it will be a way to engage with the Parliament of Australia to keep them informed. A lot of this is premised around good working relationships and partnerships. And because it's not a body that's going to have veto rights or any of these other things over government policies, but it's one that we expect we'll be able to develop a relationship with the parliament, with the government, and with the bureaucracy, and the multiple bureaucracies that exist across the nation.

Professor Tom Calma AO:

As Marcia mentioned, the majority of money in Indigenous affairs comes out of the mainstream, like about 90% of the money is out of the mainstream. So, it's how do we engage with the mainstream? Make sure that the policies as they're being developed are really founded on what Aboriginal Torres Strait Islander people believe, and then it extends on to even providing advice on at a programme level. And a lot of this'll happen seamlessly with the relationship.

Professor Tom Calma AO:

The relationship with the parliament could very well be when, and we've said this in the report, that if there is legislative changes being proposed that relate directly to Aboriginal Torres Strait Islander people, and we talked about major legislation like the Native Title Act, or you've got some of the Northern Territory and the APY Land Rights Act, Maralinga and so forth, they're all Commonwealth Acts, Jervis Bay. And so, and others to do with legislation to do with race that specifically impacts on us. Then we would expect that government would be, and the parliament, would want to engage with us to get our views on it.

Professor Tom Calma AO:

Then there's a whole range of other legislation that goes through that impacts on Aboriginal Torres Strait Islander people. But because this body that we're proposing is not a monster bureaucracy, it's a small hard-hitting body, that we would look at those legislation proposals that impact on us the greatest. And so, then the challenge is getting our views expressed. And hopefully, the way policy's developed at the bureaucratic level first when they're starting to be considered, before it even goes up in to the government or to the parliament, that we're involved.


Professor Tom Calma AO:

But also, how do we then engage with our key stakeholder, the key stakeholder of the national level, the local and regional levels? Because that's where the people are based. And so, we'll have a mechanism to be able to engage with them, and we'd really welcome any suggestions on that mechanism so that we're getting the voice of Aboriginal Torres Strait Islander people from the grassroots level, all the way up to the parliament. And that's what the voice is premised on, to make sure that we're meaningfully engaged in that policy development.

Professor Tom Calma AO:

And look, that's no different to what we'd expect in mainstream. When you've got a major disaster, the government doesn't make decisions for the people in those communities who were impacted on, they might make some, but they won't go and redevelop a community without engaging with that community. That's exactly what we're asking governments to do for us. Instead of what's happened in the past is that they've determined too often what's best for us, and we're trying to turn that around.

Dan Bouchier:



Thank you. And there's a lot more again to discuss in this area. But I think we might move on to some questions now, because I think it's prompted a lot of discussion. And as I mentioned, there's a whole comprehensive report and lots of detail there, and you're going to be having a lot more of these sort of webinars and discussions going forth.

Professor Tom Calma AO:

Yeah, just on the report.

Dan Bourchier:

Yeah.

Professor Tom Calma AO:

It is a big report, but what's really important is for people to look at just the forward and the executive summary. And that really gives you a really good feel about what the report's about. Then you can go and drill down if you want to know more about local and regional and what might work and what mightn't work. But also, on the website there's a whole range of FAQs, frequently asked questions, and answers, and the various documents that we've mentioned. So, don't get daunted over a big report.

Professor Tom Calma AO:

But I think the other really important message is, don't go off on a tangent that doesn't address what we've asked in the report. Because we're not going to get too many shots at doing this, and so it's really important that this one, which has got the government's ear and the parliamentary members have been generally supportive of this move, let's capitalise on that rather than to run off on various tangents and miss the boat.

Dan Bourchier:

Professor Langton, we've got a couple of questions in about... I don't know, I'll just loosely clump them as I can so we can try and get more answered. Why are no consideration options of a direct voice to parliaments, not via minister and government?


Professor Marcia Langton AO:

Okay. So look, if you've been in the policy field, you know that there is no hard and fast border, whether you're at the state level or the federal level, between this stage of policy development and the next stage of policy development. It's iterative. And it's a bit like this report, in order for Aboriginal and Torres Strait Islander people to have a voice, we need a majority view that is persuasive, that will convince the parliament that will legislate for this schema to be convinced that this has the support of the majority of people.

Professor Marcia Langton AO:

And so, we've been very specific, and you can see in our executive summary on parliament and the Australian Government. We say, "Parliament and the Australian government oblige to consult the national voice on a narrow range of proposed laws, which are exclusive to Aboriginal and Torres Strait Islander people and would be expected to consult on a broader component. Parliament and the Australian Government to engage as early as possible", as Tom has already said, "in development of policy and laws, and the obligation would be non-judicial", in other words you can't take it to court, "nor affect the validity of any laws." And that was the criticism of previous reports like the Expert Panel report.

Professor Marcia Langton AO:



And we've been very specific about tabling advice the parliaments. "So, advice must be tabled on issues that have been referred to the national voice." Informal advice would not be tabled, in parliament that is. Another way that the voice would work is that the parliament might establish a parliamentary committee or a new parliamentary committee to examine engagement in consideration of this advice, and there would be a statement of consultation provided with bills, addressing engagement with the national voice. So, I think this is the first time in history that we've had such a very specific outline or definition of how the advice would work. And there's more detail in the report.

Professor Tom Calma AO:

There are a couple of bodies in the... and it's understanding the development of legislation I guess. Doesn't happen in the parliament, that's where it gets signed off. There's a whole lot of effort goes in before it even gets into the parliament. But there's a couple of existing bodies, like in the parliament at the moment there's a Bill of Scrutiny Parliamentary Committee that looks at all bills to make sure that it complies with our obligations or if it doesn't conflict with other legislation and that sort of stuff. And there's also a Human Rights Parliamentary Committee that looks at any legislation that's proposed, to make sure that it does comply with our human rights obligations.

Professor Tom Calma AO:

Now, they're existing bodies, and what we've proposed is that if the parliament is... and I say parliament because you need both houses to agree to this, or both... yeah, houses. And we could establish one that's specifically for providing advice on whether it conflicts with Aboriginal Torres Strait Islander views, but also whether Aboriginal Torres Strait Islander people are being consulted in this process. And yeah, so it's a bit technical, but I think it's quite workable.

Professor Marcia Langton AO:

And don't forget that there are areas that are never legislated. So, a lot of policy is never legislated but it's tremendously critical policy nevertheless. But what is legislated of course is the budgetary allocation. So, there are several processes in parliament where Aboriginal and Torres Strait Islander advice is required. Take for example ranger programmes. Dearly Beloved throughout Aboriginal and Torres Strait Island Australia, absolutely essential for conserving our environments and keeping healthy environments, the whole caring for country movement across the country. We have I think about 1200 rangers across the country, we have ranger programmes, we have Indigenous protected areas. Now, much of that is not legislated. It's a policy. What is legislated are the funding arrangements. So, there are a lot of ways in which advice will be required, not just on laws but also on policy.

Dan Bourchier:

There was a question here, how will internal disagreements be resolved? Will the body operate on a majority or a consensus basis? I think that came through just before you got to that, but that is detailed in the report, so we don't need to go over that one. Does the regional model accommodate cultural regional societies that transcend state territory local government jurisdictions? And I suspect that one's talking about areas that might be cross-borders or cross local government areas and the like?

Professor Marcia Langton AO:

Cross border arrangements, yes.

Professor Marcia Langton AO:



Yes. Well, we do have a recommendation on cross-border arrangements, I can't find it right now. But basically we want to accommodate those cross-border arrangements, and that's precisely what we need advice on in submissions.

Professor Tom Calma AO:

Mm-hmm. But there are also cultural groups out there, tribal groups, that make decisions for their memberships, so that's also making sure that their view is respected, particularly if it has a broader implication. And like the cross-border situations, you look at the APY lands as an example.

Dan Bouchier:

And I just want to point out there's a couple of messages coming through thanking you both for the work that you've been doing leading these conversations, leading that extensive work of the 52 people, but also then these conversations. So, I think that's just worth noting, and people asking if you're going to continue to be involved. Also, questions about the structural membership and whether the different models, and whether there's a view about what would work best for the local, regional, and then the national.

Professor Tom Calma AO:

We've been very, very conscious of not wanting to prescribe what it'd be like. We've put up a number of models to be considered. We think that they can all work in either standalone models or a combination. And this stage of consultations and the feedback is really where we're hoping that we'll get people on the ground to come back and give their view.

Professor Tom Calma AO:

Not diminishing the sort of inputs that we've had from the 52 members of our committee, which are very broad across the nation, people working at the grassroots level, at policy levels, and so forth. That's why I think the report is so rich in the experiences, and it's very contemporary of what's existing now. And it takes into consideration some of the big developments like the treaty body discussions or the treaties that are under consideration in quite a number of states and territories at the moment.

Professor Tom Calma AO:


But you remember back when I talked about the principles? What this is not about is duplicating current effort or undermining existing bodies. It's how do we work together? But we should also remember that not every Aboriginal Torres Strait Islander person is a member of an Aboriginal organisation or a group. There are a lot who want to have a say but don't have a say. There's groups like I think it's around about two and a half thousand Aboriginal Torres Strait Islander entrepreneurs out there that are registered with Supply Nation. How do they have a view? They're major contributors to the development of Aboriginal Torres Strait Islander affairs. How do we get their views considered in all of this?

Professor Tom Calma AO:

So yeah, we've been non-prescriptive, we've offered a number of options for people to consider, and we'd really welcome feedback on whether there's... particularly if there's any problems here anybody sees with the way those arrangements might be put in place. But yeah, that's really what it is.

Dan Bouchier:

Professor Langton, a message has come in from Elizabeth, "I understand that the proposed Indigenous Voice will be advisory only. I am an Indigenous member of the city of Parramatta Aboriginal and Torres Strait Islander Advisory Council, would the proposed local Indigenous Voice provide statutory empowerment to the



members of the committee, so that what they decide on a recommendation is listened to, taken seriously, and implemented in constructive policy reform at a local level?" Elizabeth goes on, "At the moment our advice re the long-term objections to the excessive incarceration of Aboriginal children in Western Sydney is seldom responded to and is often ignored." And I guess this goes to the point about people being asked to give a view, and then it not listened to.

Professor Marcia Langton AO:

Yeah, okay. So, that's a very good question, and I guess that's what most people are worried about. So, we have recommended that state and territory jurisdictions mirror the legislation that we've recommended at the Commonwealth level for the national voice and its local and regional voices, be they assemblies or some other arrangement. And so, as I said, we've defined how advice would be given, so on bills it would be tabled in parliament, informal advice is not tabled. We advise that there should be a new parliamentary committee to examine engagement and consideration of advice, and a statement of consultation provided with bills addressing engagement with a national voice. Now, that could all be mirrored in state and territory legislation. And so, if the states and territories introduce legislation to reflect this arrangement, that would give local voices such as Elizabeth's the opportunity to formalise advice and have it tabled in their respective parliaments.

Dan Bouchier:

So, I guess it becomes then in that aspect a bit of a check and balance or value add-on to what the decision that they might've already made or be advocating for?

Professor Marcia Langton AO:

And no government has allowed for anyone to have a veto. Our constitution doesn't allow for anyone to have a veto. So, the parliament is advised in many ways, and so we've proposed this set of arrangements for Aboriginal and Torres Strait Islander advice. And we've used the word obliged because I think that reflects the way that our governmental system works. And there was a majority agreement on that issue amongst our 52 members who considered Elizabeth's question very carefully.

Dan Bouchier:


And I might open this one up to both of you, but there's some questions around the funding of the bodies of regional, local, and I guess that goes then to the infrastructure and the like to whether or not if you're a member of it it's a full-time wage, and that sort of thing. How have you thought about that myriad of questions that, Professor Calma, which are not easy?

Professor Tom Calma AO:

They're not easy, and we didn't go specifically looking at that, only because that would just take it away from the main game, and that is to establish a structure. And in our final report to government we will be making some suggestions or recommendations as to how people who participate might be funded and supported. But at this stage we haven't gone down the specifics of that.

Professor Tom Calma AO:

But I think I guess this is a process that's going to rely a lot on goodwill and relationships. We've articulated what we believe are the key principles of engagement, and we expect that they wouldn't be things that government would be opposed to in relation to that, and they could be I guess advanced for government to consider. But overall, I think the key game for us is to say, "We've proposed some models, we think they could



all work, they could work standalone or they could work in some hybridised model." And that's what we hope that the inputs from the community will guide us in those in the final report.

Professor Marcia Langton AO:

So, we have said at page 158, "Not only must the foundations be right, there must also be appropriate support for the Indigenous Voice to respond." Now, budgetary implications were not in our terms of reference. But nevertheless, because it was a majority view, this is at page 158 of our report. "The budgetary implications for establishing and operating the Indigenous Voice in the current fiscal environment are a challenge. The co-design groups have considered this in the design of the proposals to ensure they are workable and sustainable." So, that's all set out in chapter four.

Professor Marcia Langton AO:

And so, "Funding has been a recurring issue for historical representative bodies, the expectation of appropriate funding from the Australian Government will be a particularly important and sensitive consideration in establishing the voice." And of course the effectiveness of the voice and trust, relationship-building trust, will depend on the government attending to these budgetary implications in a reasonable way.

Professor Marcia Langton AO:

And so, most of the people amongst our 52 members have been through this before, and recognise that the risk is that the Indigenous Voice arrangements have the potential to be abolished in the future, and of course funding can be limited or withdrawn. So, legislation is one mechanism that would be required to support any model. We're not permitted to make explicit recommendations on funding, but we're very clear that trust in the voice, the trust of the people in the voice to be effective, will be depend on its sustainability.

Dan Bourchier:

And all those, and then those things become interlinked. And a couple of questions asking where to get the report. You can go to the website [voice.niaa.gov.au](http://voice.niaa.gov.au). And some asking where to get a hard copy, and I think you can get in touch, there's some details on the website. Or also emailing [co-designvoice@niaa.gov.au](mailto:co-designvoice@niaa.gov.au).

Dan Bourchier:

Just on the process I guess from here because we are up against the clock, in fact we've gone over already so I'm going to have to make this quick. Submissions close to the interim report on the 31st March, but the consultations will continue until the 9th of May. So, I guess if you've got something you want to say about aspects, get it in now, and then you'll continue those conversations.

Professor Tom Calma AO:

Yeah.

Dan Bourchier:

What happens after that?

Professor Marcia Langton AO:

Well then we meet again and write a final report to government based on the consultations.

Professor Tom Calma AO:

And we'll be taking into consideration what's already coming in through the submissions. To date we've already received 140 submissions, which is fantastic. Some are much more comprehensive than others.





Dan Bourchier:

Do you want comprehensive?

Professor Tom Calma AO:

Look, the key thing is, I mentioned about tangents, address what's being asked in the report. It's a given that there's a whole lot of other issues like Constitutional Recognition and so forth that people will want to express. This is not the place to do that if you want to be heard. If you want to have a meaningful say in the structure of the voice, this is where you do it. If you want to talk to your local member or directly at a government or bureaucracy about Constitutional Recognition and enshrinement, do so. But don't lose the opportunity by clouding what we've asked for in this report, because that's going to be the most meaningful input.

Professor Tom Calma AO:

And where people have... Oh, the other point too. The consultation, the second part of the consultations, is not only the face-to-face in those 60 communities, but there's an online survey, and that anybody can go in and look at that. We've already received around about I think 250. Over 250 surveys completed. And that'll be responding to those specific questions. So, that's a great opportunity for people to have a say that way, and just to keep an eye out when we're going to be visiting maybe the community where you're at.

Professor Tom Calma AO:

But don't forget that this process is one that's got a limited timeframe. End of May, by the end of June we have to have a final report to government to be able to consider. But behind the scenes there's a lot of work being done. The parliamentary committees, Minister Wyatt's leading, and discussions with state and territory bureaucracies are all happening at the same time.

Dan Bourchier:

Professor Langton, have you got some final words that you want to share along that line of getting involved now?

Professor Marcia Langton AO:

I'm working my way through the submissions that we've received that have been published online. You can choose not to publish your submission if you like, but we will read them in any case. I'm looking forward to reading more submissions, and I do hope that people, as Tom says, address themselves to the options that we've put, because these are critical to how... your answers are critical to how we will finalise our report.

Professor Tom Calma AO:

Yeah.

Dan Bourchier:

Well, thank you... unless there's... sorry, did you have something more?

Professor Tom Calma AO:

Yes, just very quickly. What we didn't mention, but we'll be having some standing committees to be able to get the views of people with disabilities.

Professor Marcia Langton AO:

And youth.



Professor Tom Calma AO:

And youth. Are really important. So, we encourage people to... And people from the LGBTQI community will also have an opportunity through committee.

Dan Bourchier:

And just finally on that point, there is also, I noted in the report, an aspect about both bodies being able to set up committees for if there are specific areas that they want-

Professor Marcia Langton AO:

For expert advice or, yeah.

Dan Bourchier:

Expert, yeah.

Professor Marcia Langton AO:

Or particular advice, yes.

Dan Bourchier:

So, there's lots of detail on that as well. Well look, I want to thank you both for the work you've done but for joining me today and talking through as some of the comments have come through. And I'm really sorry we didn't get to all of your questions today. But talking about the complexity of these models and about what they're trying to achieve, and I'm very grateful for the work you've both done, so thank you.

Professor Tom Calma AO:

Thank you, Dan.

Professor Marcia Langton AO:

Thank you, Dan. And thanks to everybody for coming to this webinar.

Professor Tom Calma AO:

Yeah, fantastic. Yeah.

Dan Bourchier:

And so good to have Professor Marcia Langton AO and Professor Tom Calma for being here with us today, and talking through these models. As I mentioned earlier, this is just the start of a whole range of conversations over the coming weeks. As I also mentioned, you have until the end of next month, the 31st March, to get those submissions in. From here, as Professor Calma mentioned, you can go onto the website, there's a survey, there's avenues to be able to download the report, and I understand that if you want a printed copy that you'll be able to seek a way to get to that by getting in touch with the office as well. And that's all at [voice.niaa.gov.au](http://voice.niaa.gov.au). And there's also heaps of resources there about breaking down the information into different ways, a communication package, as I mentioned earlier, a whole lot of question and answer sections as well. So, there's plenty of detail there, I would encourage you to go and have a read through all of that. And stay in touch and do get your voice into the mix, because as we've heard, this is about the voices of Indigenous Australia. Thank you.