Australian Government
National Indigenous Australians Agency

Indigenous Voice

Indigenous Voice Co-design Process

Final Report to the Australian Government

July 2021

Indigenous Voice Co-design Process Final Report to the Australian Government

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Acknowledgement

We acknowledge the traditional owners and custodians of country throughout Australia and acknowledge their continuing connection to land, waters and community.

We pay our respects to the people, the cultures and the elders past, present and emerging.

We acknowledge that many individuals refer to themselves by their clan, mob and/or country.

About the artist and cover artwork

Keisha Leon is an artist and designer that uses narratives to reflect her own experiences; and connecting conceptual design with social outcomes, to change the narrative for the future.

Keisha is a proud Waanyi and Kalkadoon woman, building her design around her connections to her continual navigation of her identity and life.

In reflecting on an Indigenous Voice, Keisha's cover artwork aims to capture the complexity and diversity of communities with a design that is organic and fluid in movement to reflect the ever-changing nature of diversity and change, reflecting the natural occurrence of saltwater and freshwater coming together, as symbolic of new partnership. It also represents growth and empowerment through communities having greater say in their futures.

Contents

List of Abbreviations

AAC	Aboriginal Advisory Council
ACCO	Aboriginal community-controlled organisation
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ANTaR	Australians for Native Title and Reconciliation
ANU	Australian National University
ATSIC	Aboriginal and Torres Strait Islander Commission
ATSIEB	Aboriginal and Torres Strait Islander Elected Body
COAG	Council of Australian Governments
CSI	Centre for Social Impact
CWP	Community Working Parties
FPAV	First Peoples' Assembly of Victoria
IPO	Indigenous Peoples' Organisation
LGA	Local government area
NCARA	NSW Coalition of Aboriginal Regional Alliances
NIAA	National Indigenous Australians Agency
PBC	Prescribed body corporate
PSM	Public Service Medal
TSRA	Torres Strait Regional Authority
UNDRIP	United Nations Declaration on the Rights of Indigenous People

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Foreword

Across Australia, momentum is strong for an Indigenous Voice to the Australian Parliament and Government. Aboriginal and Torres Strait Islander peoples want a greater say on the laws, policies and programs that affect our lives and non-Indigenous Australians support that call. In this Final Report of the Indigenous Voice co-design groups, we present our proposal for realising this urgent solution to the ongoing predicament of Indigenous Australians with a robust and feasible means of improving outcomes.

In October 2020, we presented the Indigenous Voice Co-design Process Interim Report to the Australian Government. Since the release in January 2021 of proposals for an Indigenous Voice in the Interim Report, Australians from across the country have taken the opportunity to provide their feedback. Over 9,400 people and organisations participated in a consultation process led by co-design members. This marks one of the most significant engagements with the Australian community on Aboriginal and Torres Strait Islander affairs in recent history.

Over 4 months, we had conversations with people and organisations across urban, regional and remote Australia. As a group, we were fortunate to engage with people through 115 community consultation sessions in 67 diverse communities and more than 120 stakeholder meetings around the country.

We also gathered feedback online, with more than 4,000 submissions and survey responses put forward by both Aboriginal and Torres Strait Islander and non-Indigenous individuals, communities and organisations.

The feedback provided tremendous support for an Indigenous Voice at the local and regional, and national levels. The core proposals set out in the Interim Report were affirmed, demonstrating the value of co-design to achieve effective outcomes. The feedback also helped improve proposals, with the National Voice membership model changed to increase the focus on remote people and communities.

We propose a strong, resilient and flexible system in which Aboriginal and Torres Strait Islander peoples and our communities will be part of genuine shared decision-making with governments at the local and regional level and have our voices heard by the Australian Parliament and Government in policy and law making. A voice to the Australian Parliament and Government would complement and amplify existing structures, and would not replace the role for these structures to continue to work with Government within their mandates.

An Indigenous Voice will provide the right mechanism, working with and strengthening existing arrangements, for the voices of Aboriginal and Torres Strait Islander peoples to be heard on issues that affect us. The consideration of our vast experiences and diverse perspectives will lead to better policy outcomes, strengthen legislation and programs and, importantly, achieve better outcomes for our people.

Now, what lies before us could be the most significant reform in Aboriginal and Torres Strait Islander affairs for generations. We heard in chorus—from our own people, along with non-Indigenous Australians—how much it would mean for Aboriginal and Torres Strait peoples to have our voices heard. The importance of what we propose cannot be understated.

There was also strong feedback that an Indigenous Voice must be secure and enduring, and appropriately protected. While consideration of legal form was outside our co-design responsibility, we were not surprised by the growing support for constitutional enshrinement that was particularly evident in submissions. We heard many practical and principled reasons supporting the enshrinement of an Indigenous Voice in the Australian Constitution, including that it would be the best way to protect an Indigenous Voice against abolition, enhance its effectiveness and recognise the unique place of Aboriginal and Torres Strait Islander peoples in our nation. Security and longevity for an Indigenous Voice were crucial elements of feedback received across the consultation process. The task for government is to consider how the Indigenous Voice will be protected.

As we deliver this Final Report, we are extremely proud of the efforts of the 52 co-design group members from across the country, who worked in partnership over the past 18 months—and through a global pandemic—to develop these final proposals for an Indigenous Voice. Together we listened, contested ideas and challenged ourselves to determine what might work best. On each issue, the co-design groups came to either a consensus or clear majority view. The results of this rigorous process are now presented for the Australian Government to consider in this report.

It is very clear that an Indigenous Voice is a necessary, pragmatic and natural step for our country as we work towards creating a better shared future for all Australians.

We commend this Final Report to the Australian Government with optimism that the proposals will be taken forward. A commitment to implementing these proposals will see conversation and co-design continue with communities across the country and involve governments at all levels coming together and working with us in partnership. This would provide a strong and lasting voice for Aboriginal and Torres Strait Islander peoples and be an historic step for our nation.

Professor Dr Marcia Langton AO
Co-Chair, Senior Advisory Group

Professor Tom Calma AO
Co-Chair, Senior Advisory Group

2018 Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples: Final Report

Recommendation 1

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. The co-design process should:

- consider national, regional and local elements of The Voice and how they interconnect;
- be conducted by a group comprising a majority of Aboriginal and Torres Strait Islander peoples, and officials or appointees of the Australian Government;
- 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;
- outline and discuss possible options for the local, regional, and national elements of The Voice, including the structure, membership, functions, and operation of The Voice, but with a principal focus on the local bodies and regional bodies and their design and implementation;
- consider the principles, models, and design questions identified by this Committee as a starting point for consultation documents; and
- report to the Government within the term of the 46th Parliament with sufficient time to give The Voice legal form.

Joint Select Committee principles for the design of the Indigenous Voice

- Most significant is the strong support for local and regional structures.
- The members of the Local & Regional Voice should be chosen by Aboriginal and Torres Strait Islander people rather than appointed by the government.
- The design of the Local & Regional Voices should reflect the varying practices of different Aboriginal and Torres Strait Islander communities—a Canberra-designed 'one-size-fits-all' model would not be supported.
- There should be equal gender representation.
- The Indigenous Voice at the local, regional, and national level should:
  - be used by state, territory and local governments as well as the federal government
  - provide oversight, advice and plans but not necessarily administer programs or money
  - provide a forum for people to bring ideas or problems to government and government should be able to use the Indigenous Voices to road test and evaluate policy. This process should work as a dialogue where the appropriateness of policy and its possible need for change should be negotiable.
- Consideration must be given to the interplay of any Indigenous Voice body with existing Aboriginal and Torres Strait Islander organisations at both local and national levels (in areas such as health, education and law) and how such organisations might work together.
- Cross-border communities should be treated as being in the same region where appropriate.
- Advice should be sought at the earliest available opportunity.

Executive Summary

Aboriginal and Torres Strait Islander peoples have long called for a greater say on the services, policies and laws that affect their lives to overcome their present level of exclusion from decision-making about the matters that affect them. This Indigenous Voice Co-design Process Final Report to the Australian Government is the culmination of a robust and contested process to design the details of an Indigenous Voice, as recommended by the 2018 Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples.

This Final Report marks a milestone in the co-design of an Indigenous Voice. The proposals from the Indigenous Voice Co-design Process Interim Report to the Australian Government, developed in stage one of the co-design process, have been tested and refined through a significant public consultation engaging more than 9,400 people and organisations, in stage two of the co-design process. The final proposals and recommendations in this report are the product of a genuine and thorough co-design, led by Aboriginal and Torres Strait Islander people and undertaken in partnership with Government.

This Final Report presents the proposals and recommendations for an Indigenous Voice—a cohesive and integrated system comprised of Local & Regional Voices and a National Voice—with connections to existing Aboriginal and Torres Strait Islander bodies. This Final Report also presents considerations for implementing an Indigenous Voice and details the consultation and engagement process.

This Final Report summarises the work of the 3 co-design groups throughout the co-design process spanning 18 months, focusing on the consultation and engagement recommended in the Interim Report. The 52 co-design group members, most of whom are Aboriginal and/or Torres Strait Islander people, brought a remarkable range of experience and expertise to their roles. As part of working together with government, representatives of the National Indigenous Australians Agency (NIAA) were included in the membership of co-design groups. The Chief Executive Officer and Deputy Chief Executive Officer Operations and Delivery were co-chairs of the National and Local & Regional Co-design Groups, respectively. The NIAA also provided secretariat support to co-design members throughout the process.

The 3 co-design groups

The Local & Regional Co-design Group's role was to articulate effective regional mechanisms for improved local and regional decision-making by Aboriginal and Torres Strait Islander people in partnership with governments, including building on what is already working well in regions across Australia.

The National Co-design Group's role was to develop models for a National Voice, including how it should link to Local & Regional Voices.

The Senior Advisory Group's role was to guide the process, including the public consultation process and to provide advice to the co-design groups as they developed the proposals.

Using the proposals in the Interim Report as a foundation, the co-design groups developed the final proposals for Local & Regional Voices and a National Voice with careful deliberation, allowing the views of all members to be raised, discussed and considered. Co-design members led the public consultation and engagement process on the proposals and considered feedback as it emerged throughout the process. The final proposals represent either the unanimous or clear majority view of the co-design groups.

Throughout the co-design process, and as detailed in Chapter 4 of the Interim Report, the co-design groups were conscious of learning from preceding Aboriginal and Torres Strait Islander bodies with advisory and advocacy functions, for example, the Aboriginal and Torres Strait Islander Commission and the National Congress of Australia's First Peoples. Throughout consultation, people recalled the strengths and achievements of these bodies but also reflected on their shortcomings and disappointments. The co-design groups continued to reflect on the learnings from these previous arrangements in developing the final proposals.

A Senior Officials Group comprised of representatives from each state and territory government, the Australian Local Government Association, and the Australian Government as represented by the NIAA, was linked to the co-design process. The Senior Officials Group acted as a forum for governments to contribute input and advice to inform the co-design process, particularly in relation to the implications of Local & Regional Voices. It was also a forum to provide officials from the non-Commonwealth levels of government with information about the co-design process, reflecting the vital importance of Local & Regional Voices being a voice from local Aboriginal and Torres Strait Islander people to all levels of government.

Local & Regional Voices

The approach for Local & Regional Voices presented in the Interim Report was strongly supported throughout the consultation and engagement process. The flexibility to tailor Local & Regional Voices to local circumstances, guided by a principles-based framework, resonated strongly throughout the community consultation sessions. Flexibility was seen as essential to ensure that Local & Regional Voice arrangements can respond to the great diversity of Aboriginal and Torres Strait Islander cultures and communities across Australia. The need for all levels of government to participate in Local & Regional Voice arrangements as set out in the Interim Report was further reinforced and emphasised throughout consultation. There was a high level of awareness in community consultation sessions that the policies, programs and services of all governments affect communities and that they would all need to be engaged in Local & Regional Voice arrangements.

Given the strong support for the overall approach during consultation and engagement, the final proposal for Local & Regional Voices represents a refinement rather than a significant change from what was proposed in the Interim Report.

A principles-based framework for Local & Regional Voices across Australia, as proposed in this Final Report, is predicated on recognising that the enhanced arrangements for local and regional decision-making and regional governance would be the key to the success of the Indigenous Voice proposal overall. This was strongly affirmed throughout the consultation process. The framework, with 9 guiding principles, builds on existing arrangements across Australia and provides flexibility to accommodate the diversity of Aboriginal and Torres Strait Islander cultures and communities. Local & Regional Voices would be community-led[1], community-designed and community-run. The proposal articulates the need for communities to be supported to act as an independent voice for Aboriginal and Torres Strait Islander people working with governments. *Respectful long-term partnerships*—one of the 9 principles in the framework—was also strongly supported throughout the consultation process. Most people acknowledged the need for change so that government officials engage in partnerships across governments and portfolios and with Aboriginal and Torres Strait Islander peoples.

Local & Regional Voices would undertake community engagement, provide advice to, and work in partnership with all levels of government. They would work together to set strategic directions to improve policy, program and service delivery outcomes for communities in the region and provide joint advice about how investment can be better aligned to local priorities and strategies (referred to as 'shared decision-making'). A flexible approach allows the breadth of functions, membership and governance arrangements to be decided locally, providing they are consistent with what is set out in the framework. The arrangements would evolve in line with community preferences and capacity. Local & Regional Voices would work cooperatively with and not displace or undermine existing bodies. Local & Regional Voices would also provide clear links for Aboriginal and Torres Strait Islander peoples to be involved in government decision-making at the local and regional level. Local & Regional Voices could also play a key practical role in communities to support improved outcomes, in line with the Closing the Gap agenda.

All Aboriginal and Torres Strait Islander residents (including both historical residents[2] and traditional owners) of a region would have the opportunity for their voices to be heard. The final proposal recommends the following guiding principles that would apply both to Local & Regional Voices and government at all levels, including across all portfolios.

- *Empowerment*
- *Inclusive Participation*
- *Cultural Leadership*
- *Community-led Design*
- *Non-duplication and Links with Existing Bodies*
- *Respectful Long-term Partnerships*
- *Transparency and Accountability*
- *Capability Driven*
- *Data and Evidence-based Decision Making*.

[1] The term 'community' in this report refers to all Aboriginal and Torres Strait Islander residents in a geographic area.

[2] 'Historical residents' commonly refers to all residents who are not traditional owners of the given area, irrespective of when they moved to that community.

The final proposal for Local & Regional Voices to be established at the regional level is intended to maximise efficiency and effectiveness. At the same time, connection to the community level would be essential to ensure local people and communities can provide input to decisions about local issues.

The Interim Report proposed that feedback be sought on a range of region numbers—25 as a minimum and 35 as a maximum. Based on strong support during consultation for a greater number of regions within this proposed range, the members agreed that 35 regions across Australia would be necessary to accommodate the complexities of implementing the Indigenous Voice proposals. Consultation feedback confirmed it was important for communities to be involved in further discussions about the configurations of regions.

In line with this feedback, the final proposal provides for detailed boundaries to be determined by communities and governments at the beginning of the implementation phase. Boundaries would be determined within the agreed numbers and considering factors such as cultural groupings, existing regional arrangements, demographics and geography.

The final proposals for Local & Regional Voices, including further detail on the recognition process and deliberations of the Local & Regional Co-design Group, are presented in Chapter 1 of this report.

National Voice

The proposal for a National Voice was strongly supported during the consultation and engagement process. Key considerations raised during consultation included how membership for the National Voice would be determined, the number of members on the National Voice and the link between the Local & Regional Voices and the National Voice.

As a result of the consultation and engagement process and resulting deliberations, key refinements are presented for the proposed National Voice.

The final proposal for the National Voice is for a small national body of Aboriginal and Torres Strait Islander members tasked to advise the Australian Parliament and Government. The National Voice would provide the mechanism to ensure Aboriginal and Torres Strait Islander peoples have a direct say on any national laws, policies and programs affecting them.

The National Voice would provide advice to both the Australian Parliament and Government. This is important because it allows the National Voice to engage fully with laws and policies at different stages of development. This dual advice function reflects the different roles of Government and Parliament in making laws and policies. This does not diminish from the role of providing a voice to Parliament; it strengthens and integrates advice, ensuring early engagement before bills are introduced to Parliament. By providing for a voice to both Parliament and Government, the National Voice would engage fully with policy of different kinds and at different stages of development.

The National Voice would advise on matters of national significance to Aboriginal and Torres Strait Islander peoples relating to their social, spiritual and economic wellbeing. This is to ensure that the diverse perspectives of Aboriginal and Torres Strait Islander peoples are considered in key areas of legislation and policy development. The relationship between the Australian Parliament and Government and the National Voice would be a two-way interaction, with each able to initiate advice or commence discussion around relevant policy matters.

The proposed model for the National Voice includes a set of consultation standards for when, how and on what types of matters the Australian Parliament and/or Government should consult with the National Voice. Engagement with the National Voice would ideally occur early in the development of relevant laws and policies to allow for a partnership approach. The Australian Parliament and Government would be 'obliged' to ask the National Voice for advice on a defined and limited number of proposed laws and policies that overwhelmingly affect Aboriginal and Torres Strait Islander peoples. There would also be an 'expectation' to consult the National Voice, based on a set of principles, on a wider group of policies and laws that significantly affect Aboriginal and Torres Strait Islander peoples.

The proposed model for the National Voice also includes a set of complementary transparency mechanisms situated in the Parliament to provide for public accountability and enhance the ability of the National Voice to be heard. Importantly, these are based on existing parliamentary mechanisms and practices.

A key element of the consultation standards is the general expectation that Parliament and Government would engage the National Voice at the earliest opportunity when developing policies and proposed laws that have a significant impact on Aboriginal and Torres Strait Islander peoples. The result of this early engagement would mean that by the time a bill is finalised, the National Voice should already have been engaged and given the opportunity to provide considered formal advice.

The consultation standards and transparency mechanisms must be flexible enough to address the full range of possible circumstances, particularly concerning timing. In some cases, consultation with the National Voice may be built in from the early stages. In other cases, legislative changes may be time-sensitive, and a shorter amount of time might be provided for consultation with the National Voice. The proposed consultation standards and transparency mechanisms do not take a prescriptive approach to this. Instead, they support partnership and dialogue that can facilitate change.

How membership of a National Voice is determined is a crucial matter for Aboriginal and Torres Strait Islander peoples. During community consultation sessions, a significant topic of discussion—especially in the most disadvantaged areas—was the need for greater representation at a national level to ensure the most marginalised and excluded voices have the opportunity to be heard, particularly those of people living in remote areas and those of people who are not members of an Aboriginal or Torres Strait Islander organisation. As a result of this, and through careful deliberation, the final proposal for a National Voice is a 24-member model including 5 members representing remote regions, and one member representing the significant number of Torres Strait Islanders living on the mainland. This is a critical refinement from the proposal in the Interim Report that each state and the Northern Territory have 2 members, and the Australian Capital Territory and the Torres Strait Islands each have one or 2 members, for a maximum of 18 members. In both the interim and final proposals, there is also an option for the joint appointment of up to 2 additional members if a particular skill set is required and this is agreed upon between the National Voice members and the Minister for Indigenous Australians.

The National Voice membership would be structurally linked to Local & Regional Voices. Members of the Local & Regional Voices within each state and territory would collectively determine National Voice members from their respective jurisdictions. This membership model draws on the strength, legitimacy and authority of Local & Regional Voices, particularly as developed under the principles of Inclusive Participation and Cultural Leadership. This would embed community voices and ensure the diversity of Aboriginal and Torres Strait Islander communities is connected to the National Voice. This membership model provides flexibility and opportunity for the involvement of jurisdiction-level Aboriginal and Torres Strait Islander representative assemblies, where they exist, and elections if the Local & Regional Voices and Aboriginal and Torres Strait Islander people of the relevant jurisdiction agree.

The final proposals for the National Voice and the deliberations of the National Co-design Group are further detailed in Chapter 2 of this report.

An Indigenous Voice as an integrated system

While the final proposals include models for both Local & Regional Voices and a National Voice, the co-design groups recognised that an Indigenous Voice must be an integrated system in which Aboriginal and Torres Strait Islander peoples' perspectives are appropriately heard at all levels. Consultation feedback demonstrated that local communities want their distinct voices heard by the Australian Parliament and Government, which confirmed the need for such an integrated approach. The present levels of exclusion from decisions made about, and the current absence of a coordinated and integrated mechanism for Aboriginal and Torres Strait Islander peoples to have a say as individuals, communities or organisations was also keenly felt throughout consultation.

The final proposals also provide a system-wide approach in which Local & Regional Voices and the National Voice complement and support each other to ensure the best outcomes. The design of the final proposals provides for this through both structurally linked membership and a two-way formal advice link between Local & Regional Voices and the National Voice.

Working with existing bodies

In developing the proposals for Local & Regional Voices and the National Voice, the co-design groups considered the range of existing Aboriginal and Torres Strait Islander peak bodies and organisations at the local, national and international levels. The Interim Report noted the significant strengths present in many existing arrangements. Feedback from the consultation process, particularly submissions and community consultation sessions, suggested that an Indigenous Voice should not duplicate or usurp existing bodies. However, it also noted an absence of existing opportunity for all members of a community to be represented or participate and identified areas where existing arrangements could improve and evolve with the implementation of an Indigenous Voice.

The final proposals for Local & Regional Voices would see existing Aboriginal and Torres Strait Islander organisations and individuals involved in their Local & Regional Voice arrangements. Each Local & Regional Voice would be a mechanism to bring together views from a range of local people and stakeholders within their region, including members of community-controlled organisations, service providers, business, advisory bodies, statutory bodies, educators and others whose participation in these arrangements is vital. State, territory and local government participation in Local & Regional Voices would be crucial, as would building on existing arrangements for shared decision-making. These intersections are detailed in Chapter 1 of this report.

It would also be essential that the National Voice engage with existing bodies and organisations when developing its advice to the Australian Parliament and Government. There has been some concern expressed that a National Voice might lead to overlap and differing views on matters being presented on a given topic. The view of the majority of members of the co-design groups is that the National Voice would be well placed to amplify and support the views of existing bodies. However, there may be times when views may differ given the extensive range and scope of consultations that will be undertaken by National and Local & Regional Voices.

It is essential to acknowledge the existing effective relationships between Aboriginal and Torres Strait Islander peak bodies and organisations and government, including the historic National Agreement on Closing the Gap (National Agreement) between the Coalition of Peaks and all Australian governments. Implementation of an Indigenous Voice will complement existing arrangements such as the National Agreement, building on the strengths of what is in place.

The final proposals in this report underline the importance of relationships and highlight how an Indigenous Voice would work with existing structures, and also consult with people who are not members of any Aboriginal and Torres Strait Islander organisations to gain their perspective. As the Indigenous Voice arrangements mature, their alignment with existing arrangements would also evolve.

Consultation and engagement

Stage two of the co-design process offered a unique opportunity for the Australian public to be a part of co-designing an Indigenous Voice. The consultation and engagement process sought to build an understanding of the co-design process and the proposals for both the Local & Regional Voices and a National Voice and seek feedback on how the proposals could work in practice and be improved.

More than 9,400 people and organisations participated in the consultation and engagement process, which ran over 4 months from 9 January 2021. People from across the country participated through community consultation sessions, submissions, surveys, webinars and stakeholder meetings, supported by a range of educational resources explaining the purpose of an Indigenous Voice and the proposals. The feedback from consultation was invaluable in testing the Interim Report proposals and directly influenced the design of the final proposals to the Australian Government detailed in this Final Report.

Alongside strong support for an Indigenous Voice, several key themes emerged from consultation and engagement. These themes included a sense of momentum and urgency and a need to move quickly; a desire for consultation and co-design to continue through implementation; validation of the core proposals put forward by the co-design groups; and calls for security and longevity for an Indigenous Voice. Notwithstanding that the purpose of the co-design process was to design the details of an Indigenous Voice, it is important to note that throughout the consultation and engagement phase, there was strong support for the enshrinement of the Indigenous Voice in the Australian Constitution.

The stage two consultation and engagement process is detailed in Chapter 3 of this report.

Transition and implementation

The importance of effective implementation of the final proposals was emphasised by the co-design groups, including the need to act promptly to progress implementation while ensuring co-design processes with Aboriginal and Torres Strait Islander people continue. A transition and implementation working group was formed to consider what steps would be necessary to support the implementation of the proposals and what this would entail.
2 options are put forward for progressing implementation. Both focus immediately on establishing Local & Regional Voices, with options on the timing for establishing a National Voice. One option is to establish the National Voice once the majority of Local & Regional Voices are in place, and another is to establish an interim body while Local & Regional Voices form.

These considerations are detailed in Chapter 4 of this report.

Report summary

This Final Report builds on the proposals in the Indigenous Voice Co-design Process Interim Report to the Australian Government, available at voice.niaa.gov.au

The preliminary sections introduce this Final Report. They include the Foreword, Executive Summary and visual guides to the key elements of the final proposals.

Chapters 1 and 2 detail the proposals for a principles-based framework for Local & Regional Voices and a National Voice, respectively. These chapters explore how stage two feedback influenced the final proposals and explain the intersections the National Voice and Local & Regional Voices would have with each other and with a range of stakeholders and existing arrangements.

Chapter 3 details the stage two consultation and engagement process, including detailed statistical information and broad insights. This chapter also explains the process undertaken by the co-design groups to consider feedback and addresses additional themes that emerged from consultation and engagement.

Chapter 4 details a range of transition and implementation considerations, including the potential pathways to new arrangements, includes the Senior Advisory Group's reflections on the co-design process and deliberations and describes the recommendations.

Recommendations

The Senior Advisory Group acted as a peer review group for the co-design groups throughout the process. The co-design groups worked iteratively, presenting emerging proposals to the Senior Advisory Group for testing and feedback. This process allowed for ideas and proposals to be contested, improved and resolved. Throughout this process, the Senior Advisory Group offered key observations and helped to build momentum and craft proposals that reflected and responded to the feedback of all Australians.

The Senior Advisory Group recommends that the Australian Government:

1. Progress an Indigenous Voice by implementing the Local & Regional Voices and National Voice proposals as set out in the Final Report.
2. Recognise the importance of involving all levels of government in Local & Regional Voices and seek to negotiate formal commitments as soon as practical. This will demonstrate the commitment of governments to working in partnership to deliver on the significant structural Indigenous Voice reform.
3. Recognise the importance of ensuring sustainability and security for an Indigenous Voice. This requires the provision of funding certainty and appropriate safeguards as part of any enabling legislation, including the establishment of the National Voice as a new independent Commonwealth entity.
4. Recognise the need to continue to work in partnership to progress implementation. This includes further conversations and co-design to ensure the effectiveness and legitimacy of the Indigenous Voice.
5. Recognise the need for a comprehensive communication strategy to support community understanding, ensure transparent and consistent messages and prepare for implementation.
6. Note the support for the enshrinement of the Indigenous Voice in the Constitution that was expressed particularly through the submissions received as part of the consultation process.
7. Release the Final Report to the public.

These recommendations and further reflections from the Senior Advisory Group are in Chapter 4 of this report.

Conclusion

Throughout the consultation and engagement process, we noted a strong desire for Aboriginal and Torres Strait Islander peoples to have a voice, and this was also supported by the wider Australian community.

Hearing the advice and perspectives of Aboriginal and Torres Strait Islander peoples and listening to their views would see improved outcomes, more effective, productive and fairer laws, policies and programs. The final proposals for an Indigenous Voice would provide a coordinated, integrated, system-wide mechanism to engage with Aboriginal and Torres Strait Islander peoples; such a mechanism does not currently exist.

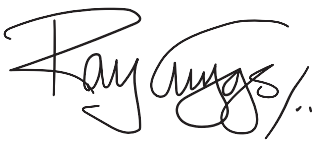
The final proposals for an Indigenous Voice have brought together various views and perspectives through robust and rigorous co-design and consultation processes. If implemented, the final proposals outlined in this report would lay a solid foundation for Aboriginal and Torres Strait Islander peoples to work in partnership with all levels of government and have a greater say in legislation, policies, programs and service delivery.

It is inevitable and imperative that an Indigenous Voice continues to evolve, as both local and regional and national arrangements take shape and mature. For now, we offer heartfelt thanks and respect to the many Australians who contributed their thoughts, hopes and ideas to the co-design process. They have been inspirational, invaluable and boosted our confidence to push forward on this journey.

Professor Dr Marcia Langton AO
Co-Chair, Senior Advisory Group

Professor Tom Calma AO
Co-Chair, Senior Advisory Group

Dr Donna Odegaard AM
Co-Chair, National Co-design Group



Mr Ray Griggs AO CSC
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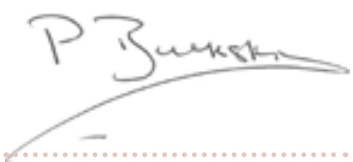


Professor Peter Buckskin PSM FACE
Co-Chair, Local & Regional Co-design Group

Ms Letitia Hope
Co-Chair, Local & Regional Co-design Group

Principles-based framework for Local & Regional Voice

What is the Local & Regional Indigenous Voice Framework?

Purpose

To enable Aboriginal and Torres Strait Islander people in every community to have a greater say in public policy, programs and service delivery affecting their lives through shared decision making in partnership with governments.

How will it be achieved?

Regional governance structures are established as Local & Regional Voice, building on what exists and works well. There are ways for local communities across a region to lead on their local priorities and link up with region-wide work.

Local & Regional Voice works in partnership with all levels of government. They provide advice and engage in planning and 'shared decision making' on policies and programs affecting communities, based on community aspirations and priorities. Detail in Scope below.

Context

The *Joint Select Committee on Constitutional Recognition* found Local & Regional Voice should provide a forum for dialogue between Indigenous Australians and governments on policy, programs and services, and draw on the varying practices of communities rather than a 'one size fits all' model.

The Local & Regional Co-design Group's task is to articulate preferred approaches to improved local and regional decision making and Indigenous regional governance, and provide advice on preferred options.

To achieve this, the Group has developed this principles-based framework that:

- draws on what is working well in local and regional decision-making across the country
- is flexible enough to build on these approaches and accommodate diverse communities
- provides a platform for enhanced, effective and sustainable engagement between communities and governments on the ground
- connects communities and regions to a National Voice
- embeds respectful and culturally safe arrangements for all involved – community members and governments alike.

Scope

Functions of Local & Regional Voice are expected to evolve over time along this spectrum, depending on their preferences and capacity.

Advice to governments and others

- Provide advice to all levels of government on community aspirations, priorities and challenges to influence policy, program and service responses (including mainstream)
- Draw on knowledge of local Indigenous organisations and sector experts to develop advice and enhance their voice to governments
- Provide advice to non-government sector (e.g. business, corporate)

Shared decision making

- Work with all levels of government to undertake strategic regional planning based on the aspirations, priorities and challenges of communities in the region
- Co-design strategies targeted at community aspirations and priorities and how they should be delivered
- Provide joint advice to government decision makers about how funding investment and other resources can be better aligned to local priorities and strategies

National engagement

- Provide advice to the National Voice on systemic issues associated with national policies and programs, and matters of national importance
- Clear, two-way flow of advice and communication between levels of the Indigenous Voice
- Communication with state/territory level representative bodies (where they exist)

Out of scope

- Administration of programs & funding

Noting 'shared decision making' with governments is in scope (with all final decisions remaining with relevant government delegates).

Community engagement

- Provide clear pathways for community members (includes all individuals, families, groups, organisations and traditional owners with ties to the local area) to contribute input and feedback loop with the Local & Regional Voice.

Principles

These guide Local & Regional Voice, government arrangements, and the partnership interface arrangements.

★ Empowerment

- Aboriginal and Torres Strait Islander Australians have greater control and voice in their own affairs – a self-determination approach. Governments shift to an enabling role. Arrangements are culturally safe.

★ Inclusive Participation

- All have the opportunity to have a say, including traditional owners and historical residents. Arrangements are broad-based and support respectful engagement across a diversity of voices – individuals, communities and organisations. This includes 'unheard' community members that have been historically excluded, or who face unique barriers to participation.

★ Cultural Leadership

- Local & Regional Voice arrangements strongly connect to cultural leaders in a way that is appropriate for each community and region. Communities determine how this principle interacts with the Inclusive Participation principle in their context.

★ Community-led Design

- Arrangements are determined by communities according to local context, history and culture. Community ownership gives authorisation and mandate to Local & Regional Voices. Communities determine implementation pace; governments support and enable this.

★ Non-duplication and Links with Existing Bodies

- Local & Regional Voices build on and leverage existing approaches wherever possible, with adaptation and evolution as needed to improve the arrangements. Voices link to other existing bodies, not duplicate or undermine their roles.

★ Respectful Long-term Partnerships

- Governments and Local & Regional Voices commit to mutually respectful and enduring partnership, supported by structured interface. Governments are responsive and proactive. Governments support building capacity and expertise of Local & Regional Voices and implement system changes.

★ Transparency and Accountability

- Governments and Local & Regional Voices adhere to clear protocols and share responsibility and accountability, especially downwards to communities.

★ Capability Driven

- Local & Regional Voice arrangements match the unique capabilities and strengths of each community and region. Governments and communities both build their capability to work in partnership and support local leadership development.

★ Data and Evidence-based Decision-Making

- Data is shared between governments and communities to enable evidence based advice and shared decision-making. Communities are supported to collect and manage their own data.

How does this work in practice?

Local & Regional Voice

- Communities across a region decide how best to organise themselves in alignment with the principles and based on their context
- Local communities and groups have clear pathways to participate and connect to their regional structure in a way that works for them – this is referred to as the 'Local & Regional Voice'
- Each region decides how best to draw its voice members (i.e. election, nomination/expressions of interest/selection, drawing on structures based in traditional law and custom, or a combination) and how many voice members there will be
- Existing local/regional bodies (e.g. advisory bodies, statutory and land rights bodies, ACCOs etc.) link in without their roles being duplicated or undermined
- **Minimum expectations**: Meeting *Inclusive Participation, Cultural Leadership* and *Transparency and Accountability* principles
  - This is the starting point for recognition.
  - There is an expectation to meet all principles over time.

Regional partnership arrangements
(e.g. 'partnership table')

- Local & Regional Voice and all levels of government come together to share advice and decision making on community priorities
- Clear protocols guide this
- Within the scope for Local & Regional Voice, functions may evolve over time, depending on preferences of community and capabilities of all partners

Link to National Voice
(and state level bodies)

- Provide advice on systemic national issues to National Voice and communicate with state/territory representative bodies (where they exist) and state and territory governments
- National Voice members will be drawn from Local & Regional Voices – the Local & Regional Voices within each state and territory together will select National Voice members

All levels of government

- Clear and formalised commitments from all governments to participate
- All levels of government come together in a coordinated way
- Each government coordinates across its portfolios and agencies, including mainstream, to get the right people involved
- Requires systematic transformation of government ways of 'doing business'
- **Minimum expectations:** Formally committing to *Respectful Long-term Partnerships, Transparency and Accountability* and *Data and Evidence-based Decision Making* principles
  - There is an expectation to commit to all principles.

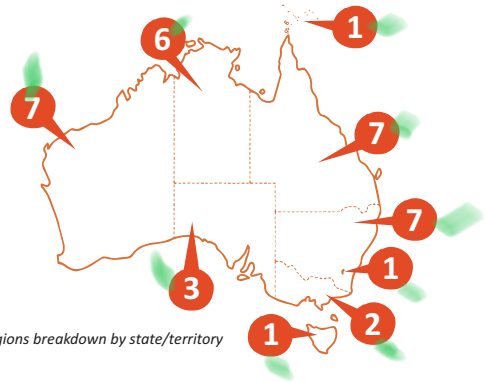
What are the steps to get there?

Formal commitments from governments

This will embed the approach, give it authority and enable 'whole of government' coordination and collaboration with Local & Regional Voice. Legislation at the Commonwealth level, with formal agreement by states/territories (ideally through matching legislation) and local governments.

Regions are determined

35 regions nationally are proposed, with a breakdown for each state and territory. Communities and governments in each state/territory will work together to determine the detail of regions in their jurisdiction, based on agreed parameters and guidance.



Regions breakdown by state/territory

Transition to voice structures

Transition pathways will look different in each community and region depending on the extent of any existing arrangements that can be built on. Where there are limited or no similar arrangements, community-led 'design groups' with a broad range of stakeholders will be formed to design the arrangements. Government will provide resources and support. There will also be guidance material and a toolkit with examples and further resources that can be adapted by communities to their context.

Recognition of Local & Regional Voice

Each Local & Regional Voice will need to be recognised. Recognition process and assessment criteria will be set out in legislation. Criteria will be based on minimum expectations. There will be a joint process between a prospective Local & Regional Voice and relevant governments to prepare for recognition, followed by an independent party verification of the assessment. Final decision makers will be the relevant ministers (both Commonwealth and relevant state/territory), based on recommendation from the independent party.

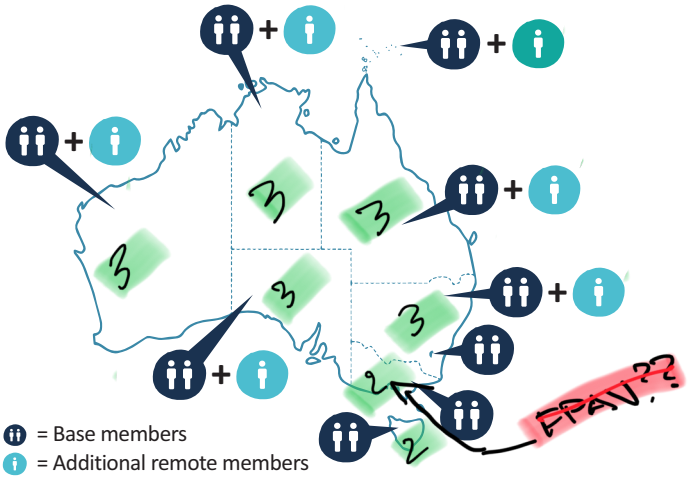
Implementation detail

Communities across each region will be supported to establish their own arrangements which will need to adhere to the principles. This will include internal processes and protocols and will be guided by minimum expectations and broad parameters for key governance elements. There will be structured, documented and transparent partnership arrangement between a Local & Regional Voice and governments, consistent with the principles. This includes agreed dispute resolution processes, including third party mediation as needed. Each Local & Regional Voice will be supported by a secretariat, or 'backbone', team in each region.

National Voice overview

Structure and membership

24 Members



= Base members
= Additional remote members
= Mainland Torres Strait Islander member

- There would be two members from each state and territory, as well as the Torres Strait Islands.
- There would also be a third member for remote representation for NSW, NT, QLD, WA and SA and one member for mainland Torres Strait Islander people.
- Gender balance would be structurally guaranteed.
- Option for two additional members jointly appointed between the National Voice and the Government.

Membership structurally linked to Local & Regional Voice

A
Determined by Local & Regional Voice
(Default option)

Local & Regional Voices collectively determine the National Voice members for their state, territory and the Torres Strait.

This is the default option.

OR

B
Determined by state or territory representative assemblies

National Voice members determined by relevant state, territory and Torres Strait representative assemblies, if they are formed by drawing on Local & Regional Voices, where they exist.

OR

C
Hybrid arrangement

Combination of determining members:

- Determined by special meeting of Local & Regional Voice representatives
- Determined by relevant jurisdiction-level representative assemblies where these exist (either an elected assembly or drawn from Local & Regional Voices).

Role of members

Members would represent the diverse perspectives of all Aboriginal and Torres Strait Islander people at the national level. Part of the role is to represent the views of Local & Regional Voices in their state, territory or the Torres Strait Islands.

Membership features

- Members would have four year staggered terms (maximum two consecutive terms).
- Members would select two full time co-chairs of different gender from among themselves.
- Members would be subject to eligibility requirements (age, Indigenous identity, criminal conviction and bankruptcy), and a fit and proper person assessment. Eligibility issues would be subject to review on the advice of an independent Ethics Council.
- A member could be removed from their position for misconduct, subject to a review process and a two-thirds super-majority vote of the membership.

Parliament and Government

Consultation standards

The proposed standards set out when and how the National Voice should be consulted by Parliament and Government including:

- An *obligation* to consult on proposed laws that overwhelmingly relate to Aboriginal and Torres Strait Islander people, or which are 'special measures'.
- An *expectation* to consult on proposed laws and policies that significantly impact Aboriginal and Torres Strait Islander people.
- Ability to consult the National Voice on any relevant matter

- Consultation should occur as early as possible in the development of relevant laws and policies, and throughout the development process.

Transparency mechanisms

- A statement would be included with bills that would explain consultation with the National Voice.
- The National Voice would be able to table formal advice in Parliament.
- A parliamentary committee would consider tabled advice and engagement with the National Voice, and enable parliamentarians to hear directly from the National Voice.

All elements would be non-justiciable, meaning that there could not be a court challenge and no law could be invalidated based on whether there was alignment with the consultation standards or transparency mechanisms.

Policy and expert input

Two permanent committees, separate to the membership:

- A Youth Permanent Advisory Group
- Disability Permanent Advisory Group

The National Voice would be able to establish other committees and draw on expert advice at any time.

Corporate form

The National Voice would be a new, independent Commonwealth entity.

The National Voice members would be supported by its own Office of the National Voice to provide policy and administrative support.

Functions

Role of the National Voice

On behalf of Aboriginal and Torres Strait Islander people, the National Voice would have a responsibility and right to advise the Parliament and Australian Government on national matters of significance to Aboriginal and Torres Strait Islander people.

Core function

Advise on matters of national significance relating to the social, spiritual and economic wellbeing of Aboriginal and Torres Strait Islander people.

Advice function scope

- Advice would be both proactive and responsive. The National Voice would be able to initiate advice, as well as respond to referrals from the Parliament and Australian Government.
- The National Voice would determine which issues to advise on. There would be no restriction on this. Advice would focus on national level issues.
- The National Voice would prioritise to focus resources on what it sees as most important.
- Advice would be provided to both the Parliament and the Australian Government.

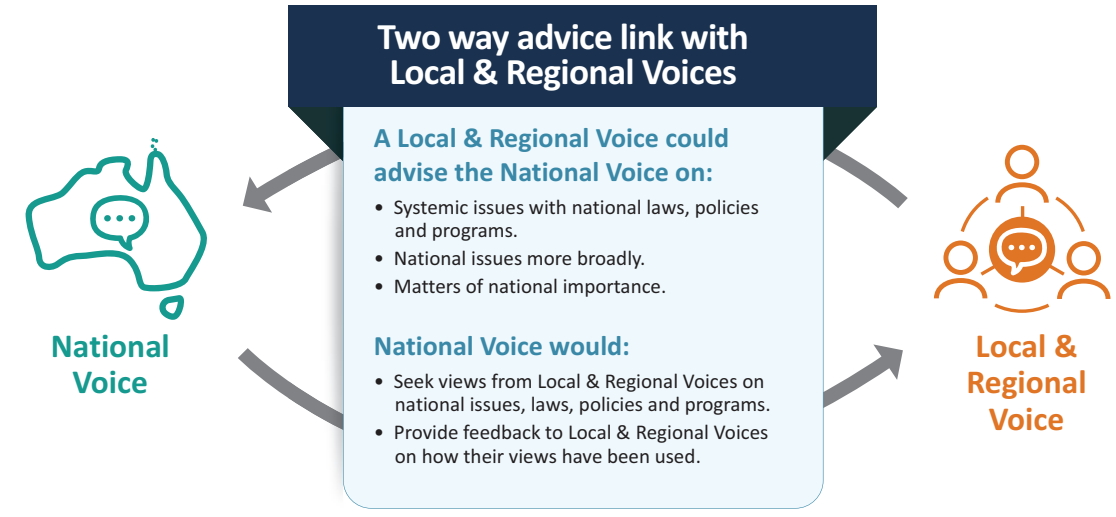
Advice function features

- Two-way interactions between the National Voice and the Parliament and Australian Government. The National Voice may ask for advice and information.
- Advice can be requested by the Parliament or Australian Government but the National Voice would not be required to provide advice.
- Advice would generally be public, with discretion for informal discussions where appropriate.
- Advice would present a clear position where possible, with flexibility to reflect diverse or dissenting views where necessary.

Engagement with other Aboriginal and Torres Strait Islander organisations

The National Voice would engage and link with other Aboriginal and Torres Strait Islander organisations. It would not replace or undermine existing bodies.

Links



The National Voice would not:

- deliver Government programs.
- provide mediation or facilitation between Aboriginal and Torres Strait Islander organisations.
- replace existing organisations.
- be an escalation point for local and regional operational issues, nor mediate between government and Local & Regional Voices.
- be a clearing house for research.
- undertake program evaluation, but could identify matters where evaluation may be needed, or how evaluations could be more effective.

Chapter

1

Local & Regional Voices

1.1 Introduction

The approach to Local & Regional Voices developed by the Local & Regional Co-design Group would enhance local and regional decision-making and transform the way Aboriginal and Torres Strait Islander peoples and governments work together on the ground. It is about locally led solutions and action and community voices influencing decision-making. It is about making a positive change in the daily lives of Aboriginal and Torres Strait Islander peoples and the families and communities that make them strong.

This is an empowerment approach that builds on what is already working well in communities. It is based on the recognition that better outcomes are achieved when decisions that affect the daily lives of Aboriginal and Torres Strait Islander peoples are made as close to the ground as possible and in partnership with those most affected. There is a large body of evidence that shows that local empowerment leads to better outcomes in all social indicators. It also provides a clear pathway for community voices to be considered in the advice that can inform decisions made at the national level.

The approach proposed in this report aligns with recommendations from the 2018 Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples (Joint Select Committee) that Indigenous Voice arrangements should have a principal focus on the local and regional bodies. It is also based on the Local & Regional Co-design Group's understanding that communities want to move beyond transactional engagement with governments. They are looking for genuine, constructive and long-term partnerships that do not just address current priorities and needs but also rise up to meet opportunities and aspirations for the future.

This approach has been well supported across all methods of consultation. It draws on the strengths of Aboriginal and Torres Strait Islander people and their communities and builds on and learns from both previous and current initiatives. Significant headway has been already made in some places, but there remains scope to make broader progress. A key feature is the expectation for all levels of government to work together better as well as in partnership with Aboriginal and Torres Strait Islander peoples. The aim is for communities to be supported in defining and reaching their aspirations for better futures through a greater level of ownership, agency, leadership and capability.

Having considered the consultation feedback, the Local & Regional Co-design Group has settled the final proposal for a Local & Regional Indigenous Voice framework (the framework). This chapter sets out its main components and highlights further steps needed should the government support the proposals in this report.

The proposed Local & Regional Voice approach is one part of an integrated 2-part system for an Indigenous Voice. The second part, addressing the National Voice, is detailed in Chapter 2.

1.2 Key features

Overview

The **framework** for a Local & Regional Voice provides the overarching set of arrangements for **Aboriginal and Torres Strait Islander people and communities** (including individuals and a broad range of stakeholders at the local and regional level such as Aboriginal community-controlled organisations (ACCOs) **to work with all levels of government** through a common approach.

A flexible, principles-based approach accommodates the **diversity of communities** and **builds on arrangements already in place** across Australia.

Local & Regional Voice

- **Local & Regional Voice** will be one of the 2 parts of the Indigenous Voice, along with the National Voice.
- Each Local & Regional Voice will comprise a **broad range** of Aboriginal and Torres Strait Islander **people, family groups, communities, organisations and other stakeholders.**
- Each Local & Regional Voice will be a **governance arrangement in each region**. As part of this, there will be **clear pathways** and mechanisms for **local communities and groups to participate in its work** and enable **local issues to be dealt with at the local level**.
- Local & Regional Voice arrangements will be **designed and led by communities**, according to local context, history and culture in a way that is consistent with the principles. Guidance materials and a resource toolkit will assist in this process.
- Each Local & Regional Voice will need to meet a set of **minimum expectations based on principles** and be formally recognised. The recognition process and assessment criteria will be set out **in legislation**.
- A key focus for each Local & Regional Voice will be to **work with all levels of government** through a structured partnership arrangement such as a **partnership table**. To do this, a Local & Regional Voice will work with communities and a broad range of stakeholders across the region to identify the priorities, needs and aspirations of local people and bring these to the partnership table.
- **Communities will determine** the implementation **pace** and their preferred **governance**. **Governments will resource, support and enable** this.
- Local & Regional Voice will undertake community engagement, provide advice to governments, undertake and facilitate shared decision-making with governments and engage with the National Voice.
- Within this scope of functions, the breadth of specific functions undertaken by each Local & Regional Voice will be decided locally and is likely to evolve in line with community preferences and capacity.
- Local & Regional Voices will **not displace or undermine bodies** with existing statutory roles or specific functions but **provide links for involvement**.
- All Local & Regional Voice arrangements must **align with the guiding principles**. In line with the ***Inclusive Participation*** principle, all Aboriginal and Torres Strait Islander residents of a place (historical residents[3] and traditional owners alike, as well as those who currently do not feel represented) will have an opportunity to have their voices heard.
- The principle of ***Cultural Leadership*** connects Local & Regional Voice to those with responsibility for cultural law/lore and customs in each place to ensure legitimacy and relevance.
- The starting point will be different for all. Some regions (where no similar governance arrangements exist) may need more time to establish new or build on existing arrangements.

[3] 'Historical residents' commonly refers to all residents who are not traditional owners of the given area, irrespective of when they moved to that community.

Each Local & Regional Voice will be different but all will be **community-designed and led**. **Broadly, each is expected to include:**

- **a leadership group at the regional level** (the size, composition and method of representation will be decided by communities and stakeholders across the region), which will:
  - work with communities and stakeholders across the region
  - engage directly with all levels of government through a partnership table—to provide advice and work together with government representatives to set strategic directions and provide joint advice to government decision-makers about better aligning investment to local priorities and strategies (shared decision-making)
  - provide advice to the National Voice.
- **local community-based groups and arrangements**, designed locally, which will:
  - support the broad and inclusive involvement of local people in determining priorities at the local level
  - take the lead on local decisions and feed into regional priorities and advice
  - link up with the regional-level leadership group through agreed processes and representatives.
- **Secretariat ('backbone') team** resourced by government at the regional level, which will facilitate and support all aspects of Local & Regional Voice work, including enabling and assisting community-level groups and arrangements as needed.

Whole of Government Approach

- The participation of **all levels of government** is **fundamental** to this approach. Buy-in from all tiers of government is viewed as crucial and **must include both targeted and mainstream policies, programs and services**.
- **Legislation (at both Commonwealth and state and territory levels) and cross-jurisdictional agreements** will be needed to set out governments' commitments and enable Local & Regional Voice arrangements, including collaboration across the levels of government. This will be progressed through intergovernmental discussions.
- Governments will need to enable **capability building** and provide **support and resourcing**, both during the establishment/transitional period and for ongoing operations.

Regions

- **35 Local & Regional Voice regions** across Australia are proposed (with a nominal breakdown per jurisdiction set out in section 1.12).
- The details, including the boundaries of these regions, will be determined by communities and governments after the Australian Government decision has been made.
- Consideration of detailed boundaries will be based primarily on **cultural groupings** and **existing regions**. Regions will generally align with state/territory boundaries, but **cross-border arrangements will be considered** where needed.

1.3 Historical context

Feedback from consultation has confirmed that Aboriginal and Torres Strait Islander participation at the community level is essential to achieve positive change and more sustainable outcomes. Partnerships between communities and governments are considered a key ingredient in improving outcomes for Aboriginal and Torres Strait Islander peoples, with a number of relevant initiatives implemented over recent decades.

The Aboriginal and Torres Strait Islander Commission (ATSIC) (1989 to 2004) included a structured regional governance framework, regional priority setting and decision-making about appropriated funding at the local and regional level.

Most regional governance structures ceased following the dissolution of ATSIC, with a few exceptions, such as the Murdi Paaki Regional Assembly. The Torres Strait Regional Authority, which operated alongside ATSIC from 1994, also continues to operate under federal legislation.

Initiatives such as the Council of Australian Governments (COAG) Trials (2002–04), Shared Responsibility Agreements (2003–07) and the National Partnership Agreement on Remote Service Delivery (2009–14) have all aimed to increase local input into government decisions and improve the effectiveness of the way governments coordinate with each other to work with communities.

In many cases, current regional governance and decision-making initiatives, supported by various levels of government across Australia, represent an evolution of these approaches. For example, the Murdi Paaki region, now involved in the New South Wales Local Decision Making initiative, and a number of Empowered Communities regions, were also ATSIC regions and COAG Trials sites, as well as Remote Service Delivery communities.

In recent years, the focus on getting decision making as close to the level of impact as possible—and the importance of partnerships to enable this—has connected to broader discussions about an Indigenous Voice. Alongside views on the role of a National Voice, submissions to the Joint Select Committee emphasised the need to support local and regional decision-making and regional governance.

The National Agreement on Closing the Gap (July 2020) is regarded as a landmark step towards a genuine partnership with Aboriginal and Torres Strait Islander community-controlled peak organisations in relation to service delivery aimed at Closing the Gap. It includes commitments to priority reform areas, including Aboriginal and Torres Strait Islander people being empowered to share decision-making authority with governments to accelerate progress on Closing the Gap through formal partnership arrangements. The National Agreement builds on other work and collaboration between governments and Aboriginal and Torres Strait Islander organisations, such as the Aboriginal and Torres Strait Islander Health Partnership Forums[4] and the 2008 Close the Gap Statement of Intent on health equality.[5] These developments follow the Australian Government's commitment to move away from top-down approaches to Indigenous policy and service delivery to work with Aboriginal and Torres Strait Islander people in '*deciding together how future policies are developed—especially at a regional and local level*'.[6]

This commitment has been reflected in the establishment and work of the Local & Regional Co-design Group as part of the broader Indigenous Voice co-design process. Proposals developed by the Local & Regional Co-design Group have included careful consideration of lessons learned over successive decades of experience with the approaches outlined above. The proposals deepen and expand the commitment to a partnership with all Aboriginal and Torres Strait Islander communities and individuals beyond the community-controlled service delivery sector.

[4] For details of these regular collaborative forums between the Australian Government, state and territory governments, and jurisdictional Indigenous health peak bodies see: https://www1.health.gov.au/internet/main/publishing.nsf/Content/Indigenous-health-commonwealth-update

[5] https://humanrights.gov.au/our-work/close-gap-indigenous-health-equality-summit-statement-intent

[6] Liberal Party of Australia, Our Plan to Support Indigenous Australians, 15 May 2019, p. 3.

1.4 Rationale for a Principles Based Framework

The Local & Regional Co-design Group was tasked with articulating effective regional mechanisms for improved local and regional decision-making by Aboriginal and Torres Strait Islander people in partnership with governments. Further detail on the Local & Regional Voice co-design task has been included in section 1.20.

Consistent with its terms of reference, the Local & Regional Co-design Group considered a principles-based framework and agreed it represents the best approach to achieving improvements in local and regional decision-making.

Early in stage one, the Local & Regional Co-design Group determined not to pursue alternatives to a principles-based framework. This was based on the Local & Regional Co-design Group's view that any approach applying a specific, uniform model across the country would undermine the flexibility needed to enable tailored, place-based approaches that accommodate the diverse cultures, needs and aspirations of Aboriginal and Torres Strait Islander communities across Australia. A uniform model would also undermine existing arrangements that are working well and cut across legitimate state and territory jurisdiction. This view was overwhelmingly supported in the consultation feedback, which particularly valued flexibility and the ability for communities to design their own arrangements in line with the principles provided by the framework.

A key expectation—and one reinforced throughout the stage two consultations—is that proposals developed by the Local & Regional Co-design Group will accommodate and enhance (not duplicate or undermine) existing initiatives. The proposals must also support the broad diversity of Aboriginal and Torres Strait Islander communities across Australia. At the same time, the Local & Regional Co-design Group agreed that some adaptation, evolution and, in some cases, more fundamental reforms to representation would be needed to enhance and improve arrangements across the country overall. It is likely that all relevant regional governance structures would need some form of adaptation.[7] These issues have also been highlighted in the consultation feedback.

The Local & Regional Co-design Group placed a high priority on ensuring their proposal builds on:

- lessons learned, key themes and principles underpinning historical and existing place-based arrangements aimed at engaging Aboriginal and Torres Strait Islander peoples in decision-making
- the current landscape of existing Indigenous bodies (e.g., those with statutory and advisory functions)
- submissions to, and reports of, the Joint Select Committee
- feedback from consultations.

Papers providing background and synthesising key themes were considered by the Local & Regional Co-design Group in their first meeting and subsequent working groups. These papers provided an in-depth overview of relevant models, bodies and structures, both existing and historical, Australian and international, at the local, regional and national level. Of particular relevance to the work of the Local & Regional Co-design Group were local decision-making approaches and various regional governance arrangements supported by different governments, land councils and land rights bodies, and other statutory and non-statutory bodies.

[7] 'Relevant structures' means existing models and arrangements with purpose and functions similar to a Local & Regional Voice, for example NSW Local Decision Making initiative.

In designing the framework, the Local & Regional Co-design Group considered common themes and features of several models and initiatives, including:

- Australian Capital Territory Aboriginal and Torres Strait Islander Elected Body
- Barkly Governance Table/Barkly Regional Deal/ Tennant Creek Cultural Authority
- Dilak Council
- Empowered Communities model
- First Peoples' Assembly of Victoria (and Victorian Treaty Act Guiding Principles)
- Murdi Paaki Regional Assembly
- New South Wales Local Decision Making initiative
- Northern Territory Local Decision Making initiative
- Pama Futures model
- Pilbara Aboriginal Voice
- Queensland Local Thriving Communities design
- South Australian Aboriginal Regional Authority Policy (2016–18)
- Torres Strait Regional Authority
- Western Australian Aboriginal Empowerment Strategy
- Yarrabah Leaders' Forum.

More detail on most of these models and initiatives was included in the Environmental Scan in the Interim Report.

The Local & Regional Co-design Group was also informed by submissions to and reports of the Joint Select Committee. These emphasised the importance of practical action and arrangements at the local and regional level that shift towards Aboriginal and Torres Strait Islander communities working in genuine partnership with governments to enhance decision-making at the local level.

The Local & Regional Co-design Group noted variations in the nature, purpose and scope of existing Aboriginal and Torres Strait Islander local and regional models and structures. For some models (e.g., New South Wales Local Decision Making initiative), local decision-making is the primary purpose and function. However, for other bodies, shared decision-making with governments may form part but not the major component of their work. Bodies such as land councils perform specific statutory functions, while others primarily focus on providing advice to governments or service delivery.

The members of the Local & Regional Co-design Group discussed their own experiences and analysis of current and historical models and highlighted the diversity of both existing arrangements and the communities in which they operate across the country. They noted that local and regional structures supporting Indigenous ownership of the strategies and action at the community level are vital to ensuring relevance, community buy-in and effectiveness.

The Local & Regional Co-design Group focused on ensuring the framework approach could be used to facilitate improved place-based and shared decision-making between Aboriginal and Torres Strait Islander communities and governments. The framework is designed to achieve this by building on and extending the work of existing local and regional decision-making arrangements (e.g., New South Wales Local Decision Making initiative and Empowered Communities model).

It will not displace, duplicate or undermine:

- bodies with existing statutory roles or cultural authorities (such as land councils, traditional owner groups and the Torres Strait Regional Authority)
- bodies with a specific purpose (such as state and territory treaty entities).

In stage one, the Local & Regional Co-design Group considered the overall alignment between the proposed approach and a range of existing local and regional governance and decision-making arrangements. The analysis showed the purpose, scope and principles aligned well with current initiatives. The Local & Regional Co-design Group agreed that a principles-based framework approach was sufficiently flexible to encompass existing arrangements. It would also allow for the community-led design of arrangements, tailored to the specific community context.

The Local & Regional Co-design Group also concluded that a consistent principles-based framework for Local & Regional Voices across Australia would be the best way of improving local and regional decision-making and Indigenous regional governance. The Local & Regional Co-design Group considers this approach to be broad enough to accommodate existing and future models and arrangements with purpose and functions similar to a Local & Regional Voice while also providing consistent guidance for shared decision-making with governments.

The proposed principles-based framework aims to provide the flexibility for communities to enhance their own existing governance arrangements or design new ones. This will allow them to fit local cultures, needs and aspirations, consistent with the agreed purpose, scope and principles set out in the framework. It will also allow for arrangements to evolve.

Local & Regional Co-design Group members have acknowledged and paid respect to the broad range of traditional Aboriginal and Torres Strait Islander systems of law that have operated for many thousands of years. These systems continue to give unique shape to many aspects of communities' lives today, as well as their aspirations for the future. Across the country, the ways in which traditional law, lore, customs and decision-making continue to apply and shape social, economic and cultural life differ across locations and cultures.

Local & Regional Co-design Group members agreed it is essential that Local & Regional Voice arrangements do not disrupt or encroach on the ongoing role of these systems based on traditional law, lore and custom. Rather, Local & Regional Voices will need to draw on them as appropriate. The principles-based framework has been designed flexibly to ensure these systems can be connected to or form the basis of Local & Regional Voice structures in ways that are appropriate to each place and work effectively for the relevant communities.

The Local & Regional Co-design Group carefully considered the feedback provided during consultation. It determined that, overall, the feedback validated the design of the Local & Regional Voice as proposed in the Interim Report. Given that, members agreed to retain all of the key features of the proposal, with some refinements to respond to feedback. The Local & Regional Co-design Group also developed further policy detail for topics identified in the Interim Report. These refinements and policy detail are set out throughout this chapter.

1.4.1 Consultation feedback

The primary sources of substantive feedback on the Local & Regional Voice proposal were the community sessions and key stakeholder submissions. The surveys, in the main, provided more general views on the overall approach and some design elements.

Local & Regional Voice proposals were a key topic at the 115 community sessions conducted in 67 locations across Australia. The vast majority of the 2,607 participants in community consultation sessions were Aboriginal and/or Torres Strait Islander people.

A total of 1,017 of the 1,127 (90 per cent of the total) online survey responses commented explicitly on the Local & Regional Voice proposal. Submissions mainly focused on a National Voice, but 362 of the 2,978 (12 per cent of the total) submissions specifically commented on the Local & Regional Voice proposal. These included significant stakeholders such as state and territory governments, advisory bodies, Indigenous organisations and land councils.

Overwhelmingly, survey and submission respondents agreed there was a need to give Aboriginal and Torres Strait Islander people and communities a greater say. At most of the community sessions, the Local & Regional Voice was of keen interest, with participants canvassing how the framework might be put into practice in their communities and region. This included strong support for the Indigenous Voice overall to be grounded in the local community level. A sense of urgency to 'get moving' to implement the new arrangements was also a common theme.

Many participants expressed the view that there needs to be a Local Voice for community, embedded within community to help direct decision-making from the ground up.

– Palm Island community consultation session summary, April 2021

'I am affected every day by day to day policies and procedures, legislation and the rest. Having hope in knowing that there will be an Indigenous voice both local and regional and national to assist in the way Indigenous people's lives are managed from a more close-range means that my children and all Indigenous children from then on will not have to extensively endure the struggles of everyone before them.'

– Anonymous, survey, February 2021

'Having a place where Aboriginal and Torres Strait Islander Peoples can have their say and actually be listened to, would be life changing for so many people … Aboriginal and Torres Strait Islander People need to be involved in decisions affecting them.'

– Katherine S, survey, February 2021

All participants agreed on the need for a Voice as there was a need for a stronger voice. This proposal appeared to be the way to get this stronger voice. Many participants also stated there is a sense of urgency to do this now. Participants said they are getting older and really need this proposal to work.

– Coffs Harbour community consultation session summary, March 2021

'We need to grab this opportunity and we need to stand together. Every issue affects each and every one of us in some form, I hope this goes further.'

– Cairns community consultation session summary, April 2021

'Time is of the essence in moving to actually establish local and regional and national 'voices' as the absence of such voices hampers on the ground progress in communities and regions, and makes consultation and input on significant national issues slow and cumbersome.'

– Boston Consulting Group, submission, April 2021

The proposed approach for Local & Regional Voices was strongly supported across all consultation methods, with 87 per cent of surveys and submissions that mentioned Local & Regional Voice supportive of a principles-based framework that would underpin the Local & Regional Voice arrangements. The flexibility to tailor Local & Regional Voices to local circumstances also resonated strongly with respondents.

The Local & Regional Voice was the main topic of conversation at the vast majority of face-to-face community consultation sessions. Flexibility again was highlighted as a particularly crucial feature; indeed, it was seen as the only way to ensure that Local & Regional Voice arrangements can meet the great diversity of Aboriginal and Torres Strait Islander cultures and communities across Australia.

'To me one of the most important features of the proposal is the fact that it gives the reins to the people in the communities and regions, allowing them to take control and be their own voice on what their individual community or region needs.'

– Lachlan T, survey, April 2021

'I think the flexibility around having different structures based on what works best is vital to successful outcomes in each individual community.'

– MidCoast Council and Biripi Community, survey, March 2021

'The flexibility around a framework is crucial in stepping away from systemic approach[es]. Giving more space for culture to be included in the framework.'

– Jenny H, survey, January 2021

One participant commented they support a flexible process of setting up Local & Regional Voices, where it is being led by communities, as opposed to being government-led, and that this would assist with setting up sustainable structures.

– Rockhampton community consultation session summary, April 2021

A small percentage of surveys and submissions were considered neutral or against the Local & Regional Voice proposal (13 per cent of relevant surveys and submissions combined). Examples of these views include:

- existing arrangements and organisations already provide a representative voice of Aboriginal and Torres Strait Islander people
- criticism of the co-design approach/and consultation process
- perceived complexity and high cost (e.g., too unwieldy).

Similar views were expressed by a few participants in some of the community consultation sessions.

In addition, across all the consultation methods, particularly in face-to-face sessions, participants expressed scepticism about whether governments would undertake the necessary reforms and engage in good faith. There was a general distrust of government. However, the majority of participants in face-to-face sessions who expressed this view were still supportive of the need for a Local & Regional Voice and felt it was important to both 'give it a go' and 'get on with it'.

1.5 Whole of Government approach

A genuine partnership between communities and all levels of government was a core consideration of the Local & Regional Co-design Group in developing the approach for a Local & Regional Voice. The Local & Regional Co-design Group noted several key aspects of the role of governments that will be essential for the effective operation of a Local & Regional Voice:

- Many policies, programs and service systems Aboriginal and Torres Strait Islander peoples seek to influence fall within the remit of states and territories, with states and territories also responsible for more than half of relevant expenditure.[8]
- Decisions at the local and regional level also concern local governments. While the co-design process itself has been driven at the Australian Government level, to be effective, all Local & Regional Voice arrangements will require engagement and partnership from across all tiers of government.
- It is estimated that the vast majority of expenditure on Aboriginal and Torres Strait Islander peoples/affairs comes from mainstream programs.[9] This means all government portfolios and agencies need to be included in these arrangements, not just those specifically targeted to Aboriginal and Torres Strait Islander peoples.
- Governments are at their best when coordinating effectively across different portfolios and with each other. As highlighted in the consultation feedback, from the community perspective, all governments still have a way to go in that regard. Working to enhance this would improve collaboration, reduce duplication and empower communities to build local solutions to local issues and chart their own futures.
- The type of partnership the framework calls for will require a fundamental, systemic change to the way governments and communities engage with each other. This cannot be restricted to Aboriginal and Torres Strait Islander–specific portfolios, policies and programs, but must also include mainstream services and funding, where the majority of government expenditure and service delivery occurs.

The members of the Local & Regional Co-design Group designed the framework, including the principles, to be compatible with existing policy directions across all states and territories to maximise the potential for cross-government agreement.

A Senior Officials Group was convened at the start of the co-design process with representatives from the NIAA, all state and territory governments and the Australian Local Government Association to provide input and be informed about key issues in the local and regional co-design.

The Senior Officials Group is chaired by the NIAA. It met several times during stages one and two, both as a whole and in bilateral meetings with NIAA officials.

Discussions through the Senior Officials Group noted the alignment between the proposed principles-based approach for Local & Regional Voices and existing/emerging initiatives and policy directions in states and territories, including the importance of:

- grounding the approach in empowerment, self-determination and inclusive participation;
- building on and enhancing existing arrangements that are working well
- providing flexibility to allow place-specific arrangements that reflect the diversity of communities and a range of existing approaches.

[8] 56 per cent of expenditure on Aboriginal and Torres Strait Islander affairs is from state and territory governments—Productivity Commission, *Indigenous Expenditure Report* (PC IER), 2017.

[9] 80 per cent is from mainstream expenditure – PC IER 2017

Existing local and regional decision-making models and policies supported by state and territory governments include Local Decision Making in New South Wales and the Northern Territory; and Local Thriving Communities in Queensland.

- In New South Wales, Local Decision Making is implemented at the regional level, where governance structures called Aboriginal Regional Alliances engage with the New South Wales Government to negotiate formal accords that commit the parties to jointly address agreed priorities for the region.
- In the Northern Territory, Local Decision Making takes a more localised approach, with formal arrangements entered into between community groups or organisations, the Northern Territory Government, and in some instances, the Australian Government and/or relevant local government to focus on an identified sector or service-specific issue.
- In Queensland, Local Thriving Communities policy is in the early stages of implementation and will operate at the local level, initially across the state's 19 discrete communities.[10]

Each of these models aims to shift the way governments work with communities towards a partnership approach and shared decision-making that promotes empowerment by ensuring communities have a genuine say on local priorities, programs and service delivery.

Several other states and territories are also currently considering and working through the development of local and/or regional governance approaches. Several Senior Officials Group members noted the value of bringing together in each region Aboriginal and Torres Strait Islander people, residents, leaders of key community organisations and sector experts to set priorities, plan and make decisions with governments on local and regional issues through a coordinated effort.

Some states and territories are exploring the establishment of regional arrangements as part of the design of Aboriginal and Torres Strait Islander representative bodies at the state or territory level, aiming to create a clear connection from local communities and regions to the representative bodies and ensure local perspectives inform state-level or territory-level representation.

Senior Officials Group discussions indicated general support for a principles-based framework for Local & Regional Voices, given its flexibility and alignment with a range of existing initiatives. Members also noted that to be effective, Local & Regional Voice arrangements will require a place-based partnership model that involves a coordinated set of arrangements for collaboration and shared decision-making between all levels of government and Aboriginal and Torres Strait Islander communities (such as 'partnership tables').

Consultation feedback strongly validated the approach adopted by the Local & Regional Co-design Group. The importance of all governments working in partnership with local communities, and each other, was seen as a necessary feature of the Local & Regional Voice arrangements if real improvement in outcomes on the ground were to be realised. This was coupled with a clear sense that this will require significant reforms to the way governments work with each other, across multiple portfolios and with communities. Further detail about the consultation feedback is provided below.

Given the critical importance of support from all levels of government for Local & Regional Voices, the Local & Regional Co-design Group believes it will be crucial for the Australian Government to formally engage with the other levels of government on these matters as early as possible. A crucial part of these discussions will need to be options for formal authorisation of the framework by governments, such as through legislation, including matching legislation in different jurisdictions, in a way that ensures adequate traction across all portfolios and all levels of government. The Local & Regional Co-design Group noted these should occur with some urgency, as soon as possible after the Australian Government decision, given formal commitment from all levels of governments will be essential before moving to implementation. This is discussed further in Chapter 4.

[10] The term 'discrete communities' as described in: Queensland Productivity Commission, 2017, *Service delivery in Queensland's remote and discrete Aboriginal and Torres Strait Islander communities: final report*, Brisbane, Australia. https://qpc.blob.core.windows.net/wordpress/2018/06/Service-delivery-Final-Report.pdf

1.5.1 Consultation feedback

There was overwhelming support across all consultation methods that all levels of government need to be engaged with Local & Regional Voices.

'A Local & Regional Voice would provide representation to local and regional government addressing real issues of the populace. They need to be flexible and influential to speak to and achieve targets with all levels of government from the Local Government Authorities to the Federal Government.'

– Dennis F, survey, January 2021

'State and Territory Governments will be absolutely critical to making this work...'

– Boston Consulting Group, submission, April 2021

The relationship with local government was also frequently raised, with many comments about how this could be improved with the establishment of a local Aboriginal and Torres Strait Islander–led voice.

'Partnership with state and local governments and local community groups would ensure that important local issues are prioritised. This would need to involve strong collaboration that truly values the importance of local Indigenous leadership and is not just tokenistic.'

– Geoff A, survey, March 2021

'Directions Health would support a framework which provides clear pathways for community members to contribute inputs and feedback loop with the Local & Regional Voice; and a commitment from local and state governments to empower the Local & Regional Voice to influence decisions on investment and service delivery.'

– Directions Health Services, submission, April 2021

The community sessions and key stakeholder meetings raised some significant scepticism about the level of commitment from governments as a whole, with many expressing their general frustration resulting from discussions of these issues over many years but without enough action. Across all consultation methods, people were keen to ensure longevity to the approach and that the Indigenous Voice is not easily undone.

Participants were concerned about the longevity of Indigenous Voice arrangements, noting the history of governments disbanding Aboriginal and Torres Strait islander representative bodies.

– Tamworth community consultation session summary, March 2021

A couple of participants were doubtful that government would take action on these proposals and noted that they had heard too many empty promises from politicians before.

– Bunbury community consultation session summary, April 2021

Participants expressed scepticism at the potential for the Indigenous Voice to influence government both at the territory and federal level. One participant said that 'the government has to change the way they operate for us to feel that this stuff here is something we look forward to in the future'. Participants agreed that integrity and trust go both ways.

– Tennant Creek community consultation session summary, May 2021

Capability building was also consistently raised as a critical issue for communities and governments. There was a strong view in the community consultation sessions in particular about governments needing to change the way they work so that they enter into genuine collaboration and partnerships with each other and the community. The need for systemic reform was also emphasised.

It was noted that if the Indigenous Voice were to be established, governments would need to change the way they work with communities, but that this would be an opportunity for all parties to learn and grow, building better working relationships.

– Alice Springs community consultation session summary, May 2021

'For the co-design process to be successful, there also needs to be an adjustment in the way governments do business. As we have seen with the Empowered Communities sites, the business of government has not shifted enough to deal with this devolved way of working and decision-making. Commonwealth power has not been delegated to those who are tasked with making decisions.'

– Uphold and Recognise, submission, January 2021

'Work by all government agencies is also needed to ensure engagement with local and regional voices are culturally safe, appropriate and respectful. In order for the proposal to be successfully implemented, leaders need to work to educate themselves and their organisation, to champion cultural safety.'

– Anonymous, survey, April 2021

Governments need to work together through the same approaches, not have different ways in which they each work with, and partner with, communities … 'If this proceeds, then it needs government reform to go ahead—this will be hard, as hard for the public sector as it is for community.'

– Launceston community consultation session summary, May 2021

Formal submissions received from state governments indicated support for a principles-based framework and emphasised the importance of non-duplication with existing bodies, particularly in relation to state-led initiatives and representative bodies.

1.6 Details of principles-based framework

The Local & Regional Co-design Group designed the framework in stage one as an approach that builds on and adopts lessons from previous attempts and existing efforts, including the recommendations of the Joint Select Committee. It is flexible and accommodates both the diversity of Australia's Aboriginal and Torres Strait Islander communities and the range of arrangements already in place across Australia. A key feature is an expectation for all levels of government to work more effectively together and in genuine partnership with Aboriginal and Torres Strait Islander communities.

The framework aims to provide consistent guidance for both advice to governments and for enhanced shared local decision-making with governments across all Aboriginal and Torres Strait Islander communities. At the same time, it allows flexibility for Local & Regional Voices to be designed and operate in ways tailored to specific cultural contexts, geography, opportunities, priorities and aspirations.

As highlighted in the previous section, this overall approach was strongly supported across all forms of feedback during the stage two consultations.

The final framework proposal comprises several interconnected parts: purpose, scope and principles; governance structures (including further detail and operational guidance developed in stage two); and approach to regions, minimum expectations and the recognition mechanism (details and final approach developed in stage two).

1.6.1 Purpose

Final proposal

The Local & Regional Co-design Group has articulated the Purpose of Local & Regional Voices: *'to enable Aboriginal and Torres Strait Islander people in every community to have a greater say in public policy, programs and service delivery affecting their lives through shared decision-making in partnership with governments'.*

Rationale

The interim proposed purpose and need for Local & Regional Voices were strongly supported by feedback during the consultation phase, as indicated above in section 1.4.1.

This statement of purpose draws on the Local & Regional Co-design Group's Terms of Reference (Appendix B), 'to articulate preferred approaches to improving local and regional decision-making and Indigenous regional governance'. Its development included the careful analysis of historical approaches, the personal experiences of Local & Regional Co-design Group members and what is already working well across key existing models (e.g., New South Wales Local Decision Making initiative and Empowered Communities arrangements).

Members considered it essential that Local & Regional Voices encompass all people in the community and are not limited to any particular groups or sectors. In particular, the Local & Regional Co-design Group agreed it was fundamental to the design that these arrangements enable people—individuals and families that make up the community—not just local organisations, to have their say and their voices heard.

This has been further drawn out in the articulation of the 9 guiding principles for the Local & Regional Voices in section 1.6.5.

Another community member agreed and added that they want to be able to talk to governments from here, in the community, driving change on the ground rather than having it driven from elsewhere. Community members generally agreed with this sentiment.

– Woorabinda community consultation session summary, April 2021

'I particularly support the objectives that Aboriginal and Torres Strait Islander peoples have access to the tools and resources we need to have greater control over our futures and make better informed decisions for ourselves and our communities...'

– Ganur Maynard, submission, April 2021

1.6.2 Scope — Functions of a Local & Regional Voice

Final proposal

The Local & Regional Co-design Group proposed the following scope of functions for Local & Regional Voices:

1. Community engagement
2. Advice to governments and others
3. 'Shared decision-making' with governments
4. National engagement

The breadth of functions within this scope will be decided by each Local & Regional Voice based on their preferences and capacity. Functions are expected to evolve along this spectrum.

Out of scope: administration of funds and programs.

Interim Report

The Interim Report proposed that a Local & Regional Voice would undertake community engagement, provide advice to governments and other stakeholders, undertake and facilitate shared decision-making with governments and engage with the National Voice.

Rationale

The scope of functions was designed to enable Local & Regional Voices to fulfil their purpose effectively. Given broad support across all forms of consultation feedback for all aspects of the proposed functions, the Local & Regional Co-design Group agreed to retain in the final proposal the scope of Local & Regional Voices put forward in the Interim Report.

- *Community engagement* would underpin all aspects of work undertaken by a Local & Regional Voice. The Local & Regional Voice would build broad local and regional ownership and buy-in and provide clear, accessible ways for all community members who wish to get involved to participate in the work of the Local & Regional Voice.
- *Advice to governments (and others)* on local and regional aspirations, needs, priorities, opportunities and issues of concern: this can include advice about local application and impact of particular programs and policies, including recommendations for change or improvement. Advice would be provided to local, state, territory and federal governments on areas relevant to their responsibilities and aim to cover the interests of all resident Aboriginal and Torres Strait Islander people. Advice to others would include engagement with and advice to the non-government sector, including philanthropic, business, corporate and academic sectors.
- *Shared decision-making:* a Local & Regional Voice and representatives from all levels of government would work together to set the strategic direction and operational priorities to improve policy, program and service delivery outcomes for communities in the region. It covers mainstream services, programs and funding, as well as those targeted to Aboriginal and Torres Strait Islander peoples.
  - The scope of shared decision-making could vary between regions, according to capability, readiness and community preferences.
  - It is likely to be a gradual and iterative process, with each Local & Regional Voice shaping its own approach in partnership with governments.
  - It will build on the provision of advice about local aspirations and needs, and include:
    - agreeing priorities and long-term plans
    - co-designing strategies targeted at community aspirations and priorities and how they should be delivered
    - providing joint advice to government decision-makers about how funding investment and other resources can be better aligned to local priorities and strategies.

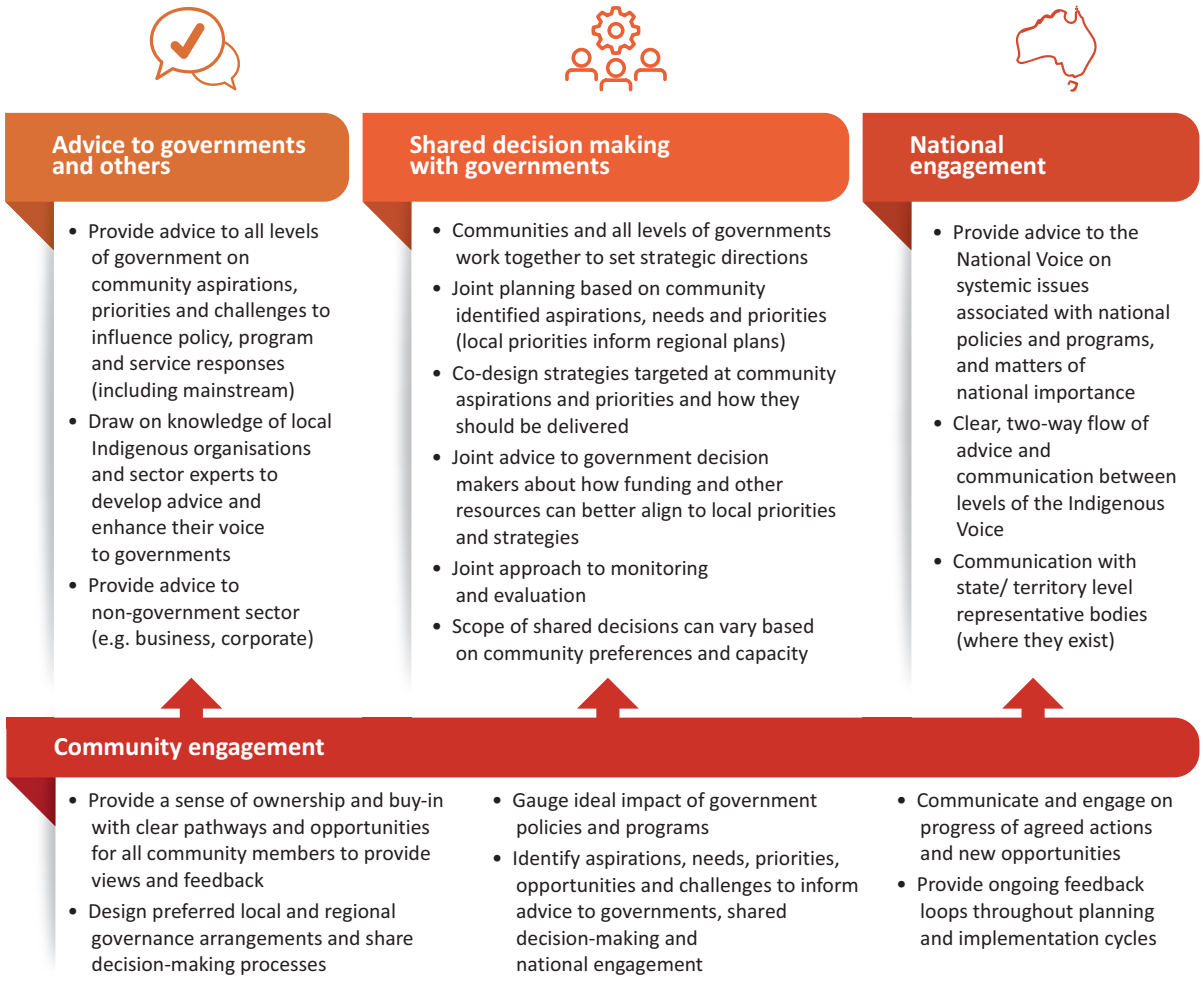
- This work would be undertaken through a partnership interface such as a partnership table, which would include Local & Regional Voice and government representatives jointly considering key matters such as how existing funding can be better targeted at local priorities to deliver better outcomes.
- It could also include a joint approach to monitoring and evaluation, with ongoing feedback throughout implementation to inform continuous improvement.

- *National engagement:* a Local & Regional Voice would provide views to the National Voice on systemic issues associated with national policies and programs and matters of national importance to inform their work and advice to the Australian Parliament and Government. Local and regional issues that go to the day-to-day operation of a Local & Regional Voice and the partnership interface would not be escalated to the national level.

- *Out of scope:* the Local & Regional Co-design Group agreed that administration of funding and programs are out of the scope of Local & Regional Voice functions (noting that providing joint advice with government partners on priority setting, improving service delivery, better aligning investment to priorities and procurement planning are within the scope; with all decisions remaining with relevant government delegates).

While the key focus for the National Voice would be to provide advice to the Australian Parliament and Government, the range of functions in scope for a Local & Regional Voice goes beyond this to also include shared decision-making with all levels of government.

Figure 1.1: Local & Regional Voice—Scope



This reflects that enhanced local and regional decision-making in partnership with governments is a core part of the Local & Regional Co-design Group's terms of reference. This approach is also consistent with a range of government commitments, existing initiatives and policy directions, including the Priority Reforms in the National Agreement on Closing the Gap,[11] such as Priority Reform One—Formal partnerships and shared decision-making.

In designing the proposed scope of functions, the Local & Regional Co-design Group drew on lessons learned from a range of existing arrangements that operate in this way or are well along this path, as well as the experience of several members. The Local & Regional Co-design Group also took the view that the scope needs to be empowering for those regions where similar arrangements are not in place.

In considering the scope, the Local & Regional Co-design Group drew on a range of existing models, as well as the ATSIC experience, where the process of regional planning and setting local strategic priorities through community engagement was considered a key strength. Also in line with these lessons, the proposed scope of functions for Local & Regional Voices explicitly excludes administration of programs and funding (while noting it does include joint planning and informing government funding decisions based on community priorities).

Consultation feedback

There was general support across all consultation feedback methods for the overall scope of functions for Local & Regional Voices as set out in the Interim Report.

Communication and engagement with the community in an open and inclusive manner was identified as crucial across all feedback methods.

The function of providing advice to governments and others was often referred to in surveys and submissions. Respondents cited engaging all levels of government, local businesses, mainstream providers and the wider community as being important. Many non-Indigenous survey respondents saw value in having a Local & Regional Voice to engage with and improve relationships at the local level, especially in relation to schools and local councils.

Shared decision-making was referenced across all consultation feedback methods. There was strong agreement in the community sessions that Local & Regional Voices needed to go beyond simply providing advice to having some genuine authority to drive change, with support for the concept of shared decision-making.

In the survey and submission feedback, there was broad support for shared decision-making as both appropriate and empowering. The commentary also pointed to it as a means to achieving better and more tailored outcomes for Aboriginal and Torres Strait Islander peoples.

There was also strong support for an advice link with the National Voice across all consultation feedback methods.

No concerns were raised about Local & Regional Voices not managing programs and funding, as per the out-of-scope element of the proposal.

[11] https://www.closingthegap.gov.au/priority-reforms

I believe a strong emphasis should be put on community involvement and consultation. Consistent community communication is important. Close, strong and mutual partnership with community, Local and Regional Voices is important.'

– Darkinjung (Central Coast), survey, March 2021

A participant queried how community will know how the Voice has handled their questions and input. Voice members will need to feed back to community so they know they are being heard.

– Dubbo community consultation session summary, March 2021

'The people that represent my community must engage on a regular basis to gauge the views of community people around the issues that really affect the lives of Aboriginal people.'

– Wayne C, survey, March 2021

'Respect and influence is given when the voice provides advice to all levels of government about what's important to communities in the region.'

– Aaron N, survey, March 2021

'It would be important that the Local & Regional Voice talk to every level of government and sit down with governments at a shared decision-making table.'

– Aurukun community consultation session summary, April 2021

'It [Local & Regional Voice] would create a shared responsibility for Indigenous issues to drive realistic, on the ground changes instead of "best efforts" and dubious Government-led initiatives.'

– Anonymous, survey, March 2021

Participants were supportive of shared decision-making and noted that too many decisions are made for community instead of by community.

– Maningrida community consultation session summary, May 2021

There was a general view that empowerment is key, but for this to be real, access to resources is needed. The scope of the Local & Regional Voice should not be just coordinating services, but also involvement in decisions on how funding is allocated.

– Adelaide community consultation session summary, February 2021

'The link between the local and regional voices to the national voice allows continuity to flow up to government so they are presented with an accurate representation of what is wanted and needed in these communities.'

– Anonymous, survey, March 2021

1.6.3 Principles

There was general support across all consultation feedback methods for the overall scope of functions for Local & Regional Voices.

Final proposal

The Local & Regional Co-design Group proposes 9 principles to guide both the Local & Regional Voices and government arrangements for engaging with them (the partnership interface):

- *Empowerment*
- *Inclusive Participation* (refined based on consultation feedback)
- *Cultural Leadership*
- *Community-led Design*
- *Non-duplication and links with existing bodies* (refined based on consultation feedback)
- *Respectful, Long-term Partnerships* (refined based on consultation feedback)
- *Transparency and Accountability* (refined based on consultation feedback)
- *Capability Driven*
- *Data and Evidenced-based Decision Making*

Interim Report

The Interim Report proposed the same 9 principles set out above.

Rationale

The 9 principles are designed to guide the establishment and operations of the Local & Regional Voice arrangements overall for both communities and governments.

They are consistent with the purpose and scope and aim to enable all Aboriginal and Torres Strait Islander people to have a say in decisions that affect them.

Principles

These guide Local & Regional Voice, government arrangements, and the partnership interface arrangements.

★ **Empowerment**
- Aboriginal and Torres Strait Islander Australians have greater control and voice in their own affairs – a self-determination approach. Governments shift to an enabling role. Arrangements are culturally safe.

★ **Inclusive Participation**
- All have the opportunity to have a say, including traditional owners and historical residents. Arrangements are broad-based and support respectful engagement across a diversity of voices – individuals, communities and organisations. This includes 'unheard' community members that have been historically excluded, or who face unique barriers to participation.

★ **Cultural Leadership**
- Local & Regional Voice arrangements strongly connect to cultural leaders in a way that is appropriate for each community and region. Communities determine how this principle interacts with the Inclusive Participation principle in their context.

★ **Community-led Design**
- Arrangements are determined by communities according to local context, history and culture. Community ownership gives authorisation and mandate to Local & Regional Voices. Communities determine implementation pace; governments support and enable this.

★ **Non-duplication and Links with Existing Bodies**
- Local & Regional Voices build on and leverage existing approaches wherever possible, with adaptation and evolution as needed to improve the arrangements. Voices link to other existing bodies, not duplicate or undermine their roles.

★ **Respectful Long-term Partnerships**
- Governments and Local & Regional Voices commit to mutually respectful and enduring partnership, supported by structured interface. Governments are responsive and proactive. Governments support building capacity and expertise of Local & Regional Voices and implement system changes.

★ **Transparency and Accountability**
- Governments and Local & Regional Voices adhere to clear protocols and share responsibility and accountability, especially downwards to communities.

★ **Capability Driven**
- Local & Regional Voice arrangements match the unique capabilities and strengths of each community and region. Governments and communities both build their capability to work in partnership and support local leadership development.

★ **Data and Evidence-based Decision-Making**
- Data is shared between governments and communities to enable evidence based advice and shared decision-making. Communities are supported to collect and manage their own data.

The 9 principles developed in stage one were drafted to ensure consistency with the range of existing arrangements in states and territories and to support a flexible, community-driven approach. They were subsequently tested during the stage two consultations, with strong positive feedback overall.

The principles are intended to guide the formation and operation of the Local & Regional Voices and government arrangements for engaging with them (the partnership interface).

Consultation feedback

Feedback during the stage two consultation and engagement process indicated strong support for all 9 proposed principles.

While all principles were well received across the consultation feedback, some received more attention than others.

In the submissions and surveys the most frequently discussed principles were *Community-led Design*, *Inclusive Participation*, *Empowerment*, and *Non-duplication and Links with Existing Bodies*. *Community-led Design* and *Inclusive Participation* were a key focus in most of the community sessions and accounted for more than half of all references to principles in surveys and submissions.

Community-led Design was the most frequently supported principle in surveys and submissions. At the community sessions, there was also an overwhelming agreement that local people are best placed to design and lead Local & Regional Voice arrangements that would work in their communities.

Some responses from Aboriginal and Torres Strait Islander people focused on the connection between *Community-led Design* and enabling communities to come together, work together and heal. The differentiation between the proposed community-led approach and historical, top-down initiatives led solely by governments was also highlighted as positive.

In terms of *Inclusive Participation*, there was strong support for arrangements to reflect diversity and represent both traditional owners and other Aboriginal and Torres Strait Islander people residing in the region. Discussions indicated a strong view that a strong commitment to *Inclusive Participation* would be essential to the success of the Local & Regional Voice arrangements. There was also support for gender balance in membership arrangements and representation of youth, those with disability and LGBTIQ+ people, as included in the description of this principle in the Interim Report.

Broad support for *Empowerment* as the way for Aboriginal and Torres Strait Islander peoples to take greater ownership of decisions that affect them was expressed in many community consultation sessions. A number of surveys and submissions identified a sense of empowerment or 'having a say' as a basic human need, essential to the health and wellbeing of all people.

In addition to the principles outlined above, the community sessions also strongly referenced *Transparency and Accountability*, especially in relation to decision-making, with a strong level of recognition that transparency in this regard will be vital to ongoing legitimacy and support for Local & Regional Voices. All forms of feedback included support for the *Cultural Leadership* principle, verifying the importance of involving traditional owners and cultural leaders in Local & Regional Voice arrangements, noting this will need to be balanced with *Inclusive Participation* in each location.

Support for the principle of *Respectful, Long-term Partnerships* included a focus on partnership to ensure strategies, programs and policies are well informed and have a better chance of success. Others noted an existing deficit of trust between communities and governments and the need to ensure clear arrangements for how the partnership will operate.

The *Data and Evidence-based Decision Making* principle was not mentioned in a large number of written submissions and surveys. However, the importance of data to inform decision-making was discussed by participants in several community sessions. Participants were supportive of the principle, noting that communities will need adequate access to data held by governments to engage in shared work with them in an informed way. Others emphasised the importance of meaningful data at the local level and that, in some cases, information to contextualise government data needs to flow upwards from communities.

Similarly, the *Capability-driven* principle was broadly supported in feedback, with the issue of capability building and/or the related need for adequate resourcing raised at the majority of community consultation sessions. There was a general consensus among participants that Local & Regional Voices must be established with a view to long-term sustainability, including strengthening local capacity, particularly that of young people who will continue the work into the future.

Some consultation sessions, as well as surveys and submissions, highlighted challenges associated with the practical application of the principles, including noting appropriate resourcing and capability building would be essential. This is further explored in section 1.7.3.

Several participants commented that they agree with all the principles and see a principles-based framework as a useful tool for decision-makers in the various levels of government, as well as for people working in service delivery organisations, to be guided by in their work and engagement with Aboriginal and Torres Strait Islander people and communities.

– Townsville community consultation session summary, April 2021

'The 9 guiding principles enunciate very deeply held First Nations cultural values that give all of us hope that the contents of this report will be listened to and will form the basis of a reliable, ongoing seat at the table of government for our First Nations Peoples so long excluded.'

– Women's Reconciliation Network, submission, March 2021

'Community led is the only way we just need to come together and show Government that we as First Nations People can work together in achieving to be self-sufficient of Government funding, stop our in-fighting and bringing each other down—we are the only ones who can do this.'

– Anonymous, survey, January 2021

'Clear and responsive governance that ensures true community voice that is transparent and accountable. Should always provide recognition of Traditional Owners but not leave rest of community behind.'

– Anonymous, survey, January 2021

A participant emphasised the importance of separating native title from the Voice proposals, noting that the Local and Regional Voice should represent everyone, including traditional owners and other residents.

– Port Hedland community consultation session summary, April 2021

A lot of discussion about how diversity is picked up—youth, elderly, people with disability, LGBTIQ+—important to ensure that there are broad avenues for diverse groups of people to get involved.

– Adelaide community consultation session summary, February 2021

'The involvement of young people is about Empowerment—arming people for the future.'

– Mount Gambier community consultation session summary, March 2021

'Empowering the community to take control and ensure Aboriginal and Torres Strait Islander communities are heard will make our communities stronger and ensure Indigenous ideas and practices and people are not only listened to and adopted but celebrated.'

– Wayne M, survey, April 2021

'When community is empowered, we can do great things.'

– Canberra community consultation session summary, April 2021

'Inclusive representation across the whole region or community, including young people, people with disabilities and people otherwise marginalised from being able to have a say or be heard.'

– Jim M, survey, March 2021

'There should be ongoing consultation and feedback so local people know what's happened with that advice.'

– Tamworth community consultation session summary, March 2021

'Respectful and genuine engagement and partnerships established with realistic timeframes, transparency and accountability frameworks and practices implemented to ensure equitable outcomes.'

– Anonymous, survey, March 2021

Participants were drawn to the principle of respectful, long-term partnerships, noting that all levels of government would be at the table with communities and regions, negotiating formalised agreements to work together.

– Alice Springs community consultation session summary, April 2021

'Key enabler will be access to good data not just to monitor progress/success but to make informed decisions. The opportunity to come from a strength based position in the future is empowering.'

– Ruth Fagan, submission, April 2021

One participant commented that while data-driven decision-making is highly desirable, there are critical data that can only be obtained at the community level, which is currently missing from government decision-making processes.

– Rockhampton community consultation session summary, April 2021

One participant said that we need to build a model that is scalable for our next generation and build the capability of our next generation and hand it down to the youth.

– Cairns community consultation session summary, April 2021

'Local Communities [need] ongoing opportunities and support to develop and enhance local (not blow-ins) leadership and build their capability to engage in effective partnership.'

– Anonymous, submission, January 2021.

1.6.4 Refinement of 4 principles

Given the overwhelmingly positive response to the principles overall, the Local & Regional Co-design Group agreed not to make substantive changes to the proposed principles articulated in the Interim Report.[12] However, feedback did indicate that 4 principles (Inclusive Participation, Non-Duplication and Links with Existing bodies, Respectful Long-term Partnerships and Transparency and Accountability) would benefit from some refinement to ensure clarity and provide further guidance. These changes are summarised below.

Inclusive Participation

There was very strong support for this principle overall. One key theme prevalent in the feedback was the need for and importance of supporting youth participation, pointing to a need to draw this out further in the description of this principle.

The feedback also highlighted the need to ensure a particular focus on unheard voices and specific groups that were not explicitly referenced in the Interim Report. Additional groups that were identified as often unheard or at risk of being marginalised included people who are not members of specific community organisations, members of the Stolen Generations, those without a high profile or formal education, people in contact with the justice system and Torres Strait Islander people residing on the mainland.

In many sessions, there was also discussion about challenges involved in bringing people together, given divisions within some communities. The importance of cultural safety was raised in this context to address concerns about lateral violence, which can cause some people to be reluctant to become involved.

The Local & Regional Co-design Group have refined and expanded the articulation of the principle of *Inclusive Participation* (see section 1.6.5) to reflect this feedback.

[12] Throughout the Local & Regional Group's discussions members focussed on the importance of clarity of language, noting that some terms may mean different things to different audiences. For example, 'transparency' could be interpreted as only applying to Aboriginal and Torres Strait Islander people. It is important to note that in the Local & Regional Voice proposal, 'transparency' applies equally to government participation in the process, partnership arrangements between governments and communities, and Local & Regional Voices.

Participants in a Perth consultation session agreed that they want to see youth and young people involved in this process: 'We're here for the next generation and need to support their future'. One participant felt there was a lack of existing opportunities for youth to learn and participate in community decision-making processes. They advocated for young people to be emphasised in the proposals.

– Perth community consultation session summary, April 2021

Participants discussed the need to capture the voices of different generations. All participants agreed on the need to include young people and youth in the Voice.

– Yarrabah community consultation session summary, April 2021

'The quiet voices are just as important, to make it fair. We need to ensure those voices are heard because there needs to be local endorsement of the Voice.'

– Cairns community consultation session summary, April 2021

The importance of Voices for people who do not have a voice was raised, including members of the Stolen Generations.

– Port Augusta community consultation session summary, April 2021

'I think it would work well in my region if all community have the chance to have their say, not just Traditional Owners or members of community controlled organisations.'

– Anonymous, survey, March 2021

'To ensure all the community gets a voice, there are still voices that are not heard within the current local community structures.'

– Trudy H, survey, March 2021

'Things that need to be consider[ed] … cultural safety to speak up, find productive solutions to current barriers, representation from emerging leaders, and community members.'

– Sarah H, survey, March 2021

Many participants spoke about barriers and lateral violence between different groups in the community and wanted to break these down. Participants saw the voice proposals as an opportunity to achieve this by bringing together different groups and organisations.

– Port Hedland community consultation session summary, April 2021

Non-duplication and Links with Existing Bodies

There was general support for this principle, and the imperative not to 'reinvent the wheel' or undermine the statutory or well-established roles of existing organisations was well received.

Articulation of this principle in the Interim Report also provided for some adaptation and evolution as needed to improve the existing arrangements. However, feedback from the consultation process indicated that, in some cases, more significant changes might be needed, particularly in circumstances where community members do not feel represented by or have a voice in the existing arrangements.

There was also some genuine concern about the potential for governments to 'wedge' community through multiple structures to obtain the answer they want, rather than receiving the advice being given by community. The Local & Regional Co-design Group acknowledged that the system as a whole should be able to evolve to improve arrangements overall and provide one effective set of representative arrangements for local people, working with all levels of government.

A number of respondents highlighted the need to ensure that Local & Regional Voice arrangements do not work only to reinforce existing 'loud voices' or power structures, particularly where these do not promote broad and diverse inclusion. This included participants in some consultation sessions emphasising that individuals or families who are not members of existing local organisations should not be excluded from full participation in Local & Regional Voices.

There was also an understanding that arrangements should be able to evolve in response to changing circumstances. That is, while alignment with the principle of *Inclusive Participation* will remain essential, putting it into practice may require different strategies as needs, aspirations and demographics in communities across the region change.

In considering this feedback, the Local & Regional Co-design Group noted the proposed Local & Regional Voices would be well positioned to address these identified gaps in representation at the local level while ensuring the mandate, roles and work of a range of existing bodies and organisations is respected and not undermined. This is more fully articulated in the description of the *Non-duplication and Links with Existing Bodies* principle in section 1.6.5.

The Local & Regional Co-design Group agreed to update the articulation of this principle to emphasise that its application did not diminish the need for all Local & Regional Voices to meet the minimum expectations, including those based on the *Inclusive Participation* principle.

'There are examples across the country of existing arrangements working well in Aboriginal and Torres Strait Islander communities. Building on existing arrangements will enhance decision-making capabilities and encourage partnerships between different levels of government and local and regional representatives.'

—Reconciliation Australia, submission, March 2021

'It's important that the voice would work with existing bodies, structures and organisations.'

– Anonymous, survey, March 2021

'The Interim Report has particular strengths, including the strong commitment to avoiding duplication.'

—Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), submission, May 2021

There are communities with already established bodies with cultural authority; these would need to be navigated carefully to ensure communities have clear understandings of the various levels of decision-making in their regions and ensure Local & Regional Voices work alongside these established bodies and are not duplicative and do not undermine them.

– Alice Springs community consultation session summary, May 2021

Some participants observed that it is important not to assume all families and people on the ground have their voices heard through Aboriginal community-controlled organisations. The design of the Indigenous Voice needs to ensure the voices of individuals and families are able to be heard through a ground-up approach.

– Rockhampton community consultation session summary, April 2021

'The extent to which the Local and Regional Voices will be truly representative of First Nations political objectives, rather than revert to pre-existing structures and organisations for this purpose. Delegates at the Regional Dialogues were very clear that they felt these organisations did not represent them politically, and the danger of this model is they will be reverted to: further silencing voices who have told us they are not being heard.'

– Dr Dani Larkin, submission, March 2021

At the Albany community consultation session summary, it was acknowledged that once designed, the Indigenous Voice structures will need to be periodically reviewed and may continue to evolve.

– Albany community consultation session summary, April 2021

Participants felt it was important to ensure the Indigenous Voice was adequately protected so it can have time to evolve: 'If there are teething problems in the first couple of years, it has to keep going. You can't give up too soon. If it doesn't work straight away, it might take longer.'

– Angurugu Groote Eylandt community consultation session summary, May 2021

Respectful Long-term Partnerships

As highlighted above under *Inclusive Participation*, the importance of ensuring that Local & Regional Voice arrangements are culturally safe was raised in a number of community consultation sessions. This included partnership with governments and between all partners. While cultural safety was explicitly referenced in the *Empowerment* principle in the Interim Report in relation to partnership arrangements, it was not included in the description of the *Respectful Long-term Partnerships*.

The Local & Regional Co-design Group agreed to update the description of the *Respectful Long-term Partnerships* principle to explicitly acknowledge that cultural safety will be an essential part of creating a solid foundation for long-term, respectful partnerships.

'Partnership and engagement with governments at various levels should be done in a culturally appropriate manner.'

– Dorottya, survey, March 2021

Participants discussed the need for culturally safe environments, especially for their young leaders.

– Port Augusta community consultation session summary, April 2021

Transparency and Accountability

There was a strong focus on the importance of this principle for ensuring genuine and effective Local & Regional Voice arrangements. While this principle accounted for only 7 per cent of mentions in surveys and submissions, it was a common theme in most community sessions. *Transparency and Accountability* was identified as essential across all aspects of the proposed arrangements, such as between governments and Local & Regional Voices; Local & Regional Voices and their communities; and the 2 parts of the Indigenous Voice. The importance of clear and transparent communication between Local & Regional Voices and the communities, families and individuals they represent was especially highlighted in community sessions.

Communication was often discussed as an essential part of downward accountability to the community level. This included a sense that the workings, processes and decisions made by Local & Regional Voices need to be clearly communicated and easily accessible to community members.

The Local & Regional Co-design Group agreed to expand the description of the Transparency and Accountability principle to make explicit the expectation that Local & Regional Voices take a proactive approach to communicating with their members and communities and making relevant documentation easy to understand and access.

Participants felt that outcomes need to be clearly communicated and easy to find, for example, a community report card.

– Campbelltown community consultation session summary, May 2021

Another participant queried how community will know how the Voice has handled their questions and input. Voice members will need to feed back to community so they know they are being heard.

– Dubbo community consultation session summary, March 2021.

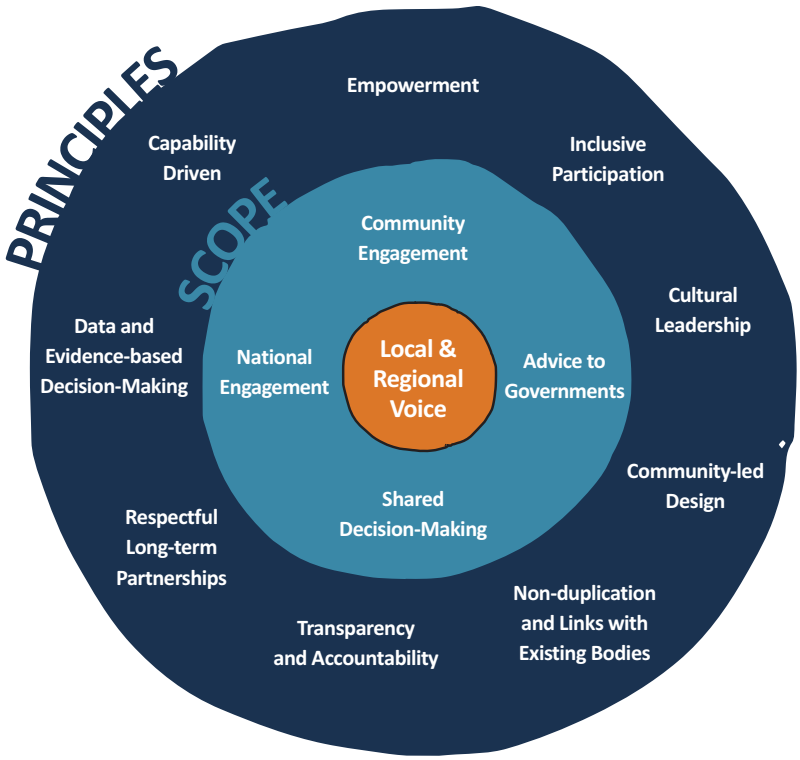
'Perhaps there is an additional requirement for all community members within a region to have access to a survey once a year that is then reviewed by the region to ensure all voices are heard, not just those who shout loudest.'

– Anonymous, survey, February 2021

A participant said that communications must be 'simple, user friendly and done in such a way that all families can see it'.

– Thursday Island community consultation session summary, May 2021

Figure 1.2: Scope and Principles



1.6.5 Local & Regional Voice Principles

An overview and detailed description of each of the 9 finalised principles follows.

Empowerment

Aboriginal and Torres Strait Islander peoples have greater control and voice in their own affairs: a self-determination approach. Governments shift to an enabling role.

The principle of Empowerment:

- is the foundation for the framework and all Local & Regional Voice arrangements.
- recognises that better public policy, program and service decisions are made when the people most affected have a say.
- recognises the strengths and unique position of Aboriginal and Torres Strait Islander peoples to take control of their own futures, drive progress and sustain outcomes for their communities.

What will it look like?

- Aboriginal and Torres Strait Islander peoples are enabled to develop ways to meet their aspirations through solutions that work in their local contexts.
- Aboriginal and Torres Strait Islander peoples have increased agency, autonomy and influence in public policy, program and service delivery decisions that affect their lives.
- Communities are supported to bring their aspirations, priorities and strategies to the partnership table with governments and influence how funding and service delivery can respond to this.
- Aboriginal and Torres Strait Islander peoples have access to the tools and resources they need to have greater control over their futures and make better informed decisions for themselves and their communities.
- Partnership arrangements are built on mutual respect and are culturally safe for all participants.
- Governments' systems change to support community involvement in decision-making; processes allow time for sharing information, genuine conversation and understanding.
- Aboriginal and Torres Strait Islander peoples are supported to forge partnerships that contribute to their wellbeing and prosperity, including with corporate and academic sectors, businesses and other parties.

Inclusive participation

All Aboriginal and Torres Strait Islander people have the opportunity to have a say. Local & Regional Voice arrangements are broad-based and promote respectful and culturally safe engagement across a diversity of voices, including those often not heard.

The principle of Inclusive Participation:

- provides the opportunity for all people living in a community[13] to influence decisions that affect them and their families.
- recognises there is a range of views and perspectives in every community and supports arrangements that reflect and embrace this diversity. As each community is unique, practical application will look different in each place.
- recognises the potential for exclusion of some groups and actively supports unheard members of the community that have been historically excluded or who face unique barriers to participation.
- makes space for contributions of leaders from across the community who wish to work for the public good.
- is to be considered alongside the principle of *Cultural Leadership*. The appropriate interaction between these 2 principles will be determined by each community.

What will it look like?

- Local & Regional Voices are broad-based, equitable and inclusive, reflecting the diversity in each community.
- All community members and family groups—historical residents as well as traditional owners—can participate or ensure they are represented.
- There are ways for all communities in a region to be involved at the regional level and make or inform decisions on their local issues.
- There is a balanced representation of men and women, youth and elders when addressing citizen-based matters (such as priority setting, programs and services). This does not encroach on *Cultural Leadership*, practices and protocols.
- There are effective strategies to ensure strong youth participation, including capability development for leadership roles, noting the importance of emerging young leaders having opportunities and being encouraged to get involved in Local & Regional Voices and also in the National Voice.
- All community members can see themselves in their Local & Regional Voice, and there are ways for all to be involved or represented. This includes a focus on groups who may have been excluded or marginalised, such as:
  - people living with disability
  - those identifying as LGBTIQ+
  - people who are not members of organisations
  - members of the Stolen Generations
  - those without a high profile or formal education
  - people who have had some contact, either currently or previously, with the justice system
  - Torres Strait Islander people living on the mainland
- There are mechanisms to maximise individual participation and encourage broad reach, including attention to engaging people who may not use conventional means such as community meetings.
- Local & Regional Voice arrangements are culturally safe and support respectful engagement and decision-making across a diversity of views, families, groups and individuals.
- There are fair and transparent ways (such as mediation) to resolve any internal disputes.

[13] Includes all individuals, families, groups, organisations and traditional owners with ties to the local area.

Cultural Leadership

Local & Regional Voice arrangements strongly connect to those responsible for upholding and maintaining cultural law, lore and customs in a way that is appropriate for each community and region.

The principle of Cultural Leadership:

- is essential to ensure Local & Regional Voices have legitimacy.
- accommodates each community and region's unique system of *Cultural Leadership*.
- is to be considered alongside the principle of *Inclusive Participation*. The appropriate interaction between these 2 principles will be determined by each community.

What will it look like?

- Local & Regional Voices are endorsed by and/or connected with cultural leaders in a way that respects how cultural leadership and authority operates in that region.
- Guidance from communities about how cultural leadership works in their location and how best to reflect it informs how the Local & Regional Voice operates.
- Systems and structures based in traditional law, lore and custom are drawn on or incorporated in the Local & Regional Voice arrangements, as appropriate to each region.
- There are clear pathways for cultural leaders and traditional owners to be involved in the work of their Local & Regional Voice.
- The Local & Regional Voice arrangements do not encroach on the specific remit of cultural leaders over traditional law, lore, custom and cultural matters.
- Governments respect cultural leaders connected to Local & Regional Voices and their roles.

Community-led Design

Local & Regional Voice arrangements are determined by relevant communities, according to local context, history and culture. Communities determine implementation pace and governance structures. Governments support and enable this.

The principle of Community-led Design:

- is central to creating arrangements that meet local needs and aspirations.
- builds local ownership and gives authorisation and mandate to Local & Regional Voices.
- will result in a diverse range of governance and operating arrangements for Local & Regional Voices.

What will it look like?

- Communities across each region decide how best to organise themselves as a Local & Regional Voice, including ways to connect local communities with Local & Regional Voice arrangements at the regional level.
- Communities shape arrangements in line with their local context, history, culture and aspirations for the future. This includes adopting, building on or adapting existing arrangements, as appropriate.
- Communities, in consultation with governments, determine the detail of geographic areas to come together as regions (using the agreed parameters and processes).
- Priorities, agenda and pace of implementation are set by each Local & Regional Voice.
- Governments support and enable communities to establish their arrangements and progress their priorities and aspirations.

Non-duplication and Links with Existing Bodies

Local & Regional Voices build on and leverage existing approaches wherever possible, with adaptation and evolution as needed to improve the arrangements. Local & Regional Voices link to other existing bodies and do not duplicate or undermine their roles.

The principle of Non-duplication and Links with Existing Bodies:

- recognises a broad range of existing arrangements, bodies and structures working to build positive futures for Aboriginal and Torres Strait Islander people and their communities.
- represents the flexibility of the framework to accommodate, build on and enhance—rather than displace or duplicate—existing arrangements and work already underway.

What will it look like?

- Existing structures with similar purposes and functions are used as the basis for a Local & Regional Voice, evolving as needed to align with the principles.
- A Local & Regional Voice brings together and enhances the voices of a broad range of Aboriginal and Torres Strait Islander stakeholders, including Aboriginal community-controlled organisations, land councils and other bodies and groups.
- Local & Regional Voices deepen and expand governments' commitment to partnership with all Aboriginal and Torres Strait Islander communities and individuals beyond the service provider sector.
- This approach does not encroach on or undermine the mandate of existing bodies with statutory roles or specific functions but provides appropriate links for their involvement in the Local & Regional Voice.
- Existing local and regional decision-making structures covering smaller geographical areas will need to 'feed in' to broader Local & Regional Voice arrangements.
- This approach does not diminish the need for Local & Regional Voices to meet *Inclusive Participation* requirements, to ensure all local people are truly represented and have the opportunity to be involved in these arrangements.

Respectful Long-term Partnerships

Governments and Local & Regional Voices commit to mutually respectful and enduring partnerships supported by a structured interface. Governments are responsive and proactive. Governments support building capacity and expertise of Local & Regional Voices and implement system changes.

The principle of Respectful Long-term Partnerships:

- recognises the need for clear commitments from governments and communities.
- recognises the need for improved coordination between and within levels of government, including government system changes, to shift to a partnership approach.
- supports establishing interface arrangements in each region, tailored to the specific community context in each place.
- recognises that relationships and underpinning structures evolve and mature as the partnership strengthens.

What will it look like?

- Defined, structured mechanisms and processes are in place for partnerships between each Local & Regional Voice and all levels of government (such as a 'partnership table').
- Roles, responsibilities and expectations for all partners are clear and documented.
- Relationships between all partners are based on a strong foundation of cultural safety, mutual respect, good faith, trust and transparency.
- Communication and engagement between partners are responsive, regular and consistent.
- Governments work together across levels, portfolios and jurisdictions to engage proactively and responsively with the Local & Regional Voices.
- Governments support communities to build capacity and expertise and draw on community expertise to support two-way learning. Both sides share their different capabilities, skills and experiences to build and enhance an effective partnership.
- Regular 'health checks' of the state of the partnerships assist to identify and address any issues or concerns in a proactive way.
- Mutually agreed mediation and dispute resolution processes assist partners to work through and resolve any disputes or conflicts.

Transparency and Accountability

Governments and Local & Regional Voices adhere to clear protocols and share responsibility and accountability, including downwards to communities.

The principle of Transparency and Accountability:

- is critical to the success of partnerships between Local & Regional Voices and governments.
- recognises responsibility for the partnership and associated outcomes is shared by all partners.
- is essential between Local & Regional Voices and the communities they represent, for their legitimacy and long-term sustainability.

What will it look like?

- All parties agree and adhere to clear protocols to support transparency and accountability (e.g., public reporting, monitoring and evaluation).
- Local & Regional Voices are supported to implement best practice governance, including documented codes of conduct and protocols for managing conflicts of interest, fit and proper person checks, and mechanisms for removing members in the event of misconduct or loss of community confidence.
- Local & Regional Voices develop, agree, document and are transparent about decision-making processes (e.g., consultations and consensus/majority) and follow-up actions.
- Activities of the partnership interface are transparent (including to communities), with timely information flows and follow-up by all parties.
- Arrangements support shared accountability and responsibility between governments and Local & Regional Voices, including downward to the community level.
- Local & Regional Voices communicate effectively with their community members to ensure all internal processes, decision-making, reporting and advice are transparent, easily understandable and accessible, with feedback loops to ensure ongoing engagement.
- Data and information sharing protocols are agreed by all parties.
- Administrative arrangements are regularly reviewed to ensure they are practical and proportionate.

Capability Driven

Local & Regional Voice arrangements match the unique capabilities and strengths of each community and region. Governments support leadership and capability building.

The principle of Capability Driven:

- acknowledges that communities will be at various stages of Local & Regional Voice readiness and capability.
- recognises Local & Regional Voices will need capability support from governments.

What will it look like?

- Local & Regional Voice arrangements are fit for purpose and underpinned by practices that promote good governance.
- Local & Regional Voices evolve the scope of their functions and activities according to their strengths, capability and preferences.
- Communities have ongoing opportunities and support to develop and enhance local leadership and build their capability to engage in effective partnerships.
- Governments develop their capability to engage in partnership arrangements and allow space and authority for communities to perform Local & Regional Voice functions.
- Governments and communities embrace opportunities to work together on capability development to strengthen the partnership and build shared skills for effective collaboration.
- Local & Regional Voices are supported to share good practices and relevant expertise with each other.

Data and Evidence-based Decision-making

Data is shared between governments and communities to enable evidence-based advice and shared decision-making. Communities are supported to collect and manage their own data.

The principle of Data and Evidence-based Decision-making:

- recognises effective decision-making requires access to meaningful data and evidence.
- provides for local and regional decision-making to be informed by relevant data, research and best practice evidence from Australia and internationally.

What will it look like?

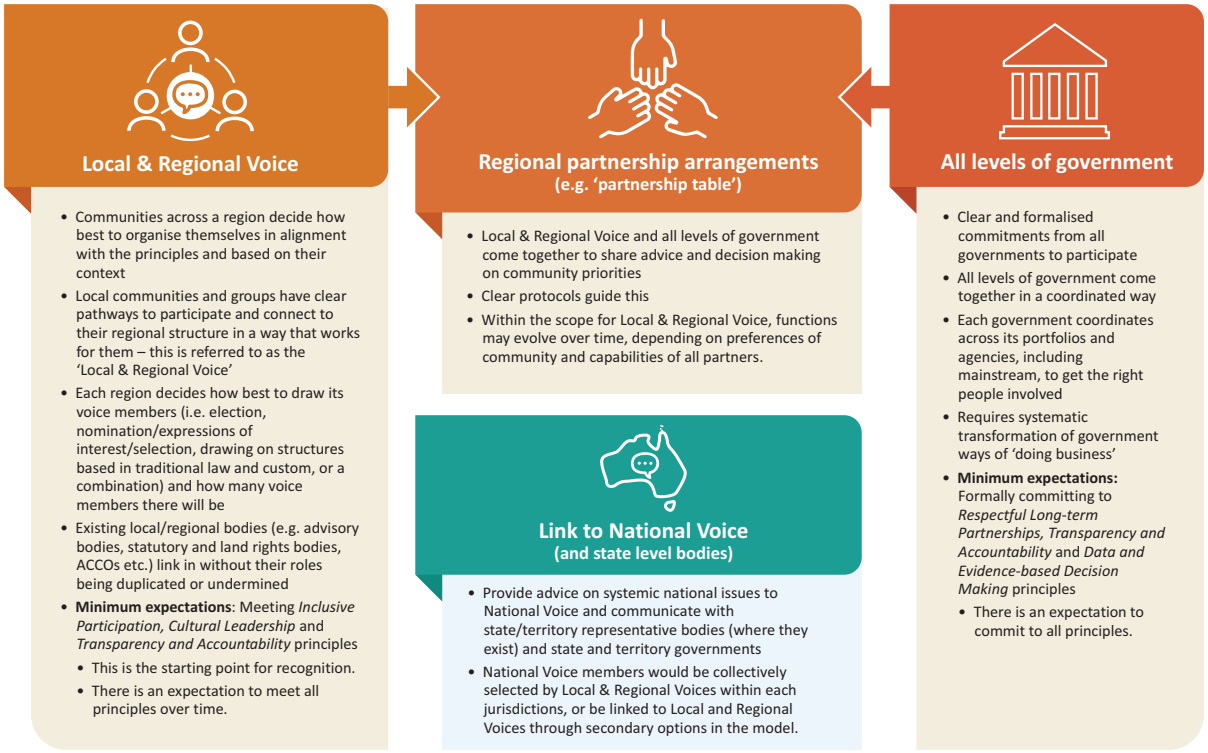
- Local & Regional Voices have access to the data and evidence they need to provide informed advice and make informed decisions.
- Governments and communities collaborate and share data collection and analysis expertise. Communities are supported to build their data capability.
- Regional planning activities include robust data, monitoring and evaluation strategies co-designed by communities and governments.
- Government systems support data and information sharing with Local & Regional Voices.
- Government Aboriginal and Torres Strait Islander data collection activities are informed by local and regional priorities. Data is meaningful to communities and shared in user-friendly, flexible formats.
- Local & Regional Voices are supported to undertake and manage their own data collection and analysis activities.
- Strategies to enable 'real time' learning and adaptation are built into Local & Regional Voices and partnership interface activities.

1.7 Governance Structures

Governance structures include community-led Local & Regional Voice structures, arrangements within and between governments and the partnership interface between the Local & Regional Voice and governments.

Each region will be able to design or enhance its own governance arrangements to fit local cultures, needs and aspirations, consistent with the agreed purpose, scope and principles set out in the framework.

Figure 1.3: Governance structures



1.7.1 Local & Regional Voice governance arrangements

Final proposal

- A Local & Regional Voice will be a governance arrangement in each region. It will comprise a broad range of Aboriginal and Torres Strait Islander people, family groups, communities, organisations and other stakeholders.
- Local & Regional Voice will be at a regional level, but there will be clear pathways for local communities and groups to participate in its work and enable local issues to be dealt with at the local level.
- Each region will be able to design its arrangements to fit local cultures, needs and aspirations, consistent with the Purpose, Scope and Principles.

Interim Report

Same approach as outlined above for the final proposal.

Rationale

Governance arrangements should be designed and led by Aboriginal and Torres Strait Islander peoples, with the flexibility to tailor them to local circumstances, consistent with the Principles.

The framework allows for flexibility and tailored arrangements in each region to accommodate the diversity of Aboriginal and Torres Strait Islander communities and a range of existing governance arrangements.

Each region will be able to decide the membership of their Local & Regional Voice in whichever way best fits their context. This can be through members being elected (e.g., at public meetings); communities, groups and organisations nominating or selecting members; self-nomination through an expression of interest process (with an independent assessment); or building on or incorporating into the Local & Regional Voices traditional decision-making and governance structures. There can also be various hybrid arrangements drawing on all of these elements.

Communities within each region will also decide how many members their structure will have and its composition. This means Local & Regional Voices will be set up in different ways and look different across the country, including variations in the number of members, make-up and organisational detail, depending on what communities in a given region decide best suits their circumstances, histories and cultures. The only requirement will be for each Local & Regional Voice to meet the requirements under the principles, starting with minimum expectations for formal recognition (see sections 1.8 and 1.9 for more detail).

Consultation feedback

There was strong support across all consultation methods for governance arrangements to be designed and led by Aboriginal and Torres Strait Islander peoples, with the flexibility to tailor to local circumstances. Many participants in the community consultation sessions also recognised the challenges involved with establishing good regional governance that would bring diverse groups and stakeholders together. The need for capability development and support, guidance and tools to support implementation was noted by many as being important. Appropriate resourcing for the Local & Regional Voices was considered crucial, as was the need to provide dispute resolution support (see sections 1.10 and 1.13 for more detail).

The most important aspect of the proposal is the ability to create a structure specific to our local community which is designed to satisfy our local community needs and demands.'

– Anonymous, survey, March 2021

'Observing and respecting traditional cultural governance systems will likely play an important part in the effective functioning of the National and Local & Regional Voice. Western and cultural systems of governance do not always align, and meaningful systemic and institutional change needs to occur for empowerment to be achieved.'

– KPMG Australia, submission, March 2021

There was a view that capacity and capability building would be needed to support local people to represent their communities at the regional and national levels, as most people would be comfortable talking for their families but would need support to step into broader representative roles.

– Coober Pedy community consultation session summary, May 2021

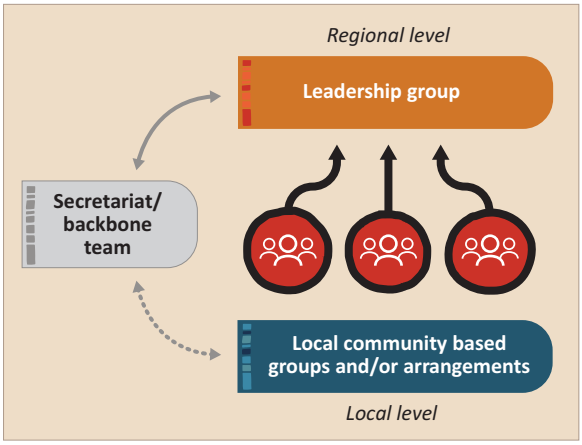
'Guidance on the interaction between the principles of cultural leadership and inclusive participation in practice would be useful as part of the stage two "best practice implementation" guidelines. These should be developed in close consultation with Aboriginal and Torres Strait Islander people as local solutions are explored.'

– AIATSIS, submission, May 2021

Local & Regional Voice—Overview

A Local & Regional Voice described in this report will be an Aboriginal and Torres Strait Islander governance arrangement at the regional level. It will connect to and draw its members from local communities, groups and organisations across the region.

Figure 1.4: Local & Regional Voice



The Local & Regional Co-design Group agreed that aggregation to a regional level will be important for sustainability and efficiency. At the same time, appropriate community-level arrangements will be essential to support effective local engagement across each region. These arrangements will need to provide clear pathways for local communities and groups to participate in the work of the Local & Regional Voice. This will be in line with the goal of making decisions closer to where they impact and ensuring decisions about local issues involve the people, families and communities most affected.

In each region, communities will decide how to come together at the regional level and also how to work together locally. All arrangements will need to align with the Local & Regional Voice principles, and each Local & Regional Voice will need to meet minimum expectations based on the principles. The process for recognition of Local & Regional Voices will be set out in authorising legislation, with minimum expectations used as assessment criteria. This will provide assurance for communities and governments that there is a consistent baseline standard for all Local & Regional Voices across the country.

The design of each Local & Regional Voice will be flexible and community-led, but broadly each is expected to include:

- a leadership group at the regional level (size and composition to be decided by communities in the region, consistent with the principles) which would:
  - engage directly with all levels of government through a partnership table
  - work with communities and stakeholders across the region
  - provide advice to the National Voice
- local community-based groups and arrangements, designed locally, which would:
  - support broad and inclusive involvement of local people in work on priorities at the local level
  - take the lead on local decisions and feed into regional priorities and advice
  - link up with the regional-level leadership group through agreed mechanisms, for example, representatives
- a secretariat ('backbone') team resourced at a regional level to facilitate and support all aspects of Local & Regional Voice work, including enabling and assisting community-level mechanisms as needed.

Each Local & Regional Voice would engage with all levels of government through a structured platform such as a partnership table. These arrangements would be jointly agreed by all partners, and be consistent with the framework principles. They would support a collaborative approach and shared decision-making on significant matters affecting communities in the region, for example, identifying priority areas for action and how existing funding could be better targeted at local priorities to achieve better outcomes.

Consistent with the flexible framework approach, there is no specific model for how communities across a region should design their local to regional connections. These arrangements would be decided as part of the design of each Local & Regional Voice, with the principles guiding all aspects of the design.

However, the Local & Regional Co-design Group noted that providing existing examples of how such arrangements can work would be useful. These illustrate how local groups can form, meet and be involved in local priority setting and decisions and contribute to a regional context. Some examples are outlined below.

- Community Working Parties (CWPs)—Murdi Paaki Regional Assembly, other Local Decision Making regions. These groups provide government and non-government agencies a key point to consult and engage with while setting priorities and addressing social issues for their community. In Murdi Paaki region, each CWP elects a representative to the Regional Assembly.
- Local Management Committees—East Kimberley Empowered Communities region. These are made up of Chairs and CEOs of local 'opt-in' organisations in specific locations; they play a key role in engaging at the local community level to identify local priorities and connect with the broader regional arrangements.
- Family/tribal groups—Pama Futures, Cape York. Described as 'campfire governance' arrangements, these groups are intended to allow local decision-making in a manner that responds to traditional approaches and connect upwards to the regional structure.
- Existing organisations—Three Rivers Regional Assembly. Membership in this model is comprised of a combination of Local Aboriginal Land Councils representing some communities, alongside several CWPs in other communities.

Some models also incorporate task-based groups, with additional local arrangements made on an as needed basis to undertake specific tasks on matters relevant to the community.

It is anticipated that Local & Regional Voices could draw on some of these or other ideas to develop their own local mechanisms that connect and engage with communities in a way that is fit for purpose in their context.

Section 1.16 illustrates possible ways communities could choose to come together as a Local & Regional Voice. These examples have been developed drawing on available information about some existing local and regional governance arrangements around Australia. They are not intended to be prescriptive, nor are they exhaustive of all the possible ways communities could choose to come together as a Local & Regional Voice. However, they may provide a useful starting point for communities' consideration of possible ways their governance arrangements could be designed.

Balancing the principles of *Inclusive Participation* and *Cultural Leadership*

The Local & Regional Co-design Group highlighted *Inclusive Participation* by all Aboriginal and Torres Strait Islander people—traditional owners and historical residents alike—as a key principle to guide all Local & Regional Voice governance arrangements. Such inclusivity is seen as essential given the functions to be undertaken by a Local & Regional Voice (i.e., advice to and collaboration with governments on policy, programs and services, not cultural business) and the diverse responsibilities, connections and mobility of the Aboriginal and Torres Strait Islander population across Australia.

The Local & Regional Co-design Group also highlighted the need to consider factors such as age, gender, sexuality and disability, use strategies to promote broad accessibility and participation, and pay special attention to unheard voices and community members that might struggle to participate under ordinary circumstances.

At the same time, the Local & Regional Co-design Group agreed that Local & Regional Voices need to be appropriately connected to those with responsibility for cultural law, lore and customs in each place. Connection to or incorporation of traditional culturally appropriate decision-making systems in the Local & Regional Voices is essential for decision-making to be considered legitimate.

The Local & Regional Co-design Group also agreed that the interaction between these 2 principles of *Inclusive Participation* and *Cultural Leadership* will look different in various communities and regions, reflecting the diverse cultures, histories and current circumstances of communities across the country.

Figure 1.5: Local & Regional Voice composition

1.7.2 Engagement with other Aboriginal and Torres Strait Islander stakeholders

One of the fundamental issues considered by the Local & Regional Co-design Group in its deliberations was the existing mosaic of organisations, groups, bodies and structures with a range of remits that exist at the local and regional level. Part of that examination was to look closely at their functions to ascertain the extent to which any proposed new arrangements could add value and improve the existing system overall. These issues were examined early in the co-design process, as highlighted in section 1.4.

This analysis has shown that the vast majority of existing organisations and bodies have a very specific set of functions—for example, service delivery or statutory responsibilities—with a smaller number of arrangements that aim to bring local people and communities together with governments to enable partnerships to progress local aspirations and priorities (see Environmental Scan in the Interim Report).

The local and regional co-design has deliberately set out to develop an approach that accommodates and builds on this existing work and draws lessons from these experiences. The Local & Regional Co-design Group drew on existing approaches across states and territories to develop the purpose, principles and scope of the proposed framework. This will enable models that are working well to be included in and enhanced by the Local & Regional Voice approach rather than being displaced.

The approach proposed by the Local & Regional Co-design Group aims to improve on what currently exists by bringing together a broad range of local stakeholders and their expertise to work on a common agenda. It aims to amplify their voices without undermining their existing roles. This is clearly articulated in one of the 9 guiding principles for Local & Regional Voices: the *Non-duplication and Links with Existing Bodies* principle.

By creating platforms for local-level partnerships between communities and governments, the proposed Local & Regional Voices will contribute to work related to progressing the Priority Reforms in the National Agreement on Closing the Gap[14]. For

[14] https://www.closingthegap.gov.au/priority-reforms

example, in implementing on the ground Priority Reform One – *Formal Partnerships and Shared Decision-making*, and local action on Closing the Gap targets.

To adhere to the *Non-duplication and Links with Existing Bodies* principle, Local & Regional Voices in all regions will need to bring together and engage with a broad range of local and regional Aboriginal and Torres Strait Islander stakeholders.

This will include ACCOs, land councils and other groups bringing in expertise from their respective fields and perspectives of their members.

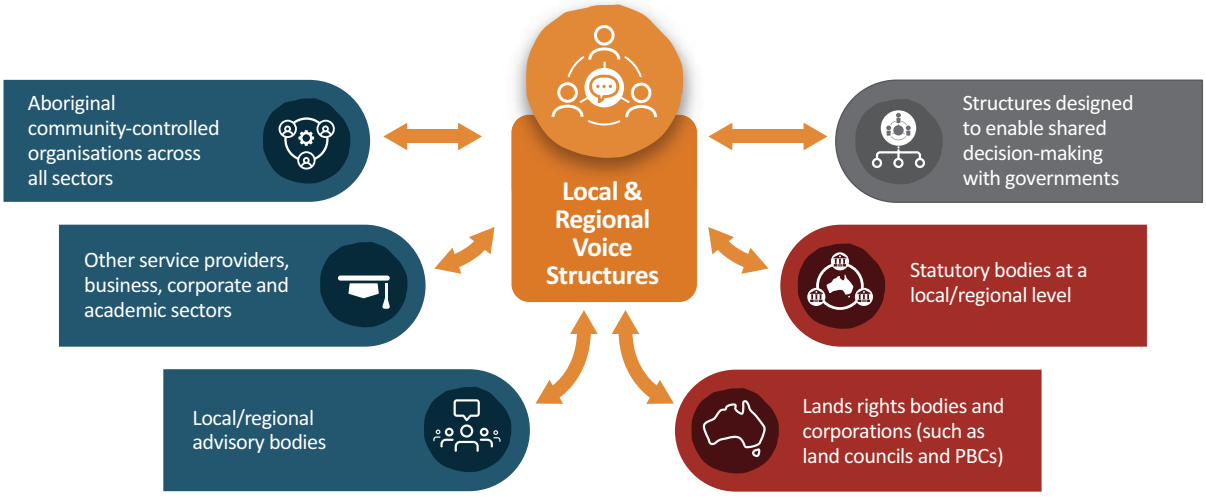
At the same time, Local & Regional Voices will not displace or undermine the current roles and responsibilities of bodies with existing statutory or other specific functions such as service delivery. Instead, they will provide appropriate links for their involvement in the Local & Regional Voices' work.

These organisations will also continue connecting in their own right with other stakeholders, including, where relevant, their peak bodies at the state, territory and national levels that will interact with the National Voice (and any state- or territory-level bodies).

At the same time, Local & Regional Voices will deepen and expand governments' commitment to a partnership with all Aboriginal and Torres Strait Islander communities and individuals beyond the service provider sector.

Consultation feedback has highlighted the importance of this principle. It also indicated that its application will need to be given careful consideration in the next phase of this work, as Aboriginal and Torres Strait Islander communities, organisations and other stakeholders look at designing their specific local arrangements. As is the case with the flexible framework approach overall, there is no one prescribed model for how this principle will work in practice; it will be up to local people, local ACCOs, land councils and others to discuss and agree on what will work best in their communities.

Figure 1.6: Engagement with stakeholders



Involvement in Voice structures will be important given their expertise.

Statutory functions and responsibilities will continue unchanged – will also link to/participate in Voice structures, as appropriate.

May be built on to become Local & Regional Voice structures, evolving as needed to align with the framework.

1.7.3 Resourcing

Final proposal

The Local & Regional Co-design Group considers that governments need to provide adequate, secure and long-term resourcing to enable the effective establishment and ongoing work of Local & Regional Voices.

Resources would cover a secretariat ('backbone') team in each region (to provide administrative, logistical, capability and other support, e.g., data and research capability) to enable local communities and leadership groups to engage in Local & Regional Voice activities, including extensive community engagement and involvement in partnership arrangements with governments.

Interim Report

The Interim Report indicated that government resourcing would be needed for Local & Regional Voices at the regional level to undertake their functions.

Rationale

Consultation feedback emphasised the critical importance of long-term sustainability for Local & Regional Voices. Ensuring adequate resourcing and support needs to be commensurate to the proposed purpose and functions of the Local & Regional Voice. This was consistently highlighted during the consultation process as crucial to ensuring Local & Regional Voices can meet the expectations both of governments and communities.

The Interim Report indicated that Australian Government resourcing will be needed for Local & Regional Voices at the regional level to undertake their functions. It also noted that this would be expected to primarily cover the costs of a small support secretariat team in each region to support Local & Regional Voice leaders and members.

Drawing on the consultation feedback, the Local & Regional Co-design Group agreed that each Local & Regional Voice region will need adequate, secure and long-term resourcing. This will be essential to the effective establishment and ongoing work of Local & Regional Voices. These resources will need to cover administrative, logistical, capability and other support (e.g., data and research capability) for the local communities and leadership groups to engage in the wide range of Local & Regional Voice activities, including extensive community engagement and involvement in partnership arrangements with governments.

It is envisaged that these resources will cover a secretariat, or 'backbone' team in each region. Such teams will work under the direction of the leadership group in each region and be independent of government.

The Local & Regional Co-design Group agreed that it will be important for this secretariat or 'backbone' team not to be attached to any existing body with other specific roles (at least from when the Local & Regional Voice has been formally recognised). This is to ensure it works under the sole direction of the Local & Regional Voice collective leadership and is independent of individual existing stakeholders.

The Local & Regional Co-design Group agreed that it will be essential for resourcing to be available from the early implementation stage to support community engagement in designing and establishing the preferred governance arrangements in the first instance, in line with the *Community-led Design* principle.

The Local & Regional Co-design Group also agreed that parity of funding across the regions will be of critical importance. The group noted that there may be scope for additional regions to be negotiated in response to any proposals from states and territories but that resourcing would need to be made available in any such cases on the same basis as for the other regions. This is discussed further in section 1.12.

Key features of the approach to the resourcing of Local & Regional Voices arising from these deliberations are summarised below.

- Resourcing to be provided by the Australian Government on a per-region basis from the early implementation stage.
- Resourcing needs to be adequate, secure and long term.

- Resources will go towards administrative, logistical, capability and other support (e.g., data and research capability) and secretariat ('backbone') teams.
- Teams will be independent of governments and work under the direction of the Local & Regional Voice leadership group.
- There needs to be funding parity across regions where any additional regions are negotiated with states or territories, and any shared funding arrangements in a jurisdiction must not disadvantage any regions nor result in cost-shifting between levels of government.

Consultation feedback

The need for appropriate resourcing for Local & Regional Voices was strongly supported by the consultation feedback and identified as a key theme in the community sessions, submissions and survey responses. Critically, many argued the need to ensure there is longevity and security of funding. The need to provide capability support was another key theme, recognising the challenges involved in setting up the Local & Regional Voice arrangements.

A number of comments were made about the need to recognise the time and commitment required of Local & Regional Voice members. There were also some specific suggestions about what needs to be considered in looking at the level of resourcing, such as remoteness and the need to build the capability of local people.

'The Indigenous Voice would be a highly challenging enterprise to set up and maintain, that would require a considerable amount of funding in order for it to be able to deliver—without enough funding would make it very difficult for grassroots voices to find an avenue through to the Australian Parliament.'

– Toowoomba community consultation session summary, March 2021

'It is essential that they [the Local & Regional Voices] are guaranteed tenure, independence and the resources necessary to ensure their authority and capacity to speak and represent Aboriginal and Torres Strait Islander peoples … The Government should work to ensure that the funding model adopted guarantees the viability and sustainability of the Voice in the long term.'

– Australians for Native Title and Reconciliation (ANTaR), submission, March 2021

'Local & Regional Voices need to be resourced so they can link back to community—this is essential and needs funding/resourcing—the Voice cannot involve voluntary participation from community members if the government is serious.'

– Adelaide community consultation session summary, February 2021

1.7.4 Guidance for communities

The Interim Report identified a range of key design aspects for further development in stage two. The Local & Regional Co-design Group also agreed that additional guidance and a range of resources should be developed and made available to assist communities and regions to build arrangements consistent with the principles.

During stage two, the Local & Regional Co-design Group settled broad parameters for the key governance elements for Local & Regional Voices. Consistent with the principles-based approach, these are not intended to be prescriptive. They explain the approach in relation to each element as the basis for communities to develop their own arrangements. The parameters draw on the principles and the existing resources and best practice approaches in Indigenous governance.

As part of this work, the Local & Regional Co-design Group considered whether the member eligibility criteria needed to align with the National Voice member eligibility. Members agreed that consistency with the Local & Regional Voice principles should be paramount and that broad parameters agreed by the group would work in concert with the minimum expectations to guide the communities to develop their own arrangements consistent with the principles. The group considered the local people would be best placed to determine what specific criteria would be appropriate in each region in line with the principles.

The Local & Regional Co-design Group also noted broad consistency between eligibility criteria in the 2 parts of the Indigenous Voice would be expected, given the need for Local & Regional Voices to adhere to the principles. They also noted that, in some cases, local people may have higher expectations for their Local & Regional Voice members than the National Voice criteria. If Local & Regional Voice members are selected to the National Voice and do not meet one or more of the national criteria, this would be dealt with on a case-by-case basis and could be referred to the proposed National Voice Ethics Council, as appropriate.

Parameters for key governance elements for Local & Regional Voices

A. Member eligibility

Eligibility

- Eligibility for members of a Local & Regional Voice governance structures will be based on the following 3 requirements. To be eligible, a person must be:
  - an Aboriginal and/or Torres Strait Islander person;
  - recognised/accepted by community as an Aboriginal and/or Torres Strait Islander person;
  - a resident of the region where they are seeking nomination; and
  - a 'fit and proper' person.
- In addition, consideration may need to be given as to whether a minimum age should be included as a requirement and what this may be—noting the strong focus on including young people in the Indigenous Voice arrangements.
- In line with the community-led design approach, regions will also be able to agree additional requirements that reflect their specific circumstances, as long as these are consistent with the principles.
- Guidance for a 'fit and proper' person check will be included in the implementation toolkit. This could cover some identified threshold issues and behaviours that may prevent an individual from being eligible to be a member, such as:
  - conviction for certain serious offences, e.g., punishable by imprisonment of a period greater than 12 months or other offences involving dishonesty that are punishable by imprisonment of at least 3 months;
  - breach of a civil penalty provision; and
  - deemed to repeatedly break the law.

Threshold for removal of members in cases of misconduct

- Guidance will be developed regarding expectations of members and what should be covered by a code of conduct for Local & Regional Voices. Each region would tailor this to its circumstances.
- The code of conduct would include the threshold causes for removal. Broadly, these may fall into the following categories:
  - legal reasons (e.g., a failure to disclose a conflict of interest);
  - operational (e.g., a failure to meet member obligations such as consistently failing to engage in the work of the Local & Regional Voice); or
  - other matters such as loss of community confidence in a member.
- The detail of each threshold cause for removal will be supported by guidance for the process for removal. This process should include the following steps:
  - alerting the member to the issue that may lead to the removal;
  - alerting the member to their risk of removal and the process that will now be followed;
  - consideration of the issue and a decision made on whether to remove;
  - opportunity for the member to address the issue;
  - steps put in place to mitigate the issue if required or remove a member; and
  - review processes that would give an opportunity for the member to seek review of the decision, in line with protocols agreed for the region.
- In line with the *Transparency and Accountability* principle, the threshold for what is deemed a cause for removal will need to be adopted at the outset in each region, consistent with the principles and guidelines. This will need to be available to all members and broader communities in the region as part of the overall arrangements.

B. Nomination of members

Nomination process

- The nomination process will need to adhere to the *Inclusive Participation* principle and consider how to encourage a broad pool of nominees representative of the region. It is expected that the pool of nominees would reflect all ages and genders, as well as diverse segments of the population, as appropriate in each region.
- Nomination of candidates for selection consideration could be done through:
  - self-nomination through an expression of interest process (that could be assessed independently);
  - nomination by others, e.g., at public meetings; communities, groups and organisations nominating members;
  - by drawing on traditional decision-making and governance arrangements; or
  - a combination of some or all the above.
- The nomination and selection process will need to meet the principle of *Transparency and Accountability*, with agreed upfront, clear and publicly accessible information for how the nomination and selection process works.
- There may also be a case for criteria for nominations to outline the desirable attributes, skills and experiences that are being sought in nominees. This will need to consider the *Capability-driven* principle and provide an opportunity to support local leadership development.

Length of terms

- No set length of terms is being proposed for members of Local & Regional Voices; rather, this is to be left open for community consideration as part of the design of the structure.
- Some guidance on the practical effects of different terms and various arrangements (e.g., staggered terms) with examples would be included in the toolkit. This recognises that term lengths will be influenced by the size of each Local & Regional Voice, any subgroups, the size of the region and the number of local communities involved, and operational arrangements.
- There may also need to be consideration of how best to align with the National Voice terms.
- In line with the *Transparency and Accountability* principle, there will need to be clear and publicly accessible information available regarding the detail of membership terms.

C. Member numbers/size of Local & Regional Voice bodies

Number of members

- No set number of members is proposed for Local & Regional Voices, noting there will be practical considerations to ensure the arrangements are workable.
- The number of members for each Local & Regional Voice should be sufficient to represent both genders, a balance of ages, an appropriate geographical and cultural representation from across the region, as well as diverse groups and stakeholders.
- The number of members will be influenced by the geographical nature of the region and the number of stakeholders to be included, e.g., size of the region, how many communities, number and type of groups/organisations across the region.
- The number of members will need to be flexible to allow for change over time as the Local & Regional Voice matures and the regional context changes.
- Guidance will be developed to help Local & Regional Voices consider how best to ensure membership groups are not too large to be impractical or too small so as not to be representative.

D. Legal form of Local & Regional Voice governance structures

Legal form of Local & Regional Voices

- In line with the principles, to ensure communities can tailor arrangements to their local circumstances, it is not proposed to prescribe a legal form for Local & Regional Voices. However, a Local & Regional Voice may choose to become a legal entity, such as an incorporated organisation.
- In such cases, there are guiding rules associated with incorporation under specific legislation around issues such as eligibility of members, member numbers and reporting obligations, which will need to be observed by the Local & Regional Voice.
- In cases where Local & Regional Voice governance structures decide not to incorporate, resourcing allocated for the secretariat support function would need to be provided to an incorporated legal entity to ensure appropriate accountability and probity.
  - Whichever legal form is used, it is recommended that the support function is not attached to any existing body with other roles (at least after the Local & Regional Voice goes through the formal recognition process). This will ensure it works under the sole direction of the Local & Regional Voice governing structure and is independent of existing stakeholders.
- Guidance on these issues would be included in the implementation toolkit.

The Local & Regional Co-design Group agreed on the approach to developing an implementation toolkit, which would guide the establishment of the Local & Regional Voices. These guidance materials will explain the framework in detail and include resources to assist communities in developing their own arrangements. Local & Regional Voices would be able to tailor the supporting resources to suit their circumstances in line with the framework principles.

The group agreed that the implementation toolkit should be developed in consultation with Aboriginal and Torres Strait Islander stakeholders and experts following the government decision, should the government agree to support the final proposals. It should be based on existing good practice advice and materials such as the Indigenous Governance Toolkit from the Australian Indigenous Governance Institute and relevant resources from the Office of the Registrar of Indigenous Corporations.

The co-design process for the further development of these resources and materials would draw on subject matter experts and key Indigenous stakeholders and governments. The group agreed on the topics to be covered in a Local & Regional Voice implementation toolkit as outlined in section 1.17.

1.8 Minimum expectations

In stage one, the Local & Regional Co-design Group agreed that is it important for all Local & Regional Voices to meet a set of minimum expectations. This will provide assurance to communities and governments that there is a consistent baseline standard applying to all Local & Regional Voices across the country. These minimum expectations should require Local & Regional Voices to align with the key principles in the framework relating to good governance, as outlined below.

This approach has been confirmed for the final proposal, with further detail developed in stage two.

Proposed minimum expectations for Local & Regional Voices

- Minimum expectations for Local & Regional Voices will be based on sufficient alignment with the framework principles related to key aspects of **good governance**: *Inclusive Participation, Cultural Leadership* (including the appropriate balance of these 2 principles according to context) and *Transparency and Accountability*.
- Both existing and newly created governance structures will be required to demonstrate how they meet these requirements.
- Minimum expectations will be **broad rather than prescriptive**, allowing for variation in how communities can meet them according to their context.

As arrangements mature, Local & Regional Voices will be expected to develop beyond these minimum expectations to embody best practice approaches across all principles. Guidance on pathways to achieving the best practice application of all principles will be developed in preparation for implementation.

The Local & Regional Co-design Group also emphasised that it is essential for the effectiveness and sustainability of the Local & Regional Voice approach that governments commit to meeting the minimum expectations for their participation in regional partnership arrangements.

Minimum expectations for governments would relate to the key framework principles relevant to their role and involvement in the Local & Regional Voice arrangements. Depending on the mechanism used to formally authorise the approach across governments, this commitment may be achieved through legislation that articulates the commitment to the framework or through intergovernmental agreements.

Proposed minimum expectations for governments

- Governments will be expected to commit to meeting minimum expectations as part of their formal commitment to implementing the framework.
- Minimum expectations for governments will relate to the key framework principles *Respectful, Long-term Partnerships* and *Transparency and Accountability*, along with *Data and Evidence-based Decision-making*, noting some systemic changes may be required to achieve this.
- The way in which governments' commitment to meeting the minimum expectations is formalised will depend on the authorising environment (i.e., it could be through legislation or intergovernmental agreements).

1.8.1 Consultation feedback

There was not much specific feedback on minimum expectations. In a few community sessions, there was explicit support for the 3 principles proposed as the basis for the minimum expectations for Local & Regional Voices. There was also general support for a capability-building approach as Local & Regional Voices work and evolve from minimum expectations to best practice.

However, there were significant discussions and strong support for the 3 principles themselves. In particular, the need for strong accountability and transparency for both governments and communities was a reoccurring theme across the consultation meetings. The community consultation sessions and some submissions also highlighted the need for governments to meet the minimum expectations.

Participants said the government needs to be accountable, but community also needs to be accountable.

– Coffs Harbour community consultation session summary, March 2021

Accountability within the region is necessary to ensure there is cultural leadership, inclusive participation and transparency.

– Ceduna community consultation session summary, April 2021

'The interim report includes "proposed minimum expectations" for governments and their Indigenous partners under the Local & Regional Voice arrangements, but this is one of our areas of greatest concern. This is an area that will require an ongoing focus in the lead up to the transition period, during the transition, and beyond.'

– Empowered Communities, submission, March 2021

During stage two, the Local & Regional Co-design Group also developed further detail on what would be expected under each of the 3 principles identified as the basis for minimum expectations for Local & Regional Voices and how this would be demonstrated.

Table 1.1: Minimum expectations for each principle

Principle	What would be expected (i.e., recognition criteria)
Inclusive Participation **(*Community-led Design* also relevant)**	• General support from, authorisation by and broad representation of communities and groups in the region • Confirmed consensus across the region on membership composition, member eligibility and selection method, including how these will address gender balance, the inclusion of youth and elders, and the involvement of a broad range of organisations and individual stakeholders • Mechanisms available across the region for local community members to participate in the Local & Regional Voice and make or inform decisions on local issues, e.g., regular community and regional forums, local-level committees/working groups/panels • Pathways to involve particular groups within communities (such as people with disability or identifying as LGBTIQ+)
Cultural Leadership	• Clear connections to cultural leaders and pathways for cultural leaders and traditional owners to be involved in the work of the Local & Regional Voice • Existing systems of cultural leadership and/or traditional law, lore and custom can be drawn on or incorporated into the Local & Regional Voice operations, as appropriate to the region's context and agreed by relevant leaders, traditional owners and community members.
Appropriate interaction of *Inclusive Participation* and *Cultural Leadership*	• Demonstrated broad-based agreement of cultural leaders, traditional owners and community members that the way *Inclusive Participation and Cultural Leadership* principles interact in the design of the Local & Regional Voice is appropriate for their region (e.g., membership composition overall and method of connecting to the cultural leaders in the operational arrangements).
Transparency and Accountability	• Operational arrangements that promote transparency and keep the Local & Regional Voice and members accountable to communities which: – may take the form of a terms of reference or charter of governance developed in consultation with community members – should include agreed methods of choosing Local & Regional Voice members, agreed behaviours for members (i.e., codes of conduct and conflict of interest procedures), clear and transparent rules for decision-making, fair and transparent dispute resolution and complaints handling procedures, strategies for communications and engagement with communities, formal and informal systems and processes for community members to provide input

How this would be demonstrated

- Prospective structures provide:
  - information on how they meet the criteria, including their proposed design and operational arrangements and how they consulted and engaged with communities and a broad range of groups and stakeholders across the region in the design process
  - evidence of developed operational arrangements
  - evidence of community support, e.g., views shared in community meetings and other input from community members
  - for relevant criteria, evidence of support from cultural leaders or traditional owners, e.g., records from meetings
- Communities have opportunities to engage with the process and provide feedback relevant to these criteria, independent to that provided by the structure (note: there will be public notification of the process, including opportunities to engage and provide input, see section 1.9).

1.9 Recognition mechanism

Final proposal

A 3-step process for the formal recognition of Local & Regional Voices, to be set out in relevant Commonwealth and state/territory legislation:

1. collaborative and iterative assessment process between potential governance structure and relevant governments to prepare for formal recognition.
2. independent verification of the joint assessment against the recognition criteria (based on minimum expectations) and recommendation to final decision-makers.
3. recognition sign off by the relevant Australian and state/territory government ministers.

Interim Report

The Interim Report proposed 2 options:

1. Joint assessment—under which prospective structures would work with relevant governments to jointly assess their eligibility to become Local & Regional Voices, using the minimum expectations as criteria.
2. Independent assessment—under which prospective structures would seek to be formally recognised by an independent body. This body would assess the eligibility for becoming a Local & Regional Voice, using the minimum expectations as criteria.

The final approach adopted would be included in the legislation to support transparency.

Rationale

The final proposal combines the collaborative aspect of the joint assessment with the rigour of the independent assessment option. This will enable local communities and governments to work together from the start, fostering arrangements consistent with the *Respectful, Long-term Partnerships* principle. Including the independent verification step offers integrity and probity, providing a strong foundation for public legitimacy and sustainability.

The Local & Regional Co-design Group agreed there should be a mechanism to formally recognise structures as a Local & Regional Voice, using the minimum expectations as criteria. This can provide certainty and clarity for community members, governments and the Local & Regional Voice itself. One member did not agree that minimum expectations should be subject to external scrutiny believing that standards should be set and upheld internally by the membership; this view was not supported by other members.

In the Interim Report, the Local & Regional Co-design Group identified 2 options as possible mechanisms for recognising Local & Regional Voices, outlined below.

The Local & Regional Co-design Group agreed that the process for recognition should be included in legislation to support transparency. The Local & Regional Co-design Group also noted the need for a simple and streamlined process.

Table 1.2: Recognition options in the Interim Report

	Option 1: Formal recognition by an independent body	Option 2: Joint assessment
Description	• Existing or newly created structures seek to be **formally recognised/registered with an independent body** (this may be a different body in each state/territory). • The independent body assesses the eligibility for becoming a Local & Regional Voice, using the **minimum expectations** as criteria. • Community members/groups and governments can make submissions as part of that process.	• Prospective structures work with governments to **jointly assess** their eligibility to become Local & Regional Voices, using the **minimum expectations** as criteria (Australian Government and state/territory governments are involved in each jurisdiction, as well as the relevant prospective structure). • Community members/groups can provide input as part of this process. • Relevant state/territory and Australian government ministers endorse structures, with decisions made public.
Common features	• The criteria and process will be outlined in legislation. • The minimum expectations will be used as criteria. • Community members/groups can provide their views and input to the recognition process. • The key details of recognised Local & Regional Voices (e.g., the name and region of operation) are made publicly available.	

The recognition options for Local & Regional Voices were mentioned in very few submissions or surveys, and the topic was not explicitly raised during many of the community consultation sessions.

In stage two, the Local & Regional Co-design Group considered these options further and settled on a preferred approach. The Local & Regional Co-design Group appreciated the cooperative approach associated with the joint option, and considered it consistent with the broader partnership approach. This option would enable Local & Regional Voices and governments to start working together from the outset, building a platform for a shared commitment to and responsibility for success. At the same time, the Local & Regional Co-design Group noted the value of an independent assessment from a probity and transparency perspective.

In this context, the Local & Regional Co-design Group agreed to a 'hybrid' option, which combines elements of both approaches. The final approach involves a collaborative process between prospective Local & Regional Voices and relevant governments to prepare for recognition, combined with a final independent verification of the assessment. In agreeing on this option, the group considered the state and territory governments' involvement in the recognition process was an essential part of the design. They also noted that this issue will need to be covered early on in intergovernmental discussions, as soon as possible following the Australian Government decision.

Table 1.3: Final recognition mechanism proposal

Local & Regional Voices recognition mechanism	
Summary of approach	• Community stakeholders and relevant governments work in partnership to support the design of a Local & Regional Voice and agree when it is ready for recognition. All relevant information is provided to an independent party to verify the assessment against recognition criteria; the independent party then provides a recommendation to the decision-makers, who would be the relevant Australian and state/territory ministers.

Independent panel	
Panel	• A panel of Aboriginal and Torres Strait Islander people with relevant skills and experience would be responsible for independent assessment/verification. The method and criteria for appointment to the independent panel would be included in the legislation. • One assessor from the panel would undertake each assessment/verification process. • An assessment would include an examination of supporting documentation provided by the prospective structure and engagement with relevant communities, governments and other key stakeholders as needed. This will support the assessor to form a view about whether the proposed arrangements meet the minimum expectations for Local & Regional Voices recognition under the legislation. • The assessor would then provide formal advice to the relevant ministers, who would make the final decision on whether to formally recognise the Local & Regional Voice.
Rationale	• A panel established under the legislation would be a practical, cost-effective and flexible approach to bringing together independent expertise to undertake the recognition task. • It would not require setting up an additional standalone body with the associated administrative and cost burden, or possibly trying to allocate the recognition task to an existing independent statutory body that would then undertake it in addition to its core responsibilities. However, the respected individuals it would draw on could potentially include existing statutory officeholders, but in an individual capacity. • Given the intermittent and time-limited nature of the task, i.e., the 2- to 3-year implementation period, it will not be practical nor cost-effective to establish a new statutory body for this function. • Adding the recognition function to the work of an existing statutory body may be less resource intensive. However, finding an appropriate existing body where this role could fit with core functions would likely be challenging.

1.10 Dispute resolution

Final proposal

Proposed dispute resolution mechanisms focus on prevention and resolution between parties wherever possible. Options for third-party mediation, where all reasonable efforts to resolve matters internally fail, are also provided. Where mediation is also unsuccessful, parties may opt for an independent review and recommendation before progressing to a final decision if needed.

Dispute resolution processes must be consistent with the principles, in particular *Inclusive Participation* and *Respectful, Long-term Partnerships*, with a key focus on maintaining the ability of all partners to work together constructively. Mediation support will be available from the beginning of the implementation phase.

- A consistent approach is proposed for all disputes between Local & Regional Voices and governments.
- Each Local & Regional Voice will be able to develop its own approach to internal disputes and disputes with its communities, provided they are consistent with the principles. Guidance and examples will be included in the implementation toolkit.

Interim Report

The Interim Report noted that mediation and dispute resolution mechanisms will be needed for both disputes internal to Local & Regional Voices and disputes between them and the governments. These were to be developed in stage two.

Rationale

The proposal is consistent with the principles. The focus on preventing and resolving disputes between parties is designed to support respectful, long-term relationships and partnerships between all parties.

The Interim Report noted the need to establish a dispute resolution mechanism (such as mediation) for disputes internal to communities, between community and government, and across government partners.

In stage two, the Local & Regional Co-design Group developed details of these mechanisms. Members also agreed that dispute resolution support should be available from the early stages of implementation. This would ensure the appropriate support is in place during the design, implementation and operation of arrangements.

The dispute resolution mechanisms respond to a common theme in community sessions about the need to address challenges arising from divisions in the community and associated lateral violence—from the early stages of design and through to the ongoing operations of Local & Regional Voices.

> *One participant expressed concern about the potential for lateral violence and perceived nepotism. They commented that the Voice needs to be transparent and have appropriate mechanisms to manage these risks.*
>
> – Perth community consultation session summary, April 2021

> *One participant spoke of the violence in the community and the need for a Local & Regional Voice to help stop that, to help maintain the peace.*
>
> – Aurukun community consultation session summary, April 2021

It is proposed that the Local & Regional Voice dispute resolution processes set out in the table below apply from the beginning of implementation. In the early stages, it will be available to support discussions about regions and the design, establishment and recognition of Local & Regional Voice arrangements.

There is also likely to be some need for assistance to address any disagreements in the early phases of governments and community-led 'design groups' developing their 'rules of engagement', for example, as those groups work towards the recognition of the Local & Regional Voice. There will also need to be early clarity about processes to follow in cases of any disputes between community-led 'design groups' and governments, with access to external mediation as needed.

Table 1.4: Summary of Local & Regional Voice dispute resolution processes[15]

Between Local & Regional Voices and governments

Local & Regional Voices dispute resolution

- Key features include:
  - **prevention** (in the first instance, through a partnership approach, sharing responsibility for building constructive relationships and effective communication, and regular partnership 'health checks')
  - **resolution between parties** (through clear, documented dispute resolution processes co-designed and agreed between each Local & Regional Voice and relevant government partners at the outset)
  - **third-party mediation** (where all reasonable efforts to resolve matters between parties are unsuccessful).
- The majority of issues would be resolved through prevention and agreed resolution processes between partners. However, on occasions where these are unsuccessful, third-party assistance may be needed.

Options for third-party mediation

Local & Regional Voices and government partners could choose from the options below, based on the nature of the matter to be resolved and the type of expertise they think will be needed. Alternatively, elements of both options could be used in combination, e.g., starting with a peer mediation process and moving to external mediation if the matter is unable to be resolved.

Peer mediation pool

- Nominees from each Local & Regional Voice and each government would be trained and supported as required. They will then be included in a 'peer mediation pool'.
- Peer mediators acceptable to both parties involved in the dispute (one or 2 as appropriate, e.g., could be one Local & Regional Voice and one government peer mediator) would be deployed where disputes are identified as requiring third-party assistance.
- In each instance, peer mediators would be independent of the dispute in question (i.e., issue does not involve their Local & Regional Voice or government).

Independent external mediator

- An external mediator would be engaged who is mutually agreed upon and respected by both parties.
- Minimum requirements for mediators could include relevant negotiation/mediation skills and Indigenous affairs experience.
- Mediators would be contracted on an as needed basis. Facilitation/procurement could be undertaken by NIAA or equivalent state and territory agencies, as agreed.
- There may also be scope for accessing professional mediators from the private sector on a pro bono basis.

Outcomes

A. **Mediated Resolution:** Where mediation is successful, both parties come to agreement about how to manage the disputed issue, including any steps required to address behaviours and/or improve systems to prevent the issue reoccurring.

B. **Independent Review and Recommendation:** If parties are unable to come to an agreement through the mediation process, the mediator/s would provide a report documenting the process and explaining that parties were unable to come to a resolution. This report would be referred for an independent review. An agreed list of individuals with appropriate experience and expertise to provide this service would need to be established. 2 reviewers could be appointed to consider the report and other information from the mediation and provide a recommendation guided by the framework principles. In each case, at least one of the reviewers should be an Aboriginal or Torres Strait Islander person in each case. Recommendations made by the independent reviewers would be submitted to all parties for their agreement and implementation.

C. **Decision:** If one or both parties do not agree to the independent reviewers' recommendation/s, the case would be referred to a final decision-maker for a final resolution/decision. All decisions would need to be guided by the framework principles, including transparency. Another possible option if mediation (a) fails—and both parties agree—could be to bypass the independent review (b) and proceed straight to a decision (c) as articulated here.

- Feedback included a suggestion that the final decision-maker in these circumstances could be the relevant minister or ministers (Commonwealth with state/territory) alongside 2 respected, independent Aboriginal or Torres Strait Islander people.

[15] A flowchart setting out the proposed dispute resolution process is presented in section 1.10.

Internal to Local & Regional Voices

- There will be flexibility for each Local & Regional Voice to develop its own approach to managing internal disputes (such as between members or between Local & Regional Voices and specific groups within communities) according to its local and regional context, in line with the framework principles and drawing on a range of resources that would be provided as part of the implementation toolkit.
- Having a clear, accessible and documented approach for resolving internal disputes will form part of the minimum expectations for Local & Regional Voice recognition.
- The toolkit will reference culturally appropriate resources to assist the Local & Regional Voices in developing dispute resolution procedures and implementing their own approaches, including options for third-party mediation.
- These guidance materials and resources, along with capability support, will be essential to enable effective implementation.
- The guidance will draw out the importance of a preventative approach to dispute resolution.
- The guidance will also indicate Local & Regional Voices should focus their dispute resolution processes on matters directly related to their work. That is, mediating or managing broader ongoing or historic community disputes or issues would generally be out of scope.
- However, depending on the gravity and effect of any such dispute on the Local & Regional Voice's operations, there may be scope to include them on a case-by-case basis, e.g., if a community dispute is creating a barrier for certain families or sections of the community to participate in the work of a Local & Regional Voice.

1.11 Partnership interface

The Local & Regional Co-design Group confirmed the partnership interface approach proposed in the Interim Report as its final proposal.

These arrangements will require Local & Regional Voices and all levels of government to establish mechanisms at the regional level that will also connect to communities (for matters that are in scope for Local & Regional Voice arrangements).

These mechanisms will bring the parties together to put a shared commitment to partnership into practical action. The Local & Regional Co-design Group agreed there should be flexibility for regions and governments to design interface arrangements that are effective in their specific context as long as they align with the principles.

Some communities or regions with local and regional decision-making arrangements already in place, such as partnership tables, will be well placed to commence shared, cross-government work in line with the framework relatively quickly. Others will require time to establish governance arrangements that work for them, noting within the framework there is also flexibility for the arrangements to evolve.

On the community side, the design of governance structures for a Local & Regional Voice will need to make space for a broad range of individuals, leaders and organisations to participate or be represented, including those who may not have been involved previously. This will require balancing more established, historically influential 'voices' and those new and emerging to ensure all who wish to contribute can do so. It will be important that these arrangements do not create a closed system but one that is sufficiently dynamic and open to involving all relevant stakeholders keen to have a say in the decisions that affect their community.

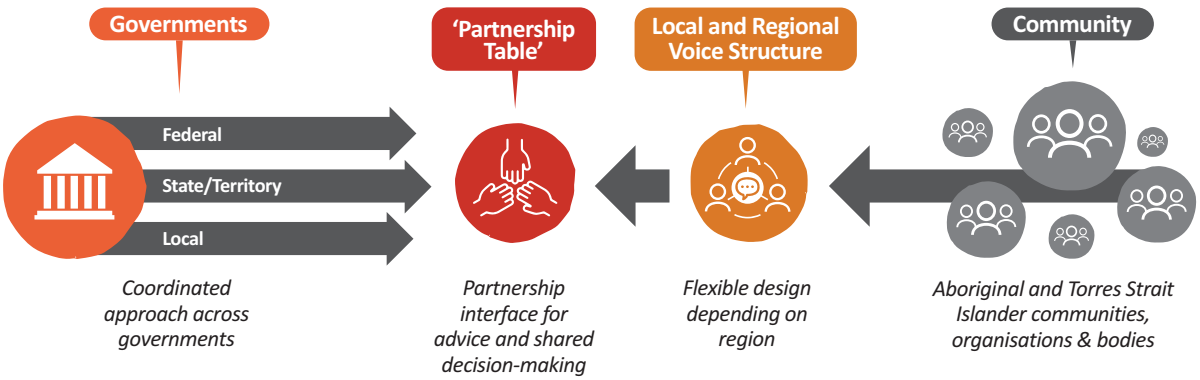
Australian, state and territory and local governments will need to work together to establish effective arrangements across portfolios and with each other. This will provide a coordinated point for place-based collaboration with Aboriginal and Torres Strait Islander communities.

The Local & Regional Co-design Group noted this will need to be progressed through intergovernmental discussions. The Local & Regional Co-design Group also noted that, in many instances, governments will need to undertake considerable systems reform to establish effective mechanisms to support this approach.

The group agreed there will need to be further guidance on how to put the partnership interface arrangements into practice, including examples and sample protocols. This will be a key topic in the implementation toolkit outlined in section 1.17.

Feedback from consultations indicated there was widespread support for shared decision-making between the Local & Regional Voice and governments, but not a broad understanding or commentary about how this could occur. While there was minimal feedback on the *Partnership*

Figure 1.7: Partnership interface



Interface as a concept, there was strong support for partnership arrangements generally and the need for governments to change the way they work with communities and each other.

'Working in partnership with all governments to make plans on how to meet community aspirations and deliver on local priorities is the most important feature [of the Local & Regional Voice proposal]. It will enable us to have our needs met by governments.'

– Anonymous, survey, February 2021

'Each Local & Regional Voice would provide clear ways for local Aboriginal and Torres Strait Islander people, communities and organisations in the region to get involved and have their say … They would allow for local priorities to be addressed at the local level. They would provide an agreed way to work together in partnership with governments (for example through regular partnership meetings). We need ground-up solutions, not Canberra-down ones.'

– Helen C, survey, March 2021

'Aboriginal and Torres Strait Islander people must be able to have their say, but equally important is that there must be obligations on governments, at all levels, to follow and enact this advice. It is not enough just to be heard; if what is said and advised is just ignored then there is no improvement for Aboriginal and Torres Strait Islander people at all.'

– Anonymous, survey, April 2021

'The structural change to put in place a new partnership under the Voice is absolutely required, but the change that then must occur under the new structure in terms of how Indigenous Australians work together and with Government is nothing short of a seismic shift.'

– Jawun, submission, March 2021

1.12 Regions

Final proposal

- There be 35 regions overall, with state/territory breakdown.
- Details of regions and boundaries are to be determined at the beginning of the implementation phase, in consultation between all levels of government and communities.
- Cultural groupings and existing regional arrangements will be the primary factors in determining regions.
- The notional breakdown per jurisdiction considers population numbers, geographic spread and historical approaches.
- Possible cross-border arrangements can be considered where needed and will be worked through with relevant communities and governments in the implementation phase.
- Any proposals by states/territories for a higher number of regions in their jurisdiction may be considered at the beginning of implementation; however, a strong commitment to sustainability and ongoing resourcing for any additional regions, at a level that ensures funding parity, would be required.
- Regional boundaries will be reviewed over time as circumstances change.

Interim Report

The Interim Report proposed between 25 and 35 regions across Australia. Regional boundaries were to be determined at the beginning of the implementation phase in consultation with all levels of government and communities.

Rationale

The proposed approach is pragmatic and builds on the proposal outlined in the Interim Report. There was significant discussion about regions and boundaries in the consultation process, with a strong preference for a higher number of regions within the range proposed in the Interim Report.

The Local & Regional Co-design Group agreed that Local & Regional Voices should be established at the regional level to maximise efficiency and practicality. At the same time, each region will need to have clear pathways for local communities and groups to participate and local engagement mechanisms to ensure decisions about local issues involve local people and communities.

In stage one, the Local & Regional Co-design Group developed the proposed approach to determining regions by drawing on lessons learned from previous and existing arrangements. The group finalised it, having considered consultation feedback on options presented in the Interim Report. The final proposal balances practical considerations (such as resourcing and long-term sustainability) with accommodating contextual factors (such as cultural groupings, population number, geographic spread and historical and existing governance approaches). It is also consistent with the framework principles.

A summary of the final proposal is below, with the detailed proposal set out following the consultation feedback section.

Regions are determined

35 regions nationally are proposed, with a breakdown for each state and territory. Communities and governments in each state/territory will work together to determine the detail of regions in their jurisdiction, based on agreed parameters and guidance.

1.12.1 Consultation feedback

Consultation feedback was supportive of the proposed approach to determining regions, with a strong focus on the need for communities to be involved in deciding the details of boundaries.

'It can't be decided in Canberra what region you come under.'

– Ngukurr community consultation session summary, April 2021

All participants agreed regions should reflect what community think.

– Coffs Harbour community consultation session summary, March 2021

Participants at many community consultation sessions were focused on the complexity of assigning boundaries, noting the broad range of factors that need to be considered, e.g., cultural connection, population, remoteness and how services are delivered.

There was strong support for cultural groupings to be a primary factor in determining regional boundaries.

'Regional bodies should resemble traditional cultural boundaries to ensure appropriate representation of communities.'

– World Vision, submission, April 2021

'When designing the structures that underpin the Local & Regional Voice, it is crucial that Region boundaries follow traditional boundaries as closely as possible … This approach encourages cohesive decision making based on traditional cultural connections.'

– La Perouse Aboriginal Community Alliance, submission, April 2021

Additionally, there were strong views from some stakeholders in relevant areas that cross-border arrangements needed to be considered where there are cultural groupings that cross state/territory borders. Examples include the ACT and the tristate area of WA, SA and the NT.

'Representation should not be constricted by colonial state borders. True First Nations representation should reflect cultural groupings in all cases.'

– Anonymous, survey, March 2021

'Where the boundaries for traditional lands cross state/territory borders, governments need to fully consider flexibility and collaboration to ensure effectiveness of representation.'

– KPMG Australia, submission, March 2021

'A larger number of smaller regions that may ignore existing State/Territory borders assembled around existing community/family networks is more likely to capture the diversity and richness of knowledge and experience to reflect up to the National Voice.'

– Peter W Tait, submission, March 2021

'The main model proposed in your Interim Report, including splitting regional voices by state boundaries does not align with the notion of one regional Voice for Anangu across the tristate region.'

– NPY Women's Council, submission, March 2021

'For the ACT there also needs to be consideration of an expanded Regional Voice that includes the Aboriginal and Torres Strait Islander communities in the Canberra Region extending into NSW.'

– ACT Government, submission, April 2021

A number of submissions and community consultation sessions provided feedback on specific regional groupings they considered to be appropriate. For example, a submission from the La Perouse Aboriginal Community Alliance put forward a view that the La Perouse community aligned better with the Wollongong and the Illawarra region than with other communities in Sydney[16]

There was an overwhelming preference across surveys, submissions and community consultation sessions for a larger number of regions (35) rather than any lower number of regions within the proposed range.

'35 regions are needed in order to ensure that the diversity of Aboriginal and Torres Strait Islander people is recognised and respected.'

– Aaron N, survey, March 2021

'My sense is that the Local and Regional Voices should number at least 35 to enable the best possible participation.'

– Judith Newcombe, submission, March 2021

'Capping the number of Local and Regional Voices at around the upper limit set out in the interim report of 35 will ensure that regions are not forced together where there is no natural affiliation.'

– Empowered Communities, submission, March 2021

'The maximum considered number of 35 Voice Regions is supported to maximise the scope and benefits to Aboriginal people from the Indigenous Voice process in other regions of the Northern Territory and Australia.'

– East Arnhem Regional Council, submission, May 2021

'Within the Regional options proposed, the IPO supports the larger regional representative model of 35, which reflects and recognises the greater populations of Aboriginal and Torres Strait Islander peoples in NSW and Queensland, while also reflecting the larger geographic regions of Western Australia and the Northern Territory.'

– Indigenous Peoples' Organisation, Australia, submission, May 2021

Some suggestions favoured a far greater number of regions, potentially based on nations or local government areas, which would have resulted in a region number in the hundreds.

A participant commented that an amalgamation of local voices into regional structures was at odds with the Empowerment principle, and proposed that if there are 250 Indigenous nations, this should guide regional boundaries.

– Canberra community consultation session summary, March 2021

'I would encourage a far higher number of local and regional voices. In NSW a number of local government areas (LGAs) have Aboriginal Advisory Committees that could form the basis of a local level of governance that could feed into a Regional level Voice or Voices.'

– Tara A, survey, May 2021

A participant suggested regions could be based on local government areas, noting there are over 500 local councils across the country, with 79 in Victoria.

– Melbourne community consultation session summary, April 2021

Additionally, several smaller local communities presented a case for being standalone regions. These included Central Coast NSW, the Jervis Bay Territory, Woorabinda and Palm Island.

There were some mixed views across consultation feedback about the possible breakdown of regions per state/territory and the rationale for how this has been derived. Some respondents felt relative population numbers were most important in determining the breakdown, while others felt the geographic size or number of cultural groups were more important.

3 state government submissions argued for more regions in their jurisdiction than provided for within the breakdown, citing population numbers and existing arrangements.

[16] La Perouse Aboriginal Community Alliance, submission, April 2021.

Similar sentiments were expressed in a number of community consultation sessions, including questions about how existing or proposed regions based on jurisdictional arrangements would link with the smaller number of regions under the Local & Regional Voice proposals.

'The interim report suggests there are between 25 and 35 regions nationwide, and between 5 and 7 in NSW … If the higher (and more realistic) estimate of 35 regions is used, and that one-third (33 per cent) of Aboriginal and Torres Strait Islander people in Australia are resident within NSW, this equates to 11 or 12 regions in NSW.'

– NSW Government, submission, April 2021

'Regarding the specific models for a Victorian Local & Regional Voice proposed in the Interim Report, the Victorian Government considers that the proposal for Victoria to have 2 regions is incompatible with current, community-determined arrangements. The Victorian Government strongly recommends that any regional or sub-regional approach in Victoria must align with the Assembly's 5-region structure, as well as any ongoing representative structures at the regional and local level established through Victoria's treaty process.'

– Victorian Government, submission, April 2021

'The WA Government strongly recommends an increase in the number of regions identified for WA as part of the Local and Regional Voice proposal, from 7 regions to 9. The rationale for this increase is to allow alignment with the 9 regions currently represented by the membership of the [WA Aboriginal Advisory] Council.'

– Western Australian Government, submission, June 2021

A final significant theme, particularly from community consultation sessions, was the desire to 'get on with it' and move quickly to the implementation of Local & Regional Voices.

'I endorse the Local & Regional Voice idea. Don't know how to mark the regions—that's a broader community discussion. But we haven't had a voice for so long—we need to hurry and make decisions about regions—because something is better so we can get a voice happening, even if it doesn't look exactly as everyone wants.'

–Tamworth community consultation session summary, March 2021

Participants expressed some frustration at the pace of progress but also optimism that it was occurring: 'We're all frustrated with the incremental steps we're taking, but things are changing. It takes time. We've got to have some hope that we are moving things forward. Not as fast as we think, but forward no less.'

–Port Augusta community consultation session summary, April 2021

A participant said that you can never set up something that is perfect, but that is ok, 'It will evolve and change once we start.' They said we need to start discussing this now.

– Devonport community consultation session summary, May 2021

1.12.2 Overall number of regions

In stage one, the Local & Regional Co-design Group proposed a range of between 25 and 35 regions across Australia. This range took into account the need for the number of regions to be sustainable and reflective of existing cultural identities and regional groupings. 3 sets of potential numbers of regions per state/territory based on the overall range were also provided (see Table 1.5). These breakdowns took into account relative population numbers, geographic spread and historical approaches.

The Local & Regional Co-design Group also proposed that the exact number of regions and nominal breakdown by state and territory be finalised following stage two. This would draw on feedback received through community consultations and be included in the Final Report for the Australian Government's decision.

Drawing on consultation feedback, the Local & Regional Co-design Group agreed to put forward 35 regions as the proposed overall number of Local & Regional Voice regions across Australia.

Figure 1.8 sets out the proposed nominal breakdown of regions per state/territory based on this number.

Table 1.5: Initially considered potential number of regions

Jurisdiction	25 regions	30 regions	35 regions
ACT	1	1	1
NSW	5	6	7
NT	4	5	6
QLD (exc. Torres Strait Islands)	5	6	7
Torres Strait Islands	1	1	1
SA	2	3	3
TAS	1	1	1
VIC	2	2	2
WA	4	5	7

This proposal is based on the Local & Regional Co-design Group's view that it would be impractical for smaller communities to be supported as standalone regions. However, there is scope for more localised arrangements to support smaller areas and communities to handle local matters.

The Local & Regional Co-design Group has also noted that there may be scope to consider any proposals by state or territory governments for a greater number of regions in their jurisdiction, following the final decision by the Australian Government. Any such proposals would also need to have the support of Aboriginal and Torres Strait Islander communities in the relevant state or territory.

Intergovernmental negotiations about any such proposals with relevant state and/or territory governments would need to occur promptly following an Australian Government decision ahead of the broader processes for determining regional boundaries with communities.

Noting the critical importance of long-term sustainability for Local & Regional Voices, the Local & Regional Co-design Group considered that any agreement to additional regions would need to be subject to strong commitments to ongoing support and resourcing by the relevant state or territory government, at the same level as that to be provided by the Australian Government for the proposed 35 regions, to ensure appropriate parity across all regions. In addition, any such agreement would need to be on the basis of arrangements in those regions having to meet the Local & Regional Voice framework objectives, including alignment with the Purpose, Scope and Principles.

Figure 1.8: Map with proposed number of regions per state/territory

1.12.3 Determining regions

In stage one, the Local & Regional Co-design Group proposed that, within the final number overall and for each state and territory, the detailed regional boundaries would be co-designed between communities and governments at the beginning of the implementation phase.

Firstly, key Aboriginal and Torres Strait Islander community groups and stakeholders in each state and territory would come together with the Australian Government, the relevant state or territory government and the peak local government association to agree on the proposed regional groupings for their state or territory at a broad level, taking account of the number of agreed regions for that jurisdiction. While there would be a number of factors to consider, this would enable a coordinated approach across all tiers of government and maximise opportunities for aligned arrangements supported by all governments.

The proposed regional boundaries would be informed by feedback received in stage two and based on the overall number of regions for that state or territory. Where there are existing regions, providing they are considered to work well, these would be used as the starting point, with cultural groupings another primary factor. Regions would align with state/territory boundaries; however, cross-border arrangements would be considered on a case-by-case basis.

Secondly, communities and stakeholders in each proposed region would be consulted on the proposed groupings and boundaries.

Thirdly, the initial group of government and key Aboriginal and Torres Strait Islander community stakeholders would draw on community feedback to finalise the details.

Following consultation feedback and their own further deliberations, the Local & Regional Co-design Group proposed to retain this approach to determining regions, with the following refinements:

- Both cultural groupings and existing regions under relevant arrangements would be primary factors in determining regional boundaries.
- Alignment with state/territory boundaries would be retained as a general approach, but there would be a stronger focus on possible cross-border arrangements where a sufficiently strong case exists. The detail of these arrangements would be further worked through with relevant communities and governments during the early implementation stage.

Table 1.6 sets out the details of the final approach agreed by the group.

In its stage one proposal, the Local & Regional Co-design Group noted the importance of regional boundaries being formally agreed and made publicly available, with periodic reviews to assess if any adjustments may be needed. These reviews would consider a range of factors that may affect the effectiveness or sustainability of the regional arrangements, such as shifts in population size, economic activity or changes to the government administrative boundaries. Reviews would be undertaken in consultation between communities, Local & Regional Voices and governments, with further operational details to be developed ahead of implementation.

This approach has been confirmed in stage two. The Local & Regional Co-design Group agreed that the regional boundaries should be reviewed over time to reflect changes in circumstances, noting the importance of taking a data-informed approach.

Table 1.6: The final approach

Foundations of approach
• Each region will have a **clearly defined boundary** that will not overlap with any other region (noting in some cases coordination arrangements across regions will be needed where there are strong cultural, historical, economic or service links that go outside the regional boundaries). • Specific regional boundaries will be **determined by communities and governments** in line with the steps outlined above, balancing the key considerations below in the context of each region to ensure arrangements are practical, sustainable and effective. • Lessons learned from previous and existing arrangements will inform the approach.

Key parameters of approach	Guidance to inform the approach
• **35 regions** across Australia. • Both **cultural groupings** and **existing regions under relevant arrangements** will be primary factors in designing each region • Regions should generally align with **state/territory boundaries**; however, **cross-border arrangements will be considered** where needed and agreed upon between relevant governments and communities.	• Communities and governments will consider how to achieve **appropriate and effective composition** of each region, considering aspects such as population number and geographic size. This includes considering how to ensure local communities within the region can be equitably represented at the regional level. • Communities will work with governments to consider whether and how best to align regional boundaries to relevant **government administrative arrangements** (e.g., LGAs and service delivery regions).

1.12.4 Rationale

The Local & Regional Co-design Group's final position is based on a balance of original considerations and the key messages from consultation feedback around the importance of having more rather than fewer regions and the communities' desire to 'get on with it'.

During its deliberations, the Local & Regional Co-design Group agreed that an unlimited or undefined number of regions across Australia would not be practical from a sustainability, resourcing or timeliness perspective. While the Local & Regional Co-design Group was not opposed to a small number of additional regions, its primary concern was the long-term stability and sustainability of Local & Regional Voices.

Recommending the higher end within the 25 to 35 regions range proposed in the Interim Report responds to feedback that a greater number of regions can better address the diversity of communities.

Based on the feedback that communities want to move quickly to implementation, the Local & Regional Co-design Group considered whether there would be other options that would help to settle the details of regions sooner. In this context, the group considered whether it would be appropriate to propose old ATSIC regional boundaries in the Final Report. However, on balance, the Local & Regional Co-design Group strongly agreed that consistency with the framework principles, especially the principle of *Community-led Design*, should be paramount. The group also noted that the feedback received indicated that ATSIC boundaries would be polarising for some communities, while others may view them as a good starting point. It noted further that the agreed approach will allow for the old ATSIC regions to be used as an input or starting point in places where communities agreed this is appropriate.

Another crucial consideration in the final approach adopted by the Local & Regional Co-design Group was to ensure that both governments, at the state and federal level, and communities engage in the process of determining regions. This is consistent with the Community-led Design principle and the partnership approach between communities and governments and is considered to provide a solid foundation for local legitimacy and long-term support for Local & Regional Voice arrangements. It will also allow the composition of regions to be based on their current situation, including cultural groupings, existing regions and population numbers.

1.13 Transitional arrangements

Final proposal

The final proposal puts forward an inclusive, community-led process to design and establish Local & Regional Voices.

The proposal recognises there are a number of starting points and possible pathways for Local & Regional Voices, depending on what already exists in a region.

Community-led 'design groups', comprising a broad range of Aboriginal and Torres Strait Islander stakeholders from across the region, will work with individuals, families and other groups to design, establish and progress formal recognition of Local & Regional Voices.

All regions will be supported to progress to Local & Regional Voice recognition as quickly as possible. The community-led 'design groups' will cease once the Local & Regional Voice has been formally recognised.

Interim Report

The Interim Report proposed the same broad approach as above, with 2 refinements made in the final proposal. The interim proposal suggested that the community-led 'design groups' could deliver some limited functions of a Local & Regional Voice, as needed. This has been removed in the final proposal to enable 'design groups' to focus solely on their core task and assist communities to establish their arrangements as soon as possible.

The Interim Report also suggested that setting timeframes for the community-led 'design groups' could be considered to ensure the design, establishment and recognition process moves efficiently. However, the Local & Regional Co-design Group agreed that limiting the scope of functions of the 'design groups' to their primary task would be a more appropriate approach to achieving timely implementation.

Rationale

The proposal is consistent with the principles, with a particular focus on *Community-led Design*. It is also consistent with the consultation feedback that highlighted a strong desire for communities to be supported to get together as soon as possible to start progressing this work.

Limiting the 'design group' functions to the design, establishment and recognition task will reduce the potential for distraction and associated delays. It will also be important for the long-term legitimacy of Local & Regional Voices.

The Local & Regional Co-design Group considered practical aspects necessary to support the implementation of the Local & Regional Voice proposal. The flexible nature of the framework means many different specific approaches are possible. This makes implementation guidance essential to supporting communities to consider what arrangements would work best in their context and where to start.

In stage one, the Local & Regional Co-design Group developed a range of scenarios to illustrate possible pathways for transitioning to Local & Regional Voice arrangements. They were included in the Interim Report and are also intended to be a part of the implementation toolkit discussed in section 1.17. These scenarios aim to help Aboriginal and Torres Strait Islander people and communities around the country to see themselves in the framework, but without prescribing a specific approach. They are intended to help Aboriginal and Torres Strait Islander people understand what it could mean for them and their community, and how they can be involved.

Transition to Local & Regional Voice arrangements

Transition pathways will look different in each community and region depending on the extent of any existing arrangements that can be built on. Community-led 'design groups' with a broad range of stakeholders will be formed to design the arrangements. Government will provide resources and support. There will also be guidance material and a toolkit with examples and further resources that can be adapted by communities to their context.

The Local & Regional Co-design Group noted there will be a number of possible starting points and pathways for Local & Regional Voice arrangements for communities around the country. This is because some regions already have arrangements in place for bringing people together to work towards a common agenda, while others do not or have only limited or ad hoc mechanisms.

For example, Local Decision Making regions in New South Wales and Empowered Communities regions across the country are already working in a way similar to that envisaged for Local & Regional Voices (noting they currently do not incorporate all tiers of government). Regions operating under these arrangements will be well positioned to move quickly to transition to Local & Regional Voice arrangements, starting with consideration of any adjustments needed to ensure consistency with the principles. However, this is not the case everywhere.

In this context, the Local & Regional Co-design Group agreed on a default approach as a guide to illustrate how communities can be supported through the process of building Local & Regional Voices. It is acknowledged that regions will require time to establish governance arrangements that work for their communities and that the arrangements will evolve. It is also recognised that it will be important for all Aboriginal and Torres Strait Islander people to consider how the arrangements may apply in their community and region.

In stage one, the Local & Regional Co-design Group proposed forming local groups with the involvement of a broad range of Aboriginal and Torres Strait Islander stakeholders drawn from across a region. The primary role of such community-led 'design groups' would be to work with communities to develop Local & Regional Voices, and it had also been suggested they could undertake some limited Local & Regional Voice functions in the interim.

1.13.1 Consultation feedback

During the consultations, there was broad recognition that designing and establishing the Local & Regional Voice governance arrangements must be community-led at the local and regional level. In particular, in the community consultation sessions, there was significant discussion about the complexities in establishing Local & Regional Voice arrangements and needing to consult widely and openly. Consultation feedback also strongly reaffirmed that while the work must be community-led, it should be supported by governments—the future partners of Local & Regional Voices. There was also a strong view expressed that work should commence as quickly as possible to enable communities to have a voice sooner rather than later.

'Indigenous voices are powerful and can do it, it will be the matter of unpacking principles—what does it look like at the local level; won't get it right from start but need to do it, it is practical.'

– Adelaide community consultation session summary, February 2021

'How do we come together and be a unified voice? A voice isn't about a whole lot of different people talking different messages—we have to come together to unify that voice.' Participants broadly agreed that the proposed Local & Regional Voice model is a good starting point for coming together.

–Tennant Creek community consultation session summary, May 2021

Participants agreed that it is critical community designs the Local & Regional Voice but require resourcing to come together.

– Coffs Harbour community consultation session summary, March 2021

1.13.2 Community-led Design of Local & Regional Voices

Based on the consultation feedback, the Local & Regional Co-design Group confirmed its proposed approach to assist communities in designing their arrangements.

For places with existing effective mechanisms, the process will involve building on, enhancing, adjusting or expanding what is in place to create arrangements consistent with the Local & Regional Voice principles. This work may be facilitated by existing structures, but (as for regions with no existing arrangements) it will need to draw in a broad range of stakeholders across the region. This will ensure that input into the design process is inclusive and reaches beyond groups and individuals already involved in existing arrangements.

The Interim Report flagged the scope for the community-led 'design groups' to undertake some limited Indigenous Voice functions during the transitional phase. However, drawing on consultation feedback about the communities' desire to 'get on with it', the Local & Regional Co-design Group's final proposal recommends that functions of the 'design groups' should focus solely on their primary task of facilitating the design process. This will allow the process of establishing recognised Local & Regional Voices to move as quickly as possible. It will also provide a strong foundation for their long-term legitimacy since the initial 'design groups'—which are not fully established or recognised—would not undertake any of the Indigenous Voice functions. This, in turn, will have a flow-on effect on ensuring the legitimacy of the linked National Voice arrangements (see Chapter 2).

In stage one, the Local & Regional Co-design Group considered it would be important that these 'design groups' do not become long term and there is continual progress (driven by local people) towards a permanent, recognised Local & Regional Voice.

While the Interim Report noted that specific time limits for local 'design groups' could be considered, the Local & Regional Co-design Group has now agreed this would not be appropriate, noting the varied circumstances across the regions. Rather, setting a clear focus on design only is considered the most effective strategy for ensuring quick progress. This recognises that each region will be different. In locations where existing arrangements are used as a basis, this process will likely progress relatively quickly, possibly within 12 months or fewer. In other places, with little or no existing relevant governance platforms, the design work will need to be more in-depth and would be expected to take longer, potentially up to 3 years. It is also noted that it will be important for the Australian Government and state and territory governments to work together to facilitate the establishment of Local & Regional Voices as soon as practical.

Key features of the proposed 'design group' approach agreed by the Local & Regional Co-design Group are set out below.

One member expressed a concern the transitional arrangements would be unnecessarily complex and proposed a direct election approach, which was not supported by other members of the Local & Regional Co-design Group.

Proposed community-led 'design groups'

Community-led 'design groups' would be established to progress the design and establishment of Local & Regional Voices. In locations with relevant existing arrangements, these groups could be facilitated by existing structures, noting this would need to include engaging with communities and a range of stakeholders to ensure broad-based support for the Local & Regional Voice.

Functions

- Engage with local communities and governments to design Local & Regional Voice arrangements according to the community's aspirations, priorities and strengths.
  - Where there are existing arrangements with similar functions, this would involve community engagement to establish if and how these arrangements might be built on to form a Local & Regional Voice that meets the minimum requirements for recognition.
- Engage with all stakeholders to test/verify proposed Local & Regional Voice arrangements have an appropriate level of support.
- Work towards establishing the agreed Local & Regional Voice arrangements, including assistance with the recognition process.

Composition

- Membership to be consistent with the framework principles, in particular, the principles of 'Inclusive Participation' and 'Cultural Leadership', to ensure:
  - representation of traditional owners and historical residents alike
  - appropriate gender and age balance in each region, and broad inclusiveness
  - appropriate geographic and cultural representation from across the region
  - appropriate balance between existing (e.g., organisation based) voices, and those who are not involved in any existing groups but who wish to participate.
- To be developed in consultation with a wide range of community members, family groups, leaders and existing Aboriginal and Torres Strait Islander groups, bodies and organisations in relevant locations (such as land councils, ACCOs and other bodies and groups).
- Membership to be inclusive, drawn from individual community members as well as the existing groups across the region, ensuring there are pathways for all who want to have a say (e.g., through open meetings or other mechanisms as appropriate), particularly those whose voices have been historically marginalised or who are often unheard.

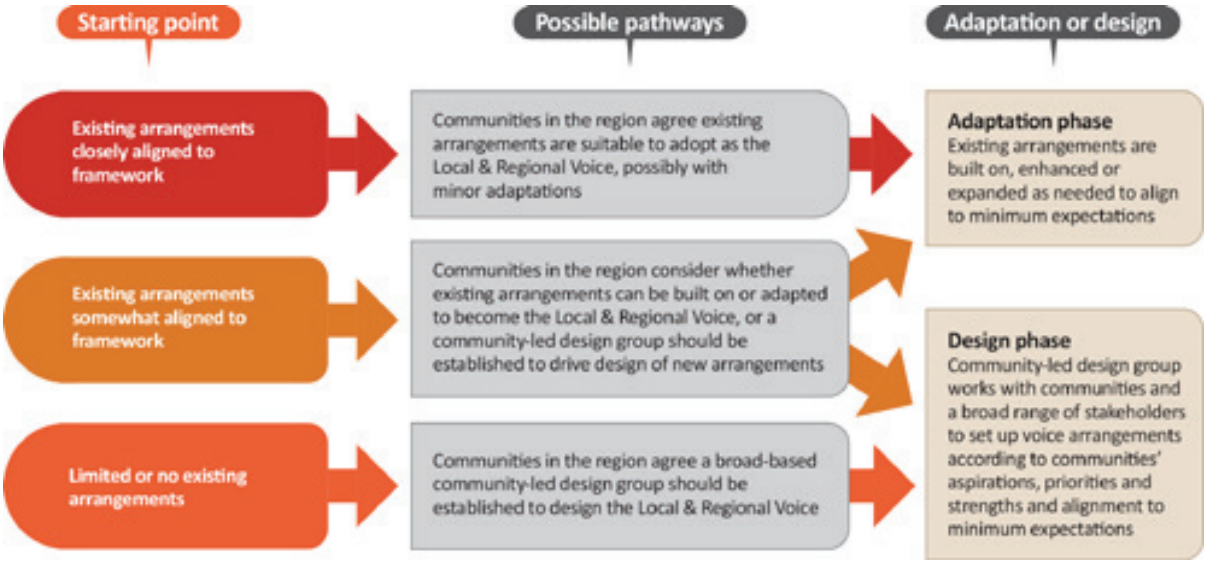
Support

- Support and resourcing will be needed for 'design groups' to carry out their work. While work would be community-led, governments will need to play an enabling role.

Community-led 'design groups' will be used to support the design of Local & Regional Voice arrangements.

The aim is to provide a way for communities to have a Local & Regional Voice as soon as practicable, in line with their own priorities and aspirations.

Figure 1.9: Transitional pathways



1.14 Linkages

1.14.1 National Voice

The National Co-design Group agreed that the membership model for the National Voice will be structurally linked to the Local & Regional Voices; that is, the National Voice members would be collectively selected by Local & Regional Voices within each jurisdiction, or be linked to Local & Regional Voices through secondary options in the model. This is discussed in more detail in Chapter 2.

In stage one, the Local & Regional Co-design Group agreed that the advice flow and two-way communication between the local and regional, and national parts of the Indigenous Voice will be essential. Links between the 2 parts should function in a way that enhances the effectiveness of the overall Indigenous Voice arrangements but not impinge on the functions of each of the respective levels as they both fulfil their distinct but complementary roles.

The Local & Regional Co-design Group agreed that advice from the Local & Regional Voices to the National Voice should be focused on:

- systemic issues associated with national policies and programs—for example, matters associated with local and regional effects of broad-based, national schemes (e.g., employment programs), if they cannot be resolved locally
- local and regional input on the development of national policies and programs to help ground advice from National Voice to the Australian Parliament and Government in local and regional expertise and lend weight to the legitimacy of the National Voice
- matters of national importance where they impact Aboriginal and Torres Strait Islander communities to a significant degree, and would benefit from a national, coordinated response (e.g., COVID-19 response).

The Local & Regional Co-design Group agreed that focusing advice from Local & Regional Voices to the National Voice on systemic issues is essential to ensure the National Voice does not become an escalation point for local issues that should be addressed at the local level. This view is in line with the core premise of local and regional decision-making. Equally, this will be important to ensure the National Voice can remain focused on national-level issues.

1.14.2 State and territory governments' representative and advisory bodies

Several states and territories have their own Indigenous representative or advisory bodies in place, which are set up in different ways. Some already comprise or are in the process of moving towards more representative arrangements. The Local & Regional Co-design Group agreed that where these exist, it will be important for Local & Regional Voices to link with these state- and territory-level bodies, including to provide advice on issues relevant to that level of government.

This advice would focus on systemic issues and state- or territory-wide policies and programs that fall within state or territory responsibility, in the same way as articulated above for advice on national issues to the National Voice.

It will be important for Local & Regional Voices to have two-way communication and information flow with any such state- or territory-level bodies, irrespective of whether there is a structural membership link between them.

The Local & Regional Co-design Group noted that where such bodies do not exist, it will be appropriate for advice on systemic, state- or territory-wide issues to be provided directly to the relevant state or territory government.

Given the nuances of state and territory responsibilities under the Australian Constitution, the Local & Regional Co-design Group also noted that on some issues it will be appropriate for the Local & Regional Voice to provide advice to both the state or territory body (or government) and to the National Voice. For example, in areas such as health, where both the Australian Government and states and territories are active, it would be appropriate for advice to flow to both tiers of government.

1.15 Next steps

The Local & Regional Co-design Group noted several streams of work that will need to be further developed ahead of implementation.

As outlined above, the NIAA has continued to work with states and territories through the Senior Officials Group to share key policy considerations and discuss opportunities for aligning possible future Local & Regional Voice arrangements with their existing and emerging models and policy directions.

This includes appropriate authorisation of the framework, such as via legislation and cross-jurisdiction agreements, which the Local & Regional Co-design Group notes will need to be progressed through intergovernmental engagement.

Further work will also be needed to develop the implementation toolkit, as well as final details of the recognition and dispute resolution mechanisms ahead of them being set up.

Further guidance may also be needed on aspects of the *Transparency and Accountability* principle such as public reporting, monitoring and evaluation measures.

1.16 Governance structures – examples

Figure 1.10: Governance structure example 1

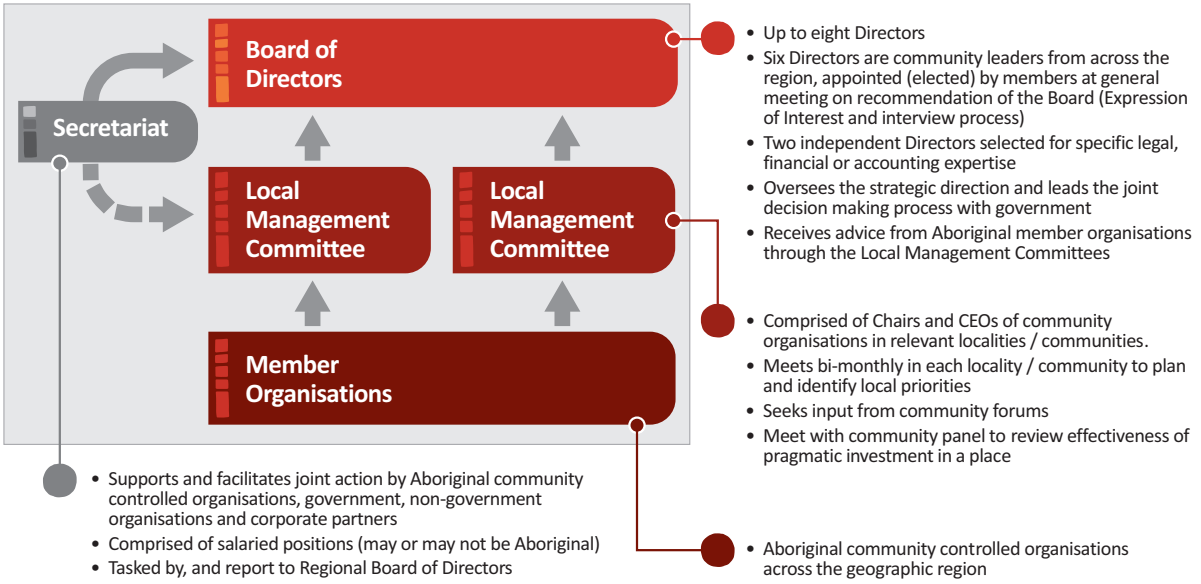


Figure 1.11: Governance structure example 2

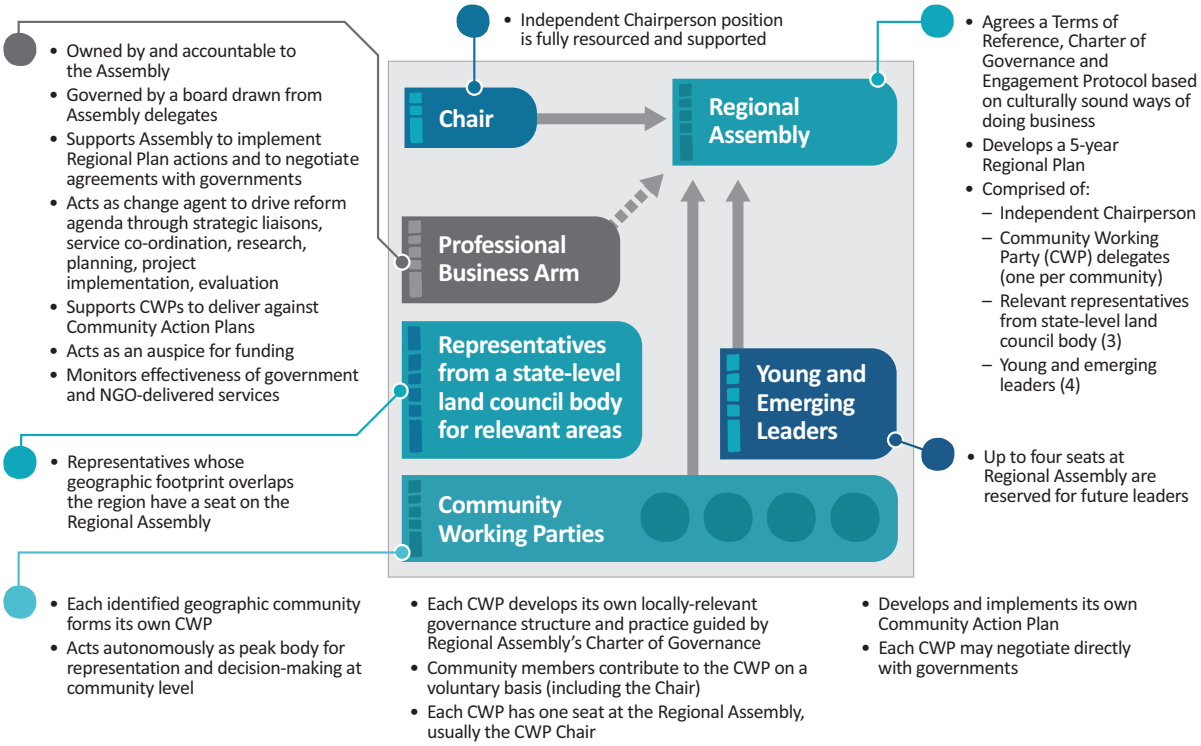


Figure 1.12: Governance structure example 3

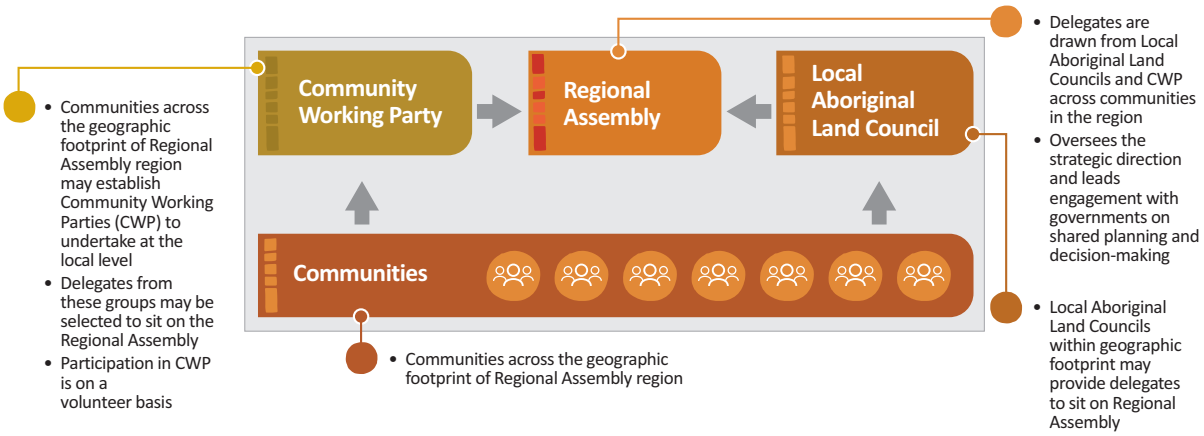


Figure 1.13: Governance structure example 4

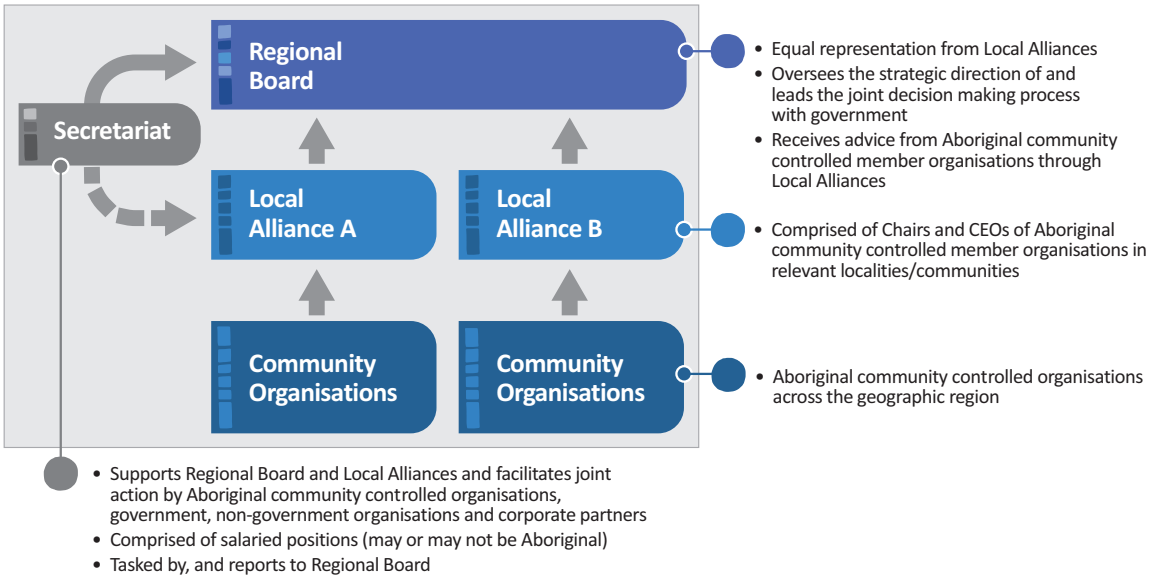


Figure 1.14: Governance structure example 5

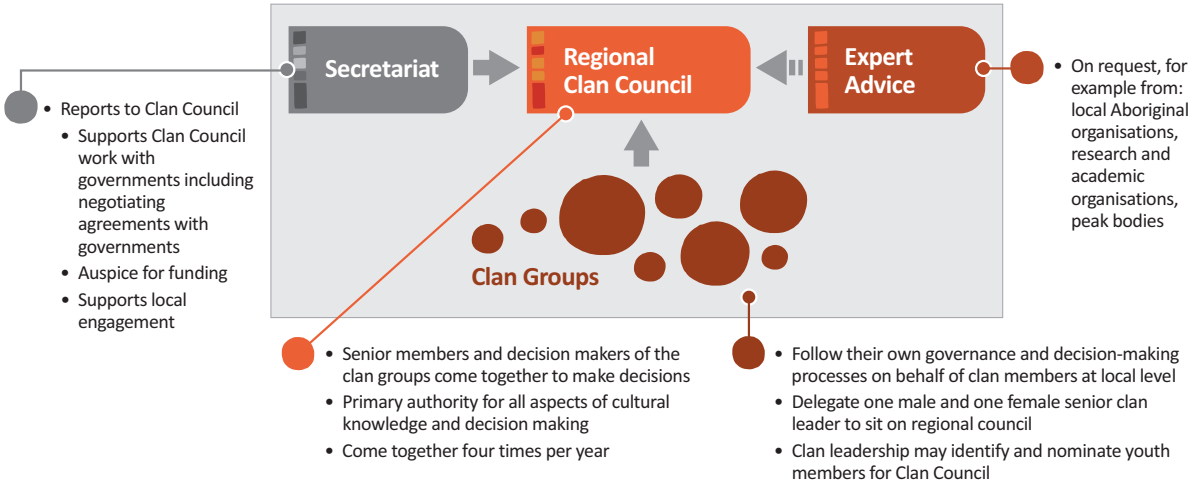
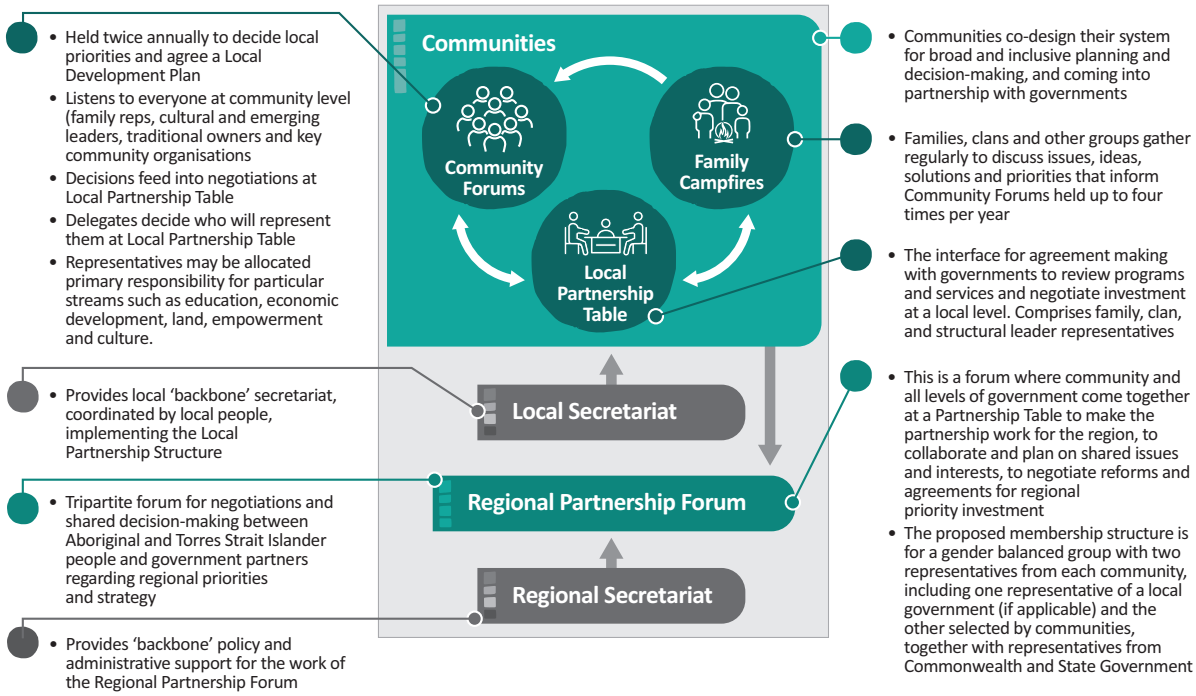


Figure 1.15: Governance structure example 6



1.17 Outline for a Local & Regional Voice implementation toolkit

Implementation toolkit outline

Overarching guiding documents

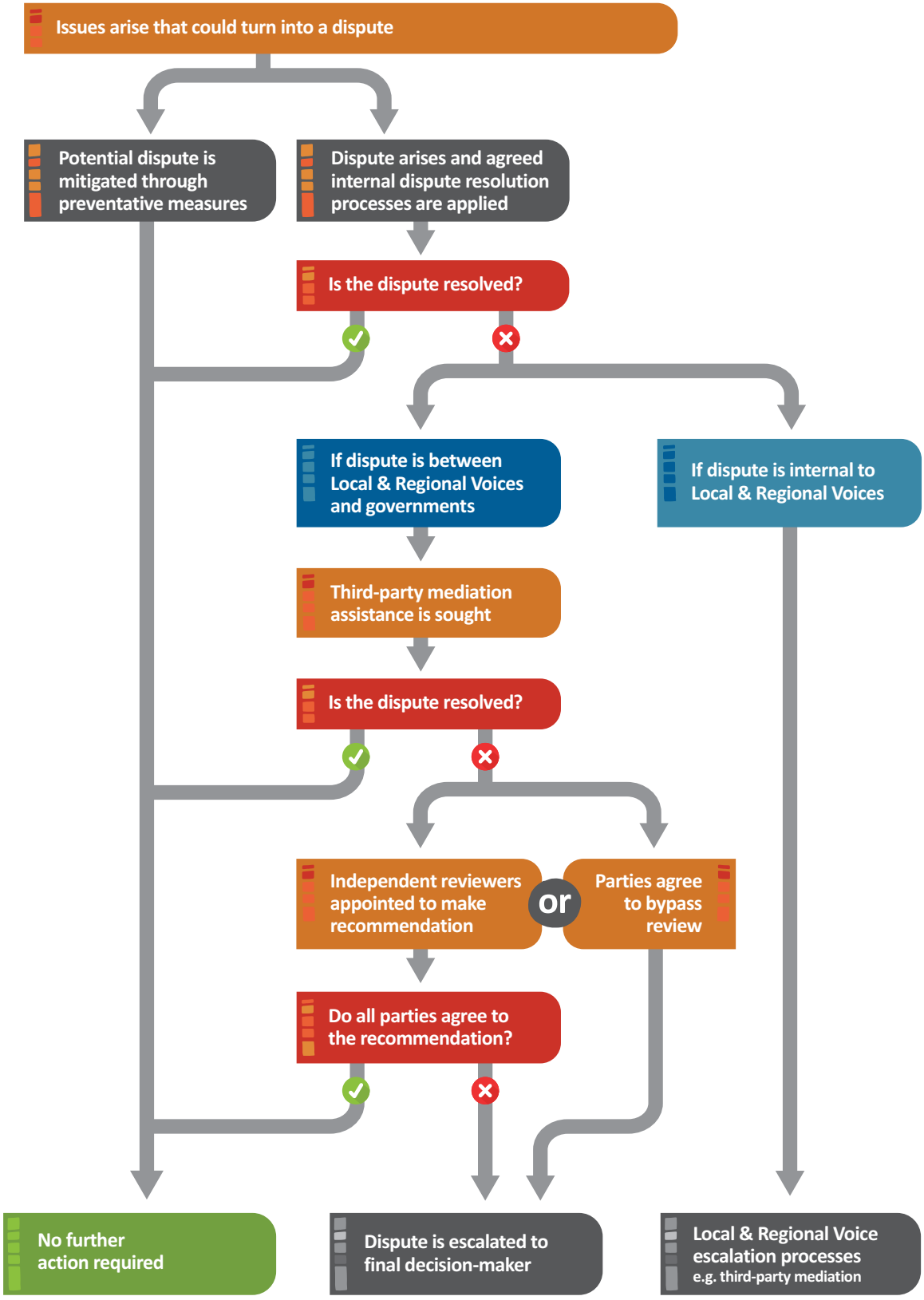
- Local & Regional Voice Framework
- Purpose, scope and principles
- Governance structures:
  - roles and functions (including transitional groups)
  - composition (e.g., guidance and examples in respect of the *Inclusive Participation* principle, including gender and age inclusivity)
  - local to regional connections
  - examples/case studies
- Partnership interface to include:
  - examples of the partnership interface
  - examples of supporting protocols
- Recognition process:
  - minimum expectations/assessment criteria
- Regional boundaries (once determined):
  - set out relevant cultural areas, LGA areas and communities
- Dispute resolution processes
- Member eligibility and mechanisms for removing members
- Member numbers/size of local and regional bodies
- Nomination/selection process and length of terms
- Legal form of Local & Regional Voices

General guidance, examples and resources

- Code of conduct/ethics
- Conflict of interest procedures
- 'Fit and proper' person checks
- Decision-making process (internal to Local & Regional Voices)
- Dispute resolution and complaints management
- Communication and engagement
- Monitoring, reporting and evaluation

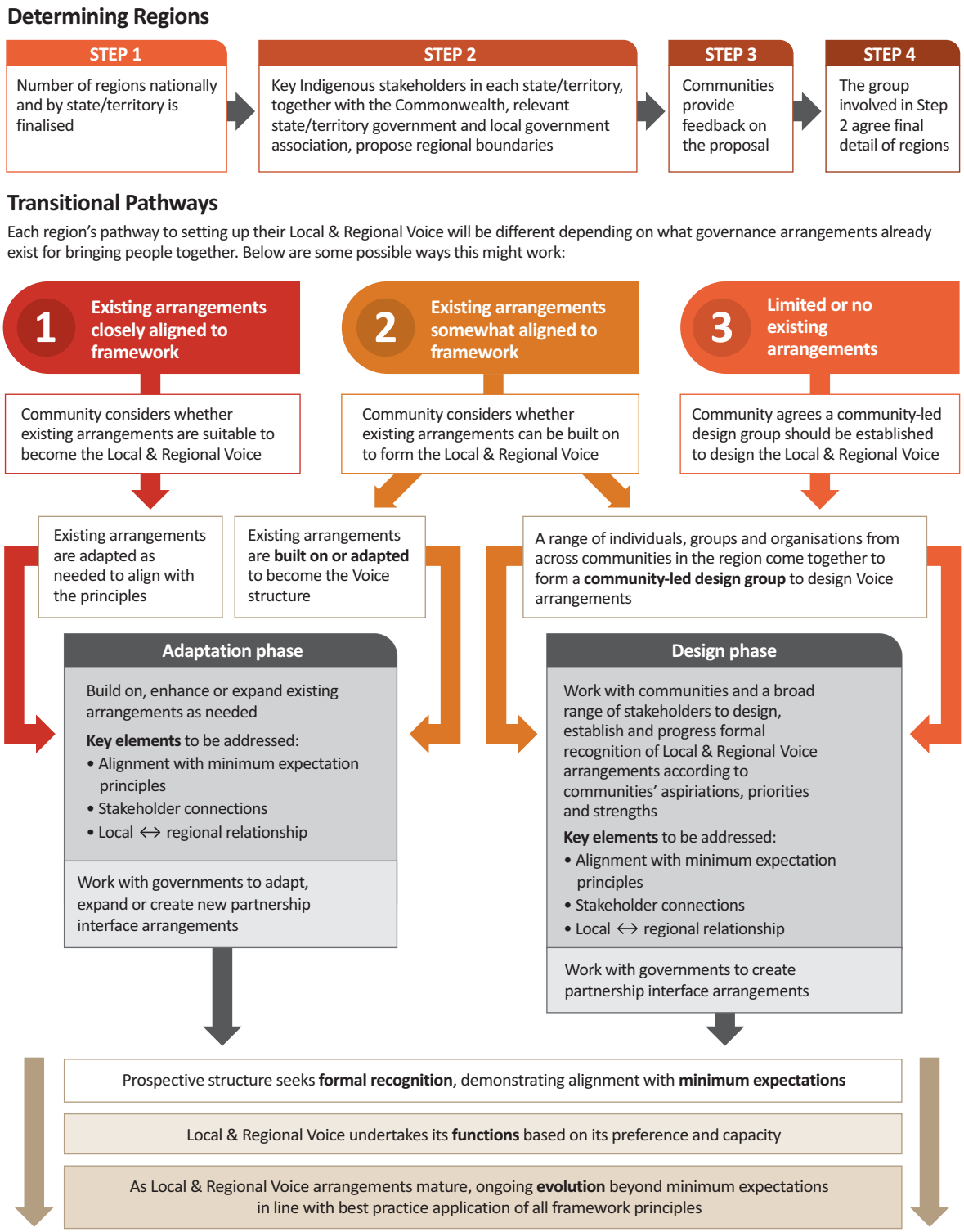
1.18 Dispute resolution process

Figure 1.16: Dispute resolution process flowchart



1.19 Implementation flowchart and scenarios

Figure 1.17: Implementation flowchart



Scenario 1: Urban area in NSW with mature existing arrangements

- This is a primarily urban area in NSW with almost 6 million residents, of which approximately 1.5 per cent or close to 90,000 people are Aboriginal and Torres Strait Islander people.
- There are multiple traditional owner groups within the region, and it is home to a large number of non-traditional owner residents with longstanding ties to communities within the region.
- Though no overarching arrangements cover the entire region, there are governance structures and partnership arrangements specific to 2 NSW Local Decision Making sites and one Empowered Communities site covering some communities within the region. These arrangements involve shared decision-making and priority setting with either the NSW Government (in the Local Decision Making sites) or the Australian Government (in the Empowered Communities site).
- There are also hundreds of Aboriginal and Torres Strait Islander community groups and organisations across the region, including land councils, service delivery organisations and advisory bodies across a range of sectors.

Establishing a region

- Representatives from key existing state-level Aboriginal and Torres Strait Islander bodies, including the NSW Coalition of Aboriginal Regional Alliances (NCARA), the Coalition of Aboriginal Peak Organisations and other bodies from across NSW as appropriate, will be involved in discussions to design NSW's regional groupings. They will join in discussions with the NSW and Australian governments and possibly Local Government NSW (the NSW peak local government association).
- A broad proposal for regional groupings will be developed based on the overall number of regions for NSW and the key parameters and guidance in the framework.
- This area is likely to form a standalone region for Local & Regional Voice purposes given its high population density, distinct cultural and community groupings and alignment with administrative boundaries.
- The representatives from this area will facilitate conversation on the proposal with their communities using existing local engagement mechanisms where possible. This may involve a round of community forums or targeted discussions with a broad range of key groups.
- The representatives will then take community feedback back to the discussion with governments and Aboriginal and Torres Strait Islander representatives from other areas to inform the final details.

Default starting point and transition approach

- The Aboriginal and Torres Strait Islander governance structures operating in some parts of this region under NSW Local Decision Making and Empowered Communities initiatives are closely aligned to the proposed framework.
- These bodies are at varying stages of maturity. Some have strongly articulated priorities, are engaging in long-term joint planning with governments and have clear links connecting local communities to a 'regional' level established (noting existing 'regions' are smaller than this region will be). Others are developing their approach.
- The region can draw on the experience of these existing arrangements in considering a broader, region-wide approach (starting point 1).
- The existing structures can lead broad engagement across all communities in the region, alongside leaders and community representatives from other parts of the region, to identify how governance should be adapted to design a regional-level approach. This would include considering how to enable all relevant communities, including those not covered by an existing arrangement, to participate equitably in a regional structure, as well as any other shifts required to create an inclusive approach that meets the aspirations of the broader region.
- Resourcing would be required from governments to support this engagement and design. This could include funding a coordinator (embedded in a non-government host organisation) to convene community meetings and facilitate discussion to develop the approach.

Key elements of Local & Regional Voice design, evolution and adaptation

Alignment with the principles

- The existing structures and the communities in this region will consider the shifts needed to become 'fit for purpose' as a broader Local & Regional Voice. This includes considering how alignment with the framework principles can be strengthened.
- As the existing structures currently in broad terms align with the framework's principles, this will focus on ensuring meeting minimum expectations as arrangements expand across the whole region and addressing identified gaps or areas for improvement consistent with the principles.

Connections to other stakeholder groups

- The communities and existing structures will need to consider how best to link all key stakeholder groups across the region to its regional Indigenous Voice arrangements. This would include ACCOs and other service providers, advisory bodies across various sectors, local land councils and traditional owner groups.
- Some of the existing governance structures currently enable local organisations, leaders, elders and individual community members in each participating community to be involved in their work. This occurs through formal means (such as ensuring representation from specific groups) and less formal arrangements (such as encouraging community leaders and members to participate in a panel to undertake shared decision-making with government).
- The learnings from these processes and the suitability of similar arrangements for other communities in the region will be tested with community and key stakeholder groups. This will include considering how well these arrangements are currently operating, how best each group should link in depending on their priorities and functions, and how to involve organisations and community groups from across the region, both those operating locally and those with a regional focus.
- In this process, it will be useful to draw on the expertise of organisations and community members with experience in successfully bringing stakeholder groups together within the region.

Relationship between local communities and their Local & Regional Voice

- The existing governance arrangements operating in some parts of this region allow for the priorities identified by local communities to be captured in regional planning, while enabling local communities to engage directly with government on issues specific to the local area.
- It will be important to include this approach in the design of the broader regional structure to ensure it continues. Though existing arrangements covering smaller areas will feed up to the broader regional level, they will not be dissolved or displaced.
- Consultation with communities will determine how best to ensure effective engagement between local communities and the proposed Local & Regional Voice, including any potential adaptations of the current approaches to tailor to the needs of particular communities.

Partnership interface arrangements

- The negotiation tables and partnership arrangements in some communities in this region would likely provide a starting point for an interface with all levels of government for Local & Regional Voice purposes.
- Some adaptation of these arrangements will be necessary, given the existing structures currently engage primarily with either the NSW or the Australian Government and only cover some specific communities within the broader region.
- This will require governments to work together with the existing governance structures and other communities in the region to coordinate arrangements and find an approach to partnership that can work effectively for all.
- Aligning this region with local government boundaries may assist in facilitating the involvement of relevant local government representatives.

Existing functions

- While the broader Local & Regional Voice governance is being designed, the existing arrangements will continue their functions and work in partnership with governments as usual.

Minimum expectations and recognition of a Local & Regional Voice

- Once designed, the new structure will need to demonstrate its ability to meet the minimum expectations in a way that is appropriate to its context and to be recognised as a Local & Regional Voice.
- Given the array of bodies and organisations in the region and the variety of demographics within it, a particular focus will be ensuring there are opportunities for inclusive participation across all of these groups. This includes cultural leaders and those not currently involved with any Aboriginal and Torres Strait Islander organisations.
- Following community consultation, the prospective structure will engage in a joint assessment process with the NSW and Australian governments to be recognised as a Local & Regional Voice.
- Once formally recognised, the Local & Regional Voice can begin engaging in functions within the scope outlined in the framework, as appropriate to community preferences and capability. In this region, given there is substantial experience across many communities with similar approaches, it may be able to engage in shared decision-making with governments from the outset as well as providing advisory functions. Embedding community engagement mechanisms may take time in the communities without existing approaches for bringing various community stakeholders together.

Scenario 2: Remote area in the NT with some existing arrangements

- This is a large remote area in the NT with a population of around 8,000 people, of which a significant majority, approximately 72 per cent, are Aboriginal and Torres Strait Islander people.
- A formal partnership arrangement is in place between Aboriginal and Torres Strait Islander and non-Indigenous community members in this area and the relevant local government, the NT Government and the Australian Government to oversee a mainstream joint investment plan that aims to improve economic development and social outcomes.
- A governance group is a key community partner in the arrangement, comprising traditional owners and representatives of the main local language groups.

Establishing a region

- This area is likely to form a standalone region for Local & Regional Voice purposes, given its geographical size, population composition and history.
- The existing governance group will be drawn on to provide representatives from this area to be involved in discussions to design NT's regional groupings, alongside representatives of other communities/regions, the NT and Australian governments and possibly the Local Government Association of NT.
- This group of key stakeholders will develop a broad proposal for the NT's regional groupings, based on the overall number of regions for the NT and the key parameters and guidance in the framework.
- The representatives from this area will then use existing community engagement mechanisms to facilitate consultation on this proposal, possibly through a round of community forums that enable broad participation across demographic and language groups.
- The representatives then take the community's feedback back to the discussion with governments to inform the final details.

Default starting point and transition approach

- The existing governance group could provide a starting point to be built on to create a Local & Regional Voice, with some adaptations required to make it fit for purpose (starting point 2).
- As a first step, the group will consult broadly across communities in the region, including with individuals, cultural leaders, groups and organisations, to determine whether the existing group can be used as a starting point for a Local & Regional Voice. If agreed, this consultation process can identify any adaptations needed to bring it in line with community aspirations for how their Local & Regional Voice should operate.
- If community considers substantial adjustments to the governance group or an entirely new structure are required, community members can set up a community-led 'design group' to lead the design of a Local & Regional Voice for the region.
- Resourcing would be required from governments to support this engagement and design. This could include funding a coordinator (embedded in a non-government host organisation) to convene community meetings and facilitate discussion to develop the approach. Once the initial consultations have indicated a way forward, further support can be considered—additional resourcing will likely be required if the region decides a 'design group' should be set up to design new arrangements.

Key elements of Local & Regional Voice design, evolution and adaptation

Alignment with the principles

- As the community and the existing governance structure consider the shifts needed to adapt to make it fit for purpose as a Local & Regional Voice, they will need to ensure its alignment with the framework principles is strengthened.
- A key focus for this region will be achieving the appropriate balance between the *Inclusive Participation* and *Cultural Leadership* principles, as the membership of the current governance group is based on traditional owner groups. It will also be important to ensure there are mechanisms in place to ensure transparency and

accountability to community and that appropriate links are developed with other existing bodies in the region.

Connections to other stakeholder groups

- The existing governance group will need to work with the range of Aboriginal and Torres Strait Islander stakeholder groups in this area to consider how to appropriately connect them to the Local & Regional Voice. This includes local and regional service providers, ACCOs across sectors, local authorities, the relevant land council, prescribed bodies corporate (PBCs) and advisory bodies.

Relationship between local communities and Local & Regional Voice

- The existing governance group includes representatives from each of the main language groups in the region, which ensures it is informed by local perspectives.
- Consultation with community is needed to determine whether this arrangement sufficiently balances *Inclusive Participation* and *Cultural Leadership* principles and provides all local people across the region with a connection to the existing structure. This includes considering whether there are opportunities for people living in all of the communities in the region and individual community members who are not part of the main language groups to be involved, as well as traditional owners and cultural leaders.
- Additional mechanisms may be needed to create clear pathways for local people and communities to engage with governments on local issues directly.

Partnership interface arrangements

- The existing partnership structure is likely to provide a starting point for an interface with governments under the Local & Regional Voice arrangements.
- The existing governance group will collaborate with the local, NT and Australian governments and other local stakeholders to consider how best to leverage the strengths of the existing partnership arrangements and what adaptation is needed to make these 'fit for purpose'.
- Some adaptation of these arrangements is likely to be necessary, given the shift in scope (i.e., it currently relates only to a specific set of initiatives for which investment is already allocated, and it is not an Indigenous-specific arrangement).

Existing functions

- While the Local & Regional Voice arrangements are being designed, the existing governance group can continue its functions and work in partnership with governments as usual.

Minimum expectations and recognition of a Local & Regional Voice

- Once the design is adapted, the governance group will need to demonstrate its ability to meet the minimum expectations in a way that is appropriate to its context to be recognised as a Local & Regional Voice.
- A particular focus will be ensuring the proposed Local & Regional Voice meets and effectively balances the principles of *Inclusive Participation* and *Cultural Leadership* in a way that is appropriate to this region's context, as the governance group's current membership is based on traditional owners and language groups.
- The prospective structure will engage in a joint assessment process with the NT and Australian governments.
- Once formally recognised, Local & Regional Voices can begin engaging in functions within the scope outlined in the framework, as appropriate to community preferences and capability. In this region, given there is substantial recent experience in working in partnership with all levels of government, the Local & Regional Voice may be able to engage in shared decision-making with governments from the outset as well as providing advisory functions. Community engagement mechanisms, particularly with individuals, communities and groups not closely linked to the governance group to date, may take time to develop and be embedded.

Scenario 3: Urban and regional area in WA with limited or no existing regional governance arrangements

- This large urban and regional area in WA has over 50,000 Aboriginal and Torres Strait Islander residents, who comprise approximately 2.5 per cent of the overall population of around 2 million.
- The area does not have an existing governance platform or mechanisms for partnership with governments that can be directly built on or adapted to form a Local & Regional Voice.
- There has been a recent comprehensive land settlement that will involve governance arrangements, which are currently emerging. Ensuring an appropriate connection and a complementary approach between these arrangements and a Local & Regional Voice will be a key design consideration.

Establishing a region

- WA's state-level Aboriginal Advisory Council (AAC), currently undergoing reforms to become an elected representative body at the state level, is likely to be a key Aboriginal group involved in initial discussions with the WA Government and the Australian Government to broadly design the regional groupings for WA, based on the agreed number of regions for WA (subject to becoming an elected body by then). The AAC includes representatives from across different geographic areas of WA, including this area. The WA Local Government Association may also be involved in these discussions.
- The AAC and governments would then consult with communities and stakeholders in each region on the broad proposal.
- The community feedback will inform further discussions between AAC and governments to confirm the final regions and boundaries.
- Given the geographical size, population composition and history of this area, it is likely to form a standalone region for Local & Regional Voice purposes (or a substantial part of a larger region). A key consideration will be whether it is most appropriate to align the regional grouping to the area of the recent land settlement.

Default starting point and transition approach

- As there is no existing governance arrangement in this area, the communities in the region will need to establish a community-led 'design group' as a starting point for designing a Local & Regional Voice (starting point 3).
- Governments will need to play an enabling role to support this process to begin. For example, government will provide resourcing for a coordinator (hosted within a non-government organisation in the region) to convene the community forums and public meetings required to draw a range of community members and relevant organisations together and seek nominations to form the 'design group'.
- The 'design group' will need to involve members from across the wide range of existing Indigenous groups and organisations in the area, including service providers, ACCOs, native title settlement groups, local and regional advisory bodies in various sectors, and the local emerging leadership group. Other local leaders and individual community members not aligned to any existing group or organisation will also need to be included.
- In line with the principles, the 'design group' will be inclusive, reflecting a balance of gender, age, geographic spread and cultural leaders among its membership. This is particularly important for regions like this, where there are no existing arrangements to build on.
- Once it is formed, the 'design group' will begin designing the Local & Regional Voice (key elements for consideration in the design are outlined below).
- It is likely this design process will take considerable time (longer than regions where existing arrangements can be built on or adapted). There will be regular review points (eg., 6 monthly), with government support and resourcing provided to assist.
- The 'design group' will need to demonstrate steady progress, for example, indicating the steps it has taken to develop the design until the Local & Regional Voice is established.

Key elements of Local & Regional Voice design, evolution and adaptation

- To design a Local & Regional Voice for its region, the 'design group' will draw on the perspectives and experience of existing bodies and organisations as well as community members, consider how best to leverage the strengths of the region and its cultural and historical approaches and ensure new arrangements are fit for purpose and align with the framework.

Alignment with the principles

- As it develops up the new structure, the 'design group' will consider how to embed alignment with the principles in its design. It will focus in particular on the *Inclusive Participation*, *Cultural Leadership* and *Transparency and Accountability* principles, which form the basis for the minimum expectations required for recognition as a Local & Regional Voice.

Connections to other stakeholder groups

- The 'design group' will consider how best to link the range of key stakeholders across the region to the new structure, including ACCOs, other service providers, the local land council and native title settlement groups, advisory bodies and the local emerging leadership group. The way each of these bodies links to the Local & Regional Voice will depend on their roles, expertise and priorities.
- For this region, it is particularly important to engage with the groups involved in the recent comprehensive land settlements in the area to ensure the governance arrangements emerging from these are effectively connected to the Local & Regional Voice and that these arrangements are developed to complement each other.

Relationship between local communities and a Local & Regional Voice

- The 'design group' will consider how to ensure local perspectives are included at the regional level by creating pathways for local people and communities to drive engagement and decisions on local issues.
- There may be relevant localised mechanisms for governance or partnership with governments already in place that can support the development of the regional approach.

Leveraging relevant emerging policy directions

- Emerging policy directions at the state level may provide opportunities for the 'design group' to leverage in designing the Local & Regional Voice arrangements, particularly the reform of the AAC to develop a more representative structure for regional engagement and decision-making and the development of an Aboriginal Empowerment Strategy.

Partnership interface arrangements

- While designing and building up the new structure, the 'design group' will also work with governments to start developing partnership interface arrangements. Once the Local & Regional Voice is established, it will continue and finalise this work.
- Given that the concurrent reforms to the AAC focus on regional engagement and decision-making, the 'design group' and then the Local & Regional Voice will likely also be involved in some state-wide engagement related to this region.
- There may be existing government–community engagement mechanisms in some parts of the region that can facilitate these discussions or provide a model that can be adapted to suit the Local & Regional Voice context.

Minimum expectations and recognition of a Local & Regional Voice

- The 'design group' will test the final design of the Local & Regional Voice with all communities and relevant stakeholders in the region to seek their endorsement.
- Once the communities in the region have agreed to a design, the structure can be established. It can then seek formal recognition as the Local & Regional Voice for this region.
- The prospective Local & Regional Voice will engage in a joint assessment process with the WA and Australian governments.
- This will involve the proposed Local & Regional Voice demonstrating how it meets the minimum expectations in a way that is appropriate to this context. Appropriately balancing *Inclusive Participation* with *Cultural Leadership* will likely be a key focus, including in relation to how it links with the structures emerging from the land settlements in this area (noting that it will not encroach on their functions and responsibilities).
- Once formally recognised, the Local & Regional Voice can begin engaging in functions within the scope outlined in the framework, as appropriate to community preferences and capability. In this region, the new Local & Regional Voice may choose to focus initially on building up robust community engagement mechanisms to begin considering the region's strategic priorities and providing advisory functions to government while it embeds its operations, before moving to shared decision-making with governments as the arrangements mature.

1.20 Local & Regional Voice co-design task

The Local & Regional Co-design Group was tasked with articulating effective regional mechanisms for improved local and regional decision-making by Aboriginal and Torres Strait Islander people in partnership with governments. In doing so, the Local & Regional Co-design Group was expected to:

- draw on the existing local and regional decision-making and Indigenous regional governance models and work of the Joint Select Committee
- articulate how existing regional mechanisms and Indigenous governance structures can give effect to the notion of a Local & Regional Voice
- identify options, such as principles and a framework for local and regional decision-making and Aboriginal and Torres Strait Islander regional governance, which could underpin implementation across the country
- consider the effects of the possible future arrangements on the existing regional models and how these could be encompassed within the improved approach.

The Local & Regional Co-design Group is composed wholly of Aboriginal and Torres Strait Islander leaders and experts, with a non-government co-chair and a government co-chair. While many members hold leadership positions in their communities or Aboriginal and Torres Strait Islander organisations, including in the community-controlled sector, they participated in the Local & Regional Co-design Group in a personal capacity. The Local & Regional Co-design Group members bring a substantial body of experience and subject matter expertise.

The Local & Regional Co-design Group met for the first time in March 2020 to start developing a possible framework and guiding principles. The Local & Regional Co-design Group also established working groups to undertake detailed design work on the key elements of the framework. There were 6 full Local & Regional Co-design Group meetings in stage one, and 7 working group meetings on:

- The **framework** (8 April 2020) to consider overall design, including proposed purpose, scope and principles
- **structures and interface** (16 April 2020) to look at Indigenous governance structures and interface with governments
- **regions** (19 June 2020) to consider an approach to determining regions
- **linkages** (20 July and 17 August 2020) to design options for linking Local & Regional Voice with state and territory bodies and the National Voice, alongside members from the Senior Advisory Group and National Co-design Group
- **impact** (24 and 28 July 2020) to analyse the potential impact of the proposed framework on a range of existing arrangements and consider transitional arrangements.

In stage two, many of the Local & Regional Co-design Group members led community consultation sessions around the country. The Local & Regional Co-design Group also further developed policy detail for topics flagged in the Interim Report and considered the feedback from consultations. Members of the group also participated in a working group on transition and implementation that included members from the National Co-design Group and the Senior Advisory Group. There have been 4 full Local & Regional Co-design Group meetings in stage two on:

- **dispute resolution, minimum expectations, recognition process** (12 February 2021) to consider further design details identified in the Interim Report
- **parameters for** key aspects of **governance structures** and an approach to developing **guidance resources** (13 April 2021) to consider further design details identified in the Interim Report
- **consultation feedback** and **stage two policy work** (16 June 2021) to settle key design elements for the final proposal
- **final Local & Regional Voice proposal** (12 July 2021) to consider the relevant draft chapter of the Final Report.

During both co-design stages, there were also several supplementary briefings with members unable to attend meetings to ensure they could continue to contribute to shaping the Local & Regional Co-design Group's thinking.

1.21 References

A key principle of the co-design process is to build on previous work. In addition to their own subject matter knowledge, the development of a framework by the Local & Regional Co-design Group was informed by a number of reports, papers and models, including:

- The Torres Strait Treaty
- ATSIC Review Report, 2003
- Evaluation of the Murdi Paaki COAG Trial, 2006
- Synopsis Review of the COAG Trial Evaluation, 2006
- Implementation Review of Shared Responsibility Agreements: Don't let's lose another good idea, 2007
- Victorian Aboriginal Justice Agreement Outcomes, 2012
- National Partnership Agreement on Remote Service Delivery Evaluation, 2013
- Kanyirninpa Jukurrpa Social Return on Investment Report, 2014
- Empowered People: Empowered Peoples Design Report, 2015
- Development of principles and indicators for successful cross-cultural partnership and collaboration for Aboriginal Affairs, 2016
- Tasmanian Government and Tasmanian Regional Aboriginal Communities Alliance Statement of Intent, 2017
- Literature Review: Principles of Good Governance, 2017
- Local Decision Making— OCHRE Good Governance Guidelines, 2017
- Service Delivery in Queensland's remote and discrete Indigenous Communities, 2017
- Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018
- Interim Report
- Final Report
- Submissions
- South Australia Aboriginal Affairs Action Plan 2019–20
- Aboriginal Advisory Council of WA Charter (refreshed 2019)
- OCHRE Review Report, 2019
- Expenditure on Children in the Northern Territory: Productivity Commission Study Report, 2020
- Indigenous Self Government in Canada
- Assembly of First Nations, Canada
- Department of Health Aboriginal and Torres Strait Islander Health Partnership Forums
- The Australian Indigenous Governance Institute, Indigenous Governance Toolkit
- Office of the Registrar of Indigenous Corporation

Chapter

2

National Voice

2.1 Introduction

For some time, Aboriginal and Torres Strait Islander peoples have been calling for a national-level mechanism to have a greater say in the laws of the Australian Parliament, policies and Australian Government decisions that affect them. The distinct perspectives, aspirations and needs of Aboriginal and Torres Strait Islander peoples need to be heard. Talking with Aboriginal and Torres Strait Islander peoples, listening to their views, valuing their expertise and acting on their advice are all essential to developing effective, productive and fair laws and policies. This is particularly relevant as Aboriginal and Torres Strait Islander peoples are, in practice, the only racial groups in Australia for whom laws are made exclusively. This means the need to have a National Voice is particularly critical.

While feedback during community consultation sessions focused on the need for Local & Regional Voices, there was also strong engagement and almost unanimous support for a National Voice that would complement these. Support for the National Voice was even stronger in submissions, with 95 per cent, or 2,824 submissions, supporting the concept of an Aboriginal and Torres Strait Islander Voice.

In community consultation sessions, Aboriginal and Torres Strait Islander people expressed what they have been saying for a long time: they want a greater say in the policies, laws and decisions of government that affect them and to understand how their voices and those of their communities would be represented on the National Voice.

The key reasons people provided for their support of a National Voice were that structural or systemic approaches were needed to achieve positive and lasting change and to provide a coordinated voice for Aboriginal and Torres Strait Islander peoples, so parliaments and governments have a clear source of advice on highly significant matters at the national level. Another key theme raised was a sense of urgency to realise this reform now and of optimism and hope that the time for the changes they are seeking may have arrived. Some participants expressed a desire to build something to hand down to the next generation, which could help to bring Aboriginal and Torres Strait Islander community voices together while recognising their diversity and unique perspectives.

While recognising the vital role of existing stakeholders, such as community and peak organisations, some participants at community consultation sessions also envisaged that a National Voice could add value to key public policy and program areas affecting Aboriginal and Torres Strait Islander people. For example, housing, the high rates of incarceration, deaths in custody, suicide, the age of criminal responsibility, domestic violence, the National Disability Insurance Scheme, aged care and remote employment programs.

Only a tiny minority of people said there should not be a National Voice. This opposition was mainly expressed through submissions from a campaign of considerably similar submissions, as well as other individual submissions, such as the submission from the Institute of Public Affairs[17] rather than many divergent opposing views. In total, only 2 per cent of all submissions (74 submissions[18]) that had expressed a view on a National Voice were opposed to its establishment.

In community consultation sessions, attended overwhelmingly by Aboriginal and Torres Strait Islander people, a limited number of participants across a very small number of sessions were not supportive of a National Voice. Where this was raised, one person was concerned a National Voice would centralise power away from local communities, and a few people expressed concern that the breadth of issues would be too diverse for a single national body to engage with. Overwhelmingly, however, there was an expectation that members of a National Voice would consider how essential policy matters affected all Aboriginal and Torres Strait Islander people at the national level, in addition to linking into Local & Regional Voices.

The Australian Government has been committed for some time now to 'doing things with, not to', Aboriginal and Torres Strait Islander peoples. A National Voice would provide a formalised way to do this, and its establishment would be a clear demonstration of the Government's intent to work in this way. The National Voice would represent a positive turning point for the relationship between Aboriginal and Torres Strait Islander peoples and the Australian Parliament and Government.

[17] Submissions by Institute of Public Affairs, March 2021, p. 2.

[18] Of these, 7 were from people identifying as Aboriginal and/or Torres Strait Islander. 60 people identified as non-Indigenous, and a further 7 did not provide this information.

'A National Voice is no less vital than Local and Regional Voices. Government must be able to work in partnership with a National Voice directly affiliated to and connected with local and regional voices. The National Voice must enable the independent voices of Indigenous Australians to be heard across the country by the Australian Government and its parliament—through providing a direct link to the experience, understanding, and agency of Indigenous Australians from regional and local communities.'

– Empowered Communities, submission, March 2021

Participants agreed that having the National Voice was a great opportunity. It was felt that there needed to be some action, so Aboriginal people are not talking about the same things in another 30 years.

– Coober Pedy community consultation session summary, May 2021

Some participants felt the proposals were an opportunity for change and greater autonomy:

'We need to change the paradigm. This is the time for our voices to be heard. Indigenous people have spent too long in the back seat, and we want to be in the front seat'.

– Angurugu community consultation session summary, April 2021

In relation to why a National Voice was needed, one participant noted that a collective voice to provide advice on systemic issues could make a difference. Currently, they felt people were able to ignore the views of individual communities.

– Toowoomba community consultation session summary, March 2021

Participants saw the Indigenous Voice as a new opportunity for Aboriginal and Torres Strait Islander people to amplify their voices and shape the future. They felt that this was an opportunity the community needed to make the most of.

– Wagga Wagga community consultation session summary, March 2021

One participant felt the Voice represents a chance for unity as there is a lot of division in Aboriginal and Torres Strait Islander communities across Australia.

– Campbelltown community consultation session summary, March 2021

Participants expressed frustration at a sense of not being able to effectively raise issues under existing arrangements. Participants felt decision-makers needed to listen to people on the ground and feed solutions back to communities 'in our language about what it means to us'. Participants also reflected on past government policies. One participant felt 'we're getting old, and everything is still the same.'

– Katherine community consultation session summary, April 2021

'We can talk about the past but we're here now. We're at cross roads, it's about justice, we need to get this across the line.'

– Melbourne community consultation session summary, April 2021

'We're singing out for help and arguing for change. If a Voice was set up it would be very good for us. We all want the best for our people. We want to make sure that our voice travels far. We don't like to beat around the bush. At the moment, we don't know where our voice goes. Even if this takes time, we want to see it happen.'

– Maningrida community consultation session summary, May 2021

'This won't be something we get right straight away. This is something that is not new, it is something we've been wanting for a long time. If we don't try, if we don't stand up, all is lost. This is about the greater good for Aboriginal and Torres Strait Islander people. This is about change, and this happens over generations.'

– Cairns community consultation session summary, April 2021

Some participants talked about how consultation processes require them to provide the same advice again and again. Some participants reflected on past policies that have divided Aboriginal people and emphasised the importance of being united.

– Mildura community consultation session summary, March 2021

2.2 Key features

The National Co-design Group was tasked with developing proposals for a National Voice. Following consideration of the consultation feedback, the National Co-design Group agreed on the following key features for the proposed National Voice to be put to the Government for consideration. This chapter outlines the final proposals and explains each element and its rationale. The National Voice proposals address a range of elements, including functions, membership and structure and how it could be set up. The proposals ensure a National Voice can be both informed by and connect with Local & Regional Voices.

Membership and structure

- Boundaries for the determination of National Voice members would be the state and territory boundaries, with a separate Torres Strait Islands region.[19]
- The National Voice membership would be structurally linked to the Local & Regional Voices by the Local & Regional Voices within each jurisdiction collectively selecting National Voice members.
  - Secondary options under this model may be used if Aboriginal and Torres Strait Islander people of the relevant jurisdiction agree. An election or expression of interest process may still be held for a jurisdiction if Aboriginal and Torres Strait Islander people in those areas prefer. This decision would be made with the relevant Local & Regional Voices.
- The National Voice would consist of 24 members with gender balance structurally guaranteed.
  - The base membership model provides for 2 members from each state, the NT, ACT and the Torres Strait.
  - A further 5 members would represent remote areas due to the unique needs of those regions—one member from each of the NT, WA, Qld, SA and NSW. These members would be selected by the Local & Regional Voices covering the remote areas of these jurisdictions. These jurisdictions account for the largest share of the remote and very remote Aboriginal and Torres Strait Islander population.
  - An additional member would represent Torres Strait Islanders living on the mainland. This recognises the significant Torres Strait Islander mainland population, who have a distinct culture, experience a unique set of factors and lack representation. This member would be chosen by Torres Strait Islanders who reside outside the Torres Strait Region.
- There is an option for 2 additional members jointly appointed between the National Voice members and the Minister for Indigenous Australians.
- Members would serve 4-year terms. These terms would be staggered, with half the membership determined every 2 years to ensure continuity. There would be a limit of 2 consecutive terms per member.
- There would be a small Ethics Council, to provide advice to the National Voice on the eligibility of prospective members and probity and governance issues relating to current members.

[19] The boundary for the Torres Strait would align with the boundary used by the Torres Strait Regional Authority. These include all Torres Strait Islands, including those with Aboriginal populations, and 2 predominantly Torres Strait Islander communities in the Northern Peninsula Area, Bamaga and Seisia.

Functions

- The National Voice would be an advisory body to the Australian Parliament and Government. These relationships would be two-way interactions, with either party able to initiate advice or commence discussion around relevant policy matters.
- The National Voice would provide advice on behalf of Aboriginal and Torres Strait Islander peoples to ensure their diverse perspectives are considered in crucial areas of legislation and policy development.
- Advice from the National Voice would be on matters of national significance to Aboriginal and Torres Strait Islander peoples, relating to the social, spiritual and economic wellbeing of Aboriginal and Torres Strait Islander peoples.
- The National Voice would work effectively with other bodies and stakeholders and draw on relevant expertise to inform the development of its advice.
- As well as the structural connection to Local & Regional Voices, the National Voice would be further connected through a formal two-way advice link on national matters.
- The National Voice would not have a service delivery function or manage Australian Government funding or programs.

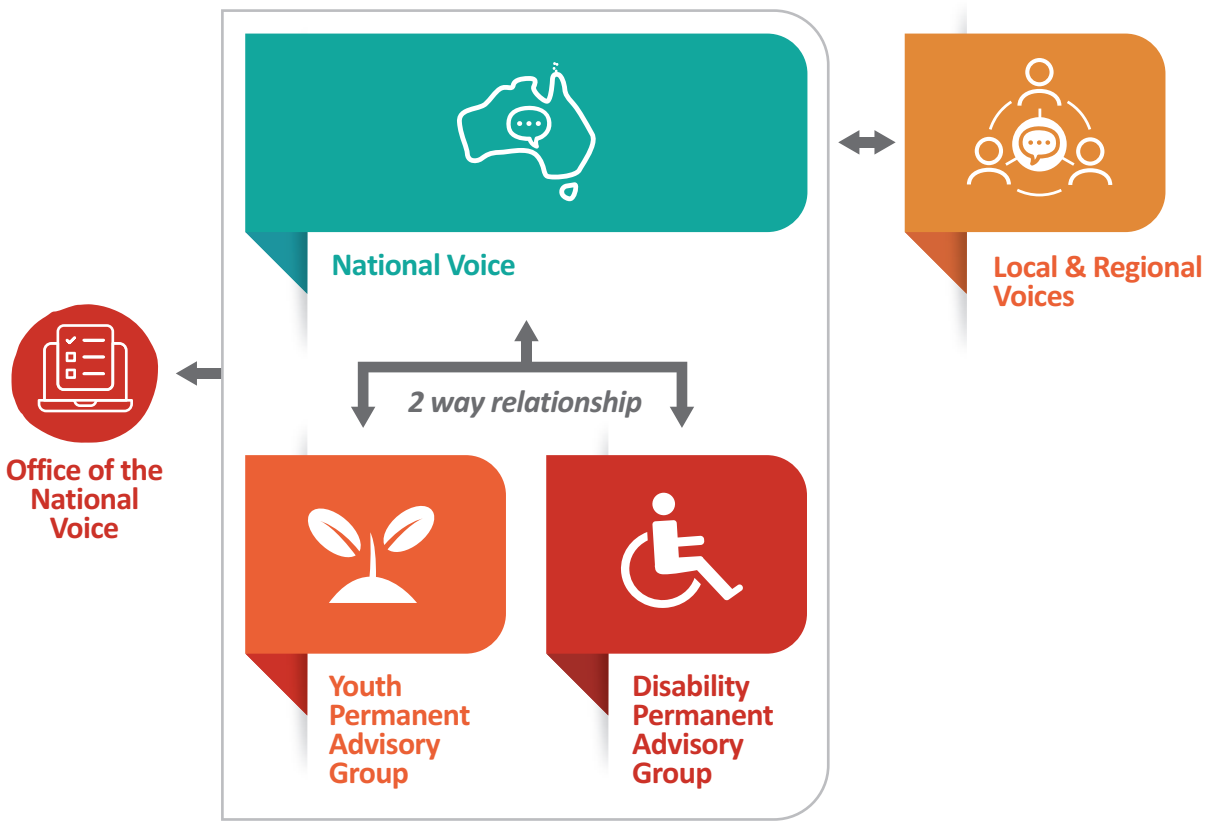
Parliament and Government

- There would be a set of consultation standards providing guidance on when, how and on what types of matters the National Voice should be consulted by the Australian Parliament and Government:
  - an 'obligation to consult' the National Voice on a defined and limited set of laws
  - an 'expectation to consult' the National Voice on a wider group of policies and laws based on a set of principles
  - standards for how consultation should be conducted.
- A set of complementary transparency mechanisms situated in Parliament would provide for public accountability and the ability for the National Voice to be heard. These are based on existing parliamentary mechanisms and practices already in use:
  - a statement on all bills explaining whether the National Voice was consulted and, if so, what advice was provided
  - the tabling of formal advice of the National Voice in Parliament
  - a parliamentary committee relating to the National Voice would enable parliamentarians to hear directly from the National Voice or to gain further insight into tabled advice and could consider engagement with the National Voice.
- The compliance of the Australian Parliament and Government with these elements could not be challenged in a court. The aim would be to support and not disrupt effective legislative and policy processes. The National Voice would have no power to veto laws made by the Parliament or decisions made by the Australian Government.

Corporate form

- The National Voice would be supported by its own Office of the National Voice.
- The National Voice and its Office would be an independent corporate Commonwealth entity established by legislation.

Figure 2.1: Corporate form



Overview of design considerations

The National Co-design Group has taken a pragmatic approach to the design of the National Voice proposal. A key element of the National Co-design Group's work was to build on previous structures and approaches rather than to start with a clean slate. In addition to their subject matter knowledge, National Co-design Group members drew on several reports (see section 2.13) and undertook extensive consultation and engagement to develop the proposals. In particular, they adopted the design principles from the Final Report of the Joint Select Committee[20] (see Executive Summary). The National Co-design Group did not revisit the policy arguments for the National Voice, as this has been extensively covered elsewhere. The Australian Government accepted the recommendation of the Joint Select Committee to co-design an Indigenous Voice, and the task of the National Co-design Group was to undertake that work.

One of the significant considerations for the National Co-design Group was how to fairly determine the membership of a National Voice, balancing multiple factors, including appropriate representation of cultural and demographic groups and geographic representation, with size, functionality and consideration for the vital and larger role of the Local & Regional Voices.

[20] Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, Final Report, 2018, Box 2.1 Principles for the design of the Indigenous Voice.

Options considered included:

- membership drawn directly from smaller geographical regions noting this would create a much larger membership base, particularly if each region had representatives from different genders
- members drawn from groupings of regions
- members from states and territories
- number of members proportional to the population of the regions, noting that some regions would only be allocated a small number of members for a large geographic area, and east coast regions would dominate numbers
- representation of urban, regional and remote regions, noting that there is a greater disparity in socio-economic indicators for remote and very remote regions, and a small number of members would likely result in urban-based members
- member seats reserved for particular groups, such as different genders, youth, people with disability and traditional owners
- members appointed by the Australian Government.

Another important consideration for the National Co-design Group was the functions and scope of advice for the National Voice and how best to design and structure the advisory and representation role. The National Co-design Group considered options on elements such as:

- The scope of advice: broad, unrestricted scope on legislation and policy and a proactive role in providing advice, compared with a narrow scope restricted to only legislation.
- The requirements of the Australian Parliament and Government to engage with the National Voice: the scope ranging from an obligation to consult, to an expectation to consult only, or a mixture of both.
- How to harness and access expertise to inform the National Voice's development of formal advice on legislation and policy development.

The National Co-design Group agreed on key design elements in addition to the Joint Select Committee principles to be included in the proposal for the National Voice. The key design elements were:

- National Voice members must be chosen by Aboriginal and Torres Strait Islander people, and all Aboriginal and Torres Strait Islander people must have the opportunity to participate and become a member of the National Voice.
- Membership of the National Voice should be as small as practicable to ensure the maximum workability and flexibility of the body.
- The National Voice must be formally linked to the Local & Regional Voices (noting the crucial larger role of the Local & Regional Voices), which are not subordinate to the National Voice.
- The National Voice should be able to advise on any matters of particular significance to Aboriginal and Torres Strait Islander people.
- Gender balance must be structurally guaranteed in the membership, and Aboriginal and Torres Strait Islander youth and people with disability must be represented.

2.3 Membership model

Final proposal

The National Voice would use Core Model 1 (Membership Structurally Linked to Local & Regional Voices) for the membership model.

Interim Report

In the Interim Report, the National Co-design Group proposed 2 alternate core models—the Structural Membership Link model (Core Model 1) described above and Direct Election (Core Model 2).

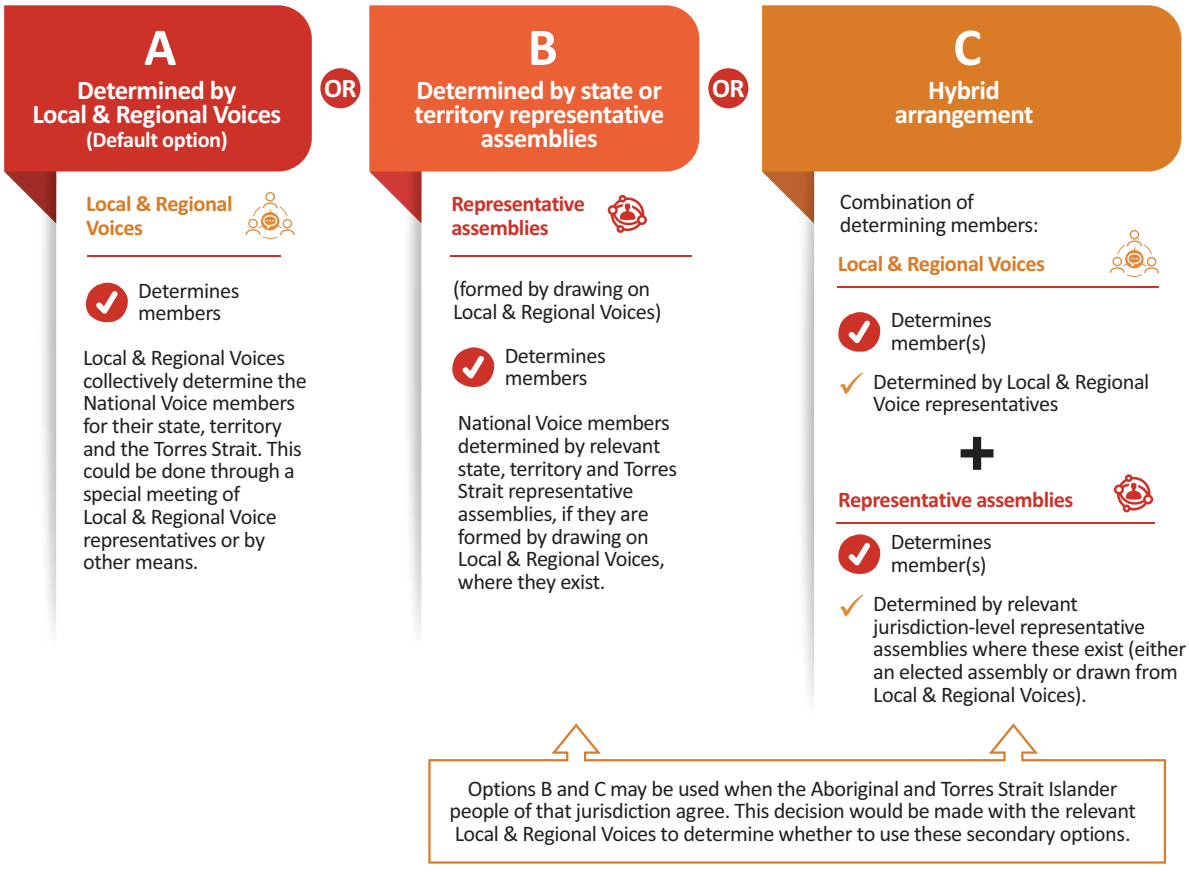
Core Model 2 proposed that membership would be determined by direct election of National Voice members from every state, territory and the Torres Strait Islands, or potentially drawn from state, territory and Torres Strait Islands representative assemblies, where they exist. In Core Model 2, there would be no direct role for Local & Regional Voices in determining National Voice members.

Rationale

Core Model 1 gives Local & Regional Voices and the Aboriginal and Torres Strait Islander people in a jurisdiction flexibility to determine the best approach to determining their own National Voice members. This includes an election method if that is determined to be the best approach by the relevant Local & Regional Voices within the jurisdiction.

Core Model 1: Membership structurally linked to Local & Regional Voice

Figure 2.2: Core Model 1: Membership structurally linked to Local & Regional Voice



2.3.1 Context

The way members are determined is an important consideration. For a National Voice to have legitimacy, its members:

- must be determined by Aboriginal and Torres Strait Islander people
- must be linked through to local communities.

The process for determining members should be both simple to understand and flexible enough to enable the Local & Regional Voices in a jurisdiction to determine the most suitable pathways for them, including an election method.

Further, the idea that members of a National Voice should be chosen by Aboriginal and Torres Strait Islander people, rather than by the Australian Parliament or Government, was recognised by the National Co-design Group as a fundamental principle of the National Voice and strongly reflected in feedback received during the consultation process.

Of the 2 options presented in the Interim Report, the National Co-design Group held a strong view that Core Model 1 better satisfied the requirements for simplicity and flexibility as well as the empowerment of Aboriginal and Torres Strait Islander people to choose their National Voice members in ways determined by them. The feedback received during the consultation solidified the National Co-design Group's strong consensus that the benefits of Core Model 1 outweigh those of Core Model 2.

Core Model 1 draws on the strengths of Local & Regional Voices, which would be developed under the principles-based framework, including the prinicples of *Inclusive Participation* and *Cultural Leadership*, and consequently would build a stronger connection between the National Voice and communities. The model also provides flexibility to adapt to the different representative landscapes across the states and territories.

The possible variations in methods that could be used by Local & Regional Voices mean members for a National Voice under Core Model 1 could be chosen in different ways between states and territories to suit each jurisdiction.

There is greater flexibility in Core Model 1, which provides the opportunity for the involvement of jurisdiction-level Aboriginal and Torres Strait Islander representative assemblies, where they exist, or elections if all Local & Regional Voices within a jurisdiction prefer. As Core Model 1 requires a structural membership link to the Local & Regional Voices, where a secondary option for selecting National Voice members is considered, the decision whether to use a secondary option would be made with the relevant Local & Regional Voices.

Core Model 1 received substantial support through most community consultation sessions, submissions and surveys for several reasons, including:[21]

- embedding a stronger link between the National Voice and Local & Regional Voices, leading to stronger accountability of the National Voice back to Aboriginal and Torres Strait Islander people and communities[22]
- the ability to ensure greater diversity of Aboriginal and Torres Strait Islander people being involved at the national level (including through the principles-based framework requirement that Local & Regional Voices apply *Inclusive Participation* as a minimum standard)[23]
- increased legitimacy by enabling members to be drawn from existing organisations that were created by Aboriginal and Torres Strait Islander people for Aboriginal and Torres Strait Islander people[24]
- National Voice members being familiar with their communities and relevant organisations, and regional issues and priorities[25]
- the flexibility the model gives to regions to determine the best selection method for them, including hybrid arrangements.[26]

[21] Broad support was expressed in community consultation sessions, including in Campbelltown, Central Coast, Mt Druitt, Perth, Port Hedland, Yarrabah, Ceduna, Angurugu, Alice Springs and Maningrida.

[22] Community consultation session in Yarrabah, April 2021. Submissions including from Reconciliation Tasmania, March 2021, p. 5.

[23] Submission by Mary Waterford AM, February 2021; Submission by AIATSIS, May 2021, p. 6.

[24] Submission by Paris McNeil, February 2021, pp. 6–7.

[25] Campbelltown, March 2021.

[26] Submission by Paul Dobing, March 2021, p. 2.

While Core Model 2 received some support during the consultation process,[27] many concerns were shared by a considerable majority around the possible limitations and disadvantages of direct elections, which were perceived to threaten the legitimacy of the National Voice if Aboriginal and Torres Strait Islander people in a jurisdiction do not prefer elections over the other processes covered by Core Model 1. Concerns raised at community consultation sessions and in submissions and surveys included:

- weakening the link between the National Voice members and Local & Regional Voices (and therefore reducing the accountability of the National Voice to Local & Regional Voices)[28]
- issues around eligibility to be a National Voice member being likelier to arise and recur in the context of elections[29]
- issues around eligibility to vote, particularly with regard to confirming indigeneity, which has historically been divisive in some communities[30]
- if there is consistent low voter turnout, then this could affect the legitimacy and authority of the National Voice[31]
- historical trends of under-enrolment of Aboriginal and Torres Strait Islander people to vote, particularly in remote areas[32]
- the risk that election results may be dominated by known, well-resourced metropolitan-based candidates or candidates with large networks, to the disadvantage of community candidates[33]
- the inability of the model to ensure diversity of members[34]
- the high cost of elections, and difficulties resourcing elections in remote areas.[35]

The National Co-design Group looked to recommend a model that could provide both simplicity and flexibility. While Core Model 1 could initially be perceived as more complex, in essence, it has been designed to draw membership from the Local & Regional Voices with inherent authority and legitimacy under the principles-based framework and in ways that suit the Aboriginal and Torres Strait Islander people in each state, territory and the Torres Strait. This should make the model both simple and flexible in practice. On the other hand, Core Model 2, while on first glance is simple to understand, is considerably less flexible because it imposes a blanket process of direct elections across the country regardless of the existing structures and cultural leadership already in place. In recommending Core Model 1, the National Co-design Group noted that a jurisdiction could nevertheless opt to select members by election if the Local & Regional Voices and Aboriginal and Torres Strait Islander population prefer.

'The "Structural Membership Link" is preferred of the 2 options described … It is felt that by having local/regional representatives empowered to speak on behalf of the communities they have been nominated to represent at the national-level will build and promote strength and confidence, both in individuals and the communities they advocate for.'

– Yamatji Marlpa Aboriginal Corporation, submission, April 2021

[27] There was a minority of support for Model 2 in community consultation sessions in Coffs Harbour, March 2021, and Canberra, March 2021. There was also support in a small number of submissions, including from the National Tertiary Education Union—Aboriginal and Torres Strait Islander Policy Committee, April 2021 and Indigenous Peoples Organisation, Australia, May 2021.

[28] Including in community consultation sessions in Alice Springs, May 2021; Campbelltown, March 2021; and Ceduna, April 2021.

[29] Including in community consultation session in Toowoomba, March 2021. Submission from Dr Dani Larkin, March 2021, p. 6.

[30] Including in submissions from Dr Dani Larkin, March 2021, p. 6; and Reconciliation Tasmania, March 2021, p. 4.

[31] Including in community consultation sessions in Inner Sydney, February 2021; Campbelltown, March 2021; Wagga Wagga, March 2021; Coffs Harbour, March 2021; Canberra, March 2021; Perth, April 2021; Ceduna, April 2021; Katherine, April; Central Coast, April 2021; and Tennant Creek, May 2021. Submission from Dr Dani Larkin, March 2021, p. 6. Submissions including from Reconciliation Tasmania, March 2021, p. 4.

[32] Including in community consultation sessions in Coffs Harbour, March 2021; Perth, April 2021; Ceduna, April 2021; and Alice Springs, May 2021.

[33] Including in community consultation sessions in Inner Sydney, February 2021; Campbelltown, March 2021; Mt Druitt, March 2021; Wagga Wagga, March 2021; Broken Hill, March 2021; Ceduna, April 2021; Tennant Creek, May 2021; and Alice Springs, May 2021.

[34] Including in a community consultation session in Brisbane, March 2021.

[35] Including in community consultation sessions in Alice Springs, 2021, and Geraldton, May 2021.

'[Core Model 1 (Structurally Linked Membership)] is more likely to avoid the difficulties of issues such as Aboriginality, entitlement to vote and low voter turnout that may limit participation and so afflict the "Direct Election" model.'

– Reconciliation Tasmania, submission, March 2021

'For the Empowered Communities regions, the structural membership link model proposed in the Interim Report is considered far superior to a direct election method to select members of a National Voice and support local and regional empowerment … The direct membership link also embeds the mechanism for ongoing, two-way communication and informed decision making … [and] ensures the National Voice has the legitimacy and the usefulness of being directly connected to empowering Indigenous governance arrangements at the local and regional level. Direct connection to Local and Regional Voices ensures the National Voice is drawing from the fact that the Aboriginal and Torres Strait Islander population of each region will determine for themselves how cultural leadership and traditional decision making structures are reflected at this level, in line with the principles-based framework.'

– Empowered Communities, submission, March 2021

'[Core Model 1 (Structurally Linked Membership)] is more likely to ensure the diversity of Aboriginal and Torres Strait Islander communities are represented at the national level. This structure would also preserve a critical link to existing governance arrangements … and help build legitimacy at the national level.'

– AIATSIS, submission, May 2021

It was noted that under an election model, smaller communities could be overwhelmed by the numbers of larger communities.

– Moree community consultation session summary, March 2021

It was noted that larger family groups would dominate elections and smaller family groups would struggle to participate or be elected.

– Inner Sydney community consultation session summary, February 2021

Participants felt the direct election model to selecting National Voice members may not be effective in terms of enabling broad engagement and legitimacy for the National Voice owing to the considerable under-enrolment of Aboriginal and Torres Strait Islander people in remote communities, and the lack of services in these communities to enable easy access to voting booths, mail delivery and other election services.

– Alice Springs community consultation session summary, May 2021

'The risk of [the direct election] model is that elected individuals may not have a strong relationship with existing local and regional structures or a vested interest in maintaining communication with and seeking advice from local structures, which may affect the legitimacy of the National Voice. Additionally, this model involves a very detailed and potentially overly manufactured process for the election of 2 people on an advisory body.'

– National Native Title Council, submission, April 2021

'Direct election … is a bad idea because it is likely to provide the wider public with grounds for doubting the legitimacy of the Voice.'

– Professor Tim Rowse, submission, February 2021

'A direct election model is likely to produce a set of parallel institutions (Local and Regional Voices, and a structurally separate National Voice) that would likely fall into conflict and competition for resources and attention. Members of the National Voice would face incentives to serve their jurisdictional electoral constituency rather than the voices of the regional bodies. In contrast, members of a National Voice … drawn from local and regional bodies would have an incentive to attend to the concerns of those bodies.'

– Dr Francis Markham, Centre for Aboriginal Economic Policy Research (CAEPR), Australian National University (ANU), submission, April 2021

2.4 Membership structure

The National Co-design Group considered a number of factors in determining the membership for the National Voice. These include balancing the number of members with:

- functions of the National Voice and ensuring the National Voice is established at a workable size
- representation of particular groups, such as different genders, youth, people with disability and traditional owners
- geographic considerations and connection to community, including need[32] and the relationship with Aboriginal and Torres Strait Islander cultural authority groups
- fairness of distribution and allocation of member numbers across the regions.

2.4.1 Core membership number

Final proposal

The National Voice would be comprised of 24 members, with 2 drawn from each of the states and territories, 2 from the Torres Strait Islands, 5 additional remote representatives drawn from the Northern Territory, Western Australia, Queensland, South Australia and New South Wales, and one member representing Torres Strait Islanders on the mainland.

All members would be on an equal footing with each other and perform the same functions.

Having 5 additional remote membership positions is not intended to exclude jurisdictions from having more than one member from a remote area at any one time. The member representing mainland Torres Strait Islanders does not preclude Torres Strait Islanders from being determined for other mainland member positions.

Interim Report

In the Interim Report, the National Co-design Group proposed the National Voice having 16 or 18 members as 2 options for consideration during consultation.

The first option, 16 members, was proposed to be drawn from states and territories and the Torres Strait Islands, with each state and the NT having 2 members each (gender balanced), and ACT and the Torres Strait Islands having one member each.

The second option, 18 members, was proposed to be drawn from states and territories and the Torres Strait Islands, with each jurisdiction having 2 members (gender balanced).

Rationale

The final proposal builds on the second option of 18 members, by including 5 additional members for remote representation and one additional member for Torres Strait Islanders living on the mainland.

The composition of members needs to be reflective of the fact that the National Voice is not intended to be a proportionally representative body but rather a policy and advisory body representing the diverse perspectives of Aboriginal and Torres Strait Islander people.

This is to ensure:

- gender balance in the membership
- a diversity of perspectives from across the country to inform the National Voice's consideration of national matters and policy
- where jurisdictions have substantial populations of Aboriginal and Torres Strait Islander people living in remote or very remote areas, the unique voices from these populations are heard
- the size of the National Voice is both effective and workable and enables it to make informed decisions.

Context

In determining the final proposal, the National Co-design Group considered responses to the proposals in the Interim Report, as well as other suggestions put forward during consultation.

In weighing up the various options, the National Co-design Group noted the National Voice is intended to be a policy and advisory body rather than a proportionally representative body, but still needs to reflect the diversity of Aboriginal and Torres Strait Islander voices across the country in its advice, including the diversity of people in cultural leadership positions.

In stage one of the co-design process, the National Co-design Group considered options such as drawing members from every Local & Regional Voice (up to 2 members per region for a maximum of 35 Local & Regional Voices), options for a small board-style group of no more than 10 members, and options with total member numbers in-between these 2 options. The National Co-design Group recognised the value of having National Voice members drawn directly from all Local & Regional Voices, being a simpler structure and delivering a greater diversity of voices, particularly given the crucial role of the Local & Regional Voices and the number of those regions being proportional to the population. However, the National Co-design Group was also conscious the National Voice, being a policy and advisory body, would also greatly benefit from being smaller in number to enable members to come to a consensus on advice efficiently.

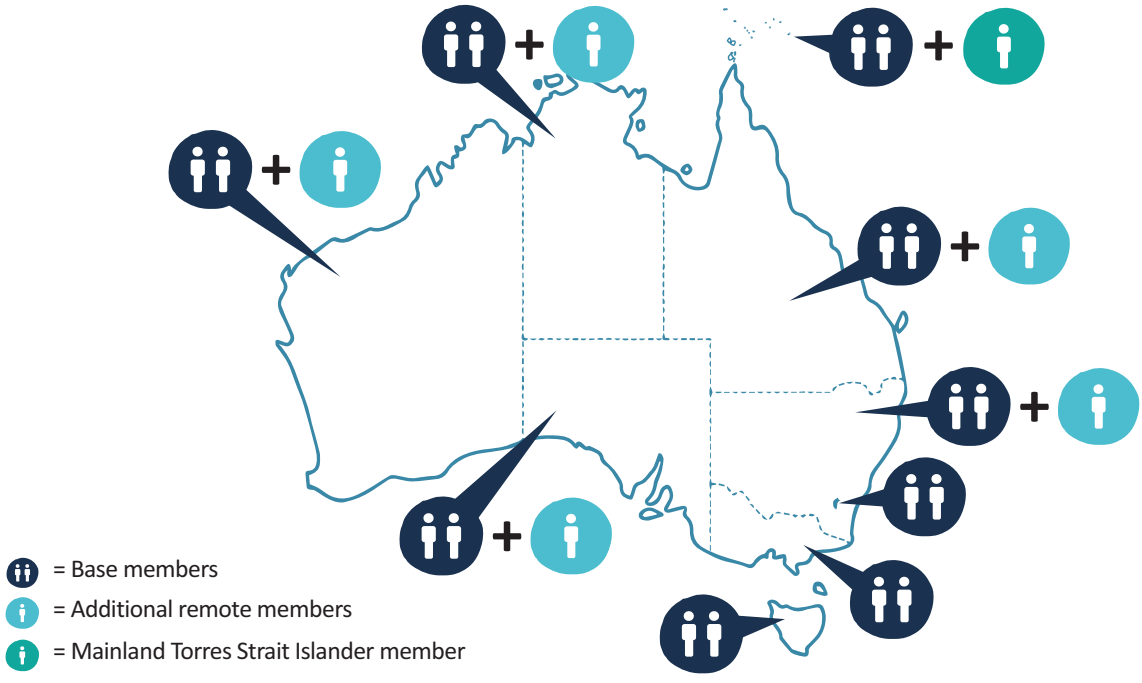
The various options were presented to the Senior Advisory Group. Feedback from the Senior Advisory Group focused on the workability of the National Voice membership while balancing representation and gender and recommended a membership between 10 and 20. Following this feedback, the National Co-design Group agreed a smaller membership number for the National Voice could be the most effective. A smaller membership could adapt and respond more quickly in doing its work, resulting in greater workability.

Table 2.1: Membership numbers for the National Voice

Jurisdiction	Base members	Additional remote members
Australian Capital Territory	2	
New South Wales	2	1
Northern Territory	2	1
Queensland	2	1
South Australia	2	1
Tasmania	2	
Torres Strait Islands	2	1*
Victoria	2	
Western Australia	2	1

*Representation for Torres Strait Islanders living on the mainland

Figure 2.3: Map of membership numbers for the National Voice



2.4.2 Torres Strait Islands region and the Australian Capital Territory

In the Interim Report, the National Co-design Group put 2 options forward for consultation for the number of members representing the ACT and the Torres Strait Islands region. There are significant differences in the size of Aboriginal and Torres Strait Islander populations in the ACT and Torres Strait Islands compared to the states and the NT. In the 2016 Census, the number of Aboriginal and Torres Strait Islander people living in the ACT and the Torres Strait Islands each accounted for less than one per cent of the national Aboriginal and Torres Strait Islander population. In comparison, NSW accounted for 33 per cent of the national Aboriginal and Torres Strait Islander population.[36]

The National Co-design Group noted minimal feedback during consultation regarding the number of members for the ACT and the Torres Strait Islands on the National Voice. While there were some questions about why areas with only a small population had the same membership as areas with larger populations, generally, there was either support for equal representation or the issue did not attract comment.

The National Co-design Group agreed that having 2 members from each of the ACT and the Torres Strait Islands region would put all states, territories and the Torres Strait Islands region on an equal footing for a base membership number, provide more diversity on the National Voice, and enable the ACT and Torres Strait Islands region to maintain gender balance in their representation.[37]

Additionally, following consultation, the National Co-design Group gave further consideration to the representation of Torres Strait Islander people living on the mainland. Further detail on this, along with specific remote representation, is outlined in sections 2.4.4. and 2.4.6.

2.4.3 Consultation feedback

During the consultation process, the National Co-design Group received a broad range of feedback about size and methods for distributing member numbers across the country. The suggestions for member size varied, but the common message was that 16 or 18 members were too few.[38] A commonly raised reason for a larger member size was the need to ensure voices from remote and regional communities could be better heard.[39]

During consultation, 3 alternate membership sizes were also suggested through feedback and were considered by the National Co-design Group. These were:

- a call for additional members from remote and regional areas[40]
- for members to be drawn directly from every Local & Regional Voice[41]
- for population-based proportional representation.[42]

The National Co-design Group discussed in detail the need to balance critical considerations in member numbers to achieve fair representation across the jurisdictions. In particular, members discussed how to balance factors such as geographic spread, remoteness and level of disadvantage of the Aboriginal and Torres Strait Islander population within a jurisdiction, compared with an allocation that was directly proportional to population.

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36 For a full breakdown of population across state and territory jurisdictions in the 2016 Census, see Table 2.2.

37 Gender balance for the 2 members from the Torres Strait was supported by participants at a community consultation session on Thursday Island, May 2021. Gender balance for the 2 members from the ACT was supported by participants at community consultation sessions in Canberra, 30 March 2021.

38 General support for or openness to a larger number of members than 16 to 18 can be seen in many submissions, including from ANTaR, March 2021, p. 13; and South Australian Council of Social Services, April 2021 p. 4.

39 Community consultation sessions including in Brisbane, March 2021; Dubbo, March 2021; Ceduna, April 2021; Maningrida, May 2021; and Amata, May 2021. Submissions including from From the Heart; Regional Anangu Services Aboriginal Corporation; and the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council.

40 Submissions including from From the Heart. The issue of more representation for rural and remote regions due to their greater need was also brought up by participants at a webinar on the National Voice, March 2021.

41 Community consultation sessions including in Alice Springs, Broken Hill, March 2021. Submissions including from Empowered Communities, Dr Francis Markham and the Australian Indigenous Governance Institute.

42 Community consultation sessions including in Inner Sydney, February 2021. Submissions including from the National Native Title Council and the Business Council of Australia.

The National Co-design Group also considered whether specific groups within the Aboriginal and Torres Strait Islander population required a designated member on the National Voice, compared with other forms of representation within the structure of the National Voice. This is considered in detail below in sections 2.4.6, 2.4.10 and 2.10.1.

The National Co-design Group noted concerns that distributing membership on a population proportionality basis would heavily favour representation from jurisdictions with higher population density.[43] This would be to the detriment of remote and regional areas. It was agreed that drawing members equally across jurisdictions and the Torres Strait Islands region was a fairer way to establish a base membership number.

The National Co-design Group acknowledged the significant and compelling feedback received during consultations and in submissions supporting adequate representation for remote areas. They agreed that there was a need to supplement membership numbers to provide additional representation for remote areas. This view was based on the high levels of needs in remote areas (e.g., lower life expectancy, high levels of socio-economic disadvantage and lack of service infrastructure) and the systematic under-representation and lack of voice for people living in remote areas. The National Co-design Group noted these issues were structural rather than temporary power imbalances, and therefore essential to address through the ongoing structure of the membership arrangements.

The National Co-design Group noted that Local & Regional Voices would have a more proportional basis and would be the primary form of representation on issues at the local level. They also noted that the feedback during consultation confirmed these local issues make up the areas primarily of key interest to communities. As a result, separate from the equally distributed model of representation for a National Voice, there would be representation at the local and regional level that is more aligned with the proportion of the population.

Local & Regional Voices would have a different and more expansive role to that of the National Voice. They would partner with all levels of governments, providing priorities and guidance and shaping decisions close to the level of impact for Aboriginal and Torres Strait Islander people. Local & Regional Voices would have their own role and are not subordinate to the National Voice or vice versa.

These reasons led the National Co-design Group not to progress suggestions of a population-based proportional allocation of numbers or direct representation of all Local & Regional Voices on the National Voice. The National Co-design Group noted the many and consistent calls for more representation for remote and regional areas and agreed allocating additional positions for remote members as 'most fair' in balancing all of the considerations discussed and outlined below.

[43] Including in a community consultation session in Port Lincoln, March 2021.

2.4.4 Additional remote representation

The feedback arguing for more remote representation generally pointed to the greater need of remote and regional communities to have their voices heard. In the From the Heart submission, for example, life expectancy was used as a proxy indicator for need. Life expectancy for Aboriginal and Torres Strait Islander men and women living in major cities is 72.1 and 76.5 years, respectively. In comparison, for Aboriginal and Torres Strait Islander men and women in remote/very remote areas, life expectancy is 65.9 and 69.9 years, respectively.[44]

There are many other economic, social and wellbeing outcomes that are markedly lower for Aboriginal and Torres Strait Islander people living in remote areas compared to urban and inner regional areas. This includes school attendance rates (at 22–23 percentage points lower in remote than in inner regional areas and cities),[45] smoking (with smoking incidence 13 percentage points higher in remote and very remote areas than in urban and inner regional areas) and employment, with the proportion of Aboriginal and Torres Strait Islander people employed dropping to 30 per cent of the population in very remote areas, which is 16-23 percentage points lower than in inner regional areas and cities.[46]

The 2016 Census was used to determine the shortlisted jurisdictions for additional representatives on both a geographic and needs basis. Additional remote representation was identified for 5 jurisdictions—NT, NSW, SA, WA and Qld—due to substantial populations of Aboriginal and Torres Strait Islander people living in remote and very remote areas in those jurisdictions. The Australian Bureau of Statistics (ABS) data reinforce the needs of people living in the remote areas of these jurisdictions.

Table 2.2: Remote and very remote Aboriginal and Torres Strait Islander population (2016 Census)

State	Percentage of the Aboriginal and Torres Strait Islander population of each state living in remote and very remote areas[47]	Percentage of the total Aboriginal and Torres Strait Islander remote/very remote population living in each state	Percentage of Australia's Aboriginal and Torres Strait Islander population located in each state	Total number of Aboriginal and Torres Strait Islander people in each state
Northern Territory	78%	38.1%	9.34%	74,546
Western Australia	38%	24.1%	12.59%	100,512
Queensland	17%	26.5%	27.72%	221,276
South Australia	15%	4.2%	5.29%	42,265
New South Wales	4%	6.3%	33.28%	265,685
Tasmania	3%	0.6%	3.57%	28,537
Victoria	0	0	7.24%	57,767
ACT	0	0	0.94%	7,513
Other Territories[48]	-	-	0.03%	264
Torres Strait	-	-	0.93%	7,407
Australia				**798,365**

[44] Life expectancy at birth (for Aboriginal and Torres Strait Islander people), remoteness areas 2015–2017, ABS.

[45] Australian Curriculum, Assessment and Reporting Authority (ACARA), 2018.

[46] Proportion of Aboriginal and Torres Strait Islander people employed, aged 15–64, by remoteness area, ABS, 2016.

[47] The 5 classes of remoteness used by the Australian Bureau of Statistics are Major Cities, Inner Regional, Outer Regional, Remote and Very Remote. This table includes figures for remote and very remote only.

[48] Other territories include Jervis Bay, Christmas Island and Cocos (Keeling) Islands.

2.4.5 Eligibility for additional remote National Voice members

The eligibility of the additional representatives would mirror the eligibility for the rest of the National Voice members, with consideration able to be given to whether the members reside in a remote or very remote area.[49]

It is important to note the inclusion of an additional remote representative for each of the 5 identified jurisdictions would not preclude other remote representatives from being selected for other positions allocated to these jurisdictions.

'We have concerns that the national voice body of 16 to 18 members proposed in your Interim Design Report is not large enough to include the full range of remote voices, such as the Voice of Anangu. Either, there needs to be specific remote voices on the National Voice model or more voices from remote regions in the National model.'

– Regional Anangu Services Aboriginal Corporation, submission, April 2021

Participants commented that the number of National Voice members should be aligned with the number of Local and Regional Voices, so there is representation from every Local and Regional Voice at the National Voice level.

– Alice Springs community consultation session summary, May 2021

Participants expressed concerns about having only 2 National Voice members for Western Australia, noting the large size and dispersed population of the state.

– Halls Creek community consultation session summary, May 2021

Participants expressed concern about having only 2 members of the National Voice from the Northern Territory. Participants supported this by noting the vast size of the NT, its diversity, and its higher percentage of Aboriginal and Torres Strait Islander residents.

– Katherine community consultation session summary, April 2021

'There is a strong Needs-based justification to give greater proportional representative Voice to people from Regional and Remote areas. Need must be structurally guaranteed and must take precedence over a vague notion of 'workability' and arbitrary State/Territory equalisation.'

– From the Heart, submission, January 2021

'The proposed structure could be made more workable by increasing the number of members of the National Voice to equal the number of Local and Regional Voices, with each regional body delegating one of their co-chairs to become a member of the National Voice.'

– Dr Francis Markham, CAEPR, ANU, submission, April 2021

One participant was interested in remote representation. However, they feared that unless remote representation was determined at the jurisdiction level, western New South Wales would miss out.

– Broken Hill community consultation session summary, March 2021

[49] This may include towns classified by the ABS as 'outer regional' but is otherwise surrounded by remote locations (e.g., Broken Hill, NSW).

2.4.6 Torres Strait Islanders living on the mainland

While the matter of one or 2 members of the Torres Strait Islands attracted little feedback, the matter of representation of Torres Strait Islander people living on the mainland did receive some feedback.

The National Co-design Group discussed the importance of finding an appropriate model for representing Torres Strait Islander people living on the mainland, noting there are over 50,000 people on the mainland identifying as Torres Strait Islander or Aboriginal and Torres Strait Islander. The members discussed the issue of many Aboriginal and Torres Strait Islander people living off country generally and emphasised that people would be represented by the Local & Regional Voices in their place of residence. This is particularly the case given the Local & Regional Voice minimum standard of each region reflecting the principle of *Inclusive Participation*.

The Senior Advisory Group also discussed this matter and agreed there are a range of views on how best to structure this representation. However, it emphasised the importance that the voices of Torres Strait Islander people living on the mainland be heard by the National Voice. It was discussed that this is about fairly representing the distinctness of Torres Strait Islanders as an Indigenous people of Australia, and the particular marginalisation experienced by that cohort who reside on the mainland.

It was argued by both groups that the 2 Torres Strait region National Voice members in the proposed membership model are not split between one representing the mainland and one representing the Torres Strait. The groups determined this would diminish the status of Torres Strait Islanders as a distinct Indigenous people. This view was shared by the submission from the Torres Strait Regional Authority (TSRA) and participants at the Thursday Island community consultation session, as outlined in the sections below.

There was further robust, in-depth discussion by the National Co-design Group on this element of the design, with input from the Senior Advisory Group and consideration of the feedback received from consultation. Some members reasoned that while the population of Torres Strait Islanders living on the mainland is substantial, it is a common experience for most Aboriginal and Torres Strait Islander people to live off country.

However, the majority of National Co-design Group members agreed to include this additional membership position to recognise the unique circumstances and substantial proportion of Torres Strait Islanders on the mainland. The co-design members emphasised this membership position would support equity and inclusion. Further, it was noted that feedback from the community consultation session on Thursday Island supported representation for mainland Torres Strait Islander people that is separate to the representation for the Torres Strait Islands region.

Context for specific representation

Torres Strait Islanders are a distinct Indigenous group within Australia, and the issue of representation is not new. Historically, Torres Strait Islanders were moved from the Torres Strait to other parts of Australia and moved vast distances from their lands, such as to Broome, Perth and Hobart. Previously, Torres Strait Islanders on the mainland have had specific representation to recognise their unique circumstances and need for mainland representation.

The *Aboriginal and Torres Strait Islander Commission Act 1989* (Cth) established the Torres Strait Advisory Board to represent mainlanders directly to the minister and ATSIC 'for the purpose of furthering the social, economic and cultural advancement of Torres Strait Islanders', with a representative from each of 6 regions covering mainland Australia. There was also within ATSIC the Office of Torres Strait Islander Affairs, which had to pay particular attention to the needs of Torres Strait Islanders who live on the Australian mainland in delivering on its functions.

Even so, 'this group still faced problems in accessing funding bodies, programs and services'.[52] With the abolition of ATSIC, these structures ceased to exist 'and the opportunities for participation by mainland Torres Strait Islanders in government processes have reduced even further'.[51] Note, the TSRA does not have a legislative remit to represent Torres Strait Islanders on the mainland.

The Social Justice Commissioner's 2008 discussion paper considering a new national Indigenous representative body[52] stated that Torres Strait Islanders on the mainland experienced marginalisation among other mainland Indigenous groups, and there should be specific forms of representation for this group.

Torres Strait Islander population on the mainland

The population of Torres Strait Islanders living on the mainland is very significant.[53]

Table 2.3: Torres Strait Islanders living on the mainland

Torres Strait Islanders	Population
Population in the Torres Strait	6,489
Mainland population identified as of Torres Strait Islander origin only	32,345
Mainland population identified as both Aboriginal and Torres Strait Islander origin	26,767
Total	**59,116**

When combining the population of Torres Strait Islanders living in the Torres Strait and on the mainland, their proportion of the total Aboriginal and Torres Strait Islander population is significant at just over 7 per cent. This is higher than the populations of both the ACT and Tasmania. If the Torres Strait Islander population includes people who identify as both Aboriginal and Torres Strait Islander, their proportion becomes greater than South Australia and similar to that of Victoria.

Consultation feedback on Torres Strait Islanders on the mainland

Feedback from consultation supports the representation of Torres Strait Islanders on the mainland. Participants at community consultation sessions in Brisbane, Cairns, Port Hedland, Townsville, Darwin and Rockhampton emphasised that there should be specific mainland representation. In the community consultation session on Thursday Island,[54] this matter was discussed, with representation of Torres Strait Islanders living on the mainland seen as critical. One participant said that the connection with 'mainland families is very important to us' but also noted it was essential that if a mainlander is speaking for the Torres Strait, that they be connected with the 'culture and our leaders'. People were also adamant that at least 2 representatives from the Torres Strait would be required in order to give gender balance and reflect that the Torres Strait Islander people are a unique people and culturally distinct.

The TSRA submission[55] agreed that the Torres Strait Islands should have separate representation; 'however it is important to note there is a large diaspora of Torres Strait Islanders living on the mainland, particularly in Queensland and Western Australia'. The TSRA stated, 'it is imperative their unique issues be represented via a national platform too'.

[50] Aboriginal and Torres Strait Islander Social Justice Commissioner, Building a Sustainable National Representative Body, Australian Human Rights Commission, 2008, p. 82.

[51] Ibid.

[52] Ibid.

[53] ABS, Census counts—Torres Strait Islander people (b) by state/territory, 2011 and 2016.

[54] 4 May 2021.

[55] 30 April 2021, p. 3.

Options for representation of Torres Strait Islanders on the mainland

The National Co-design Group and Senior Advisory Group acknowledged, and some consultation feedback reflected that, splitting the 2 Torres Strait Islands region members between the mainland and the Torres Strait is not a viable option.

Other options discussed include representation of Torres Strait Islanders on the mainland through a committee. The co-design members felt, however, that this option would add to the complexity of the National Voice structure and that this would outweigh the benefit of such a committee compared with having an additional representative for Torres Strait Islanders on the mainland.

In recommending an additional National Voice member position for Torres Strait Islanders living on the mainland, the co-design members recognised the distinctness of Torres Strait Islanders as an Indigenous people of Australia. The co-design members also recognised the uniqueness of factors experienced by those living on the mainland. The member for Torres Strait Islanders living on the mainland could convene forums to identify crucial issues affecting this cohort. The addition of this position to the membership model would also support structural gender balance on the National Voice (see section 2.4.7).

Eligibility for the member representing Torres Strait Islanders living on the mainland

The member position would be open to any Torres Strait Islander people not living in the Torres Strait region, but would also be subject to the ordinary eligibility criteria for the National Voice (see section 2.6.2). The member determination process could involve an expression of interest overseen by a panel of mainland Torres Strait Islanders and could include the 2 Torres Strait Islands region members. This determination process would be designed during the implementation phase in consultation with mainland Torres Strait Islanders.

2.4.7 Ensuring gender balance with additional member positions

The National Co-design Group acknowledged that having additional representatives is not without inherent challenges in ensuring gender balance. Additional members should be gender balanced over time within a jurisdiction and there should be an agreed rotation of genders across all additional representatives across the country whenever there is a change in a cohort. Having an even number (six) amongst additional representatives, however, would better support the requirement for structural gender balance within cohorts of additional representatives. The implementation 'establishing body for a National Voice' or 'Interim Body for a National Voice' (depending on the implementation option, see Chapter 4) could outline the proposed split, ensuring overall gender balance among additional members when the National Voice is first established, which would then be maintained with an agreed rotation.

Each of the 6 jurisdictions with an additional member could maintain a broad 2:1 gender balance split. These jurisdictions could alternate after every member term to ensure gender balance is maintained. During implementation, the decision of which jurisdiction starts with which gender split will be done in consultation with the relevant jurisdictions.

Table 2.4: Example of possible gender balance structure in membership numbers*

	Cycle one		Cycle two	
	QLD	NSW	QLD	NSW
Women	2	1	1	2
Men	1	2	2	1

People who identify as gender diverse could be selected for one or more positions

2.4.8 Membership boundaries

Final proposal

Each of the states, NT and ACT would form the boundaries from which National Voice members will be determined. In addition, 2 members would be drawn from the Torres Strait Islands region.[56]

Interim Report

The Interim Report proposed that state and territory boundaries and Torres Strait Islands region form the basis of membership selection.

Rationale

States and territories and the Torres Strait Islands region boundaries were selected to best balance the number of National Voice members, geographic distribution, and the National Voice alignment with Local & Regional Voices and state and territory governments.

The National Co-design Group considered how to determine the representation of Aboriginal and Torres Strait Islander people fairly and adequately for the National Voice. 2 options were considered for membership boundaries: states and territories, or the creation of smaller regions. The National Co-design Group chose the states and territories, with separate representation for the Torres Strait Islands for the following reasons:

- State and territory governments are crucial stakeholders and deliver the majority of services to Aboriginal and Torres Strait Islander people. Selecting members based on states, territories and the Torres Strait Islands may better facilitate engagement with them by the National Voice members. States and territories are also commonly recognised and easily understood. Having these boundaries is also in recognition that elected jurisdiction-level Aboriginal and Torres Strait Islander representative assemblies currently exist and are emerging in some jurisdictions. Using state and territory boundaries provides the opportunity for connection of these representative assemblies to the National Voice.
- This approach better supports a smaller number of members than the approach of basing membership on individual regions, and would make a National Voice more practical, workable and affordable.

The National Co-design Group also considered models based on 15–38 smaller geographic regions, considering the great diversity, geographic spread and variations in population density of Aboriginal and Torres Strait Islander people. The National Co-design Group noted this larger number of regions might have supported an even greater diversity of members of the National Voice, for example, by separately providing representation for metropolitan and remote areas and a more direct link to local communities. However, the National Co-design Group formed the view that a larger number of members based on regions would make the membership too large and impractical and affect its ability to fulfil its role.

The National Co-design Group acknowledged that many of these benefits could also be achieved through the Local & Regional Voices and their link to the National Voice under Core Model 1, as outlined above. These membership boundaries support a National Voice with larger areas for determining members. The National Co-design Group noted that the risk remains under a state- or territory-based arrangement that some communities may still feel under-represented at the national level.

[56] The boundary for the Torres Strait would align with the boundary used by the Torres Strait Regional Authority. These include all Torres Strait Islands, including those with Aboriginal populations, and 2 predominantly Torres Strait Islander communities in the Northern Peninsula Area, Bamaga and Seisia.

2.4.9 Gender representation guaranteed

Final proposal

There must be gender balance in the National Voice membership, and it must be structurally assured over the member determination cycles for National Voice members. Each state, territory, and Torres Strait Islands region will have a base of 2 members who must be of a different gender from each other. For the 6 additional members representing remote communities and Torres Strait Islanders on the mainland, gender balance will be assured and members would be replaced by members of different gender at the end of their tenure. In addition, the 2 National Voice co-chairs must be of a different gender from each other.

Interim Report

The National Co-design Group agreed unanimously in the Interim Report that gender balance should be structurally assured.

Rationale

Structurally guaranteed gender balanced membership was an imperative for co-design members. This reflects the need to represent the diverse perspectives of Aboriginal and Torres Strait Islander people, as well as the National Co-design Group's principle of designing a body that embraces best practice in organisational governance structures.

Support for ensuring gender balance in the National Voice membership was demonstrated throughout consultation in feedback from across the country.[57]

A small number of submissions called for further clarity around how 'gender balance' would apply to people who do not identify as male or female and the need to ensure inclusion for Aboriginal and Torres Strait Islander people who identify as LGBTIQ+.[58] The National Co-design Group agreed to the importance of inclusion on the National Voice of diverse genders. This would be strengthened by the requirement under the principles-based framework for Local & Regional Voices to practise the principle of *Inclusive Participation*. It is anticipated this would promote gender diversity in the drawing of the National Voice members.

Participants strongly supported a gender-balanced approach. Participants saw this as connected to cultural concepts of men's business and women's business.

– Darwin community consultation session summary, April 2021

Participants discussed how cultural protocols should be reflected in the Indigenous Voice proposals. Inclusion of elders and gender balance were identified as culturally important elements.

– Ngukurr community consultation session summary, April 2021

'It is important that women are not portrayed as an inherently vulnerable group, but as equal participants.'

– Monash University, submission, April 2021

'I … support efforts to ensure the National Voice is not male-dominated.'

– Alastair Lawrie, submission, April 2021

'[T]he wording around gender diversity should further clarify that this is inclusive of people who identify as gender diverse. Much of the wording in materials and briefing sessions has specified a 50/50 gender split between female/male which may be exclusionary to those who identify as gender diverse.'

– KPMG Australia, submission, March 2021

[57] Including at community consultation sessions in Brisbane, March 2021; Campbelltown, March 2021; Canberra, March 2021; Melbourne, April 2021; Kalgoorlie, April 2021; Port Augusta, April 2021; and Angurugu, May 2021. Further, of the surveys and submissions that engaged on the topic of gender, almost all were in support of gender balance. This includes submissions from the Australian Human Rights Commission, Empowered Communities and Monash University.

[58] Submissions including from Alastair Lawrie, KPMG and Northern Sydney Alliance for the Uluru Statement. The Women for an Australian Republic suggested a 40:40:20 split, with the 20 per cent reserved for LGBTIQ+, youth, or other.

2.4.10 Specific representation within National Voice membership structure

Final proposal

The National Voice is inclusive of all Aboriginal and Torres Strait Islander people. There will be no reserved seats on the National Voice for any particular group. Representation of particular groups for the National Voice may occur through National Voice committees, as outlined in section 2.10.2.

Interim Report

The National Co-design Group proposed there should be no specific memberships allocated to particular groups (including youth, disability, the Stolen Generations, elders and people identifying as LGBTIQ+), although the Youth and Disability Permanent Advisory Groups would be design features of the National Voice. This was decided on the basis that young people and people with disability make up significant proportions of the Aboriginal and Torres Strait Islander population. The voices of people belonging to particular groups could be drawn on by the National Voice through committees the National Voice might set up for this purpose.

Rationale

The final proposal to not reserve seats for any particular group reflects a balance of multiple factors in designing the National Voice membership model. In particular, to keep the size of the National Voice small and flexible enough to be effective, designing a body which is not a complex structure, and inclusive of other mechanisms for representation and inclusion of all Aboriginal and Torres Strait Islander people. The principles-based framework for a Local & Regional Voice aims to ensure all Aboriginal and Torres Strait Islander people can participate.

Context

For representation of people from particular groups, the National Co-design Group noted a diverse range of consultation feedback called for members to come from a very large range of groups, including (but not limited to):

- people identifying as LGBTIQ+[59]
- Stolen Generations[60]
- elders[61]
- traditional owners and native title holders[62]
- people from the South Sea Islands[63]

The National Co-design Group noted that under the proposal for Local & Regional Voices, all Local & Regional Voices must demonstrate as a minimum standard the principle of *Inclusive Participation*. This principle says that all Aboriginal and Torres Strait Islander people who live within a Local & Regional Voice area have the opportunity to participate, have a say, influence the decisions that affect them and their families, and see themselves represented.

The National Co-design Group noted that many of the matters particular groups raised as significant considerations are local and regional matters. The Local & Regional Voices are best placed to deal with those matters, as they would have a crucial role in shaping decision-making in partnership with all levels of government. While the National Voice would advise on national matters of significance to Aboriginal and Torres Strait Islander people, the Local & Regional Voices would provide input to the National Voice on systemic issues with national policies and programs, as well as community input on national issues (detailed below in section 2.7).

Many people provided feedback on the *Inclusive Participation* principle, and the Local & Regional Co-design Group agreed to draw out the importance and explicitly refer to a range of groups and unheard voices, including members of the Stolen Generations. This is in addition to explicit references in the Interim Report about the importance of traditional owners, and ensuring representation of women, youth, elders, people with disability, and those identifying as LGBTIQ+.

The National Co-design Group reflected that the proposal for a National Voice does not exclude anyone and acknowledged that there are many intersections with people's identities. However, the National Co-design Group acknowledged it is not practical to create reserved memberships or permanent representative committees for all groups. In any case, the National Voice would have the ability to establish committees as it requires or to jointly appoint up to 2 members with the Government. These design features may be utilised for representation matters or particular policy topics. The National Voice is intended to be a policy and advice body rather than a proportionally representative body, and it is expected to evolve. This decision balances the principle of designing a simple, flexible body and the need to keep the National Voice to a reasonable size to function effectively, with the broad representation and strong links to the Local & Regional Voices, peak bodies and other representative groups.

[59] Submissions including from the Northern Sydney Alliance for the Uluru Statement, Queensland Government, Women for an Australian Republic and Dr Dani Larkin. Also mentioned in community consultation sessions including in Melbourne, April 2021.

[60] Submissions including from Dr Dani Larkin. Also mentioned in community consultation sessions including in Brisbane, March 2021, and Cairns, April 2021.

[61] Submissions including from Monash University, Queensland Government, Reconciliation Tasmania and Dr Dani Larkin. Also mentioned in community consultation sessions in Mt Druitt, March 2021; Toowoomba, March 2021; and Wagga Wagga, March 2021.

[62] Submissions including from Monash University, the National Native Title Council and the Victorian Aboriginal Child Care Agency. Also mentioned in community consultation sessions, including in Coffs Harbour, March 2021.

[63] This was raised in a community consultation session in Moree, March 2021.

Traditional owners

The National Co-design Group discussed the representation of traditional owners. The National Co-design Group noted traditional ownership was highly significant for Aboriginal and Torres Strait Islander peoples and acknowledged the importance of traditional owners being heard as part of the Indigenous Voice.

The National Co-design Group noted that under the proposal for Local & Regional Voices, all Local & Regional Voices must demonstrate how they meet the principles of *Inclusive Participation* and *Cultural Leadership*. The first of these principles states that all Aboriginal and Torres Strait Islander people who live within a Local & Regional Voice area, including traditional owners, need to have the opportunity to participate and see themselves represented, to have a say and inform decisions about local issues. The principle of *Cultural Leadership* requires that there are clear pathways for traditional owners to be involved in the work of the Local & Regional Voice.

Given these principles, and as the National Voice membership is structurally linked to Local & Regional Voices, traditional owners would be represented on the National Voice.

Stolen Generations

Strong representation of the Stolen Generations was heard during consultations, particularly with men speaking of their experience of being part of the Stolen Generations and in the Kinchela Boys Home at the Inner Sydney community consultation session in February 2021. Co-design members heard of their unique experience of dispossession as Aboriginal and Torres Strait Islander people, particularly for the need to hear their voices as one of the most vulnerable groups of people. The participants in the community consultation session expressed how difficult it is for them to access services, as they felt Aboriginal and Torres Strait Islander service providers do not assist the Stolen Generations well enough. The participants and their support organisation also noted how difficult it is for them to secure a meeting with the local council. The National Co-design Group heard this feedback and agreed on the importance of the inclusion of the Stolen Generations, particularly at the local and regional level. The National Voice would also be expected to engage with other Aboriginal and Torres Strait Islander organisations, such as the Healing Foundation and organisations such as the Kinchela Boys Home Aboriginal Organisation, to ensure expert input into National Voice policy advice.

2.4.11 Role of National Voice members

Final proposal

The role of National Voice members is not to represent their jurisdictions but primarily to represent the diverse perspectives of all Aboriginal and Torres Strait Islander people at a national level on national issues. Part of the role is to represent the views of the members' relevant Local & Regional Voices on national-level matters for consideration by the National Voice. National Voice members are expected to represent all diverse perspectives of Aboriginal and Torres Strait Islander people, as well as form those diverse views into collective positions in the National Voice policy advice to the Australian Parliament and Government where possible.

Interim Report

The Interim Report proposed that National Voice members would be expected to perform their roles to speak on behalf of and represent the Aboriginal and Torres Strait Islander people and communities in the state, territory or Torres Strait Islands from which the members are drawn. The National Voice member(s) representing the Torres Strait Islands would be expected to speak for all Torres Strait Islander people, including those not currently residing in the Torres Strait Islands.

Rationale

The final proposal expands on the proposal in the Interim Report and reflects the policy intention for National Voice members to speak on behalf of all Aboriginal and Torres Strait Islander people nationally as their primary role. This ensures the diversity of Aboriginal and Torres Strait Islander peoples' views is captured in the work of the National Voice, including voices that have no other existing platforms for public amplification (such as through the media or the work of various types of organisations engaging in and responding to public policy).

Context

Feedback from consultations and surveys emphasised the importance of the National Voice representing and amplifying the voices of all Aboriginal and Torres Strait Islander people, not just those of established leaders. People expressed a need for the National Voice to be the voice of community and not base its advice to the Australian Parliament and Government on individual views. Rather, the consultation feedback said the National Voice members' views should be based on the input provided by the National Voice members' relevant Local & Regional Voices. The intention is for National Voice members to regularly engage with Local & Regional Voices as part of their role.

However, the National Voice members would have a dual role. The National Co-design Group stated that as a National Voice, the members must speak on behalf of all Aboriginal and Torres Strait Islander people, representing the diverse perspectives. The role of National Voice members is to speak at a national level for the advancement of all Aboriginal and Torres Strait Island people and communities. The members would form policy advice to the Australian Parliament and Government by bringing together the views of the Local & Regional Voices in their jurisdiction, the national perspective of all Aboriginal and Torres Strait Islander people, and their own knowledge and expertise to form, where possible, a collective position on behalf of all Aboriginal and Torres Strait Islander people. Sometimes this collective position in formal policy advice may require acknowledgement of diverse perspectives or dissenting views (see section 2.8.2). If the National Voice's formal advice differs from a member's Local & Regional Voices' views in their jurisdiction, the member would explain to those Local & Regional Voices the reasoning behind this.

> *'It's necessary to include the community concerns and voices of traditional/non-traditional elders, family advocates and proactive [Aboriginal and Torres Strait Islander] community members … who are doers and not talkers and normally are people who are not involved in committee's [sic] or normally have time to attend community meetings/ consultations but are proactive and provide a lot of noticeable background supports for community change and improvements for their people and local community.'*
>
> – Anonymous, survey, April 2021

'The representatives will serve as champions and advocates for the formal positions and resolutions that come from the respective and collective Voice Regions.'

– East Arnhem Regional Council, submission, May 2021

'[National Voice] members must commit to operating free from self-interest and influence derived from their affiliations/associations external to the National Voice mechanisms and processes, e.g. they must not base advice/decisions purely on their individual/ personal views, nor on their employment or membership to other bodies/groups, etc., nor without proper consultation with the local/ regional voices affected by the advice being provided. Instead, they must act to convey the collective requests made by the communities/ regions they are charged with representing (especially where such advice may differ from general views and/or opinions); as stated above, it is critical protections be put in place to avoid any misrepresentation of local perspectives/needs at the national-level, and that government responses neither directly or indirectly undermine locally-informed positions and requests.'

– Yamatji Marlpa Aboriginal Corporation, submission, April 2021

'National Voice members should play the role of Ambassador not politician. ... Voice members fulfilling an Ambassador role would advise, advocate and support positions that influence politicians and government when they are making national laws, or policy and program decisions, rather than acting as politicians themselves.'

– Empowered Communities, submission, March 2021

'It is recommended by the IPO that each representative provides an annual report to their constituents outlining the areas progressed on Aboriginal and Torres Strait Islander rights over the preceding year and any challenges faced.'

– Indigenous Peoples' Organisation, Australia, submission, May 2021

Members' responsibility

Members of the National Voice would have a part-time role. This would cover the time preparing for and attending National Voice meetings, doing committee work, engaging with Local & Regional Voices and communities and considering policy.

Under Core Model 1, National Voice members may have roles as part of their Local & Regional Voice. It is expected that once a person is selected as a National Voice member, their primary role is that of a National Voice member. A consideration and concern expressed by the National Co-design Group was that this model means someone who wants to be a National Voice member would have to consider if this part-time role could be accommodated within their broader existing commitments and obligations. The National Voice operational policies and procedures would be developed during the implementation stage, and then be agreed upon by the members of the National Voice once established. These documents would outline how to accommodate other formal roles a National Voice member may have. The operations of a National Voice would be considered as part of an evaluation and continuous improvement process for the National Voice.

Co-chairs

The National Voice would have 2 co-chairs of a different gender to one another who would form the leadership of the National Voice. The co-chairs would be selected by the members of the National Voice with each new intake of members every 2 years. These would be full-time paid roles to recognise the need for the leadership to be available when required and respond on behalf of the National Voice. This would enable the co-chairs to work closely with the CEO and Office of the National Voice to ensure the efficient management of National Voice business. Given that the co-chairs would be substantial full-time roles, the National Voice members who accept these positions would not have time for another full-time position elsewhere. The National Voice operational policies and procedures would outline the rules around undertaking other formal roles. These policies would address the transparency required for managing perceived and actual conflict of interest matters and could address how the National Voice members could have a role in scrutinising or approving the co-chairs' other roles.

2.4.12 Joint appointments

Final proposal

There would be a provision for the additional appointment of a maximum of 2 members, using the following principles:

- This is a provision for appointed members only to be used if there is an agreed need, rather than a guarantee that there would be appointed members.
- This would only be considered after each member determination process of National Voice members by Local & Regional Voices.
- Appointments would be subject to agreement by both the National Voice and relevant minister.
- The credibility and cultural authority of the National Voice are paramount when considering using this provision.

Interim Report

The Interim Report emphasised the importance of Aboriginal and Torres Strait Islander people choosing members of the National Voice in order to support self-determination. The National Co-design Group also posed the question of whether to include some appointed members to address desired skill areas and representation, for example, remote or other geographic representation. The National Co-design Group identified the following matters:

- There would be a maximum of 2 appointed members to ensure they were a small proportion of the overall membership.
- Appointments would be made where needed, not by default, according to clear criteria and, importantly, co-considered with the National Voice members.

The Interim Report presented 2 options to progress to consultation:

a) Option 1: Up to 2 ministerial appointees where required, as co-considered by the National Voice and Australian Government.

b) Option 2: No ministerial appointees.

Rationale

The final proposed arrangements provide flexibility to introduce more diversity of views and experiences whenever there is an identified need.

Context

Feedback on appointments during consultations varied. Where there was support, the reasons were generally consistent with the view expressed by most members of the National Co-design Group that appointments could be used to add to desired skill areas or representation, for example, geographic representation. While not an explicit endorsement of appointments, the submission by AIATSIS suggested consideration of dedicated seats by appointment to accommodate the perspectives of Aboriginal and Torres Strait Islander people that are disconnected from their traditional heritage or country through the effects of colonisation. The submission did state, however, that this appointment must be independent of Government.[64] The National Tertiary Education Union—Aboriginal and Torres Strait Islander Policy Committee additionally supported appointments following a merit-based decision based upon the required skill set.[65]

Some feedback at community consultation sessions and in submissions was that participants opposed appointments by the Government or the Minister rather than jointly with the National Voice (or without explicit mention of joint appointment). This opposition was due to a concern that the National Voice could be perceived as not independent of Government, which could undermine the accountability of the National Voice to community.[66] In some submissions, it was sometimes not clear that people understood the proposal in the Interim Report was for the National Voice and the Minister to make appointments jointly (rather than them being solely Government appointments), and this may have driven opposition in some cases.

64 Submission by AIATSIS, April 2021, p. 7.

65 Submission by National Tertiary Education Union—Aboriginal and Torres Strait Islander Policy Committee, April 2021, p. 6.

66 Submissions including from Dr Dani Larkin, 18 March 2021, p. 10; Law Council of Australia, April 2021, pp. 26–27; Federation of Victorian Traditional Owner Corporations, April 2021, p. 3; Indigenous Peoples' Organisation, Australia, April 2021, p. 5; and Jessie Street Trust, April 2021, p. 3.

Some feedback was not supportive of appointments under any circumstances. For example, the submission from Monash University noted the intended joint role of the National Voice and did not support appointments.[67] The main reasons for this opposition in this submission were that it would be adequate to consult with experts if skills gaps existed;[68] that capacity on the National Voice could be built (e.g., though professional development or mentoring programs) rather than relying on appointments; concerns around the perception of credibility and authority; that the National Voice needed to be perceived to be free from any government influence; and that National Voice members should be selected solely by Aboriginal and Torres Strait Islander people.[69]

The National Co-design Group considered the feedback received during consultations and the potential value to the National Voice in retaining the flexibility to add to desired skills areas or representation in its membership as needed. The National Co-design Group noted that during consultation, some support was raised for appointed members that were decided upon jointly by the National Voice and the Minister and noted the absence of strong opposition to this proposal in consultations under those conditions.

'The point of the Voice is to provide those with limited opportunities for political participation with a voice. The danger of ministerial appointees is that they might silence or overpower our selected representatives … The inclusion of government-appointed members will devalue the cultural credibility of the Voice in First Nations communities, as well as the legitimacy of the Voice among the broader Australian community, thus reducing its overall political power.'

– Dr Dani Larkin, submission, March 2021

Participants expressed interest in the proposal to have appointed members to ensure adequate representation for remote and regional areas.

– Mt Isa community consultation session summary, April 2021

Participants did not support appointments to the National Voice. If there are certain skills required, then the National Voice can bring in subject matter experts.

– Moree community consultation session summary, March 2021

'Where skills gaps and/or geographic imbalances arise, we support these being addressed by the Voice itself, rather than through Ministerial appointment which would compromise on the Voice's independence and therefore on its authority to speak for First Nations people.'

– Public Interest Advocacy Centre, submission, March 2021

'The first point to note about the proposal for ministerial appointments is that it has the potential to undermine the independence of the Voice, even if made with the agreement of the National Voice members. The legitimacy and cultural authority of the Voice depends on it being free from, and the appearance of being free from any government influence, no matter how well-meaning or qualified the ministerial appointees might be.'

– Monash University, submission, April 2021

[67] Monash University, April 2021, p. 4.

[68] This reason was also raised in a community consultation session in Moree, March 2021.

[69] This reason was also raised in a community consultation session in Perth, April 2021.

2.4.13 Term lengths of National Voice members

Final proposal

The National Voice members would have terms of 4 years, with staggered terms making half the membership positions vacant every 2 years, including a limit of 2 consecutive terms. This will necessarily require half of the inaugural National Voice members to serve a half term to establish this staggered approach.

Interim Report

2 options were put forward for term lengths:

Option 1: 4 years, with staggered terms, making half the membership positions vacant every 2 years.

Option 2: 3 years, with all membership positions made vacant at the end of every term.

There would be a limit of 2 consecutive terms for National Voice members for both options.

The National Co-design Group indicated its preference in the Interim Report for Option 1.

Rationale

Longer terms would better ensure leadership stability, continuity in National Voice membership and business continuity, particularly with turnovers of only half the National Voice membership each cycle. Longer terms also enable continuity of policy and advice development to brief incoming Australian Parliaments and Governments, which operate on shorter election cycles.

Context

Where this topic was raised in surveys, submissions and community consultation sessions, it was overwhelmingly in favour of 4-year staggered terms with a term limit for National Voice members.[70] The National Co-design Group noted this firm support for the 4-year option. A small number of group members raised concerns about the duration of the term, preferring the 3-year option to provide for more opportunity for new National Voice members and better align with other organisations' electoral cycles. However, all group members agreed to put forward the 4-year option due to the majority view and consultation feedback.

Staggering terms would allow each jurisdiction to select a new member(s) every 2 years. With the additional remote representation creating odd-numbered membership numbers in 5 jurisdictions, the alternating of membership selection in these jurisdictions would require 2 members to be selected one cycle, followed by a single member to be selected in the following cycle. Determining how to manage this would occur during the implementation phase.

The mainland Torres Strait Islander position would form part of the inaugural National Voice member determination cycle and the member would have a full 4-year term.

'Empowered Communities supports staggered 4-year terms for National Voice members, so that half the membership positions are vacated at the end of every term. This provides a common sense approach, ensuring continuity so longer-term agendas can be pursued by the National Voice. Staggering the changeover of members ensures there will always be a level of experience amongst the Voice members.'

– Empowered Communities, submission, March 2021

Most participants supported 3- to 4-year staggered terms for National Voice members.

– Angurugu community consultation session summary, May 2021

'4-year terms are more conducive to achieving real outcomes, with staggering to maintain continuity of experience.'

– Boston Consulting Group, submission, April 2021

'[4-year terms would] provide greater stability for the Voice. Changing all member seats after 3 years would impact the Voice's ability to make consistent advice as it will be like starting again every time. By keeping half of the membership at each election, ongoing matters of advice can be appropriately handed over.'

– Kishaya Delaney, submission, April 2021

'[Limiting numbers of consecutive terms] would assist in ensuring a healthy turnover and refreshment of leadership talent on the Voice, and mitigate against any tendency (or public perception of a tendency) toward elitism, sinecurism and empire building.'

– John Sutton, submission, April 2021

[70] Support for 4-year staggered terms was expressed in submissions including from Empowered Communities, Lander & Rogers, Professor Tim Rowse and Indigenous Peoples' Organisation, Australia.

2.5 Member support

Final proposal

National Voice members will be provided with general support, as well as induction and professional development programs.

Interim Report

The National Co-design Group proposed in the Interim Report that National Voice members should have support in the execution of their role. This was proposed to include induction training and ongoing professional development. The National Co-design Group noted similar offerings were provided by:

- Australian Institute of Company Directors to directors of private corporations
- Australian Public Service Commission to federal officials
- Office of the Registrar of Indigenous Corporations to office holders of *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) entities.

The National Co-design Group proposed that the suite of supporting products could also draw on the Australian Indigenous Leadership Centre, which runs courses to unlock opportunities for Aboriginal and Torres Strait Islander people to develop their careers and expand the ways they contribute to the community.

Rationale

The final approach was adopted to strengthen the ability of National Voice members to perform their complex and demanding roles.

Induction and professional development programs are common across a wide range of professional contexts; it would be appropriate for National Voice members to be able to access similar services.

Context

The National Co-design Group and the Senior Advisory Group members agreed on the importance of support for members of the National Voice in the execution of their role.

National Voice members would be offered induction training and would receive a service offering of ongoing professional development.

The content of this program could include information on the role of members, the role of the National Voice (including relevant legislation), key policy issues and the legislation and policy development process. There could also be an opportunity to address technology and innovation. Training would include both governance and leadership elements. For some members, training in skills such as public speaking may be of value. The National Co-design Group noted that induction and professional development programs were common across a wide range of contexts and that it would be appropriate for the National Voice to have similar provisions.

The National Co-design Group discussed the need for National Voice members to have personal support in undertaking their role. The role will require engagement with many people, often in complex environments and sometimes in robust ways. The National Voice members should have support to maintain their own wellbeing.

Consultation feedback

While this issue was not brought up frequently during the consultation process, where it was raised, feedback favoured ensuring National Voice members were well equipped to perform their roles effectively. For example, in a community consultation session in Cairns, some participants expressed that there should be capacity building and governance training. In Rockhampton, one participant suggested resilience training should be made available to National Voice members. One submission by Paul Dobing also suggested, 'member support … will be an important contributor to the success of the National Voice' and urged for there to be consideration of offerings in partnership with the Australia and New Zealand School of Government.[71]

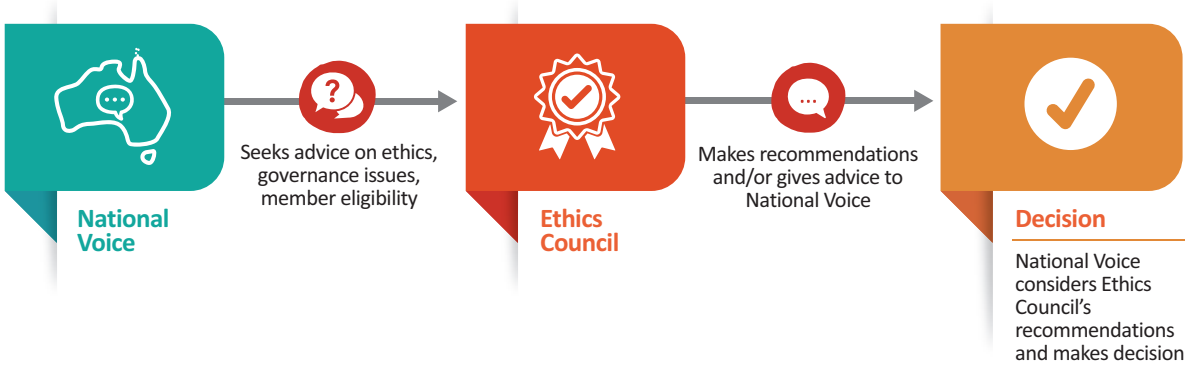
[71] Submission, 8 March 2021, p. 4.

2.6 Ethics Council and eligibility of members

The National Co-design Group considered the eligibility requirements for members of a National Voice, such as eligibility to stand as a candidate and provisions for the sanction and removal of a member should a serious misconduct issue arise. The National Co-design Group noted there was a need both to respect the member determination process by Aboriginal and Torres Strait Islander people while also managing risk, maintaining integrity and supporting confidence in the National Voice. An Ethics Council was also considered as part of the National Voice structure to have a possible role at multiple points in the operation of the National Voice. This section considers the following interconnected part of the National Voice design:

- Ethics Council and its roles
- Eligibility to be a National Voice member
- Sanction and removal of a National Voice member.

Figure 2.4: Ethics Council flowchart



2.6.1 Ethics Council—Design and roles

Final proposal

An Ethics Council would be established to provide advice to the National Voice on:

- the development of a National Voice members' code of conduct or similar policy document setting clear expectations and principles, to be agreed upon by the National Voice and then published
- probity, ethics and governance as requested by the National Voice
- the eligibility and fit and proper person assessment for candidates to the National Voice
- a process of assessment to consider and make recommendations on the best way to address misconduct issues if one arises and is referred to the Ethics Council.

Members of the Ethics Council would not be members of the National Voice but external to it.

All decisions remain with the National Voice; the role of the Ethics Council is merely to provide advice to assist the National Voice members in making their decisions. The Ethics Council would have access to legal advice, when required, in order to ensure procedural fairness for all advice provided to the National Voice members.

Interim Report

The Interim Report proposed mechanisms for a National Voice to ensure strong and good governance. It was envisaged that a mechanism could review ethics, probity and governance issues referred to it, and perform other functions such as considering matters of misconduct and removal of members, and eligibility. 2 options were considered:

Option 1: A separate, independent Ethics Council

Option 2: An internal committee or committees composed of National Voice members.

The Ethics Council put forward as an option would be:

- separate to the National Voice membership and provide independent advice
- comprised only of Aboriginal and Torres Strait Islander people
- could provide advice on ethics, probity and governance issues referred to it
- could perform other functions such as considering matters of misconduct and eligibility of National Voice members.

The Ethics Council was put forward as part of the options for assessing eligibility and advising on potential removal of National Voice members, and advising on probity, ethics and governance.

The National Voice would have a charter or similar document that would set clear expectations and principles. The National Voice would draft this.

Rationale

The National Voice needs access to an independent, impartial body on governance issues, including advice on probity and ethics.

Context

The National Co-design Group agreed that the Ethics Council would enhance the standing of the National Voice by demonstrating a strong commitment to ethical conduct and accountability, thereby building confidence in the National Voice. The Ethics Council would be a source of authoritative, impartial advice to support good decision-making, noting that all decisions remain with the National Voice. The role of the Ethics Council is advisory only, to assist the National Voice members in making their decisions.

The National Co-design Group agreed that sanction and removal of members should be carried out by the National Voice following independent advice from the Ethics Council, rather than an internal committee. The Ethics Council enables the National Voice to be kept at arms' length from impartial investigations and subsequent advice in relation to any member whose conduct is in question. As the National Voice is an independent body, the Ethics Council would add an element of rigour with an appropriate level of transparency to the consideration of governance issues. This allows the National Voice to be well informed and accountable against the independent Ethics Council advice when required to make a decision in relation to one of its members.

It is crucial that National Voice members represent the myriad of voices in Aboriginal and Torres Strait Islander communities with integrity and is also trusted to do so by those they represent. Therefore, it is vital that there is a strong ethics- and probity-focused mechanism in place that is above reproach. An explanation of the Ethics Council's involvement in the sanction and removal process is provided below.

Ethics Council design and formation

The Ethics Council would be:

- comprised of 3 to 5 members, with a majority of Aboriginal and Torres Strait Islander people—in appointing people to these positions, there would be consideration of appropriate skill sets such as governance, law, dispute resolution and cultural guidance
- appointed by the National Voice for a fixed term of 5 years and must be appointed in between the National Voice membership determination cycles. The members' terms would be staggered to ensure continuity, and the existing Ethics Council members would collectively advise on the new replacement member for the consideration of the National Voice
- external to the National Voice membership and would provide independent advice
- able to provide advice to the National Voice members, but not make decisions about members or the National Voice as a whole
- intended as an advisory body, not an investigatory body, and have no coercive powers.

The Ethics Council would meet as required and would have access to legal advice. The Office of the National Voice would have access to legal counsel and would support the Ethics Council's work. The Ethics Council members could also access personal support through the Office of the National Voice, to maintain their own wellbeing in performing their role.

During the implementation phase for the National Voice, the Ethics Council would be established to undertake the task of conducting the eligibility and fit and proper person assessments for the inaugural National Voice.

Consultation feedback

During the consultation process, where people commented on an Ethics Council, most feedback was supportive, noting the importance of a transparent process, including at the Bourke, Wagga Wagga, Toowoomba, Canberra and Alice Springs community consultation sessions. There was further interest at several other community consultation sessions in the intended role of an Ethics Council, for example, at the Perth and Cairns sessions.

Some feedback received was that elders could be on the Ethics Council. Some feedback from community consultation sessions was against an independent Ethics Council and instead preferred for this function to be built into the role of the National Voice, for example, at the Rockhampton community consultation session.

'The Commission recommends that an Ethics Council be established within the Voice to establish and adjudicate on matters of governance and ethics. This might include matters such as who is a fit and proper person to be a representative; disputes about indigeneity; and the resolution of other disputes. Such a body should have gender equity among its membership … An Ethics Council [could] also provide a rules-based approach for addressing challenging issues, with the Council having the role of setting criteria for a range of issues including who is a fit and proper person for being a chosen representative, indigeneity etc. The Commission notes that the test for a fit and proper person should take into account the over-representation of Indigenous peoples in criminal justice processes and should ensure that people are not disqualified for minor offending.'

– Australian Human Rights Commission, submission, April 2021

There was general agreement that an Ethics Council would be good to include in the design of the National Voice. Similar to the National Congress Ethics Council, this could be a mechanism to manage issues arising out of lateral violence and ensure National Voice members were working on behalf of Aboriginal and Torres Strait Islander people rather than any other particular organisations or bodies to whom members are also attached. One participant noted that an Ethics Council is a good idea but that its processes must be transparent.

– Canberra community consultation session summary, March 2021

It was noted the proposed Ethics Council could be used to ensure National Voice members remain accountable to people in communities.

– Alice Springs community consultation session summary, May 2021

2.6.2 Eligibility to be a National Voice member

Final proposal

Prospective National Voice members must meet the following eligibility criteria:

- be 18 years of age or older
- be Aboriginal and/or Torres Strait Islander
- primary residence in the Torres Strait Islands or the state or territory for which they are standing. The member for Torres Strait Islanders on the mainland must have a primary residence on the mainland of Australia.
- must not be convicted of an offence against a Commonwealth, state or territory law and sentenced to imprisonment of 12 months or longer
  - A person may be eligible and stand for National Voice membership only after the sentence has ended and an Ethics Council report on the matter has been provided to the National Voice for decision.
- must not be currently bankrupt or have a personal insolvency agreement in effect under the law relating to bankruptcy
  - A person who is a discharged bankrupt or has a personal insolvency agreement in effect may stand once the National Voice makes a decision, after considering an Ethics Council report on the matter
- pass a fit and proper person assessment by the Ethics Council, who would then provide this advice to the existing National Voice members for a decision on the overall eligibility of the prospective candidate.

Once a person is a National Voice member, they become ineligible if:

- the member is convicted of an offence against a Commonwealth, state, or territory law that is punishable by imprisonment of at least one year
- the member is convicted of an offence against a Commonwealth, state or territory law that is punishable by imprisonment of less than one year. The member may remain eligible if the National Voice reviews and decides so - after an Ethics Council report of advice on the matter has been provided
- the member is declared bankrupt.

Interim Report

The Interim Report presented 2 options:

Option 1: Candidates to make a declaration against objective eligibility requirements

Option 2: Candidates to be pre-cleared against a broader character test.

Rationale

The eligibility criteria broadly follow the criteria required by other independent entities. The criteria is minimal to accord with the principle of being open to all Aboriginal and Torres Strait Islander people and allows for a diverse range of lived experience, balanced with the need to ensure the National Voice maintains integrity and is seen as having, and acts with, authority and legitimacy.

Context

The National Co-design Group proposed in the Interim Report possible criteria for eligibility to be a National Voice member and proposed options for determining eligibility.

Examples considered

In particular, the Interim Report included the possible criteria of misconduct issues, which could include bankruptcy, certain criminal convictions and currently serving sentences of imprisonment. The National Co-design Group considered possible eligibility criteria based on contemporary examples from other representative bodies, including:

- A person is ineligible if they are currently serving a sentence of imprisonment of 12 months or longer, or if they are under a suspended sentence of 12 months or longer, for a conviction for an offence against the law.[72] This is similar to the ACT Aboriginal and Torres Strait Islander Elected Body (ATSIEB) eligibility to stand criteria.
- A person is ineligible if they are convicted of an offence against the law and sentenced to imprisonment of 12 months or longer. They are eligible to be a member if 2 years has passed since a conviction is recorded or 'since the person was released from prison'.[73] This is similar to the TSRA and former ATSIC criteria.
- A person is ineligible if they have ever been convicted and is under sentence or subject to be sentenced for an offence punishable by imprisonment of 12 months or longer under a state or Commonwealth law.[74] This is similar to the Australian Parliament criterion.

In addition, the National Co-design Group considered a fourth option of:

- A person who has been convicted of a crime and imprisoned of 12 months or longer may only stand after their sentence has ended, and a person who is currently bankrupt, may stand following a review and clearance by the Ethics Council.

Strong feedback was received during consultation not to preclude people with criminal convictions, given the disproportionate rates of Aboriginal and Torres Strait Islander people with contact with the criminal justice system.

'The inclusion of certain criminal convictions continues, rather than alleviates, the structural oppression of First Nations. In contrast, those who have direct experiences with systemic issues in the criminal justice system and who understand how they continue to silence First Nations voices, are some of the most important people to have a seat at the decision-making table, so the real work and reform can begin.'

– Dr Dani Larkin, submission, March 2021

'Care must be taken to ensure any eligibility requirements are not so strict and rigidly applied as to render ineligible some people who could otherwise make significant contributions to the Voice. This is particularly relevant given the ongoing over-representation of Aboriginal and Torres Strait Islander people in terms of engagement with the criminal justice system, including disproportionate rates of incarceration … Similar concerns apply with respect to the strict application of other objective criteria, such as bankruptcy, where once again Aboriginal and Torres Strait Islander people may be disproportionately affected. None of this is to dismiss the importance of ensuring people who serve as members of the Voice are able to perform their duties with integrity. But it is essential to ensure that any "fit and proper" character tests are carefully defined and applied in a way that takes into account individual circumstances, to avoid unfairly excluding categories of people who may otherwise be able to make a significant contribution to the work of the Voice.'

– Public Interest Advocacy Centre, submission, March 2021

Participants discussed prisoners and people with criminal backgrounds. It was acknowledged that they offer lived experiences of the justice system and they would be best placed to speak on these issues.

– Perth community consultation session summary, April 2021

'Someone with a history of incarceration should not necessarily be excluded because they may be a wise community leader in other ways.'

– Mary Waterford AM, submission, February 2021

[72] *Aboriginal and Torres Strait Islander Elected Body Act 2008* (ACT), section 19.

[73] *Aboriginal and Torres Strait Islander Act 2005* (Cth), section 42V.

[74] Australian Constitution, section 44.

Prior criminal convictions and fit and proper person assessment

The National Co-design Group acknowledged the significant over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system and considered a possible distinction between levels and types of offending. The National Co-design Group noted that serious crimes of violence such as convictions of sexual abuse and domestic violence, as well as convictions for fraud involving community funds should not be treated as equivalent to imprisonment for less serious matters such as failure to pay fines. It was agreed there could be a self-disclosure process, in addition to a formal assurance process to assess eligibility for prospective members where they have pending sentences or hearings as well. The National Co-design Group noted there is a tension between capturing a diversity of lived experiences in membership, with the need for members to have the capacity to engage with and be respected by Aboriginal and Torres Strait Islander people as well as the Australian Parliament and Government.

Separate to the level and type of crimes for which there is a public conviction record, the National Co-design Group agreed there is a need to examine broader conduct and ethical issues, for which a person may not have been convicted or charged. To ensure utmost integrity, legitimacy and confidence in the National Voice, the National Co-design Group agreed to include an Ethics Council to conduct a character test or fit and proper person assessment and provide additional assurance that the person is suitable to be a National Voice member.

Some members of the National Co-design Group noted that Aboriginal Community Controlled Organisations require prospective employees to agree to police checks and attain clearances to work with the aged, people with disability, children and vulnerable people. This was raised to illustrate that a fit and proper person assessment would not be a unique, unusual or onerous requirement for a prospective National Voice member as most community organisations have a higher threshold to meet to be employed.

The criteria for this process would be developed by the initial Ethics Council and agreed upon during the implementation stage by the 'Interim Body for a National Voice' or 'Body for the establishment of the National Voice' (depending on the implementation option). It would then be published prior to any subsequent member determination process for National Voice members. If the Ethics Council finds unfavourable information on a prospective candidate, procedural fairness must be followed, and the candidate must be made aware of this and given a chance to respond with sufficient time, and any response must be considered. The Ethics Council would provide its advice and recommendations to the existing National Voice members, who would then certify and make the final decision.

Local & Regional Voices fit and proper person test

The National Voice members would be selected by Local & Regional Voices, and the National Co-design Group noted the need for broad consistency in criteria and approach between the National Voice and Local & Regional Voices. This would avoid the situation where a member would be ineligible in one, and yet eligible in the other. The National Co-design Group noted the Local & Regional Voice proposal includes the requirement for all Local & Regional Voices to put in place a fit and proper person check for their members. This test would be developed by each Local & Regional Voice, consistent with the Local & Regional Voice principles and best practice governance guidance. The Local & Regional Co-design Group noted that broad consistency between eligibility criteria of the 2 parts of the Indigenous Voice would be expected, given the need for Local & Regional Voices to adhere to the principles. Where Local & Regional Voice members are selected to the National Voice, and they do not meet one or some of the national criteria, this would be dealt with on a case-by-case basis and could be referred to the proposed Ethics Council, as appropriate.

2.6.3 Sanction and removal of members

Final proposal

In addition to the eligibility criteria to which National Voice members are bound for the duration of their term, National Voice members could be sanctioned or removed from the National Voice for a misconduct issue, such as contravening the code of conduct.

The sanction and removal process includes:

- advice provided to the National Voice members on the alleged misconduct, containing a report on the context of the matter, including any reasons or mitigating factors, the member's response and the consideration of that response, and advice on appropriate action
- sanction or removal must be agreed by a super-majority vote of two-thirds of the National Voice members, which would follow a robust process that provides procedural fairness and natural justice, and after receipt of advice on the matter by the Ethics Council.

Interim Report

The National Co-design Group agreed there would be a need for provisions to remove National Voice members to maintain integrity and confidence if a major misconduct issue arises. The National Co-design Group identified 2 options for how this could work:

Option 1: Removal by vote of National Voice membership

Option 2: Objective removal criteria.

Rationale

The final proposal of a sanction and removal process, that includes the Ethics Council, ensures members acquit their representation of Aboriginal and Torres Strait Islander people with integrity and provides a mechanism for the National Voice to handle circumstances involving conduct that could adversely affect its membership and work.

Context

If a National Voice member contravenes the eligibility criteria during their tenure, this would be certified by the National Voice co-chairs, and the member would be removed. For example, if a National Voice member is convicted of an offence against a Commonwealth, state or territory law that is punishable by imprisonment of at least one year, there is no discretion required because the person cannot serve on the National Voice. This is similar to the ACT ATSIEB and the TSRA. If this were the only way to remove a member, it would not allow a National Voice member to be sanctioned or removed for other conduct issues.

In addition to the ongoing eligibility criteria, the National Voice would have a published code of conduct, which would set out clear expectations for a National Voice member's conduct and role and provide a standard against which a misconduct issue could be judged. The Ethics Council could develop the code of conduct, which would then be agreed upon by the National Voice. This would be done as a first order of business for the National Voice and could involve drawing on codes of conduct and ethical clearance processes used by other similar entities.

If a National Voice member contravenes the code of conduct, there could be sanctions available, depending on the severity of the matter, as well as the ability to remove a member. For example, the First Peoples' Assembly of Victoria (FPAV) allows for censure, suspension up to 2 months or any other sanction consistent with its constitution and the law. The FPAV may also remove a member.

For the National Voice, this allows for common sense and good judgement to be applied in addressing serious misconduct issues, coupled with appropriate procedural checks. It would allow broader serious conduct issues to be addressed and ensure the National Voice maintains integrity and confidence in its role.

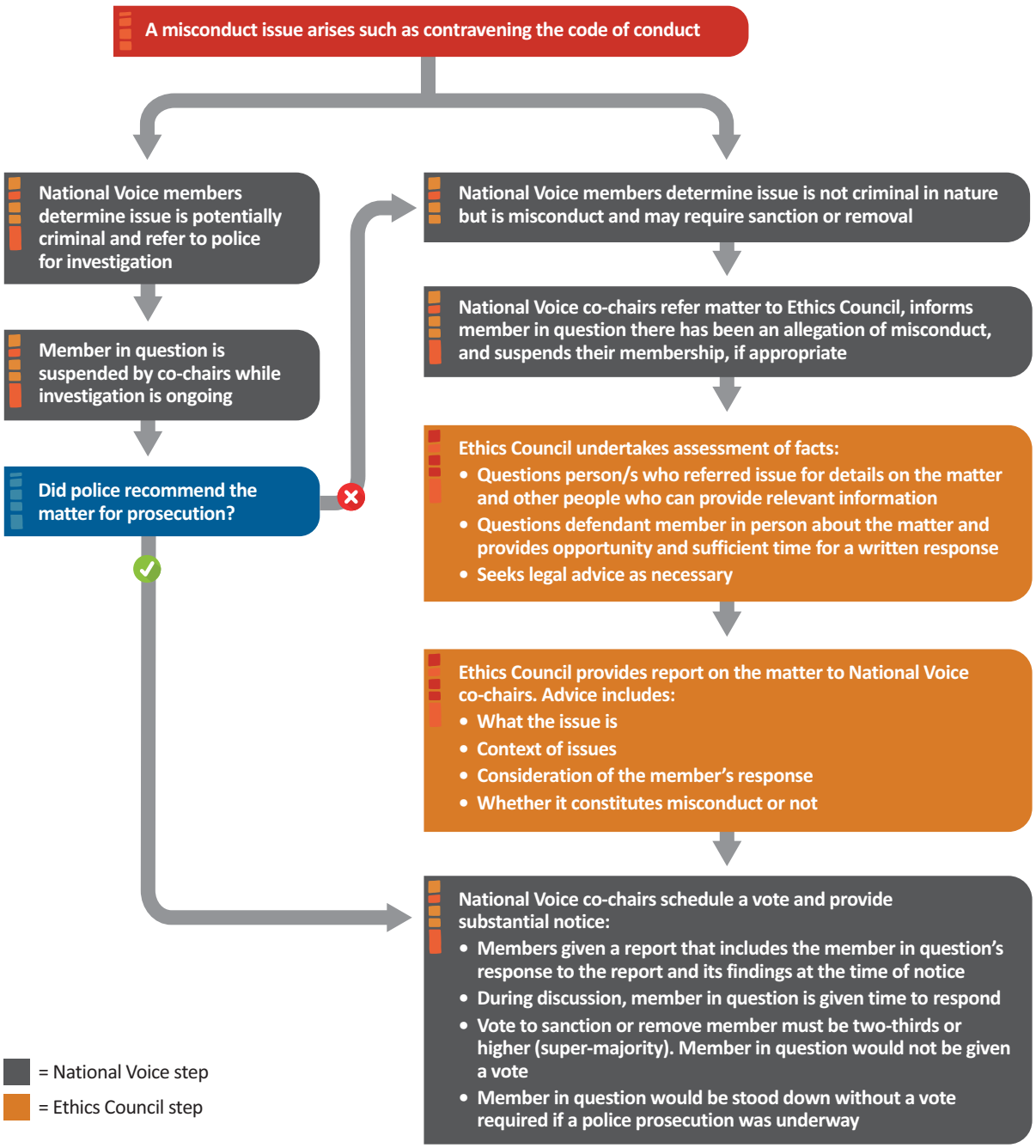
The National Voice would have the power to sanction or remove one of its members, with strong procedural checks in place and the member in question provided natural justice. All decisions remain with the National Voice, with the Ethics Council providing advice where appropriate.

- This would be determined where there was an alleged contravention of the code of conduct. If this misconduct is not allegedly criminal, the matter would be referred to the Ethics Council by the National Voice co-chairs for an independent assessment. Complaints or allegations of misconduct could be made by the National Voice members, Local & Regional Voices or other individuals and would be made in writing. The National Voice co-chairs would facilitate the initial process. Once co-chairs have considered the allegation, they would determine whether it is a matter to be put to the Ethics Council. The Ethics Council would consider the matter and advise whether the allegation is vexatious or not before it becomes a formal issue for the National Voice to vote on. Should the matter be in relation to a co-chair, the members of the National Voice would meet to determine if it was a matter they should refer to the Ethics Council.
- The member whose conduct is in question would have to be notified in writing about the details of the matter with appropriate time given for the individual to respond, and if a response is provided, this would have to be considered.
- The member whose conduct is in question could be suspended while a misconduct matter is ongoing. This would be set out in the code of conduct.
- The Ethics Council would facilitate and assess the matter, with support from the Office of the National Voice. The assessment would have to be undertaken to confirm the substance and nature of the allegations, with the member given sufficient opportunity to respond. This advice could be a simple report on the matter, such as how the member has contravened the code of conduct, the context of the matter, including any reasons or mitigating factors, the member's response and the consideration of that response, and advice on appropriate action.
  - At any point in the process, the Ethics Council could determine the matter requires input from a subject matter expert or professional. This includes acquiring legal advice if necessary.
  - In addition, at any point in the process, the Ethics Council could determine that the matter is no longer suitable for their handling. For example, this could be if it is clear the matter would be a civil court case and therefore can only be handled by the National Voice's legal counsel, or the Ethics Council determines the matter is indeed allegedly criminal and needs to be investigated by the police.
  - This assessment process must be robust and provide procedural fairness, including well-defined time periods for responding to notifications or questions and an appropriate time allowed to undertake the assessment, which would necessarily be dependent on the facts of the matter. The operational procedures of the National Voice would outline this process. The development of these procedures would be informed by best practice and expertise, and would be subject to agreement by the National Voice.
  - This process would be analogous to a human resources process of an organisation undertaking an 'assessment of facts' for a complaint or breach of a code of conduct and could be modelled on the way the FPAV Board undertakes an assessment before recommending to the Assembly to remove a member.
- Before a vote takes place, all National Voice members, including the member whose conduct is in question, must be notified in writing that a meeting is scheduled to discuss the matter and a vote is to occur, with the Ethics Council's report on the matter including any response from the member. The member in question would have to be notified with substantial time prior to the scheduled vote.
- Sanction may include censure, suspension for a short time, or any other sanction consistent with the code of conduct and the law, or removal. These proposed sanctions are similar to those used by FPAV.
- A vote to sanction or remove a member would have to be carried by a super-majority of two-thirds of members.
- An appropriate independent mechanism for the review of membership decisions would be available to National Voice members. A judicial review would be available, and possibly a review by the Administrative Appeals Tribunal. An appropriate process would be investigated and defined during the implementation stage.

Alleged criminal conduct

This process is not related to conduct that is allegedly criminal. Where a National Voice member has acted in a way that may be criminal, such as sexual assault, then the matter would be immediately referred to the police in the relevant jurisdiction. The National Voice code of conduct would need a provision that allows for the suspension of a member while a police investigation is underway, depending on the nature of the allegation. The Ethics Council would not necessarily be required to act in relation to this matter unless the National Voice membership requests advice on an appropriate sanction while the police matter is ongoing.

Figure 2.5: Misconduct procedure flowchart



2.7 Links with Local & Regional Voices

Final proposal

The National Voice will have a formal two-way advice link to Local & Regional Voices. A set of principles would govern this linkage.

Local & Regional Voices would provide perspectives to the National Voice on:

- systemic issues with national policies and programs
- community input on national issues
- matters of national significance to Aboriginal and Torres Strait Islander people.

The National Voice would:

- seek views from Local & Regional Voices on national issues, from the earliest appropriate stage of legislation and policy development
- provide feedback to Local & Regional Voices on how their views have been used.

Interim Report

The National Co-design Group argued there should be a two-way advice link between the National Voice and Local & Regional Voices. A set of principles on the types and uses of advice were set out in the Interim Report and validated during the consultation stage.

Rationale

The two-way advice link would:

- enhance the legitimacy of the National Voice by showing a clear, credible link between communities and the advice of the National Voice
- ensure the advice of the National Voice is grounded in the concerns and priorities of Aboriginal and Torres Strait Islander people and communities
- harness locally held knowledge to help improve national law and policy design and decisions.

Context

The National Co-design Group agreed that the National Voice would have to be grounded in community and place, and a two-way advice link between the National Voice and Local & Regional Voices would be essential to achieving this.

The National Co-design Group agreed that Local & Regional Voices should not raise non-systemic local operational issues with the National Voice or seek to use a National Voice as a dispute resolution mechanism.

The National Voice should focus on matters with a national remit and not become involved in local operational issues.

Consultation feedback

Feedback during the consultation process was strongly supportive of a National Voice grounded in Local & Regional voices. This support was expressed in submissions, including from Empowered Communities. Participants at consultations frequently spoke of the need for the National Voice to ensure connection and engagement to local communities and were interested in how the voices, data and stories of people would be carried from community all the way up to the state/territory and federal government levels.

2.7.1 Structural links, information flow and members

People saw this link being arrived at through the structure of the Indigenous Voice, the flow of information and the individuals who would be selected as members of the National Voice.

The proposed structurally linked membership model set out in section 2.3 provides a solid foundation for the two-way advice link. As members would be determined by (or linked to) Local & Regional Voices, they are likely to be well placed to bring the perspectives of Local & Regional Voices to the national level and feed information back.

The 2 parts of the Indigenous Voice would work as part of a system, ensuring the flow of information from the ground right up to the Australian Parliament and Government. Importantly, Local & Regional Voices would not be subordinate to the National Voice. Rather, each would work within their respective scope. The National Voice could be a practical and efficient coordination mechanism to progress views from Local & Regional Voices on national matters.

The approach for the National Voice to focus on national issues and Local & Regional Voices on local issues received broad, although not unanimous support. The submission by First Nations public lawyer and researcher Eddie Synot suggested that the National Voice should not be limited in the issues it brings to the attention of Parliament, even if those issues were local and regional in nature.[75] The National Co-design Group ultimately took a different approach and decided the National Voice would add the greatest value to the priorities of Aboriginal and Torres Strait Islander peoples by focusing on national, strategic and systemic matters. The National Co-design Group also decided that Local & Regional Voices would have to take the lead on issues at the local level to realise their intended shared decision-making role. Clarity of role and purpose for each part of the Indigenous Voice, while ensuring complementarity, was a key consideration for both the Local & Regional, and National Co-design Groups.

Accountability of the National Voice to the community and Local & Regional Voices was also raised in consultations. In recommending strong accountability to the local and regional level, the submission by Dr Francis Markham suggested that members of the National Voice should be able to be removed by their Local & Regional Voices.[76] This concept was also raised at the Halls Creek community consultation session.[77]

In providing criticism of the design of the Indigenous Voice proposals, the submission by Professor Gabrielle Appleby, Associate Professor Sean Brennan, Professor Megan Davis and Dr Dylan Lino raised the need for organic, rather than engineered linkages between the National Voice and Local & Regional Voices.[78] The final proposal sets broad principles for the relationship between the 2 parts of the Indigenous Voice but also provides significant flexibility for these to evolve organically.

Chapter 4 provides additional information about the important links between the National Voice and Local & Regional Voices and how these would be managed during the establishment phase.

> *'Structurally linked membership from Local and Regional Voices to the National Voice will ensure there is continuity from the grassroots to the national level, and that people who are committed to and understand the agreed local and regional agendas can carry this agenda through to the state/territory and National Voice levels. Only people who have consistently contributed to the hard work on the ground should be eligible for nomination and selection to the state/territory Voice, and to the National Voice.'*
>
> – Empowered Communities, submission, March 2021

[75] Submission by Eddie Synot, 29 April 2021, p. 6.

[76] Submission by Dr Francis Markham, CAEPR, ANU, 30 April 2021, p. 4.

[77] Halls Creek community consultation session summary, May 2021.

[78] Submission by Appleby, Davis, Brennan and Lino, April 2021, p. 12.

Participants discussed the flow of information between regional and national levels of the Voice. There was a view that regional issues should be dealt with at the regional level but that data and stories should flow up and inform the advice given at the national level. Another participant emphasised the importance of people giving input on the ground having a sense that their input was going somewhere. The participant felt this was an important part of getting the community engaged, rather than feeling fatigued or over-consulted.

– Darwin community consultation session summary, April 2021

'The Assembly considers that the link between the Local and Regional Voice and the National Voice mechanisms will be important to coherently advocate for matters of national significance.'

– FPAV, submission, April 2021

One participant commented that there needs to be a direct line of sight from the grassroots up to where decisions are being made, and accountability from the top down and from the bottom up.

– Rockhampton community consultation session summary, April 2021

Participants felt that representatives need to be 'totally supported by community' at both levels of the Voice. Participants also wanted to ensure the National Voice was accountable to communities.

– Angurugu community consultation session summary, May 2021

'The integrated local/regional/national structure that is so crucial to the Voice's credibility and effectiveness requires organic design rather than engineered "linkages".'

– Professor Gabrielle Appleby, Associate Professor Sean Brennan, Professor Megan Davis and Dr Dylan Lino, submission, April 2021

2.7.2 Culture

Another reason mentioned during consultation for strong links between the National Voice and Local & Regional Voices was to reflect strong cultural ties. While often raised in relation to Local & Regional Voices, this theme was also raised at several community consultation sessions, such as in Kununurra, and in submissions concerning a National Voice, including from Reconciliation Australia and Professor Appleby and colleagues. The *Inclusive Participation* and *Cultural Leadership* principles underpinning Local & Regional Voices would help ensure the diversity of voices including people on the ground in communities are reflected in the National Voice through its structural membership link but also help incorporate greater cultural authority into the National Voice.

One participant queried how the National Voice would bring cultural identity, governance systems and law together to inform the development of legislation.

– Canberra community consultation session summary, March 2021

Participants asked where the cultural elements in the National Voice proposal were and noted the National Voice must come to matters from an Aboriginal and Torres Strait Islander cultural perspective.

– Coffs Harbour community consultation session summary, March 2021

2.8 Functions

2.8.1 Role of the National Voice

On behalf of Aboriginal and Torres Strait Islander peoples, the National Voice would have a responsibility and right to advise the Australian Parliament and Government on national matters of significance to Aboriginal and Torres Strait Islander peoples.

2.8.2 Advice function

Final proposal

Core function

The core function of a National Voice would be to advise on matters of national significance to Aboriginal and Torres Strait Islander peoples relating to their social, spiritual and economic wellbeing.

Advice function scope

- Advice would focus on matters of national significance to Aboriginal and Torres Strait Islander peoples. The National Voice would determine which issues it would provide advice on.
- The National Voice would need to prioritise focusing its resources on areas it sees as having the greatest importance for Aboriginal and Torres Strait Islander peoples.
- Advice could be provided to both the Australian Parliament and Government.
  - Advice to Parliament could include providing formal, tabled advice and giving evidence to parliamentary committees.
  - Advice to Government could include engaging with ministers and officials, including those responsible for mainstream policies and programs.
- Advice would be both proactive and responsive. The National Voice would be able to initiate advice, as well as respond to requests for advice from the Australian Parliament and Government.

Advice function features

- The National Voice cannot be required to provide advice. The Australian Parliament and Government may request advice.
- Consultation with the National Voice would ideally occur at the earliest possible stage in the development of relevant laws or policies. This should occur at multiple stages throughout the development process.
- In general, the formal advice provided by the National Voice would be made public. This could be after Government consideration to adhere to confidentiality in the early policy development processes. Informal discussions may also be held where appropriate.
- Formal advice would ideally be issued with a single clear position. However, sometimes advice would need to reflect the diversity of views held by Aboriginal and Torres Strait Islander communities, including dissenting views.
- There would be two-way interactions between the National Voice and the Australian Parliament and between the National Voice and the Australian Government. The National Voice may ask for advice and information. Either party could initiate discussions around relevant policy matters.

Interim Report

The core function of the National Voice set out in the Interim Report was consistent with the final proposal above.

The Interim Report proposed that the National Voice would provide advice to both Parliament and Government. This would be a two-way relationship, including both a proactive and a responsive element. The National Voice would decide what issues to advise on, focusing on national issues. Other features of the advice function were set out and were consistent with the final proposal above.

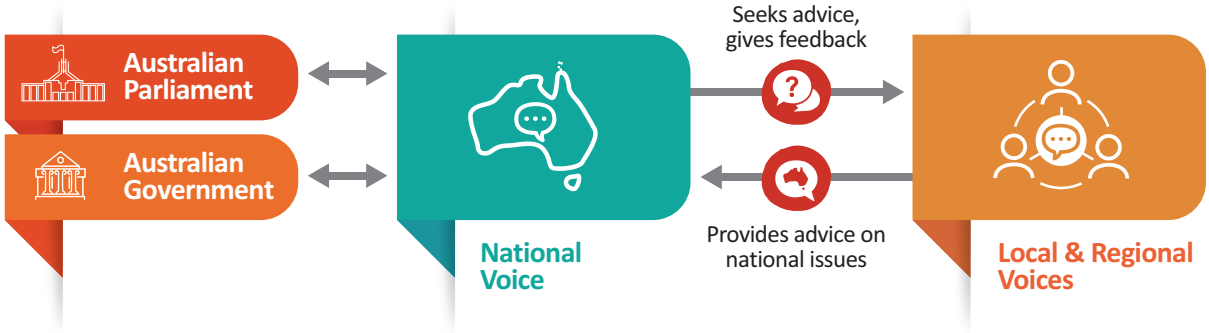
Rationale

It is for Aboriginal and Torres Strait Islander peoples to decide which issues are most important for them. The final proposal enables the National Voice to reflect this in how it chooses and prioritises issues.

By advising both Parliament and Government, the National Voice would have the opportunity to influence different types of policies, programs and services and be involved at multiple stages of policy development.

The final proposal outlines both a proactive and a responsive role for the National Voice, as well as a two-way relationship with the Australian Parliament and Government. This supports a partnership approach in which the National Voice works together with Parliament and Government on how to consider the perspectives, priorities and aspirations of Aboriginal and Torres Strait Islander peoples.

Figure 2.6: Advice flowchart



Context

While the National Co-design Group ultimately concluded that the scope of advice should not be restricted, they considered a number of possible ways the scope could be defined during stage one of co-design. This included:

- whether the scope should only be based on laws and policies specifically directed towards Aboriginal and Torres Strait Islander peoples
- whether the scope should be based only on referrals from the Australian Parliament and Government
- whether the scope should make specific reference to section 51(xxvi) (commonly known as the 'race' power) of the Constitution or be singularly based on this criterion.

Ultimately, all of these more restrictive approaches were rejected. Under the final proposal, advice would be provided on the laws and policies that the National Voice sees as of greatest importance to Aboriginal and Torres Strait Islander peoples. Restricting the scope of the advice function would diminish the role of the National Voice as a national, broad-based representative body for all Aboriginal and Torres Strait Islander people and reduce its ability to influence the Australian Parliament and Government.

Aboriginal and Torres Strait Islander peoples have their own specific priorities, in addition to the same concerns as non-Indigenous Australians, and the role of a National Voice would be to reflect those priorities in providing its advice. Aboriginal and Torres Strait Islander peoples are affected by a broad range of laws and policies, both those directed specifically at Aboriginal and Torres Strait Islander peoples and those for all Australians.

The use of section 51(xxvi) of the Constitution in law-making, in particular, is an important element of what the National Voice might provide advice on. This section has been relied on to make numerous significant laws for Aboriginal and Torres Strait Islander peoples since 1967. However, the number of laws relying on this constitutional power is small and does not reflect the much greater number of laws that affect Aboriginal and Torres Strait Islander peoples.

The National Co-design Group agreed the National Voice should focus on national issues and nationally significant systemic issues, rather than purely local ones. The links between the National Voice and Local & Regional Voices are discussed in detail in section 2.7.

During stage one co-design, the National Co-design Group also considered a proposal from a small minority of Senior Advisory Group members to restrict the National Voice to advising only on proposed laws, leaving existing Aboriginal and Torres Strait Islander organisations to advise on non-legislative policy (see section 2.8.7). The National Co-design Group concluded that the National Voice should advise on both legislation and policy. In addition to the reasons outlined above for the National Voice to not limit its scope, the National Co-design Group also noted that:

- The boundaries between policy development and legislation development are often fluid, which would make it difficult to draw this distinction in the scope of the advice of the National Voice.
- By the time the decision has been made to pursue legislative change and introduce a bill to Parliament, significant policy development has often already occurred. Generally, the best opportunity to influence and advise on proposed laws and policies is in the early stages of policy development. Restricting the scope to only being engaged in the legislative process would therefore prevent the National Voice from being able to influence the development of proposed laws during the critical early stages.

Consultation feedback

The concept of an unrestricted scope was strongly supported by consultation feedback. To a large extent, conversations during consultation identified unrestricted scope as a given feature. The purpose of the National Voice would be to speak on behalf of and reflect the diverse perspectives of all Aboriginal and Torres Strait Islander peoples, and therefore it should have a scope that allows for this. Numerous pieces of feedback outlined the importance of a proactive and broad advice function.

There was a strong view that the National Voice should not be restricted in what it is able to do.

– Wagga Wagga community consultation session summary, March 2021

A participant raised whether government will request advice from the National Voice as well as give advice on 'our own terms'.

– Perth community consultation session summary, April 2021

A participant raised whether 'the National Voice would be able to raise its own issues'.

– Broken Hill community consultation session summary, March 2021

One participant commented that the policy remit of the National Voice should not be limited, as everything is relevant.

– Rockhampton community consultation session summary, April 2021

'The scope of the National Voice should be as broad as possible and unconstrained.'

– Women for an Australian Republic, submission, May 2021

'It is imperative that the National Voice must be able to advise on a sufficiently wide range of matters that pertain to Indigenous affairs.'

– Australian Lawyers for Human Rights, submission, April 2021

'The [National] Voice should be free to initiate its own advice process for any legislative business or proposal it deems relevant.'

– ANTaR, submission, March 2021

2.8.3 Voice to Parliament and Government

During stage one, the National Co-design Group considered whether the National Voice should be a voice to Parliament or a voice to Government. The National Co-design Group proposed in the Interim Report that it should be both. This position attracted strong support in the feedback received during consultation and remains the position in the final proposal.

The importance of providing a voice to Parliament is to give the National Voice broader opportunities to engage on issues beyond the Australian Government's agenda. This would allow the National Voice to engage with a broader range of perspectives, including where bipartisan support is important.

The critical need for a voice to Government flows from the importance of providing advice early in the policy and law-making process. Typically, laws go through extended development by ministers and Government agencies before they are introduced to Parliament.

This dual advice function also reflects the different roles of Government and Parliament in making laws and policies. The role of Parliament is to make laws and scrutinise decisions made by the Government. Most legislation is developed by Government agencies before being introduced to Parliament. In addition to developing legislation, the Government is also responsible for regulation, funding administration and other activities relating to policies, programs and services.

By providing for a voice to both Parliament and Government, the final proposal allows the National Voice to engage fully with policy of different kinds and at different stages of development. The National Co-design Group concluded that this would require the National Voice to be a voice to Government, in addition to being a voice to Parliament. The group did not believe that a voice to Government diminishes in any way the voice to Parliament function and, in fact, as described above, can only enhance outcomes for Aboriginal and Torres Strait Islander people.

This broad role for the National Voice reflects previous work done in considering development of a Voice. The Joint Standing Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples Strongly emphasised the importance of a Voice being able to engage early in the development of laws and policies.[79] The committee's Final Report described the role of a Voice to advise Government, as well as Parliament, in the following way:

> *[To] provide a forum for people to bring ideas or problems to government and government should be able to use the voices to road test and evaluate policy. This process should work as a dialogue where the appropriateness of policy and its possible need for change should be negotiable.*[80]

Similarly, in the Referendum Council's 2016 Discussion Paper, the description of an 'Indigenous voice to Parliament' stated:

> *It is critical that Aboriginal and Torres Strait Islander peoples are engaged in the development and implementation of laws, policies and programs that affect them and their rights. This is important in achieving better policies and outcomes for Indigenous peoples, and a fairer relationship with government.*[81]

In the majority of cases, the Government is responsible for developing laws prior to the introduction of fully developed legislation to the Parliament, as well as for their implementation after legislation is passed. There are also some policies and programs that are the responsibility of the Government with a very limited role for the Parliament.

Consultation feedback

There was strong support for the National Voice to provide advice to both Parliament and Government across survey responses, submissions and community consultation sessions, including the following.

> *'There are many aspects of the interim report that we welcome, namely: [t]he nature of the First Nations Voice being to both the Federal Government and Parliament.'*
>
> – Uniting Aboriginal and Islander Christian Congress, submission, March 2021

> *Participants supported the National Voice proposal for a voice to Parliament and government.*
>
> – Nhulunbuy community consultation sessions, May 2021

> *'The National Voice must speak to the Commonwealth Parliament and Government on policy and legislation.'*
>
> – From the Heart, submission, January 2021

Discussion on the National Voice in community consultation sessions included reflections from participants on a wide range of issues that were important to them, covering both legislation and government program delivery. Policy matters that were raised included housing,[82] education,[83] employment,[84] economic development,[85] suicide,[86] and interactions with the criminal justice system.[87]

Some submissions articulated that there should be a greater emphasis on the 'voice to Parliament' element of the advice function.

79 Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander peoples, Final Report, 2018, pp. 26 and 32.

80 Ibid, Box 2.1 Principles for the design of the Indigenous Voice.

81 Anderson et al., Discussion Paper on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples in Final Report of the Referendum Council, 2017, p. 104.

82 For example, the Bunbury community consultation session summary, April 2021.

83 For example, the Ngukurr community consultation session summary, April 2021.

84 For example, the Derby community consultation session summary, May 2021.

85 For example, the Cairns community consultation session summary, April 2021.

86 For example, the Carnarvon community consultation session summary, April 2021.

87 For example, the Mildura community consultation session summary, March 2021.

'There is a worrying emphasis on government and bureaucracy over parliament and a failure to fully appreciate the power and authority of parliament as an important institution for the First Nations Voice to make representations to.'

– Eddie Synot, submission, April 2021

The final proposal sets out that providing advice to Parliament would be a core part of the function of the National Voice. The transparency mechanisms set out in section 2.9.6 would further strengthen this by setting up formal elements of the interface between the National Voice and the Parliament.

Similar concerns were also raised by the submission from the National Aboriginal Community Controlled Health Organisation.

'The rationale for the changes from the model of the Voice envisaged in the Uluru Statement from the Heart and the case of the new proposals, particularly to be an advisory body to Government rather than the Parliament, have not been made clear by the government.'

– National Aboriginal Community Controlled Health Organisation, submission, April 2021

The National Co-design Group did not view the proposal for the National Voice to advise both Parliament and Government as inconsistent with the Uluru Statement from the Heart. The statement itself refers to a 'First Nations Voice' and does not specify that it would only advise Parliament.

As outlined above, this broad role for the National Voice is supported by reports written in both the lead-up to and following the Uluru Statement from the Heart, including the Referendum Council Discussion Paper in 2016[88] and the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples Final Report in 2018.[89]

2.8.4 Scope for a future international role

Final proposal

The National Voice should have scope to take on a role in the future at appropriate international forums, consistent with the role of indigenous voices in other countries.

The exact nature of this role is not prescribed here. This could be discussed further between the National Voice and the Australian Government.

Interim Report

The Interim Report proposed that there should be scope for a future international role for the National Voice.

Rationale

Aboriginal and Torres Strait Islander people, as with other indigenous peoples across the world, have a long history of engaging in the various international forums. This includes the United Nations Permanent Forum on Indigenous Issues in particular. The participation of Aboriginal and Torres Strait Islander people in the international policy community to date has supported Australia to develop policy aligned with international best practice. An international role for the National Voice would provide opportunities to share ideas with indigenous people in other countries and provide another pathway for the National Voice to seek expert views.

[88] Anderson et al., Discussion Paper on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples in Final Report of the Referendum Council, 2017, p. 104.

[89] Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, Final Report, 2018, Box 2.1 Principles for the design of the Indigenous Voice.

Context

An international role was not a major theme of feedback in consultation, but the feedback that was received on the issue was supportive.

'The Voice should have the mandate to participate in UN and international fora, if the Voice so chooses.'

– Australian Human Rights Commission, submission, April 2021

Participants recalled that a strength of ATSIC was its connections with Indigenous groups in other countries, and international engagement.

– Tamworth community consultation session summary, March 2021

One participant argued that the National Voice should be able to influence international Indigenous policy.

– Rockhampton community consultation session summary, April 2021

2.8.5 Excluded functions

Final proposal

The National Voice should not perform any of the following functions:

- It should not deliver Government programs.
- It should not be a clearing house for research.
- It should not provide mediation or facilitation between Aboriginal and Torres Strait Islander organisations.
- It should not be an escalation point for Local & Regional Voice operational issues.
- It should not provide mediation or facilitation between government and Local & Regional Voices on specific issues.
- It should not undertake program evaluation but could identify matters where evaluation may be needed or how evaluations could be more effective.

Interim Report

The Interim Report outlines that the National Co-design Group considered all of the functions set out above during stage one of co-design but proposed they should be excluded.

Rationale

The excluded functions are inconsistent with the core function of the National Voice to provide advice and could create unnecessary complexity if included in the National Voice design. Excluding these functions also helps maintain the appropriate division of responsibilities between the national, and local and regional parts of the Indigenous Voice, discussed in more detail in section 2.7.

Context

The National Co-design Group agreed that giving additional functions to the National Voice would detract from the advisory function and was not consistent with its role and purpose.

The National Co-design Group excluded any escalation or mediation function for the National Voice to avoid the risk of drawing the National Voice into local issues. Instead, the National Voice would maintain a strategic focus on national-level issues. Dispute resolution mechanisms for Local & Regional Voices are discussed in section 1.11. The relationship between the different parts of the Indigenous Voice is discussed in detail in section 1.15.1.

From the outset of stage one co-design, there was a strong consensus that the National Voice should not have any Government program delivery functions. There was an acute awareness of the challenges faced by ATSIC in combining a program delivery function with an advocacy and advisory function. These challenges included:

- the need for a very large administrative arm to perform program delivery functions
- a complex dual accountability—accountability to the Australian Government for service delivery and accountability to its Aboriginal and Torres Strait Islander constituency for its advisory function
- a need for strong governance to manage issues such as conflicts of interest
- ATSIC being increasingly held responsible for all services to Aboriginal and Torres Strait Islander people, rather than mainstream agencies (where the majority of expenditure on services for Aboriginal and Torres Strait Islander people occurred).

Consultation feedback

There was little feedback from consultation on other possible functions for the National Voice. The most discussion was on excluding the government program delivery function, with feedback broadly in favour of exclusion.[90]

'The co-design groups have wisely rejected any notion that the Voice should be handballed responsibility to deliver government services as ATSIC was, seeding inevitable conflicts of interest and corruption.'

– Arnold Bloch Leibler, submission, March 2021

'The National Voice must not deliver programs or services.'

– From the Heart, submission, January 2021

Community consultations sessions included a mix of views about whether the National Voice should control funding or manage programs.

There was general criticism of the former ATSIC as an entity that was effective only for people involved in the higher levels of its governance.

– Toowoomba community consultation session summary, March 2021

A participant put forward the idea of setting aside money for a future fund and giving Indigenous Voice structures control of the funding.

– Broome community consultation session summary, May 2021

One participant was concerned that the proposed Indigenous Voice would not have any control over funding.

– Darwin community consultation session summary, April 2021

The National Co-design Group considered this range of views and agreed that a program delivery role would create too many risks for the National Voice and should be excluded from its functions.

[90] Including in submissions from ANTaR, Arnold Bloch Leibler, From the Heart, PwC Indigenous Consulting and PwC Australia, St Vincent de Paul Society National Council and Community Legal Centres Australia.

2.8.6 Engagement with other Aboriginal and Torres Strait Islander stakeholders

Final proposal

2 principles would guide the interactions of the National Voice with existing Aboriginal and Torres Strait Islander structures:

- The National Voice would not replace or undermine existing structures. The Australian Government would continue engaging and working in partnership with all relevant stakeholders through their normal channels and agreements. The National Voice would not be a gatekeeper to this engagement.
- The National Voice would engage and form links with existing structures as a core part of its business. This would ensure the advice from the National Voice captures the expertise and networks of existing structures and amplifies a range of Aboriginal and Torres Strait Islander voices.

Interim Report

Chapter 5 of the Interim Report (Intersections) set out the principle that the National Voice would not replace or undermine existing structures and would engage with those structures.

Rationale

Existing organisations have expertise in particular public policy domains and links to Aboriginal and Torres Strait Islander communities, as well as established relationships with Government. The National Voice's engagement with such stakeholders would help the National Voice give better informed advice and ensure the voices of these stakeholders are enhanced and amplified rather than duplicated.

Context

Current partnerships with governments

Many Aboriginal and Torres Strait Islander organisations exist and work in partnership with governments today. 2 partnerships of particular significance at the national level are:

- The National Agreement on Closing the Gap is a partnership between the Coalition of Peaks and all Australian Governments. The Coalition of Peaks is comprised of over 50 Aboriginal and Torres Strait Islander community-controlled peak organisations. In July 2020, the Coalition of Peaks signed the historic National Agreement on Closing the Gap with all 3 levels of government. The agreement sets out Priority Reforms, targets and a commitment to developing implementation plans in partnership with Aboriginal and Torres Strait Islander people. The agreement is overseen by the Joint Council on Closing the Gap, which includes federal, state, territory and local governments, and the Coalition of Peaks.
- The Indigenous Advisory Committee (the Committee) is a statutory committee established in 2000 under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), recognising the significance of Aboriginal and Torres Strait Islander people's knowledge of the management of land and the conservation and sustainable use of biodiversity. The role of the Committee is to provide advice to the Minister for the Environment on environment and heritage programs, policy and consultation strategies to ensure better access and engagement for Aboriginal and Torres Strait Islander people.

These are positive examples of genuine partnerships between governments and Aboriginal and Torres Strait Islander peoples. Both are with groups of individuals or organisations with relevant subject matter knowledge.

There are also partnerships at the local and regional level, including the Empowered Communities and New South Wales Local Decision Making models, as well as initiatives in other states and territories.

Policy considerations

National Co-design Group members considered existing organisations and partnerships in designing the National Voice. Many of the National Co-design Group members are or have been leaders of these organisations and hold a deep appreciation for the wide variety of existing arrangements and the vital role they have played and will continue to play in supporting Aboriginal and Torres Strait Islander peoples. The National Co-design Group held a clear view that the National Voice should enhance these and not displace them.

Leveraging the strength of existing arrangements will be crucial for the effectiveness of the National Voice. By drawing on the expertise, knowledge, networks and experience of existing structures, the National Voice will better inform its advice to the Australian Parliament and Government.

At the same time, the National Co-design Group was conscious that the National Voice represents an opportunity for reform. A feature of existing partnerships with Aboriginal and Torres Strait Islander people is that, in general, they were established to respond to particular policy needs and include a specific set of Aboriginal and Torres Strait Islander stakeholders. This reflects the absence of a broad-based structure representing all Aboriginal and Torres Strait Islander people across different policy domains. This is the gap that the National Voice would fill, allowing it to build on the strengths of existing arrangements. The National Voice would be able to draw authority from Aboriginal and Torres Strait Islander people.

Generally speaking, existing Aboriginal and Torres Strait Islander peak bodies are focused on a particular sector, linked to a group of service delivery organisations. This differentiates the respective roles of these peak bodies and the National Voice. The National Voice would need to consider broad-based, cross-sectoral and cross-community perspectives in developing its advice to advance the interests of all Aboriginal and Torres Strait Islander people at the national level.

Existing peak bodies do not have full coverage over all sectors, for example, Aboriginal and Torres Strait Islander businesses and individuals who are not members of organisations. Ensuring these interests are considered and represented is important.

There are a range of existing structures with statutory functions such as land councils, PBCs and the Aboriginal and Torres Strait Islander Social Justice Commissioner. The scope of the National Voice would not and, in fact, cannot affect those statutory functions in any way.

The way in which the National Voice engages with other Aboriginal and Torres Strait Islander stakeholders would be flexible and evolve over time. Engagement could be initiated by either party and could take a range of forms, for example:

- Ad hoc engagement could be used, for example, if a stakeholder wished to raise an issue with the National Voice.
- A formal agreement could be used to set out roles and responsibilities, information sharing or a work plan based on the agreement of the National Voice and relevant stakeholders.
- The National Voice could play a convening role, bringing together different Aboriginal and Torres Strait Islander stakeholders to work on a particular issue.

National Agreement on Closing the Gap

As outlined above, the National Agreement on Closing the Gap is a significant example of an existing partnership between Aboriginal and Torres Strait Islander people and Australian governments. The Australian Government signed this 10-year agreement to work with the Coalition of Peaks as a member of the Joint Council on Closing the Gap.

The proposed National Voice would not interfere with this in any way. Instead, the proposal recognises the need for Aboriginal and Torres Strait Islander peoples' input on issues beyond those covered by the agreement. This includes legislation (both when being developed by Government and considered by Parliament) and policy issues such as the words of the National Anthem or the Indigenous Procurement Policy. The National Voice and the Coalition of Peaks could work together and would be complementary by amplifying each other's perspectives through their respective relationships and roles.

The National Co-design Group did not attempt to prescribe the exact policy issues that the National Voice should deal with within the context of existing arrangements. This would have made the proposal more complex and rigid and failed to recognise the intention for the National Voice to evolve. The advice function set out in section 2.8.2 gives the National Voice the flexibility to identify the areas it needs to focus on. This would include working with other Aboriginal and Torres Strait Islander organisations or filling policy gaps where they are identified. This approach allows arrangements to evolve and improve.

How the interaction would evolve between the National Voice and some of these organisations or processes cannot be prescribed; it would need to be organic. Where there are non-statutory formal partnership arrangements in place, such as the National Partnership Agreement on Closing the Gap, the National Voice would have no authority to disrupt or interfere with these arrangements. There has been some concern raised that the Government may end up with 2 points of view and subsequently could choose to take the view most aligned with its position. The National Co-design Group did not see this as a significant risk given the nature of agreements such as the Closing the Gap agreement. All parties would need to work on the relationship between the Indigenous Voice and existing structures.

Consultation feedback

The relationship between the National Voice and other structures such as the Coalition of Peaks was a topic at some community consultation sessions, such as in Adelaide, Albany, Hobart and Perth. Participants had a range of views about the effectiveness of existing organisations, but the need for effective relationships between the National Voice and other organisations was a clear theme.

Some submissions expressed concerns about how the National Voice would affect existing structures.

> *'The design of the Voice must be cognisant of the potential impact on existing Indigenous governance structures, including Indigenous organisations and networks, and pay very close attention to the detailed local contexts of Aboriginal community structures, processes, decision-making, representation, and membership. It must also have very close regard to the current processes and dynamics of engagement between Indigenous communities and organisations, and governments.'*
>
> – Central Land Council, submission, April 2021

> *'The proposals do not take sufficient account of the many Aboriginal and Torres Strait Islander community-controlled representative and self-determined arrangements across the country.'*
>
> – National Aboriginal Community Controlled Health Organisation, submission, April 2021

These concerns reflect the need for the principle in the final proposal that the National Voice would not displace existing structures. Both the Government and National Voice should continue to engage with existing structures.

2.9 The Australian Parliament and Government

The advice function section (see section 2.8.2) states that the National Voice would have a broad, discretionary ability to advise on national matters of importance to Aboriginal and Torres Strait Islander people. The National Co-design Group agreed that this should be complemented by a formal interface with Parliament and Government. The purpose of this interface would be to:

- provide guidance on when and how consultation with the National Voice should occur
- give formal standing to the role of the National Voice
- create processes to encourage strong engagement by Parliament and Government
- ensure there is transparency in the National Voice's relationship with Parliament and Government.

The elements of the interface developed by the National Co-design Group are:

- A set of consultation standards
  - an obligation to consult the National Voice on a defined and limited set of laws
  - an expectation to consult the National Voice based on a wider group of policies and laws informed by a set of principles
  - standards for how consultation should be conducted.
- A set of transparency mechanisms, situated in the Parliament
  - statements on all bills explaining whether the National Voice should be consulted and, if so, whether this occurred
  - the tabling of formal advice of the National Voice in Parliament
  - a parliamentary committee relating to the National Voice would enable parliamentarians to hear directly from the National Voice or to gain further insight into tabled advice, and could consider engagement with the National Voice.

As discussed in sections 2.9.1 and 2.9.6, the design of these elements supports a flexible, good-faith partnership between the National Voice with both Parliament and Government. The National Co-design Group was conscious that partnership could not be manufactured by setting complex or prescriptive rules and has instead emphasised clarity and dialogue in the design. The design allows for this partnership to develop and evolve over time.

The design also reflects the need to respect parliamentary sovereignty and avoid causing unintended consequences. As a result, all elements would be non-justiciable, meaning alignment with the standards could not be challenged in court and could not legally affect the validity of legislation or policies. The elements have also been designed to support effective legislative and policy processes and not disrupt Parliament or Government. To achieve this, the proposals are firmly grounded in existing processes that are already in use.

The elements also reflect the principle that all advice from the National Voice is non-binding and that the National Voice would have no veto power over proposed laws or policies. This design principle was initially outlined in the Referendum Council Final Report.[91] This position was supported by a number of submissions, including some that characterised this as a 'non-issue'[92] and 'uncontroversial'.[93]

Consultation standards and transparency mechanisms must be flexible enough to address the full range of possible circumstances, particularly concerning timing. In some cases, consultation with the National Voice may be built in from the early stages. In other cases, legislative changes may be time-sensitive, and a smaller amount of time might be provided for consultation with the National Voice. The proposed consultation standards and transparency mechanisms do not take a prescriptive approach to this. Instead, they support partnership and dialogue that can facilitate change.

A key element of the consultation standards is the general expectation that Parliament and Government would engage the National Voice at the earliest opportunity when developing policies and proposed laws that have a significant impact on Aboriginal and Torres Strait Islander peoples. The result of this early engagement would mean that by the time a bill is finalised, the National Voice should already have been engaged and given the opportunity to provide considered formal advice.

91 Final Report of the Referendum Council, 2017, p. 36.

92 Dr Dani Larkin, submission, March 2021, p. 4.

93 Law Council of Australia, submission, April 2021, para. 109, p. 30.

2.9.1 Consultation standards

Final proposal

The National Voice consultation system comprises the following elements:

Obligation to consult

Parliament and Government would have an obligation to consult on primary legislation that either:

- overwhelmingly relates to Aboriginal and Torres Strait Islander peoples; or
- is a special measure for Aboriginal and Torres Strait Islander people within the definition of the *Racial Discrimination Act 1975* (Cth).

Examples of what the obligation to consult would capture are:

- amendments to the *Native Title Act 1993* (Cth)
- major amendments affecting Indigenous Business Australia
- changes affecting the Community Development Program
- amendments to the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

Expectation to consult

Parliament and Government would be expected to consult on proposed laws and policies that have a significant or distinctive impact on Aboriginal and Torres Strait Islander peoples. Government and Parliament should proactively assess whether their policies meet this test, informed by the following principles:

- whether the proposed law or policy falls within the current priorities of the National Voice
- whether the proposed law or policy includes substantial measures that explicitly refer to Aboriginal or Torres Strait Islander peoples
- whether the proposed law or policy would have a significant impact on the social, spiritual or economic wellbeing of a significant number of Aboriginal or Torres Strait Islander people
- whether the proposed law or policy would impact Aboriginal or Torres Strait Islander peoples in a way that is different to the effects on other Australians.

Examples of what this scope would capture include:

- amendments to the *Racial Discrimination Act 1975* (Cth)
- the Indigenous Procurement Policy
- the National Disability Insurance Scheme to the extent where it significantly affects Aboriginal and Torres Strait Islander people
- domestic violence measures, to the extent these significantly affect Aboriginal and Torres Strait Islander people.

Any relevant matters

As set out in section 2.8.2, the National Voice would be able to raise any national issue that it views as important for Aboriginal and Torres Strait Islander peoples, and conversely, Parliament and Government can ask the National Voice for advice on any issue. Members of Parliament would be able to request advice on bills that they are developing. Nothing in the obligation or expectation to consult restricts in any way the ability of the National Voice to provide advice or receive referrals.

Manner of consultation

Consultation with the National Voice should occur:

- at the earliest possible stage in the development of the proposed law or policy
- at multiple stages of the development of the proposed law or policy.

This reflects the importance of the National Voice being consulted early in the policy development process as outlined in section 2.8.2.

Non-justiciable

The standards set out above would be non-justiciable, meaning alignment with the standards could not be challenged in court and could not affect the legal validity of laws or policies.

Interim Report

This tiered structure with an obligation and expectation to consult was proposed in the Interim Report. The Interim Report set out key attributes of the obligation and expectation to consult but did not define their scope.

Obligation

The Interim Report outlined that the obligation to consult should be narrow and well defined. Several ways for the obligation to be defined were put forward in the report. These are addressed in detail in section 2.9.2.

Expectation to consult

The Interim Report outlined that the expectation to consult would apply broadly to areas of significant effect on Aboriginal and Torres Strait Islander peoples and would be based on principles. Examples of these principles were outlined, and it was noted that they would be further designed during consultation.

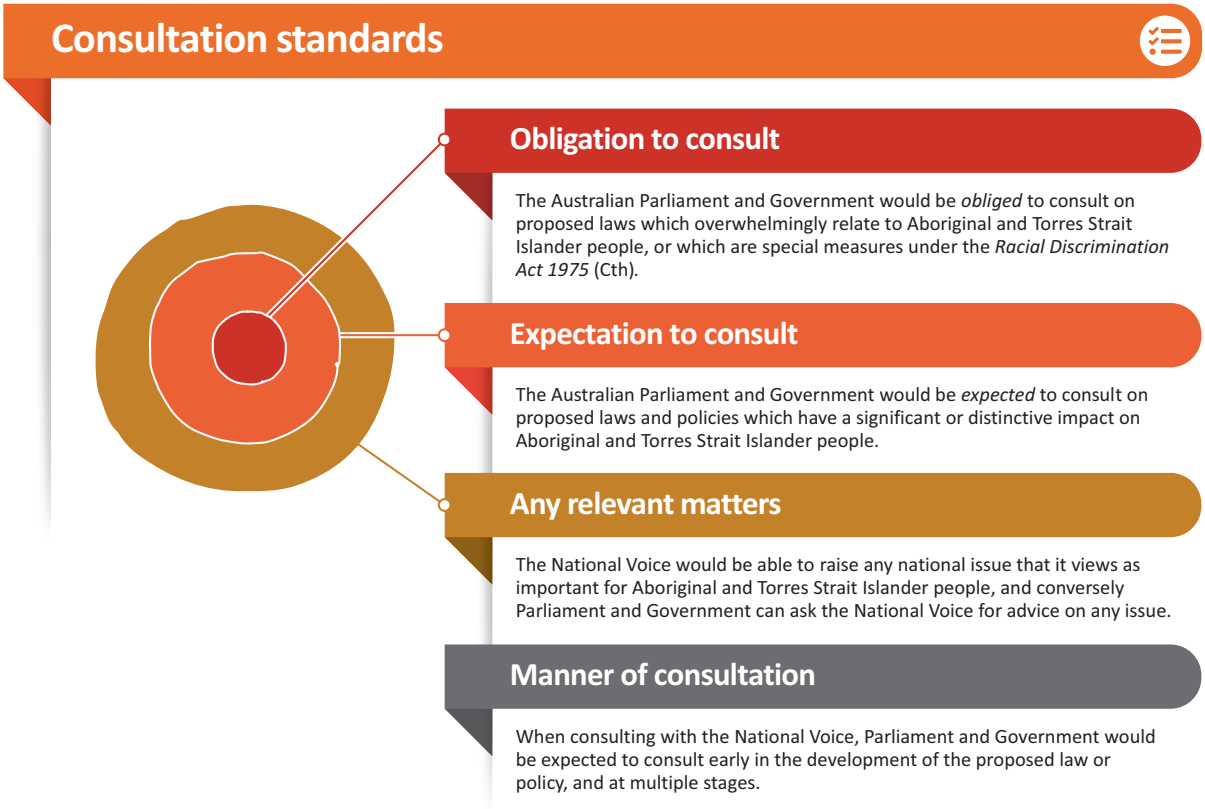
Manner of consultation

The Interim Report outlined an expectation to consult the National Voice at the earliest stages of policy development and throughout the process of policy development.

Rationale

The consultation standards set a benchmark and create a common basis for dialogue on how consultation should occur between the Australian Parliament and Government and the National Voice. They reflect the principle that Aboriginal and Torres Strait Islander peoples should be consulted on laws and policies that affect them. The standards have been designed to ensure they do not create cumbersome or prescriptive requirements or infringe on the role of Parliament.

Figure 2.7: Consultation standards



2.9.2 Obligation to consult

The obligation to consult recognises that Aboriginal and Torres Strait Islander people are the only 'racial' groups subject to special laws specifically targeted at them. For example:

- *Native Title Act 1993* (Cth)
- *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth)
- *Aboriginal and Torres Strait Islander Act 2005* (Cth)
- *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth)
- *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

A community that has special laws targeted at them should have input into those laws. The obligation to consult would set a standard that requires Parliament and Government to ask the National Voice for input before making or amending laws specifically targeted at Aboriginal and Torres Strait Islander peoples.

The National Co-design Group gave detailed consideration to how to define which laws would be covered by the obligation to consult. Any definition needs to be sufficiently general to apply to all laws in the future, even though it cannot be predicted what form future laws might take.

The National Co-design Group adopted 2 principles to guide them in searching for the appropriate 'triggers' for the obligation to consult. The triggers should:

- be reasonably simple to apply, without requiring legal advice
- capture proposed laws that specifically target Aboriginal and Torres Strait Islander people.

Obligation triggers adopted by the National Co-design Group

Laws that overwhelmingly relate to Aboriginal and Torres Strait Islander people

- The key advantage of this trigger is that it sets a simple, common-sense standard that is easy to understand and apply. Officials, ministers and parliamentarians can use their judgement to determine if a proposed law falls within this definition without requiring legal advice.
- This definition also closely aligns with the principle of capturing laws that are specific to Aboriginal and Torres Strait Islander people, such as the examples above.

Laws that are special measures under the *Racial Discrimination Act 1975* (Cth)

- This trigger was suggested in the Interim Report.
- A special measure is a law for the advancement and protection of Aboriginal and Torres Strait Islander peoples in a positive way. A law that would otherwise be considered discrimination is a special measure if it is necessary for the sole purpose of advancing the equal enjoyment of human rights and freedoms of a racial or ethnic group.
- The existing framework of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) already requires every bill introduced to Parliament to be accompanied by a 'statement of compatibility' with human rights. The statement of compatibility identifies whether or not a bill is a special measure under the *Racial Discrimination Act 1975* (Cth). Applying the obligation to consult to special measures would simply involve building upon this existing process.
- 'Special measures' are defined by the International Convention on the Elimination of All Forms of Racial Discrimination, to which Australia is a state party. Special measures are enshrined in Australian law through the *Racial Discrimination Act 1975* (Cth), which prohibits various types of racial discrimination, but not if they are special measures.
- A range of laws that specifically target Aboriginal and Torres Strait Islander peoples fall into this category, for example, the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) and the *Native Title Act 1993* (Cth).

Triggers considered and not adopted

Laws that exclusively relate to Aboriginal and Torres Strait Islander peoples

This trigger was suggested in the Interim Report.

The National Co-design Group considered this trigger but noted it would, in effect, have a very narrow scope and would be unlikely to ever result in a bill being referred to the National Voice under the obligation to consult. Laws that are specifically targeted to Aboriginal and Torres Strait Islander peoples may not relate to them 'exclusively' if they contain minor or incidental provisions that relate to other Australians. For example, the *Native Title Act 1993* (Cth) is not 'exclusive' to Aboriginal and Torres Strait Islander people because it also affects mining companies and pastoralists.

Laws that rely on the heads of power s51(xxvi) or s122 of the Australian Constitution (the race and territories powers, respectively)

This trigger was suggested in the Interim Report.

The race and territories powers in the Australian Constitution have been a significant feature of conversations about the National Voice. In addition to being raised in the Interim Report, they were also discussed in the Referendum Council Report and by the Joint Select Committee.[94]

As a result, the National Co-design Group gave extensive consideration to the race and territories powers as possible triggers for the obligation to consult. Upon close examination, it became apparent to the members of the National Co-design Group that there were significant practical problems with using heads of power as a trigger. These were:

- Identifying constitutional heads of power requires expert legal knowledge. The vast majority of bills do not state which constitutional head of power they are relying on. If these triggers were adopted, it would require legal advice on most bills to determine if they were in scope. This would make implementing the obligation more complicated and burdensome, and harder for the community to understand. While legal advice is often sought as part of the development of a bill, this often occurs in the later stages of legislative development and not in the early stages of policy development. This would be inconsistent with the principle of consulting the National Voice early.
- It is not necessarily clear which head of power is relied upon for a particular law. This can only be determined definitively by a ruling of the High Court. The only guidance available would be the existing body of case law.
- The race and territories powers are often relied upon to make minor changes to legislation that are not of special interest to Aboriginal and Torres Strait Islander peoples or for a small number of provisions within a larger bill. For example, reform to corporate law might involve an amendment to the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) and would therefore rely on the races power. This would not meet the intention of capturing laws that specifically target Aboriginal and Torres Strait Islander people.

As a result of these challenges, the National Co-design Group has instead proposed triggers that would be simple and practical to apply, rather than complex, legalistic triggers based on the Australian Constitution.

The National Co-design Group noted that the intention of previous discussions regarding the race and territories powers was to capture laws that specifically targeted Aboriginal and Torres Strait Islander people. This is also achieved by the 2 triggers that the National Co-design Group did adopt.

Laws that suspend the *Racial Discrimination Act 1975* (Cth)

This trigger was suggested in the Interim Report.

The *Racial Discrimination Act 1975* (Cth) has only been suspended once since its enactment, by the *Northern Territory National Emergency Response Act 2007* (Cth). This law stated it was a special measure and overwhelmingly related to Aboriginal and Torres Strait Islander people. Therefore, it would likely have been captured by both of the 2 chosen triggers, and this proposed trigger was considered unnecessary.

[94] Final Report of the Referendum Council, 2017, p. 2; Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, Final Report, 2018, p. 30.

Laws that affect rights protected by the United Nations Declaration on the Rights of Indigenous People (UNDRIP)

This trigger was suggested in submissions provided in consultation.

'ALHR strongly submits that the Australian Government should consult the National Voice on: any legislation, regulation or policy which affects the rights of First Nations peoples, as set out in the UNDRIP; and any other matters that significantly affect Aboriginal and Torres Strait Islander peoples.'

– Australian Lawyers for Human Rights, submission, April 2021

'The triggers of the obligation to consult be expanded to include proposed laws affecting any right articulated or protected by the UNDRIP.'

– Law Council of Australia, submission, April 2021

The risk of defining the scope of the consultation requirements with reference to UNDRIP is that it would be very challenging to apply. UNDRIP is a complex document with 46 articles. Under this proposal, officials and parliamentarians would need expert advice to assess all proposed laws against UNDRIP. The risk of using this as a trigger is that it would create a complex system requiring specialist legal and expert advice on every proposed law, creating Whole of Government processes with the potential to slow down the legislative development process and passage through Parliament.

Consultation feedback

Where surveys, submissions or community consultation sessions engaged on this topic, the feedback expressed support for the principle of the obligation to consult. Some submissions argued that the scope of the obligation to consult set out in the Interim Report was too narrow and should be expanded.

'Government and the Parliament would only be obliged to consult on a narrow range of proposed laws that are exclusive to Aboriginal and Torres Strait Islander people. This is a very narrow range of matters.'

– Victorian Aboriginal Executive Council, submission, April 2021

'We submit that the proposed triggers for the obligation on Parliament and Government to consult and engage with the Voice are too limited and are likely to inhibit the ability of the National Voice to influence policies and laws impacting the lives of Aboriginal and Torres Strait Islander people.'

– Gilbert + Tobin, submission, April 2021

'We recommend that policy makers should be obliged, rather than purely expected, to consult the advisory Voice on a scope of matters described by the National Co-design Group as proposed laws and policies of general application which particularly affect, or which have a disproportionate or substantial impact on Aboriginal and Torres Strait Islander peoples.'

– Arnold Bloch Leibler, submission, March 2021

One participant commented that all policies affect Aboriginal and Torres Strait Islander people and should pass through the Indigenous Voice.

– Perth community consultation session summary, April 2021

One participant noted the scope of obligation on Parliament and government to consult the National Voice is narrow compared with the scope of Commonwealth responsibility and asked why it is envisioned the National Voice will speak to issues restricted to race and land matters when it should also have a say in other priority areas.

– Canberra community consultation session summary, March 2021

The National Co-design Group noted that the obligation to consult was only one aspect of the consultation standards, and that the broader expectation to consult would also capture many laws and policies that are significant to Aboriginal and Torres Strait Islander peoples. The National Co-design Group agreed there was value in maintaining a relatively narrow and well-defined obligation to recognise the importance of laws that are specifically targeted at Aboriginal and Torres Strait Islander peoples but without limiting the ability of the National Voice to advise on other matters.

Primary legislation only

The proposal of the National Co-design Group is that the obligation to consult would apply only to primary legislation, not legislative instruments or other policies. The reason for this is to ensure the obligation to consult would apply to a limited number of reforms significant to Aboriginal and Torres Strait Islander peoples. The number of legislative instruments, regulations and notifiable instruments is many more times than the number of bills for primary legislation. Around 1,500 legislative instruments are made every year. The obligation does not capture these items to ensure it does not create an unnecessary administrative burden on all parties.

However, the expectation to consult does apply to these categories. The principles relating to the expectation to consult outlined above would capture legislative instruments and notifiable instruments that have a significant impact on Aboriginal and Torres Strait Islander people, for example, the PBC regulations. Legislative instruments that are minor or administrative would not be captured by the expectation to consult.

A legislative instrument is a law made by a minister or an official who has been authorised to do so under a piece of primary legislation. These include regulations, rules and determinations. For example, the PBC regulations are a legislative instrument authorised by the *Native Title Act 1993* (Cth).

The scope of the obligation to consult would also exclude other types of government activity, such as administrative decisions and changes to official practices.

2.9.3 Expectation to consult

The expectation to consult recognises the broader need to include Aboriginal and Torres Strait Islander peoples in the process of making laws and policies. Aboriginal and Torres Strait Islander peoples are affected by almost all laws, policies and programs. The concerns of Aboriginal and Torres Strait Islander peoples also extend beyond laws that are specifically targeted to them.

Some proposed laws and policies are proposed to be of general application but have a significant or distinctive impact on Aboriginal and Torres Strait Islander people. The changes to the words in the Australian National Anthem and proposed changes to the *Racial Discrimination Act 1975* (Cth) are examples of policies that apply generally, but where there are distinct effects on Aboriginal and Torres Strait Islander people. While these matters may not trigger the obligation to consult, the expectation to consult would apply.

No legal rule would be able to say where Aboriginal and Torres Strait Islander peoples should be consulted. Instead, the expectation to consult sets out common-sense principles that set standards to inform Parliament and Government about when they should consult. These standards would then be subject to dialogue through the transparency mechanisms, as set out in section 2.9.6.

A key element of the expectation to consult principles is the ability for the National Voice to provide guidance on when it should be consulted. While Government has an important role to proactively consider which issues need to be referred to the National Voice, this should be informed by what Aboriginal and Torres Strait Islander peoples view as significant.

2.9.4 Manner of consultation

The effectiveness of the National Voice would be heavily dependent on how it is consulted, not merely what it is consulted on. A prescriptive approach to the manner of consultation would create an excessive compliance burden, particularly since it is difficult to define what appropriate consultation would look like in individual cases. To address this, the National Co-design Group has proposed a flexible approach based on principles and supported by dialogue via the transparency mechanisms.

Consultation with the National Voice should not be a 'checkbox' exercise that occurs after policy has already been designed. To be able to give meaningful input, the National Voice needs to be consulted as early as possible in the policy process and at multiple stages of the process. This principle has been repeatedly emphasised in previous reports, including the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples.[95]

To facilitate early engagement in policy development, the National Voice may provide advice that is not immediately publicly available. The Government and the National Voice could negotiate this at the time of engagement. This could be similar to the role of the Prime Minister's Indigenous Advisory Council, which provided confidential advice to officials during policy development before final decisions of Government.

The amount of time provided to the National Voice to provide advice should depend on relevant factors, including the significance for Aboriginal and Torres Strait Islander peoples, whether the National Voice needs to seek input from other stakeholders, and whether the matter is time-sensitive. This flexible approach would ensure that urgent circumstances can be accounted for appropriately. The National Voice would express its views on the consultation process through the transparency mechanisms as part of a dialogue approach, outlined in detail in section 2.9.6. This also reflects the advice function features set out in section 2.8.2.

2.9.5 Non-justiciability

The primary reasons for the consultation standards to be non-justiciable are:

- It is a longstanding feature of discussions on the National Voice, for example, in reports from the Referendum Council[96] and the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples.[97]
- It ensures that the National Voice does not disrupt or interfere with Parliament, helping to lay to rest mistaken and unjustified concerns over a 'third chamber'.
- It is a common feature of other pieces of legislation that deal with the parliamentary process, such as the *Legislation Act 2003* (Cth)[98] and the *Charter of Budget Honesty Act 1998* (Cth).[99]

Very few submissions engaged on this aspect of the National Voice design. Some submissions were supportive of the principle of non-justiciability.

> *'The experience in Norway suggests that non-justiciable consultative obligations are effective to the extent they prompt a moral obligation … The Indigenous Voice Interim Report proposes enhancing visibility within the process of conferral and receipt of advice as a means to catalyse that moral obligation. The proposals discussed are reasonable and should be adopted.'*
>
> – Harry Hobbs, submission, January 2021

> *'Maintain the "non-justiciable" and "advice" approaches. As soon as this idea has any space to be interpreted as anything like a veto (in fact or in practical effect), it is lost. As soon as this has any space to look like it is going to end up in constant litigation (or threats of litigation leading to political horse-trading), it is lost.'*
>
> – Anonymous, submission, January 2021

95 Final Report, 2018, p. 32.

96 Referendum Council, First Nations Voice Design Report, 2017.

97 Final Report, 2018, pp. 90 and 95.

98 Section 19.

99 Subsection 3(2).

A few other submissions expressed concerns because they submitted that there should be a mechanism to hold the Government legally accountable for engaging with the National Voice.

> *'Further, the "obligation" or "expectation" to consult the Voice would be "non-justiciable", meaning a failure to engage with the Voice would not be able to be challenged in court and would not affect the validity of the law or policy. The model would be improved if this obligation was made a legal requirement.'*
>
> – Queensland Family and Child Commission, submission, April 2021

> *'Dispensing with the courts' ability to review the obligation sends a clear signal that the Government does not intend to take the obligation seriously, or worse, that it intends to consult only [sic] in name only.'*
>
> – National Tertiary Education Union—Aboriginal and Torres Strait Islander Policy Committee, submission, April 2021

These concerns about non-justiciability are driven by questions over whether the consultation requirements would be met in all cases. A key aspect of the design in the Interim Report is the role of the transparency mechanisms to promote dialogue about consultation with the National Voice. This reflects the approach based on partnership between the National Voice, Parliament and Government, rather than having highly prescriptive or bureaucratic rules. The National Co-design Group affirms that non-justiciability is an essential feature of the overall design.

2.9.6 Transparency mechanisms

Final proposal

3 transparency mechanisms situated in Parliament and modelled on existing parliamentary practices and mechanisms should be adopted.

Statement on bills

All bills would be required to include a statement in the accompanying explanatory memorandum explaining whether consultation with the National Voice has occurred. The statement would explain:

- whether it was necessary to consult the National Voice on the bill; and
- if so, whether consultation took place and what form that consultation took.

In some cases, the statement would simply explain that consultation and engagement were unnecessary or that the National Voice declined to provide advice.

It is quite common for explanatory memoranda to explain any consultation that was undertaken on the bill. This is underpinned by existing statutory requirements similar to this proposal, including those in the *Legislation Act 2003* (Cth) and the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Tabling of advice

The National Voice would be able to table formal advice in Parliament through 3 channels:

- If the National Voice is asked for formal advice on a draft bill, this advice would be tabled at the same time as the bill is introduced in Parliament.
- The National Voice would have the ability to advise on any bill before Parliament and have this advice tabled. Many documents are presented and tabled by the Senate President and House of Representatives Speaker. There is a wide range of existing provisions for advice from statutory officers to be tabled in Parliament, for example, under the *Independent National Security Legislation Monitor Act 2010* (Cth). This would not involve any requirements to delay legislation.
- The National Voice would be able to table a statement once per year that could advise on Government programs or raise policy issues for consideration.

Parliamentary committee

A new parliamentary joint standing committee could be established and tasked with:

- hearing directly from the National Voice and gaining further insight into tabled advice
- considering whether the National Voice has been appropriately consulted on bills
- considering tabled advice of the National Voice and engagement with the National Voice
- making recommendations to Parliament and Government based on its findings.

Non-justiciability

All mechanisms would be non-justiciable, meaning compliance with the mechanisms could not be challenged in court and could not affect the validity of laws or decisions.

Interim Report

All 3 transparency mechanisms were proposed in the Interim Report. During stage two of co-design, the mechanisms were refined. The changes made on the proposals in the Interim Report are as follows:

The scope of the statement on bills requirement was expanded from 'relevant bills' to all bills.

In the Interim Report, it was proposed that only advice on bills referred to the National Voice would be tabled. This has been broadened to the 3 channels set out above.

The functions of the parliamentary committee were expanded to include examining tabled advice.

Rationale

The issue of when and how the National Voice should be consulted would not be easy to answer in every instance, and it would not be something upon which everyone would necessarily agree. Rather than creating complex, legalistic definitions or bureaucratic processes, the National Co-design Group has proposed a system based on dialogue.

The Parliament and the National Voice would both be provided with an opportunity to put their view about consultation as it relates to a particular bill through the statement on bills and tabling of advice mechanisms. The parliamentary committee would then provide a forum for dialogue and consideration of different views. The transparency mechanisms would also put these views on the public record, creating a channel for broader input from the community.

This would be complementary to the consultation standards set out above, which would set a benchmark and create a common basis for dialogue on how consultation should occur in individual instances.

To prevent unintended consequences, the National Co-design Group designed the mechanisms in line with the following principles:

- The mechanisms should be strongly grounded in existing parliamentary processes.
- The National Voice should not be able to obstruct or delay Government or Parliament.
- Mechanisms should not create burdensome or bureaucratic compliance processes.

Context

The transparency mechanisms create a formal interface between the National Voice and the Parliament, further strengthening the voice to Parliament component of the advice function set out in section 2.8.2. The tabling provisions would provide broad scope for the National Voice to present written advice to Parliament, and the parliamentary committee would be a mechanism for that advice to be heard and considered. These elements would formalise and legitimise the role of the National Voice, but they would not limit the scope of the relationship with Parliament. For example, the National Voice could engage with a wide range of subject-specific parliamentary committees, not just the proposed new committee. It is ordinary practice for Commonwealth entities to provide evidence to parliamentary committees in their area of expertise.

The transparency mechanisms would operate at the late stages of the development of a bill—once it has been drafted and introduced in Parliament. However, the scope of the transparency they provide is not limited to those late stages. The statement of consultation and the advice of the National Voice could both elaborate on any consultation that occurred from the early stages of development and support dialogue on that consultation. This would be consistent with the principle set out in section 2.9.1 that consultation with the National Voice should occur at the earliest possible stage of policy development.

Consultation feedback

The inclusion of transparency mechanisms received strong support in feedback.

> *The advice of the National Voice cannot simply be delivered behind closed doors - there needs to be transparency so Aboriginal and Torres Strait Islander people could be able to see [their] views being legitimately provided to the Australian Parliament.*
>
> – Brisbane community consultation session summary, March 2021

> *One participant suggested that where the government does not consider it necessary to consult the National Voice, an explanation should be provided alongside the relevant bills.*
>
> – Alice Springs community consultation session summary, May 2021

> *Participants reflected on 2 proposed transparency mechanisms: statements of consultation and a parliamentary committee to review the statements, which would be attached to legislation introduced to the Parliament. There was general agreement that these would be good inclusions in the design.*
>
> – Canberra community consultation session summary, March 2021

The submissions that engaged with the design proposal for transparency mechanisms overwhelmingly supported the Interim Report proposals. Additionally, some submissions provided further suggestions, including the National Voice chair having observer status in Parliament or the ability for the National Voice to address either chamber.[100] While some of these specific suggestions were not adopted by the National Co-design Group, the general principle of ensuring clear channels of advice between the National Voice and the Parliament is reflected in the final proposal. The scope of the advice function and the transparency mechanisms both support this concept. The design of the final proposal is of a voice *to* Parliament, not a voice *in* Parliament, and builds on existing processes for Parliament to receive advice from external parties.

Statement of consultation

This mechanism is based on existing provisions including:

- Paragraphs 15J(2)(d) and (e) of the *Legislation Act 2003* (Cth) require explanatory statements on legislative instruments to outline consultation undertaken.
- Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) requires all bills to include a statement of compatibility with human rights.

It is common for explanatory memoranda of bills to outline consultation undertaken. The statement of consultation proposal builds on these existing practices.

The statement of consultation would embed a process within Parliament to systematically and routinely consider when the National Voice needs to be consulted. The process of preparing statements also provides a mechanism for Government agencies to systematically consider when they need to hear the perspectives of Aboriginal and Torres Strait Islander people.

The National Co-design Group has proposed that this requirement would apply to all bills to ensure that the Parliament can scrutinise whether appropriate consultation with the National Voice occurs. If there is no consultation, the statement would explain why, and the Parliament and the committee would be able to review the explanation.

For bills that do not significantly relate to Aboriginal and Torres Strait Islander peoples, the statement would simply state that consultation with the National Voice was not necessary.

Tabling of advice

Provisions for tabling documents in Parliament are well-established, including advice and reports prepared externally to Parliament. Provisions in existing pieces of legislation include:

- The *Independent National Security Legislation Monitor Act 2010* (Cth) includes provisions for the Prime Minister to refer issues to a statutory officeholder. The Prime Minister is required to table reports that emerge from those referrals.
- The Auditor-General has the power to cause a report to be tabled in either House of Parliament at any time under the *Auditor-General Act 1997* (Cth).

[100] Submissions from the Australian Indigenous Governance Institute, Professor Tim Rowse and Harry Hobbs.

- In August 2020, the Government introduced the *National Commissioner for Defence and Veteran Suicide Prevention Bill 2020* in Parliament. The bill would allow the Commissioner to provide annual reports and additional reports on their work to the responsible minister. The responsible minister would be required to table those reports in the Parliament within 15 sitting days.
- The ACT ATSIEB holds public hearings with government officials and provides a report to the minister, who is required to table the report within 6 days under the *Aboriginal and Torres Strait Islander Elected Body Act 2008* (ACT).
- The Aboriginal and Torres Strait Islander Social Justice Commissioner may submit reports to the responsible minister on human rights and native title under the *Australian Human Rights Commission Act 1986* (Cth). Under section 46M of that Act, the Minister is required to table these reports in the Parliament within 15 sitting days. The Minister is also required to send these reports to the Attorney-General of each state and territory within 7 days of tabling the report in the Parliament. This function has been in operation since 1994.

The tabling of advice from the National Voice builds on this well-established practice.

As outlined above, the tabling of advice is a key component of the formal interface between the National Voice and the Parliament. It provides a way for the Parliament to have the opinion of the National Voice available to it when making decisions on bills. Providing for the advice of the National Voice to be placed on the official record of the Parliament affords appropriate formality and standing for that advice.

Advice tabled by the National Voice on bills could relate to issues of substance with the bill, or comments on the process of consultation with the National Voice in relation to the bill. A key benefit of this is that the parliamentary committee relating to the National Voice would not have to rely only on the Government for information when considering whether appropriate consultation has taken place. Rather the parliamentary committee would be able to also consider the views of the National Voice. This further strengthens the dialogue approach.

This does not preclude the National Voice from providing informal and confidential advice that would not be tabled, as set out on in section 2.8.2.

The National Co-design Group has proposed 3 different ways for advice to be tabled. The reason for this multi-pronged approach is to reflect different circumstances in which advice could be given:

- The first channel would apply where the Government asks the National Voice for advice during the development of a bill. In this case, the advice could be prepared before the bill's introduction in Parliament and would be tabled alongside the bill.
- The second channel would provide for the National Voice to table advice on a bill after the bill has been introduced to Parliament. This reflects the principle that the National Voice should not have to receive a referral to provide advice, as set out in section 2.8.2.
- The annual statement would allow the National Voice to advise on issues other than specific bills, for example, advice on Government programs or raising policy issues to be considered.

As outlined above, the tabling of advice mechanism was expanded in the final proposal compared to the Interim Report. This expansion was prompted by feedback from several submissions.

> *'As currently proposed [in the Interim Report], only advice requested from the Voice by Government must be tabled in Parliament. In the interests of greater transparency, we suggest that where advice is proffered at the instigation of the Voice, the Voice may elect that the advice be tabled and if the Voice so elects, the advice must be tabled in Parliament. If the Voice elects for the advice to be tabled, the proposed law or policy in question should attract the scrutiny of a parliamentary committee established to examine engagement and consideration of advice.'*
>
> – Law Society of NSW, submission, April 2021

> *'There is a severe limitation on the tabling in parliament of advice from the proposed National Voice [in the Interim Report]. Government is only obliged to table advice in parliament where government has sought that advice. Advice prepared at the initiative of the National Voice is not required to be tabled in parliament. … Arguably it is the advice that government has not asked for that is the most important to table in parliament and be subject to consideration through a parliamentary committee.'*
>
> –Victorian Aboriginal Executive Council, submission, April 2021

Parliamentary committee

A common role for parliamentary committees is to gather evidence on an issue of interest to the Parliament, including by asking stakeholder organisations to provide advice. This is a well-established practice by the Parliament, and the proposal here builds on this.

The proposed parliamentary committee relating to the National Voice would enable parliamentarians to hear directly from the National Voice or gain further insight into tabled advice, creating a basis for a two-way relationship between the National Voice and the Parliament. It would be for the Parliament to determine the details of how the committee would operate, in line with parliamentary processes.

Review of bills by parliamentary committees is a well-established process. For example, the Senate Scrutiny of Bills Committee examines bills against a set of principles relating to personal rights and parliamentary oversight of the executive branch.

One submission opposed the parliamentary committee proposal and suggested that the National Voice should review statements of consultation.

> *'If, in the alternative, the Voice were itself given responsibility for reviewing Bills and Statements of Consultation provided by the Government, and advising the Houses whether it believes it has been properly consulted in the development of policies and laws, this would streamline the process and make it more likely (although not guaranteed) that the Voice's views would be considered during parliamentary debate.'*
>
> – Professor Gabrielle Appleby, Associate Professor Sean Brennan, Professor Megan Davis and Dr Dylan Lino, submission, April 2021

The risk with this approach is that it would require the National Voice to examine every bill introduced in the Parliament. This would be an onerous workload and refocus the National Voice away from its strategic objectives and towards repetitive and untargeted scrutiny. This could also significantly detract from the National Voice's core functions and act as an impediment to the smooth functioning of the Parliament. Instead, the National Co-design Group's recommended approach allows the National Voice to turn its attention to the issues it considers important and advise the Parliament on those.

Other suggested transparency mechanisms not adopted

Senate estimates-style transparency

> *'There are also strong reasons why the Voice should be provided with the powers and privileges of a parliamentary committee to compel people to appear as witnesses or produce documents. As we explain below, this is not just about allowing the Voice to perform an oversight function, but about ensuring the Voice has the necessary information it requires to perform its advice function.'*
>
> – Professor Gabrielle Appleby, Associate Professor Sean Brennan, Professor Megan Davis and Dr Dylan Lino, submission, April 2021

> *'The Voice should be given access to Ministers and senior Public servants through an 'estimates' process as another direct accountability mechanism.'*
>
> – ANTaR, submission, March 2021

The National Co-design Group had considered this idea during stage one co-design. They concluded that a formal inquisitorial role for the National Voice would not be consistent with or complementary to its role as an advisory body.

Further, the final proposal emphasises the importance of a partnership approach between the National Voice and the Government. Giving the National Voice an inquisitorial role would go in the other direction and potentially place the National Voice in an inherently adversarial stance with the Government. The risk is that this could limit its ability to exert influence.

Cabinet-related processes

> *'The Cabinet secretariat could report annually on the National Voice's involvement in the Cabinet process.'*
>
> – Harry Hobbs, submission, January 2021

> *'Tranby is of the view that the advice from the National Voice should be included with the in-principle Cabinet Minute prior to approval of the Cabinet recommendations being referred to Parliamentary Counsel for the Bill to be drafted.'*
>
> – Tranby National Indigenous Adult Education & Training, submission, April 2021

Each Cabinet decides its own processes. Consistent with the principle of avoiding prescriptive rules, the National Co-design Group's proposed transparency mechanisms cover policy development in general rather than specifying particular processes in relation to the Cabinet.

2.10 Policy and expert input

The National Voice would require expert policy input for its deliberations and development of advice to the Australian Parliament and Government. Throughout the co-design process, the National Co-design Group discussed options for ensuring the National Voice has access to this expertise while balancing the need for a simple National Voice structure.

The National Co-design Group agreed to the specific structural features in the Interim Report:

- youth and people with disability permanent advisory groups
- committees, as required
- panel of experts.

The Interim Report put forward an independent policy body as an optional element. As there was little support for this proposal in consultation, the National Co-design Group decided not to pursue this in the final proposals.

2.10.1 Youth and disability permanent advisory groups

Final proposal

A National Voice would have 2 permanent advisory groups specified in establishing legislation:

i. Aboriginal and Torres Strait Islander Youth Permanent Advisory Group
ii. Aboriginal and Torres Strait Islander People with Disability Permanent Advisory Group

This final proposal is in line with the proposals in the Interim Report. Further co-design on the broad parameters, as described below, was conducted during stage two of co-design and informed by feedback received from community consultation sessions, surveys and submissions.

These permanent advisory groups would be comprised of non-National Voice members and would be consulted and engaged by the National Voice. The National Co-design Group agreed to the following broad parameters for the advisory groups and agreed that the further detail of the design should be determined by the National Voice.

The inclusion of these permanent advisory groups in the National Voice design would not exclude Aboriginal and Torres Strait Islander youth and people with disability from being eligible for selection to the National Voice itself.

Interim Report

The proposal in the Interim Report was for 2 permanent standing committees specified in establishing legislation for Aboriginal and Torres Strait Islander youth and people with disability. It was agreed that further detail would be progressed during the consultation process to be included in the Final Report.

Rationale

Aboriginal and Torres Strait Islander youth and people with disability make up a large proportion of the Aboriginal and Torres Strait Islander population. Aboriginal and Torres Strait Islander youth (under 25 years of age) make up more than half the Aboriginal and Torres Strait Islander population. Around 45 per cent of Aboriginal and Torres Strait Islander people have a disability compared to 29 per cent of the Australian population as a whole (National Aboriginal and Torres Strait Islander Health Survey 2018–19).

Despite young people and people with disability making up these significant proportions of the Aboriginal and Torres Strait Islander population, there are currently very few forums for the voices of Aboriginal and Torres Strait Islander youth and people with disability to be heard on national issues.[101]

[101] At the national level, the First Peoples' Disability Network advocates for Aboriginal and Torres Strait Islander people with disability, including in relation to Closing the Gap; however, at present, there are no national forums for Aboriginal and Torres Strait Islander youth or people with disability to directly express their views on national matters.

Aboriginal and Torres Strait Islander Youth Permanent Advisory Group—Broad parameters

Structure

The Youth Permanent Advisory Group would be a body comprised of up to 18 members, with gender balance and geographic representation assured as much as possible. It would aim to ensure, in particular, appropriate representation for young people in regional, remote and very remote locations. This membership size allows this broad representation and provides an important opportunity to develop the National Voice's future leadership. The Youth Permanent Advisory Group's final membership size and functions should be determined by the inaugural National Voice and established in a way that does not negatively affect the Permanent Advisory Group members' personal circumstances—including their education and family, social and other work responsibilities.

Membership

Eligibility for membership should be limited to Aboriginal and Torres Strait Islander young people aged between 16 and 25 years. The membership of the Youth Permanent Advisory Group should be gender balanced and, as much as possible, drawn from a wide geographic spread, including young people residing in remote areas. Further eligibility considerations could be the responsibility of the National Voice to determine. For example, it may be appropriate for term limits to apply at the upper age limit to be determined by the National Voice. Possible rules could include a person who becomes a member at 25 years of age being prohibited from taking on a second term or being required to step down before their 26th birthday.

Function

Broadly, the function of the Permanent Advisory Group would be to advise the National Voice on matters relevant to Aboriginal and Torres Strait Islander young people. This could involve:

- responding to requests from the National Voice for views on particular issues with a youth lens
- raising youth perspectives on any policy matters the National Voice is considering generally
- determining the relevant issues currently affecting Aboriginal and Torres Strait Islander youth (including as requested by the National Voice and through the Permanent Advisory Group's own proactive identification of such issues)
- identifying the issues that may affect future generations of Aboriginal and Torres Strait Islander youth, and/or that Aboriginal and Torres Strait Islander young people perceive may affect the current generation of youth in the future.

In order to enable the Permanent Advisory Group to reflect diverse youth views when advising the National Voice, the Permanent Advisory Group members could be equipped with mechanism(s) to engage broadly with the substantial Aboriginal and Torres Strait Islander youth population. This could include seeking the views of children and young people below the age limit for membership. This could enable:

- members to connect and hear directly from youth in the regions, to give the National Voice well-informed advice
- opening up opportunities for developing more youth leaders, enabling them to network effectively with each other and through to the National Voice
- creating pathways for youth engagement and for youth voices to be heard (e.g., through technology)
- engaging young people (e.g., from 12 years of age and up) who may not otherwise be able to be involved in the Permanent Advisory Group due to school requirements and work restrictions applying in their state/territory jurisdiction.

The Permanent Advisory Group chair could attend National Voice meetings to present the Permanent Advisory Group's advice and findings against the relevant agenda items. Other members could be invited at the National Voice's discretion. The Permanent Advisory Group chair may also attend other National Voice discussions where appropriate and necessary to assist the Permanent Advisory Group to perform its functions effectively.

The Office of the National Voice would support Youth Permanent Advisory Group members. How this is best done should be determined between the Permanent Advisory Group and the Office.

Aboriginal and Torres Strait Islander People with Disability Permanent Advisory Group—Broad parameters

Structure

This Permanent Advisory Group could be a small body, where broad disability representation, geographic representation and gender balance would be assured as much as possible. During co-design discussions, National Co-design Group members reflected on the name of this group and agreed the name should be changed to be more reflective of the way disability is viewed in Aboriginal and Torres Strait Islander culture—one member noted 'disability' is not described as such in language. The final name of this Permanent Advisory Group should be settled by the National Voice prior to the Permanent Advisory Group's establishment.

Membership

Eligibility for membership to this Permanent Advisory Group should be limited to Aboriginal and Torres Strait Islander people with disability. As with the Youth Permanent Advisory Group, the membership should be gender balanced and drawn from as wide a geographic spread as possible, including remote areas. Further eligibility considerations could be the responsibility of the established National Voice. Aboriginal and Torres Strait Islander organisations for people with disability could be consulted on the establishment considerations of this Permanent Advisory Group, such as the First Peoples Disability Network and Lives Lived Well.

The Disability Permanent Advisory Group members could select a chair to lead their work and ensure the Permanent Advisory Group is performing in accordance with its functions.

Function

The chief function of this Permanent Advisory Group would be to advise the National Voice on matters relevant to Aboriginal and Torres Strait Islander people living with disability. This could involve:

- responding to requests from the National Voice for views on particular issues from the perspectives of Aboriginal and Torres Strait Islander people with disability
- raising the perspectives of Aboriginal and Torres Strait Islander people with disability on any policy matters the National Voice is considering generally
- determining the relevant issues currently affecting Aboriginal and Torres Strait Islander people with disability—this includes as requested by the National Voice and through the Permanent Advisory Group's own proactive identification of issues of importance to Aboriginal and Torres Strait Islander people with disability
- engaging with relevant stakeholders, including Aboriginal and Torres Strait Islander people with disability, disability policy and service delivery organisations and disability commissioners in order to inform the Permanent Advisory Group's development of advice to the National Voice.

The Permanent Advisory Group chair could attend National Voice meetings to present the Permanent Advisory Group's advice and findings against the relevant agenda items. Other members could be invited at the National Voice's discretion. The Permanent Advisory Group chair may also attend other National Voice discussions where appropriate and necessary to assist the Permanent Advisory Group to perform its functions effectively.

The Office of the National Voice would support the Disability Permanent Advisory Group members. How this is best done should be determined between the Permanent Advisory Group and the Office.

In addition to the standard secretariat support, there should be a Disability Permanent Advisory Group support manager in the Office, dedicated to overseeing the requirements of the Disability Permanent Advisory Group members specifically. It would be the responsibility of this support manager to ensure the Disability Permanent Advisory Group members are fully supported to meet their responsibilities as group members. The work of the support manager would include a mix of specialist disability support, secretariat support, the procurement of disability support services and resources as required, and ensuring meetings are held in accessible formats.

The Office of the National Voice would also need to provide each member of the Disability Permanent Advisory Group with a support person wherever this is required to assist members in preparing for and attending meetings, including providing support for work travel. This would further ensure the full effective participation and contribution of all members of the Permanent Advisory Group.

Context

The National Co-design Group recognised youth and people with disability make up a large proportion of the Aboriginal and Torres Strait Islander population, and that their unique experiences mean it would be important to facilitate a way for them to provide direct insights to the National Voice. There is a clear need to ensure structural representation of youth and people with disability so that the National Voice receives ongoing and timely advice from these significant groups. This would enable greater ability in the National Voice to undertake well-informed policy development and representation on those matters and ensure other law and policy matters are informed by the perspectives of these groups.

These permanent advisory groups were proposed in the Interim Report for consideration during the consultation process, and found widespread support across community consultation sessions,[102] surveys and submissions,[103] when mentioned. No submissions or community consultation session participants expressly recommended against these permanent advisory groups. 2 survey respondents recommended against establishing these permanent advisory groups on the basis that they thought the structure should be set up to treat everyone equally.

A small number of submissions suggested having permanent youth members in the National Voice itself.[104] During stage one, the National Co-design Group had considered the option of including one or 2 dedicated positions on the National Voice membership for representation of both youth and people with disability. The Senior Advisory Group majority view was that having only one or 2 positions would not represent the diversity of each of these 2 groups. The National Co-design Group agreed with this reasoning and considered that a small number of dedicated positions would risk being seen as tokenistic. As a result, this option of dedicated seats was not progressed, and the National Co-design Group agreed unanimously to include the Youth Permanent Advisory Group and Disability Permanent Advisory Group as structural features, regardless of the core membership model for the National Voice. As described above, however, there would be capacity for the co-chairs of these permanent advisory groups to attend meetings of the National Voice. Other permanent advisory group members could attend if invited.

Other feedback received concerned the age range for the Youth Permanent Advisory Group, with some suggesting it should include children. The Australian Human Rights Commission, for example, recommended the Youth Permanent Advisory Group be expanded to include children, supplemented by practices of engaging with children, especially those in vulnerable situations such as care and protection and juvenile justice.[105] Participants at a community consultation session in Launceston expressed the view that it would be important to talk to children because 'youth and children are very different'.[106]

The National Co-design Group recognises the importance of facilitating children's voices, including the voices of children in vulnerable situations. However, due to the considerable sensitivities and the need to guarantee the safety of vulnerable children and young people interacting with the Permanent Advisory Group, rather than expanding the age range, it was considered appropriate for the Permanent Advisory Group to reach out through safe and appropriate pathways (e.g., through Aboriginal and Torres Strait Islander teachers in schools) to hear from and be informed by the voices of children.

The National Co-design Group considered another viable avenue could be through Local & Regional Voices. They noted support from the Queensland Family and Child Commission for 'children under the set minimum age [to] be regularly and meaningfully engaged in the work of the Local, Regional and National Voices, whether through the Advisory Group or through other engagement activities'[107] as well as feedback received at a community consultation session on the NSW Central Coast,[108] that there be strong links through to Local & Regional Voices to support the voices of Aboriginal and Torres Strait Islander youth and people with disability.

[102] Including in sessions at Sydney, February 2021; Brisbane, March 2021; Toowoomba, March 2021; Wagga Wagga, March 2021; Murray Bridge, March 2021; Moree, March 2021; Tamworth, March 2021; Shepparton, Vic., April 2021; Angurugu, May 2021; Tennant Creek, May 2021; Alice Springs, May; Launceston, May 2021.

[103] Including from the Torres Strait Regional Authority, 30 April 2021, p. 3; and Monash University, 30 April 2021, p. 5.

[104] For example, the Deadly Inspiring Youth Doing Good Aboriginal and Torres Strait Islander Corporation, the Queensland Family and Child Commission, and several participants at a community consultation session in Geraldton, May 2021.

[105] Australian Human Rights Commission, April 2021, p. 17.

[106] Launceston community consultation session summary, 11 May 2021.

[107] Queensland Family and Child Commission, April 2021, p. 6.

[108] Central Coast community consultation session summary, 12 March 2021.

The National Co-design Group also considered a possible benefit to establishing a Youth Permanent Advisory Group would be the opportunity it would provide to build capability in young people to be future leaders in the National Voice and in their communities. This was a broad sentiment expressed in feedback.[109]

'It is important to foster our youth and provide them a platform to share the challenges and opportunities they see for their generation, while allowing them to build their leadership capacity and effect real change for Torres Strait Islander and Aboriginal people.'

– TSRA, submission, April 2021

'We get some kids that want to speak up, but kids need support … giving kids an opportunity to talk is really important.'

– Maningrida community consultation session summary, May 2021

'There is a high rate of [Aboriginal and Torres Strait Islander people] who identify [as] having a disability and being Indigenous should not stop those who identify from being able to speak up as well.'

– Anonymous, survey, February 2021

'We hope for a shared future, not an inherited one with decisions made for us. … A youth voice is imperative to dismantling inequity and creating solutions relating to First Nations young people by First Nations young people. It is also a critical view to hold close when evaluating and understanding the complexities of tomorrow. … When our voice is taken with the intention that it is provided, instead of for granted, when the authenticity of a First Nations Youth Voice is legally visible and adapted into larger thinking. When the solutions of our First Nations young people are adopted with their exact intent. Imagine what's possible.'

– Australian Indigenous Mentoring Experience, submission, April 2021

'Of all people overlooked and left behind by politics, disabled people bear that brunt the most, especially if they are also Indigenous or LGBT. I think those committees are very important.'

– Anonymous, survey, April 2021

'[I like that the proposal] includes people with disability too so that they are not neglected.'

– Prebhjot K, survey, January 2021

[109] Including in community consultation sessions in Mildura, March 2021, and Thursday Island, May 2021.

2.10.2 Committees

Final proposal

The National Voice may establish committees on particular policy or representation matters as needed. Committees may have external members as determined by the National Voice.

Interim Report

It was proposed that the National Voice would be able to establish committees, which would be flexibly set up to inform the National Voice's advice on particular issues as needed.

Rationale

This gives flexibility to the National Voice to seek views from particular groups of stakeholders and groups in communities to ensure they can provide well-informed advice.

The National Voice would be able to establish committees, which would be flexibly set up to inform the National Voice's advice on particular issues as needed. These might include National Voice members and external stakeholders such as academics, community representatives, peak bodies, community-controlled organisations and other relevant organisations. For example, committees could be established to consider specific policy matters or matters relevant to particular groups such as the Stolen Generations, traditional owners, elders and the LGBTIQ+ community.

Feedback from the consultation process proposed further standing committees to consider specific policy matters or matters relevant to particular groups, including for people living off country, Torres Strait Islanders living on the mainland, young emerging leaders, cross-border issues, women, men, and the Indigenous Estate. Feedback also reiterated the need to hear the voices of the Stolen Generations, elders and the LGBTIQ+ community, proposing standing committees for each group.

As noted in section 2.4.10, the National Co-design Group agreed that it is not practical to create standing committees to represent each group while acknowledging the importance of hearing these groups' voices. These voices would have to be provided with the opportunity to be heard, participate and be part of decision-making in Local & Regional Voices as part of the *Inclusive Participation* principle.

The National Co-design Group maintained that the current design does not exclude any particular group. The National Voice may establish committees as it considers appropriate. This could be for particular policy topics or the representation of specific groups.

2.10.3 Panel of experts

Final proposal

The National Voice may establish a panel of experts from which to draw on as needed.

Interim Report

The Interim Report proposed that the National Voice would have the ability to draw on a panel of experts. The panel members would be commissioned only as needed by the National Voice to undertake policy work on key matters, similar to a procurement panel. The panel would cover the range of policy areas relevant to the National Voice.

Rationale

The ability to draw on a panel of experts would enable the National Voice to ensure its advice is grounded in evidence and policy rigour. While this could be achieved in other ways, including an independent policy body, a panel of experts would be delivered at a much lower cost, would be highly flexible and could more easily be targeted towards the National Voice's priorities, particularly where these emerge unexpectedly and require the National Voice to give its advice quickly.

The National Voice would have the ability to establish a panel of experts to ensure its advice is grounded in evidence and policy rigour. The panel members would be commissioned only as needed by the National Voice to undertake policy work on key matters, similar to a procurement panel. The panel would cover the range of policy areas relevant to the National Voice.

Context

The National Co-design Group strongly emphasised the need for a National Voice to access expertise informed by evidence and rigour that would be combined with knowledge from Aboriginal and Torres Strait Islander communities.

The National Co-design Group considered various ways this could be achieved, including an expert panel and a complementary independent policy body. These 2 options were initially considered in tandem as contrasting structures to address the design concept of accessing expert views. The National Co-design Group concluded that an expert panel would be highly flexible and could more easily be targeted towards the priorities of the National Voice, particularly where these emerge unexpectedly and require the National Voice to give its advice quickly. This would particularly suit the National Voice given its broad scope for advice, both in proactively giving advice to inform early policy development and responding to requests for advice from the Australian Parliament and Government.

Therefore, the National Co-design Group agreed that an expert panel should be part of the National Voice design regardless.

2.10.4 Complementary independent Indigenous policy body

Final proposal

No independent policy body is recommended as part of this proposal.

Interim Report

The National Co-design Group proposed an optional additional element for consideration during consultation: a separate independent policy body. The body was proposed to be an Australian Government agency, independent from the Parliament, the Executive Government and the National Voice. The Parliament, Australian Government and the National Voice would all refer matters to the body for advice and share a role in appointing the leadership of the body.

Rationale

An additional independent Indigenous policy body could overly complicate the structure of the National Voice, be costlier than other options (including a panel of experts as explored in section 2.10.3) and duplicate work that the National Voice could acquire through existing means (e.g., through other already established organisations specialising in areas relevant to the national matters being considered by the National Voice).

Context

The National Co-design Group considered that there would be a range of opportunities and risks in setting up an independent policy body. The strengths of an independent policy body would be that its independence would provide it with credibility as a source of impartial, evidence-based, expert views. The National Voice would be able to leverage this credibility to support its advisory function.

The challenge would be that an independent policy body would substantially increase the cost and complexity of the National Voice proposal by adding another entity. The National Co-design Group also noted that functions such as the Indigenous Productivity Commissioner already exist.

The majority view of the National Co-design Group was that the independent policy body was not preferable due to the existing structural mechanisms through which the National Voice could access expert opinions. However, the National Co-design Group agreed it should be included as an optional element to allow further consideration of the merits during consultations. The Senior Advisory Group did not support this design element as an option.

The majority of feedback during consultation did not engage on this topic, but where it was raised, there was broad support for *not* having an independent policy body. Reasons included the need for simplicity in the National Voice structure, confusion and potential duplication of policy work, and the risk of it leading to a watering down of advice received through the two-way link with Local & Regional Voices.

'We are opposed to a separate "policy group" on the grounds it diminishes the National Voice and is open to confusion between 2 groups and even conflict.'

– Uniting Church WA and Uniting Aboriginal & Islander Christian Congress WA, submission, April 2021

'I am not in favour of the Independent Indigenous Policy Body. The general voice would water down the advice from the regions and … The Policy Body is just another level of duplication.'

– Anonymous, submission, March 2021

'VACCA is concerned about the proposal for an optional independent policy body in addition to the National Voice—the purpose of this voice to parliament would be to have community leaders who have subject matter expertise to advise Parliament and the Government with regards to matters affecting Aboriginal and Torres Strait Islander peoples. Not to have another mechanism with no authority, delegation or power.'

– Victorian Aboriginal Child Care Agency, submission, April 2021

'I note … both the National Co-design Group and the Senior Advisory Group do not support the creation of an "independent Indigenous policy body" for various reasons. I agree with their views and consider it important to base policy more on feedback from all Aboriginal and Torres Strait Islander Australians, and not just a narrow spectrum of academics and activists, valuable as their opinions may be.'

– John Gregan, submission, April 2021

'As the National Voice is set up to respond to the concerns of Indigenous Peoples at "grass roots" level it would seem that an independent policy body may run the risk of imposing its agenda on these "grass roots" concerns. It has been proposed that there be a panel of qualified people and experts on whom the National Voice can call as well as the power to establish Committees to bring in external expertise. This would seem to better meet the requirement of "grass root" involvement and direction as they would be called upon to provide input into those policies determined as important at "grass roots" level.'

– Anonymous, submission, April 2021

'There is a danger here that several semi-permanent "expert" policy bodies or committees could be established and then assume "a life of their own". However, I accept that expert advice should be obtained where necessary to help form the Voice's views, so a suitable, efficient means of obtaining that advice is warranted. I'm not sure a separate standing body is required as the expertise sought may differ from issue to issue. A Panel of experts is preferred and supported.'

– Anonymous, submission, January 2021

'I do not support the establishment of a separate Indigenous policy body and believe it would add considerable cost and complexity. The requirement should be met through strengthening capability and experience in existing roles. It could also be met by adopting the recommendations for additional Voice members being added from time to time as required.'

– Paul Dobing, submission, March 2021

2.11 Corporate form

2.11.1 Office of the National Voice

Final proposal

The membership of the National Voice should be supported by a CEO and policy and administrative support staff. This would be the Office of the National Voice. This structure should be entirely separate from any existing body and under the control of the National Voice members and co-chairs. The key functions of the Office would be to:

- provide administrative support to the members and co-chairs
- undertake research and policy development
- support stakeholder relationships
- support the Youth and Disability Permanent Advisory Groups
- facilitate Whole of Government engagement and engagement with the Parliament.

Interim Report

The Interim Report proposed that the National Voice be supported by an administrative arm led by a Chief Executive Officer. The Interim Report outlined that this would be further refined in stage two of co-design.

Rationale

The National Voice would require policy and administrative support that ensures it can operate effectively and independently and enables the members to focus on its primary advice function.

Context

The National Voice would require a very high degree of independence because of its unique structure. Therefore, it would not be appropriate for its policy and administrative support to be provided by an existing government entity.

The National Voice would be likely to face a complex operating environment that would benefit from solid policy and administrative support. Key challenges include:

- the broad range of subject matters within the scope of the advice function
- the wide range of stakeholders that the National Voice would need to engage with, including Local & Regional Voices, Aboriginal and Torres Strait Islander organisations, parliamentarians and government officials
- the function of the National Voice to be responsive to the legislative and policy agenda, requiring effective systems to respond quickly to issues.

Consultation feedback

The importance of policy and administrative support was a clear theme that emerged throughout the feedback received during consultation.

> *'An appropriately sized secretariat … is essential to ensure the Voice is able to fulfil its purpose. This includes being able to undertake research and consultations relevant to their functions. … Consistent with the statutory authority model, the secretariat support should not be housed within a department of state or Commonwealth agency such as the National Indigenous Australians Agency. While this model is adopted across the Commonwealth for any number of advisory boards and committees, there is a direct conflict for the Voice to depend on a body who simultaneously has responsibility for the very policies and functions over which the Voice may have scrutiny.'*
>
> – AIATSIS, submission, May 2021

> *'A small, high-performing National Office in Canberra will be needed to provide streamlined and efficient administrative and secretariat support for the Voice to perform its functions.'*
>
> – Empowered Communities, submission, March 2021

Policy and administrative support was also raised at community consultation sessions and some submissions. For example, participants at sessions in Darwin and Alice Springs emphasised the importance of a well-resourced secretariat to support the National Voice and noted the broad range of issues on which the National Voice would need to advise. The independence of the policy and administrative support body was also emphasised by participants at sessions in Tennant Creek and Alice Springs and in submissions including from the NSW Aboriginal Land Council and AIATSIS.

2.11.2 Type of entity

Final proposal

The National Voice should be a new independent Commonwealth entity.

Interim Report

2 options were put forward in the Interim Report for the type of entity:

Option 1: an independent Commonwealth entity

Option 2: a private incorporated entity.

Rationale

- The statutory basis for an independent Commonwealth entity provides a level of standing and stability.
- The ability of the entity to independently perform its functions can be guaranteed in legislation.
- While the National Voice would have a unique governance structure, an independent Commonwealth entity with representative functions for Aboriginal and Torres Strait Islander people would be strongly grounded in precedent. Similar existing examples include the TSRA and the Northern Territory Land Councils.

Context

An independent Commonwealth body would be established in legislation. The legislation would provide that decisions on advice and strategy are made by the members of the National Voice and cannot be made or directed by the Government, ministers or officials. The Parliament would appropriate money to fund the new entity through the budget process. Regardless of the choice of entity type, legislation would be required to establish the National Voice.

The alternative option provided in the Interim Report was for a new body to incorporate under the *Corporations Act 2001* (Cth) or the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth). Both types of bodies would be independent from the Government and highly likely to rely on Commonwealth funding.

The independent Commonwealth entity option was supported by feedback. Few people engaged on the issue of legal entity type during the consultation process; however, several submissions were received from the legal sector and some statutory authorities providing advice based on their expertise and practical experience. The majority of these submissions supported the National Voice being established as a Commonwealth entity rather than as a private incorporated entity. Support for the Commonwealth body option was expressed by organisations including Gilbert + Tobin,[110] AIATSIS,[111] the Law Council of Australia[112] and Boston Consulting Group.[113]

> *'The establishment of independent statutory authorities to provide advice to government, primarily funded through government appropriation, is a common strategy employed in Australia. … AIATSIS legislative structure and operational independence may provide a useful comparator for the National Voice.'*
>
> – AIATSIS, submission, May 2021

> *'Both NAC and Congress [historical private incorporated bodies] faced considerable challenges in terms of their financial independence and sustainability, as they remained dependent on grant funding from the government, which placed them in a 'service' relationship with government.'*
>
> – AIATSIS, submission, May 2021

[110] Submission, 29 April 2021, p. 6

[111] Submission, 13 May 2021, pp. 8–9.

[112] Submission, 30 April 2021, p. 29.

[113] Submission, 7 April 2021, p. 5.

'A private body corporate is an artificially created legal "person", with a Board of Directors or Governing Committee, the members of whom are obliged to act in the interests of the body. The Law Council notes the views of its expert advisory committee members that this obligation precludes the members of the Board or Committee from having a role as representatives of the interests of a broader constituency of persons, meaning a private body corporate is unsuitable to perform the functions required of the National Voice.'

– Law Council of Australia, submission, April 2021

'The Voice should be a statutory entity [Commonwealth entity]. While a statutory entity carries the risk that the government of the day will abolish or substantially alter the Voice, the advantages of a statutory entity include:

a. That it is the form of entity most likely to provide stability for the Voice.

b. It is the form of entity that will have the greatest standing with governments.

c. As a statutory entity it is more likely to be properly funded to carry out its operations.

d. It will have accountability mechanisms appropriate to its role; and

- The entity will be subject to Parliament avoiding any suggestion of the Voice as a "third chamber".'

– Gilbert + Tobin, submission, April 2021

A private incorporated entity was supported by 2 submissions.[114] These submissions expressed concern about the need for the National Voice to be independent from the Government. Under the Commonwealth body option, the independence of the entity would be guaranteed by legislation.

2.11.3 Evaluation

The Senior Advisory Group and National Co-design Group considered the need for evaluation of the National Voice once established to ensure the National Voice is fit for purpose as a policy and advisory body for Aboriginal and Torres Strait Islander people. The National Co-design Group supported a continuous improvement approach to evaluation rather than periodic reviews. The way this would operate should be determined during the implementation phase ahead of the establishment of the inaugural National Voice.

[114] One of which was from the Australian Indigenous Governance Institute, 23 April 2021, p. 16, with the second being from an anonymous individual.

2.12 Conclusion

The National Voice final proposals incorporate lessons from past experiences and processes and draws on their strengths. The final proposals maintain the Australian Government responsibility for the administration of funding, programs and service delivery, with the National Voice providing a formalised way for Aboriginal and Torres Strait Islander peoples to have a say and engage with the Australian Parliament and Government on relevant laws and policies. Aboriginal and Torres Strait Islander people would determine the members of the National Voice. Its role would be set out in legislation.

The final proposals for a National Voice presented here reflect the agreed position of the National Co-design Group following research and deliberation. The proposals were tested and refined during and following the consultation and engagement process. The National Co-design Group acknowledges that a National Voice should continue to evolve as it is implemented, takes shape and matures. For this reason, the National Co-design Group has not been overly prescriptive in the detailed operating mechanisms and processes of the National Voice. If established, the National Voice could determine the detail of those arrangements as part of its implementation and continue to refine them into the future as required.

The National Co-design Group has signed off on this chapter, which reflects their consensus position on proposals for the design of the National Voice to be put to the Australian Government.

2.13 References

2.13.1 Reports used to inform the co-design process

A key principle of the co-design process is to build on previous work. In addition to their own subject matter knowledge, the National Co-design Group members have drawn from several reports in developing the proposals, including:

- In the Hands of the Regions, Report of the Review of the Aboriginal and Torres Strait Islander Commission, 2003, Senator the Hon. Amanda Vanstone
- Building a Sustainable National Indigenous Representative Body, 2008, Aboriginal and Torres Strait Islander Social Justice Commissioner
- Our Future in Our Hands, 2009, Aboriginal and Torres Strait Islander Social Justice Commissioner
- Uluru Statement from the Heart, 2017
- Final Report, 2017, Referendum Council
- A First Nations Voice in the Constitution—Design Report, Report to the Referendum Council, 2017, Cape York Institute for Policy and Leadership
- Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018
  - Interim Report
  - Final Report
  - Submissions

2.13.2 Environmental scan of historical and existing structures

One of the first pieces of work undertaken at the start of the Indigenous Voice co-design process was an environmental scan, which encompassed relevant bodies and structures, both existing and historical, including Australian and international examples. These bodies included:

- native title and statutory land rights bodies such as land councils, native title representative bodies, PBCs and land trusts
- national community-controlled peak bodies
- state and territory coalitions of peak bodies
- regional statutory and non-statutory bodies
- government-appointed and independent advisory bodies.

See Appendix D: Interim Report for the full environmental scan.

Chapter

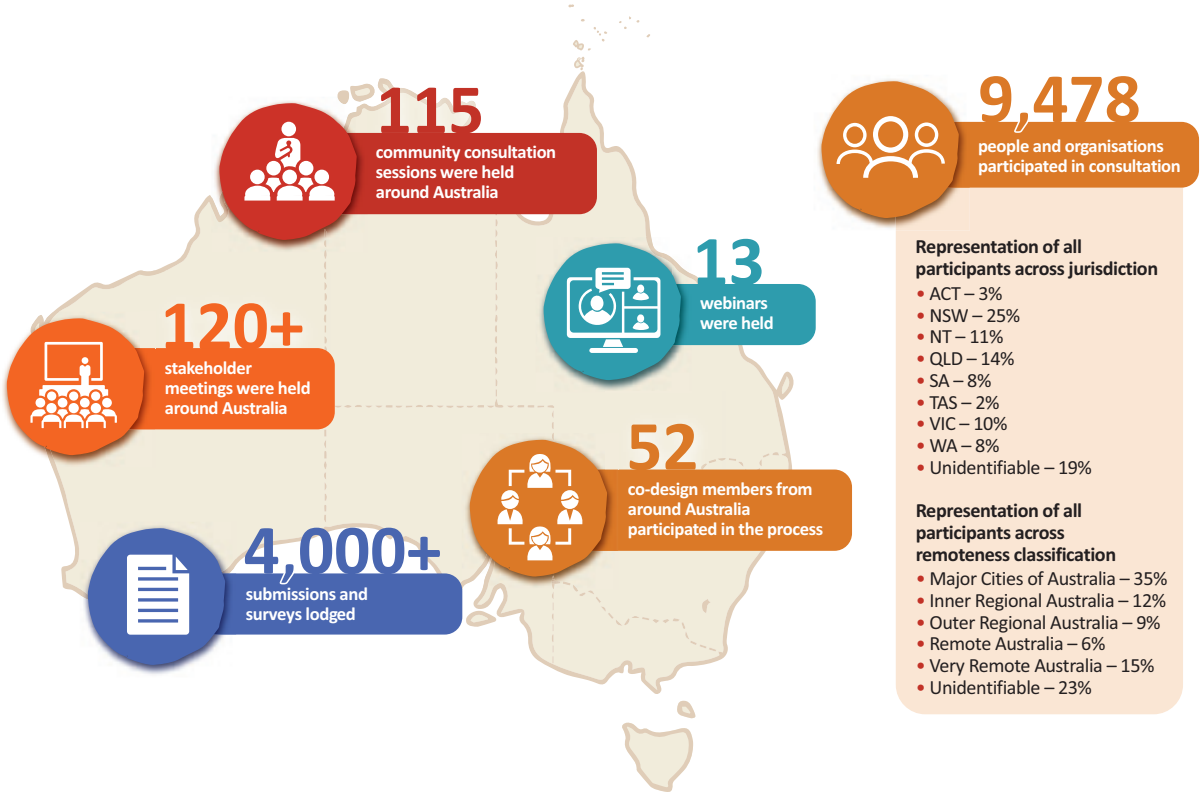
3

Consultation and Engagement

3.1 Introduction

This chapter provides a detailed overview of the consultation and engagement undertaken in stage two of the Indigenous Voice co-design process; high-level themes from consultation on the broad concept of an Indigenous Voice from both Aboriginal and Torres Strait Islander people and non-Indigenous Australians; additional themes from consultation, including those beyond the scope of the co-design process; and an outline of how the co-design groups considered and deliberated on the feedback received throughout the consultation process.

Figure 3.1: Consultation overview



Consultation on the proposals was designed to be wide-reaching, community-focused and flexible. It also ensured people could provide feedback despite the ongoing implications of the COVID-19 pandemic. This stage of the co-design process was open to all Australians to directly engage through community consultation sessions, stakeholder meetings, webinars, submissions and a survey.

As the people most directly involved in the proposed Indigenous Voice, a key audience for consultation was Aboriginal and Torres Strait Islander people and a significant effort went to ensuring they were informed and supported to have a say on how both the proposed Local & Regional Voices and National Voice could work for them. The process also recognised the importance of bringing non-Indigenous Australians on the journey and hearing how they saw themselves interacting with the Indigenous Voice.

Overall, more than 9,400 people and organisations participated during consultation on proposals for an Indigenous Voice over a 4-month period. This included 115 community consultation sessions in 67 locations with more than 2,600 participants, 13 webinars with more than 1,450 participants, more than 4,000 submissions and surveys lodged and more than 1,200 participants across more than 120 stakeholder meetings.

3.2 Overview of consultation and engagement

Over 4 months from January 2021, 9,478 people and organisations participated in consultation through a range of channels:

- 115 community consultation sessions were held in 67 locations with 2,607 participants
- 2,978 submissions were provided
- 1,127 surveys were completed
- 124 stakeholder meetings were held with 1,280 participants
- 1,486 participants in 13 webinars.

3.2.1 Approach

In accordance with its terms of reference (see Appendix B), the Senior Advisory Group provided advice on the design of consultation and engagement.

The Senior Advisory Group agreed the purpose of consultation was to:

- build an understanding of the co-design process and the concept of an Indigenous Voice with all Australians
- seek feedback on how the proposals would work in practice for Aboriginal and Torres Strait Islander communities, organisations and individuals, including how non-Indigenous Australians saw themselves interacting with the Indigenous Voice proposals.

The Senior Advisory Group considered past consultation processes and advice from co-design group members to guide the development of the consultation and engagement approach.

As outlined in the Interim Report, the consultation process was guided by the following principles:

- **Authenticity**—building trust, being transparent, harnessing stories and providing a feedback loop.
- **Inclusivity**—being culturally appropriate, empowering Australians to participate in the process, maximising reach and access to individuals and communities and keeping communication clear and simple
- **Focused**—driven by data, fulfilling the dual purposes of seeking feedback and building understanding, being responsive and adapting to the environment.

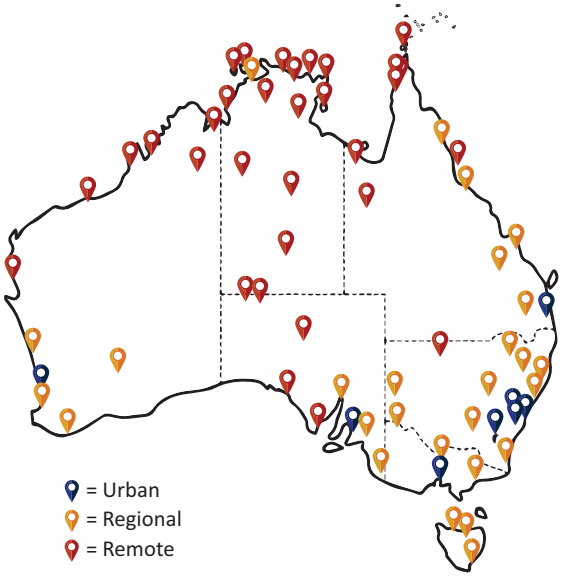
Figure 3.2: Community consultation sessions

Community consultation sessions brought members of the co-design groups together face to face with community members. This form of consultation enabled people to hear directly from co-design members about the concept of an Indigenous Voice and the details of the Local & Regional Voices and National Voice proposals and to then have genuine and candid conversations about how the proposals might work in practice. The leadership of co-design members was critical to the high level of engagement achieved in community consultation sessions.

Over 4 months, the co-design members travelled to 67 urban, regional and remote locations across Australia and held 115 community consultation sessions, engaging with 2,607 participants. The locations for community consultation sessions were determined with co-design member input. The sites of previous consultations and the need to ensure a cross-section of urban, regional and remote communities were considered in settling locations.

Approximately 95 per cent of community consultation session participants were Aboriginal and/or Torres Strait Islander people. While co-design members were in community consultation session locations, they often arranged additional meetings and appointments to ensure consultation engaged as broadly as possible across the communities.

Figure 3.3: Community consultation session locations



Communities were informed about each community consultation session and encouraged to attend through local radio public notices and engagement with local media outlets, including consultation alerts and interviews with co-design members. Local stakeholders in each location were also provided with session information for distribution through their community points of contact, and sessions were listed on the Indigenous Voice website. Where appropriate and in most locations, community consultation sessions were promoted in public notices and across the social media platforms Twitter, Facebook and LinkedIn. There was also outreach to educational institutions at all levels and to mayors and shire presidents in community consultation session locations and their surrounds.

Accessibility and inclusivity were key to the community consultation sessions. Education resources, including fact sheets and graphic material, helped explain the proposals, with resources in language developed where necessary. A presentation detailing the features of the Indigenous Voice proposals, including in most cases a video and series of animations, was delivered in each session. Interpreter services were also provided where necessary. Specific arrangements were made to ensure community cultural and geographical needs were accommodated. Where appropriate, separate men's and women's sessions were held, and sessions were scheduled for multiple times of the day to offer more options for participation. Local organisations or businesses were engaged to provide catering and event logistics.

Figure 3.4: Gunbalanya community members at Maningrida community consultation session, May 2021

Flexibility was an important factor in delivering the community consultation sessions. The ongoing COVID-19 pandemic had an impact, with border closures, travel restrictions and venue capacity limits. Each community consultation session was tailored to suit the needs of the community while ensuring adherence to health requirements and safety plans. Sessions were adapted due to weather events, cultural obligations and participant travel capacity, including the postponement of some sessions. For example, a Geraldton session was postponed and later delivered virtually due to Tropical Cyclone Seroja and Bourke sessions were postponed twice due to Sorry Business, and later held during May. The relevant communities were engaged about any changes to arrangements.

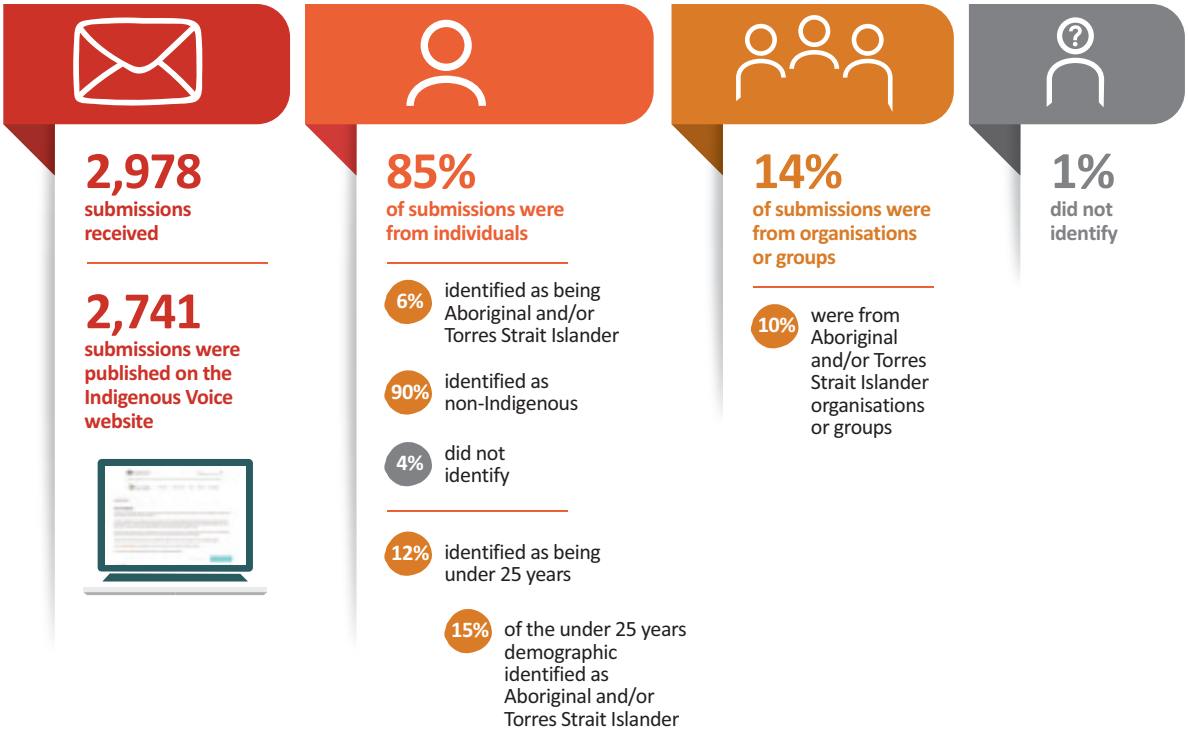
Attendance varied across communities. Co-design members were conscious of consultation fatigue and, in some instances, other consultations running concurrent to the Indigenous Voice process. Multiple sessions were held in most locations, including 26 evening sessions. Most sessions were well attended, with participants engaging in honest, robust and respectful conversations that delivered important insights to refine the Indigenous Voice proposals.

Summaries from all community consultation sessions are available on the Indigenous Voice website. A list of where community consultation sessions were held and a link to community consultation session summaries are provided in Appendix C.

3.2.3 Submissions

Public submissions were invited from 9 January 2021 to 31 March 2021, with a subsequent extension to 30 April 2021. Individuals, organisations and groups were invited to provide feedback via the Indigenous Voice website. Submissions sought feedback on the proposals, guided by the Indigenous Voice Co-design Discussion Paper. Submissions were encouraged in a range of ways, including creatively via audio/video recording or artwork. A total of 2,978 submissions were received, with 2,741 published on the Indigenous Voice website. Over 200 individuals and 10 organisations did not want their submissions published.

Figure 3.5: Submissions overview



85 per cent of all submissions were from individuals in a personal or professional capacity, 14 per cent were identified as representing an organisation or group, with one per cent not answering this question.

- 6 per cent of submissions from individuals were from people who identified as being Aboriginal and/or Torres Strait Islander.
- 90 per cent of individual submissions were from people who identified as non-Indigenous, with 4 per cent not answering this question.
- 12 per cent of submissions from individuals were from people who identified as being under 25 years.
  - 15 per cent of all submissions from people 25 years or younger came from people who identified as Aboriginal and/or Torres Strait Islander.
- Of the 14 per cent of submissions identified as representing an organisation or group, 10 per cent were from Aboriginal and/or Torres Strait Islander organisations or groups.

Submissions with author permission to be published are available on the Indigenous Voice website. A link to published submissions is also provided in Appendix C.

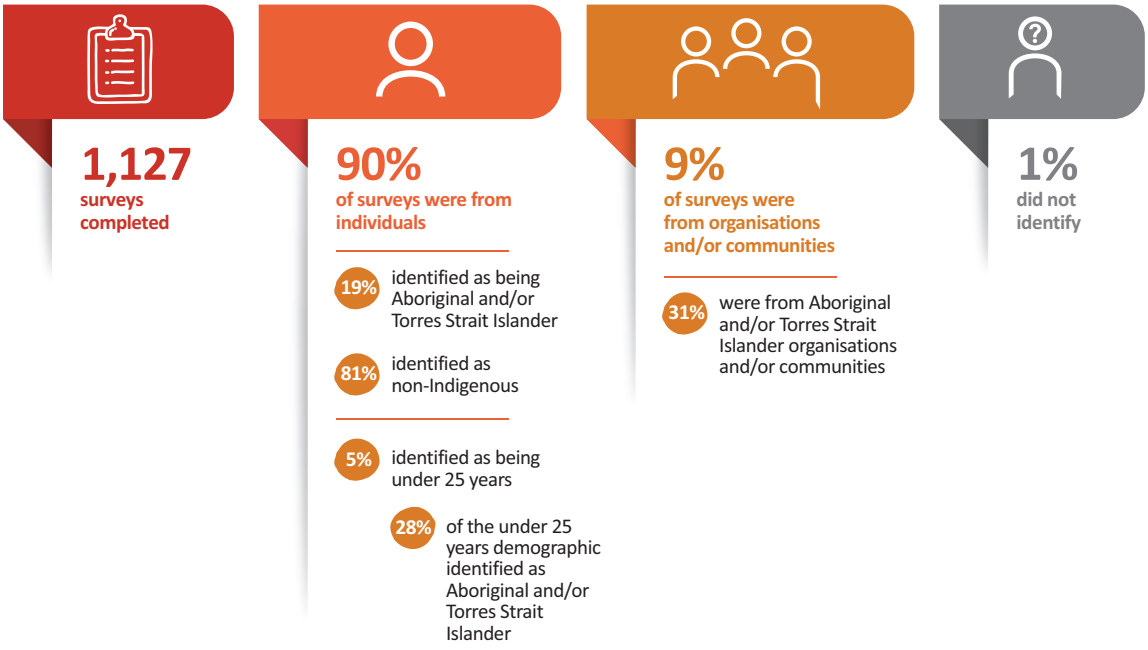
Over half of all submissions were identified to be aligned with a group or organisation with a coordinated effort to provide feedback comprised of similar material. Where such submissions contained distinct content, they were published separately. Submissions that were substantially similar were collated and published in one document and attributed to multiple authors.

3.2.4 Surveys

A short survey was available on the Indigenous Voice website and via reply paid hard copy for individuals, communities and organisations to provide feedback. Survey questions were designed with support from an Indigenous creative agency. The survey remained open throughout the consultation and engagement period from 9 January 2021 until 21 May 2021. A range of views were expressed by 1,127 participants, with varying levels of engagement with the detail of the Indigenous Voice proposals.

Figure 3.6: Survey questions

Figure 3.7: Surveys overview



90 per cent of all survey response were from individuals in a personal or professional capacity, 9 per cent representing an organisation and/or community.

- 19 per cent of individual surveys were from people who identified as Aboriginal and/or Torres Strait Islander.
- 81 per cent of individual surveys were from people who identified as non-Indigenous.
- 5 per cent of survey responses were from people who identified as being 25 years or younger.
  - 28 per cent of all surveys from people 25 years or younger came from people who identified as Aboriginal and/or Torres Strait Islander.
- Of the 9 per cent of survey responses identified as representing a community or organisation, 31 per cent were from Aboriginal and/or Torres Strait Islander communities or organisations.

3.2.5 Stakeholder meetings

In addition to the 115 community consultation sessions conducted around the country, co-design members and NIAA staff facilitated 124 stakeholder meetings engaging individuals, peak bodies and organisations. At least 1,280 people participated in both face-to-face and online stakeholder meetings. These meetings were tailored to the needs of each stakeholder group, with conversations guided by a presentation outlining the key features of the Indigenous Voice models.

Stakeholders were drawn from a range of sectors, from local governance, youth, government and employment to ACCOs, corporate and business, education, faith-based, law and justice and beyond. Stakeholder meetings were held with people from across the country covering urban, regional and remote locations. In at least 41 instances, meetings and additional sessions at the community level were organised as part of the consultation process and co-design members visiting a location to run community consultation sessions. This allowed engagement with more people and consultation to be tailored to suit community needs and opportunities.

Figure 3.8: Stakeholder meetings

These meetings engaged a broad range of stakeholders with varying levels of knowledge about the proposals. Some groups had a large reach and represented a breadth of organisations, thereby engaging individuals, communities and other organisations to provide feedback on the proposals.

Across stakeholder meetings, there was interest in the details of the proposals, both broadly and concerning the implications for particular stakeholders and their networks. There was support for an Indigenous Voice and, consistent with feedback via other consultation methods, a sense of expectation and desire for action.

Information about stakeholder meetings is provided in Appendix C.

3.2.6 Webinars

An implication of the COVID-19 pandemic was that engagement had to be flexible and allow for a variety of communication methods. Webinars were a critical component in the consultation because they allowed for connection with a wider audience that would not otherwise have been possible.

Over the 4 months of consultation, co-design members delivered a total of 13 webinars to 1,486 participants. The webinars ranged from broad discussions on the need for and importance of an Indigenous Voice to detailed discussions about each proposal and targeted discussions for particular audiences. For example, Mr Damien Griffis, CEO of the First Peoples Disability Network, hosted discussions on the proposals for members of the disability sector that canvassed views and issues specifically facing Aboriginal and Torres Strait Islander people with disability.

Co-design members organised webinars to support consultation. For example, the Centre for Social Impact hosted 2 webinars with featured panellists Dr Emma Lee, Dr Donna Odegaard AM, the Hon Jeff Kennett AC and Mr Chris Kenny. This allowed panellists to explore the Indigenous Voice co-design process further and discuss the importance of Indigenous-led formal advice to government and Parliament with targeted audiences.

A full list of webinars is provided in Appendix C.

Figure 3.9: Professor Tom Calma AO, Professor Dr Marcia Langton AO and Mr Dan Bourchier, Indigenous Voice proposals webinar, February 2021

On 1 February 2021, Professor Dr Marcia Langton AO and Professor Tom Calma AO joined Indigenous broadcast journalist Mr Dan Bourchier for the first public webinar to introduce the Indigenous Voice proposals and encourage the community to have a say.

A total of 375 people participated from around Australia, representing a range of backgrounds and perspectives. The webinar included an overview of the co-design groups' work to date and explained the proposals for both the Local & Regional and National Voices. Webinar participants were able to ask numerous questions about the proposals and the next steps.

3.2.7 Educational resources

Figure 3.10: Educational resources

A range of educational resources was developed to support consultation, each designed to raise awareness and understanding of the Indigenous Voice process and the proposals for Local & Regional Voices and the National Voice. The resources were developed with the support of an Indigenous creative agency and included a discussion paper, conversation guide, videos and animations, posters and factsheets. These resources were available on the Indigenous Voice website throughout consultation and were translated where possible. They were highlighted as part of the Indigenous Voice promotion, utilised during community consultation sessions and stakeholder meetings and shared by co-design members through their networks. Appendix D describes and provides links to the educational resources.

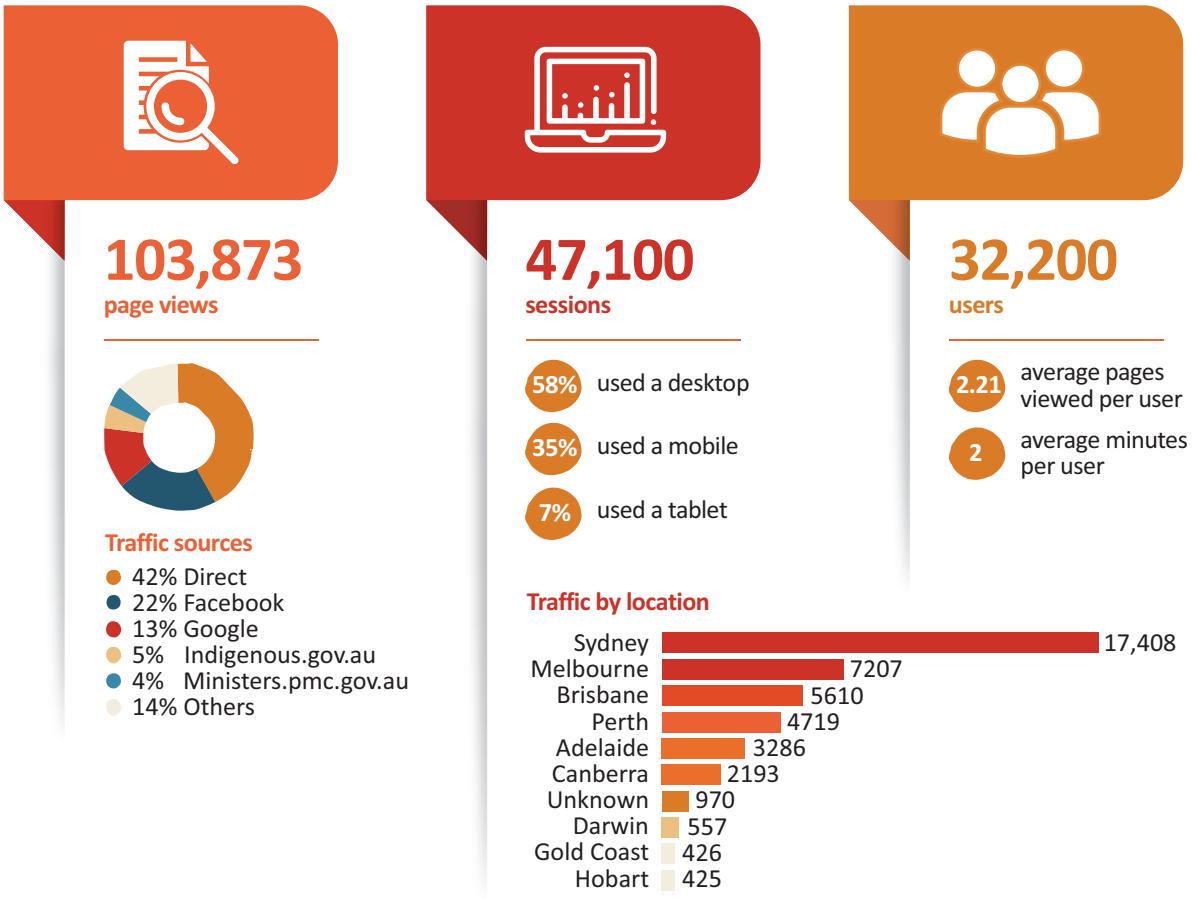
3.2.8 Indigenous Voice website

The Indigenous Voice website (voice.niaa.gov.au) was launched in stage one of the co-design process to be a comprehensive and authoritative source of information. Its use as a significant channel for consultation feedback was a central consideration in its development, with accessibility, simple navigation and a mobile-first design factored in.

With consultation identified as a primary use of the website early on, it was ready to undertake a transformation upon the launch of consultation. On 9 January 2021, the online survey and submission forms were released on the website, along with the Interim Report and a range of education resources to assist in understanding the Indigenous Voice proposals. The website also housed an events calendar with detailed community consultation session information, webinar videos and transcripts, submissions and community consultation session summaries.

From 9 January 2021 to 24 May 2021, the website had almost 103,900 page views by 32,200 users, with users spending an average of 2 minutes and 4 seconds on a page. Traffic was generally steady throughout the consultation period, with peaks on launch and at the close of submissions on 30 April 2021.

Figure 3.11: Indigenous Voice website



3.2.9 Promotion of the consultation process

Co-design members led the promotion of consultation with the support of the NIAA Secretariat. Co-design members promoted the community consultation sessions and other avenues to provide feedback on the Indigenous Voice proposals through the media, social media and their networks, including via personal and professional connections and affiliations, where appropriate. The consultation process was also promoted among sectors, including organisations registered with the Office of the Registrar of Indigenous Corporations.

Media coverage was a key channel to increase awareness of consultation. Co-design members participated in more than 40 media interviews through the consultation period. The launch of the Interim Report and consultation process in January 2021 saw significant national media interest, with the response led by the Senior Advisory Group co-chairs. As community consultation sessions commenced, co-design members participated in targeted media engagement around the country. Interest was high from mainstream, regional, community and Indigenous media organisations, with media attending some community consultation sessions for insight into the proposals and to hear firsthand what people in their local community had to say.

Senior Advisory Group member, Mr Chris Kenny, hosted a live broadcast of his Sky News program from Moree, coinciding with community consultation sessions he was involved in there and discussing the consultation process.

Figure 3.12: Mr Chris Kenny interviews fellow co-design member Ms Kristal Kinsela in Moree, NSW, March 2021

Paid public notices were also used to raise awareness of consultation. Close to 1,000 radio public notices were broadcast across 67 Indigenous, regional and community radio stations, promoting specific community consultation sessions and the process more broadly. Paid online and print public notices promoted the consultation period and encouraged audiences to visit the Indigenous Voice website to provide their feedback.

More than 90,000 subscribers and followers of the Indigenous Voice website voice.niaa.gov.au, the website indigenous.gov.au and NIAA channels were regularly updated about the process through email newsletters and social media posts. Social media posts were boosted and geo-targeted to promote community consultation sessions in relevant locations or to specific target audiences to increase awareness and engagement.

Figure 3.13: Consultation promotion between 9 January and 24 May 2021

205
social media posts reached a total of
945,591 people

123,200
website views

1. 103,873 voice.niaa.gov.au
2. 9,445 niaa.gov.au Voice pages
3. 9,882 Indigenous.gov.au Voice pages

40+
media interviews with co-design members

200+
National, regional and local media contacted

1,700+
unique media mentions of a co-design member in relation to Indigenous Voice

180+
letters to key stakeholders including mayors, shire presidents and educational institutions at consultation locations and surrounds

Contact with
3,280+
ORIC corporations

920+
Indigenous Voice newsletter subscribers

3.2.10 Insights from consultation and engagement

Australians expressed a range of views throughout the consultation and engagement process. While specific insights relating to the proposals for Local & Regional Voices and a National Voice are detailed in Chapters 1 and 2, respectively, some strong overarching themes emerged from consultation.

Support for moving quickly

Feedback from consultation and engagement revealed a sense of urgency and desire to move quickly, with some suggesting an Indigenous Voice is long overdue. Numerous submissions talked about the urgency to make the Indigenous Voice a priority for Australia to reconcile the nation and bring systemic improvements.

> *'We have been waiting for this moment for a long time. All my ancestors have gone before me and their voices were not heard by government. This is the right timing.'*
>
> – Galiwin'ku community consultation session summary, May 2021

The need to 'get it done'

Feedback suggested that while much work is ahead, sustained action is needed as soon as possible, so everyone, particularly younger generations, can benefit.

> *'We need to put aside our differences and go forward and get our voice heard. It is about community coming together … The faster we do this, the better for our future generations.'*
>
> – Cairns community consultation session summary, April 2021

> *'… urgency to act now, finally, to give Indigenous communities the autonomy to make choices for themselves and inform choices which affect their interests. It is a step towards self-determination and broader reconciliation goals.'*
>
> – Sabrina Bhuiyan, submission, March 2021

An Indigenous Voice is overdue to deliver change

Participants reflected on the need for an Indigenous Voice to bring real and lasting improvements across the range of issues facing Aboriginal and Torres Strait Islander peoples in contemporary Australia.

> *'It is beyond time to address the horrible inequalities that exist in all major metrics between Indigenous and non-Indigenous Australians and the only way to do that in any meaningful way is to listen to Indigenous Australians through a truth telling and agreement body such as the Voice to Parliament. We all want a say and agency over our own lives so I cannot understand why this basic human right is not afforded to our First Nations people. It is well overdue that Indigenous people should have a say in matters that affect them.'*
>
> – Caitlin MacGregor, submission, April 2021

> *'As an organisation that has long supported Indigenous Australians on the ground to lead big and small change, Jawun is excited about the Voice reforms finally putting in place the structural changes that are so desperately needed in this country to support new ways of working in genuine partnership with Indigenous people. This is a historic change, and one that is well overdue.'*
>
> – Jawun, submission, March 2021

An Indigenous Voice is part of an integrated system

Respondents highlighted the importance of Local & Regional Voices and the National Voice working together as part of a complementary, integrated system that would allow local voices to be heard at the national level. People felt that this integration would help ensure both legitimacy and accountability for an Indigenous Voice.

> *'What must not occur in this process is a disconnect between local, regional and national voices and neither should the establishment of local and regional voices diminish or create disjuncture with the National Voice. The objective is a Voice to the Australian Parliament and that should remain the focus.'*
>
> – Torres Shire Council, submission, March 2021

'A respectful culturally approved national voice of local Aboriginal people. A dedicated governed and lawful process to reach and have my voice heard in our efforts to bring local to regional, regional to state and state to national. I do not feel heard living in a regional village, we need a framework designed and built by Indigenous people for our Indigenous and Non Indigenous Nation.'

– Alex M, survey, May 2021

Many people stressed that an Indigenous Voice should complement existing bodies and not unduly encroach on or undermine their responsibilities. However, there was also recognition that some established organisations would need to evolve as an Indigenous Voice matures.

Participants reflected on how other processes such as Closing the Gap and Local Decision Making would relate to the Indigenous Voice proposals. They were concerned about creating too many overlapping structures but noted that the Indigenous Voice would not displace existing structures and would build on what is already working.

– Wagga Wagga community consultation session summary, March 2021

'Rather than being concerned about duplication, I would hope that such dedicated Aboriginal and Torres Strait Islander service organisations and peak bodies would seek to work collaboratively with local, regional and national Voice bodies to address community concerns and aspirations raised.'

– Indigenous Peoples' Organisation Australia, submission, May 2021

Support for co-design work

Throughout the consultation process, participants acknowledged the co-design process for an Indigenous Voice as an opportunity for communities and governments to reset their relationships and build trust. It was noted that such change occurs incrementally and requires genuine partnerships and a platform for the involvement of Aboriginal and Torres Strait Islander people. Participants welcomed the notion of government listening carefully to what people around the country are saying and doing things differently in future.

The Indigenous Voice proposals are viewed as a positive step

The co-design process was seen as a significant step in the right direction in terms of government listening and hearing. The key role of co-design group members in leading consultation—a significant approach in policy design of this scale, offered a tangible example of government taking a new approach to working with Aboriginal and Torres Strait Islander people.

'Don't do anything for me without me.'

– Carnarvon community consultation session summary, April 2021

'The Queensland Government strongly supports proposals for an Indigenous Voice that ensure Aboriginal and Torres Strait Islander peoples have a greater say on laws, policies and services that impact them and their lives. An Indigenous Voice provides the opportunity for Queensland First Nations peoples to be heard on issues that affect them.'

– Queensland Government, submission, May 2021

An Indigenous Voice would empower Aboriginal and Torres Strait Islander peoples to make their own choices

Feedback highlighted the power of a collective Indigenous Voice and value for Aboriginal and Torres Strait Islander people to both amplify their voices and shape their communities and the future.

There was hope for future generations and what this proposal could lead to - 'I feel like this is one step closer for us to get empowered. We're a lot closer than we have been before… I'm fighting for a voice for my kids….'

– Port Augusta community consultation session summary, April 2021

'Without a voice, we are voiceless.'

– Aurukun community consultation session summary, April 2021

'Providing advice to government in relation to local issues has been difficult in the past and tends to be largely ignored. We would hope that an Indigenous [Voice] creates the opportunity to amplify our views and ensure they are heard - even by authorities on a higher level.'

– Mirima Council, survey, April 2021

'Self determination is a fundamental human right. For too long, Aboriginal and Torres Strait Islander people have been locked out of decision-making on matters that effect them and their communities. Establishing an Indigenous Voice is critical to re-addressing this injustice and ensuring that the people who know the most about their communities are empowered within the decision-making process.'

– Jeremy G, survey, January 2021

Continuing the conversation and ensuring follow-through

There was broad recognition that consultation and engagement on the Indigenous Voice proposals are only a starting point and that more discussion will be vital to ensure strong support and appropriate representation and to facilitate the implementation of an Indigenous Voice. Co-design members made it clear that the current co-design process focused on providing solid recommendations to government on the Local & Regional Voices and National Voice proposals, but there will need to be further consultation and co-design if the Australian Government proceeds to implementation.

Need to continue co-design throughout the implementation of an Indigenous Voice

Community consultation sessions helped initiate conversations in communities about existing local governance arrangements and local priorities but noted that this was only a starting point.

'Community coming together to create one voice is very important, and that a consistent set of principles create opportunity. But a next step would be communities designing their own arrangements.'

– Mt Druitt community consultation session summary, March 2021

It will be critical in the early stages of implementing Local and Regional Voices to give adequate time for people in communities to talk and work out what suits them in terms of how regional boundaries could be set up.

– Mt Isa community consultation session summary, April 2021.

Continuing awareness-raising around the Indigenous Voice, what it is and why it is needed will be essential for the broader Australian community to recognise, acknowledge and embrace an Indigenous Voice.

Participants felt there needs to be continuing education around the Indigenous Voice, what it is and why it is needed, so as to widely inform the public and dispel myths, including in schools.

– Rockhampton community consultation session summary, April 2021

One participant emphasised the need for an education campaign so that Aboriginal and Torres Strait Islander people would have greater awareness of the Indigenous Voice.

– Darwin community consultation session summary, April 2021

Concerns and scepticism about consultation

Many people were cautious, and some spoke of consultation fatigue, expressing a sense of wanting less talk and more action and seeking assurance that things will be different this time and their voices will be heard. Some participants questioned if and how the Indigenous Voice co-design process would be any different to what has come before.

'It has been 2 and a half years since the recommendation was made to come up with a proposal as to how an Indigenous Voice can be heard in parliament, and at this rate it will probably be another 2 and half years before the proposal is finalised. If history continues to repeat itself it is likely that this proposal will soon be scrapped for whatever reason the government of the day wants to give and added to the mountainous pile of failed-but-well-intentioned government initiatives.'

– Nadeane Chadwick, submission, April 2021

'We need governments to hear the issues in our communities.'

– Aurukun community consultation session summary, April 2021

'It's about time things like this happened. The parliament needs to listen to community voices.'

– Aurukun community consultation session summary, April 2021

Frustration at being consulted with no outcomes

Throughout consultation and engagement, participants expressed frustration at being consulted on various issues over time, with a lack of follow-through or visible action.

Participants expressed fatigue at having another conversation about how to be heard by government.

– Tamworth community consultation session summary, March 2021

'Local and regional proposals need to work to better engage with all of the community and consider expanding who they speak to, exploring new ways of consultation that are more inclusive and accessible and open up spaces for dialogue. This includes clarity of process as there is a lot of trepidation within community as to where the information goes once it is shared, and the fatigue that comes with highlighting the same issues over and over with very little action.'

– Australian Association of Social Workers, submission, April 2021

There is a compelling argument for the Indigenous Voice, but some weariness given previous experiences and concern government will cherry pick advice that matches its agenda.

– Adelaide community consultation session summary, February 2021

There was general frustration that there have been many reports and recommendations to government and a lack of transparency from the Commonwealth Government about what has been accepted, responded to or implemented.

– Perth community consultation session summary, April 2021

Some suggested consultation was rushed

Adequate time is required to connect with people in community, particularly in remote and regional areas, to enable everyone to digest the information, reflect on the conversations and have a say.

'Whilst we note that the Government has extended the deadlines for written submissions until the end of April, we nevertheless believe more time should be given to submission lodgements and that the Voice consultations should be extended to cover more geographical areas and concentrated where the largest First Nations communities reside.'

– ANTaR, submission, March 2021

'The KLC is concerned that the current Co-design process has been rushed, lacking in transparency, and has not incorporated a self-determined process particularly with respect to determining membership of the national Voice. The KLC would be happy to work with Government to assist in this future process to ensure it meets the requirements of self-determination; that is, it is First Nations led and fully informed.'

– Kimberley Land Council, submission, April 2021

The importance of having the right people involved in the conversation

For an Indigenous Voice to be effective and have credibility, participants highlighted the importance of engaging with everyone in community and ensuring the diversity of Aboriginal and Torres Strait Islander people is recognised and reflected.

If Government is serious about this, it needs to 'get the model right, get consultation right and get representation right.'

– Geraldton community consultation session summary, May 2021

'Aboriginal people need to help design policy for themselves. Our long entrenched system of being held back, held down and generally misrepresented under the auspices of "welfare" and "protection" need to be abandoned for the future betterment of our people. Our children need to aspire to be heard by their leaders. … They need to see and believe in true representation of themselves at every level of government. We all need to believe in a better future for our children and their children, then we might be a chance at maintaining our traditions and culture and able to celebrate ourselves as the truly unique custodians of this land.'

– Anonymous, survey, May 2021

All levels of governments to be involved

Feedback consistently indicated that Aboriginal and Torres Strait Islander voices being heard at all levels of government would be crucial to success, particularly with Local & Regional Voices. This feedback focused on the need for commitment from all levels of government, mechanisms to ensure state and territory engagement, ways the proposed models may work with existing local, state and territory representative bodies, and the need for governments to build capability and change their approach to working with community.

There was strong agreement that state governments need to commit to and support the Voice as full partners. There was interest in seeing local government included in the commitment'

– Albany community consultation, April 2021

'The Local and Regional Governance structures will involve all tiers of Government to deliver the design outcomes. Governments themselves must change. Systemic transformation will be required in the processes to equip governments to connect, serve and be flexible to respond to regional and community needs. This will require commitment and a united effort between Federal, State and Local Governments.'

– Reconciliation WA, Submission, April 2021

Governments need to improve their capability and change historical approaches to working with community

Some people felt that governments would need to change the way they work with communities and that this would be an opportunity for all parties to learn and grow and build better working relationships.

'Creating formal, recognised structures, such as what is being proposed, and requiring all levels of government to commit to respectful, long-term partnerships, should assist in forcing meaningful conversations and obliging government to listen to and incorporate invaluable local input.'

– Yamatji Marpla Aboriginal Corporation, submission, April 2021

'For the mutual benefit of our Central Coast Aboriginal community, we need Government to partner with us—to be enablers in reform because we are in this together. We believe that structural reform requires that all levels of Government work with us to deliver on our priorities.'

– Barang Regional Alliance submission, April 2021

There needs to be a focus on developing the cultural capability of government, and ensuring that government and other organisations are culturally capable to work with Indigenous communities.

– Mt Gambier community consultation session summary, March 2021

Constitutional enshrinement

Throughout consultation and engagement, there was strong support for the enshrinement of the Indigenous Voice in the Australian Constitution, particularly in submission responses. Making recommendations on this matter is not within the scope of the co-design task; however, the Senior Advisory Group consider it important to note this high level of support, particularly through the submission process. Nearly 9 out of 10 (or 88 per cent) of submissions expressly supported constitutional enshrinement or the Uluru Statement from the Heart. Submissions showed support for the enshrinement of an Indigenous Voice across all Australian jurisdictions, ranging from 80 per cent of submissions from the ACT to 95 per cent of submissions from the Northern Territory.

'Constitutional recognition will be a significant contributor to a more unified and reconciled nation for the simple reason that All Australians can regard it as a significant step forward in addressing past wrongs and failures and enabling greater self-determination for Indigenous Australians… The Business Council believes completing the Australian Constitution by meaningfully recognising Indigenous Australians is a necessary precondition to closing the gap in Indigenous disadvantage and economic participation.'

– Business Council of Australia, submission, April 2021

Constitutional enshrinement was raised in some community consultation sessions, with discussion often focusing on the reasons why enshrinement is important. Reasons given for constitutional enshrinement varied. For some, constitutional enshrinement was seen as a core element of the Indigenous Voice, as it would offer greater protection from change over time and help deliver the status, authority and legitimacy needed for effective operation. Others observed that enshrinement as a first step in the nation listening to and delivering on the collective aspiration of Aboriginal and Torres Strait Islander peoples, expressed through the Referendum Council regional dialogues and this co-design process, and considered this to be a priority to progress.

Longevity for an Indigenous Voice

Consistent with the reflections of the co-design groups on lessons learned from previous arrangements, consultation participants also expressed the need for the longevity of an Indigenous Voice. Calls for the protection and sustainability of an Indigenous Voice were a consistent theme. Key to this was the need for the assurance of funding and resourcing to provide long-term security. Participants also raised the need for long-term, bipartisan support for an Indigenous Voice to protect from political whim.

Sufficient funding to ensure sustainability and longevity

A mechanism to ensure that Local & Regional Voices and the National Voice are adequately and sustainably resourced was seen as vital to the success of an Indigenous Voice.

The importance of funding and resources for Indigenous Voice members was raised in many communities visited during the consultation. It was seen as necessary for various reasons, including the frequent expectations on Aboriginal and Torres Strait Islander people to volunteer their time, the likely workload associated with membership and to properly recognise the value of the work they will do.

Some participants thought the principles should include 'independence from governments' and 'secure and ongoing funding arrangements'.... Some participants commented that the National Voice would need to be established in a way that is completely independent from government, including with a sustainable source of funding and an independent secretariat.

– Alice Springs community consultation session summary, May 2021

Participants discussed the importance of funding and resources for the Voice - that people shouldn't just be volunteers, as they already do a lot of work for free.

– Broken Hill community consultation session summary, March 2021

Participants discussed the funding for the voice and were interested in: How secure the funding will be. How long the funding would last. What the level of funding would be. Whether the Voice process will include funding for local governments to support this work.

– Perth community consultation session summary, April 2021

'Funding should be for at least 10 years rather than being tied to election cycles and outcomes should not be measured by statistical data but rather by the collection of qualitative data by consultation with the communities involved.'

– Di R, survey, April 2021

'The issue of resourcing the Voice proposal was another matter continuously raised by communities. The sustainability of the proposals is affected by financial commitment from the governments.'

– Gandangara Local Aboriginal Land Council, submission, April 2021

'Of critical importance in this initial phase will be ensuring that the new National Representative Body is adequately funded and has the financial structure to be sustainable into the longer term. Both human and capital resources are required to effectively respond to the complexity of its governance procedures and functions to provide direction to government, and monitor and develop policies approaches.'

– Indigenous Peoples' Organisation, Australia, submission, May 2021

'In our submission we also highlight the imperative for a structural framework that ensures the independence and long-term security of funding for the Voice.'

– AIATSIS, submission, May 2021

Long-term bipartisan commitment

Throughout community consultation sessions, there was a recurring view that an Indigenous Voice must be something that cannot be simply discontinued or disbanded with a change in government or change in government priorities.

'We have historically experienced the cycles and whim of governments to establish and abolish legislative bodies that govern Aboriginal & Torres Strait Islander people. We have heard many stories from our elders of such representative bodies that were legislated. The key message from our elders is the need to protect our voice beyond the cycles of government.'

– Deadly Inspiring Youth Doing Good A&TSI Corporation, submission, April 2021

'A lot of people are tired of being promised structures, and then governments change their minds, and it is gone.'

– Coffs Harbour community consultation session summary, March 2021

'AASW members highlighted the importance of long-term commitments to action, beyond election cycles and sporadic interest from governments. Members spoke of many instances where similar initiatives were implemented at a council and State level but were soon displaced with a change of government. Recognising the Voice is a first step, but this needs to be met with the development of funding systems and structures that allow this voice and conversation to continue. Without continuity, we will be repeating the mistakes of the past and fail to achieve the progress and reconciliation that this policy intends.'

– Australian Association of Social Workers submission, April 2021

'When it gets too tough, the Government can close it down without our say.'

– Cairns community consultation session summary, April 2021

3.2.11 Engaging with and perspectives of particular cohorts

While specific feedback was collected and considered concerning the proposals for Local & Regional and National Voices, in addition to the insights and additional themes described above, broad themes also emerged from specific cohorts of respondents.

Youth perspectives

At the last Australian Census, half of all Aboriginal and Torres Strait Islander people were under the age of 25. As future leaders, young people were an important cohort to engage throughout the consultation process.

The co-design members took a flexible approach to engaging with young people, including creating targeted educational resources and running separate consultation sessions for young people. This engaged students and young people in schools and communities across the country, including in Tamworth, Katherine, Dubbo, Tiwi Islands and Mildura. Students and young people also joined community consultation sessions.

Of the written submissions, 310 or around 12 per cent of all submissions were from youth aged 25 years or younger. Of these, 48 submissions came from Aboriginal and Torres Strait Islander young people, equating to 15 per cent of submissions provided by young people. This was significant, as the all-ages proportion of all submissions from Aboriginal and Torres Strait Islander people was lower at around only 7 per cent. Of survey responses, 47 were from youth, comprising around 5 per cent of all surveys, including 13 responses from Aboriginal and Torres Strait Islander young people, equating to around 28 per cent of survey responses from young people.

The importance of young people being engaged with and part of Indigenous Voice arrangements was also unequivocally supported throughout the consultation process.

Youth participants discussed inclusive participation, suggesting youth ambassadors and mentoring would help empower young people. They also discussed cultural participation and leadership, reflecting that it's important to respect Traditional Owners, but that youth should also have a say in the Voice forum…Youth participants suggested an annual youth summit to bring people together from across the country.

– Port Augusta community consultation session summary, April 2021

Youth was a major theme. Participants talked about youth as the next generation of leaders, and wanted them involved in consultation meetings like this one.

– Mildura community consultation session summary, March 2021

There was agreement the Local and Regional Voices structures need to be inclusive, particularly of young people as the future leaders of their communities.

– Rockhampton community consultation session summary, April 2021

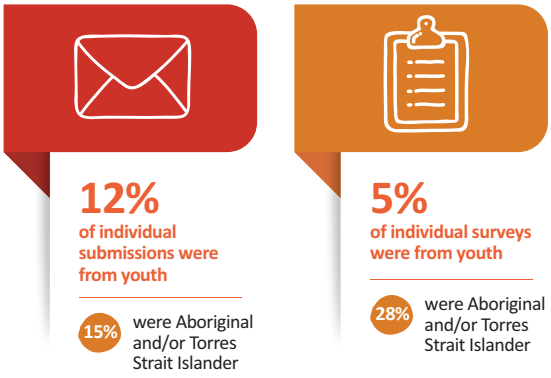
Youth was a significant theme of discussions, described by one participant as the "tomorrow people". Participants reflected on the importance of youth participation and potential opportunities to continue to engage young people.

– Katherine community consultation session summary, April 2021

Participants agreed there needed to be more youth voices, because the decisions made today are going to affect them into the future.

– Dubbo community consultation session summary, March 2021

Figure 3.14: Youth submissions and surveys



Alongside widespread support for an Indigenous Voice, key themes that emerged from young people included:

- the current difficulty for young Aboriginal and Torres Strait Islander people to have their priorities and concerns heard or little feedback or follow-through on the outcomes of providing their feedback
- support for including youth representatives or advisory bodies and mechanisms to ensure age diversity among general membership
- a strong desire for culture to be incorporated into any model and to ensure respect for cultural elders.

'We are the future leaders of our communities'

—Anonymous, submission, March 2021

'As a young Indigenous woman, I have found it hard to find a place to speak on issues that relate to myself, often finding other people outside of my culture will prefer to speak on my issues, and rarely is there ever a chance in the first place for us to speak about Indigenous issues.'

—Anonymous, submission, March 2021

'Provisions for young people to present themselves to be heard, to have their say. To have the feeling of not being cut off just because you're a young person. A Platform open to the mediums that we use (Facebook, Snapchat, Instagram), A Youth Representative both genders on a local, regional and national level.'

—Dre N, survey, March 2021

'To be able to work & live in a community that are listening to Aboriginal & Torres Strait Islander Peoples advice would just be so amazing and fulfilling to me. It would help me to start trusting and respecting our government again and make this a loving and educated community again.—I love that it will include a very diverse group of people to make sure that the solutions are right for all minorities and groups within our communities.—Engaging early with the government on policies and laws would mean less failed attempts & rework/ backlash.'

– Katherine S, survey, February 2021

'As an indigenous grade 12 student, I represented myself and my school in a speech competition in order to make a change and give a voice for indigenous peoples. The speech I wrote follows…What is change, and what does it mean to me? Change is the opportunity for growth. It recognises past mistakes and transforms them into a greater and brighter future with more positive outcomes. Change allows for progression, resolution and reconciliation. It encourages the sharing of new ideas and experiences that will benefit all Australians, both Indigenous and non-Indigenous. Change, for me, is necessary and vital. How will I ever learn if I do not embrace the movement of change? How could I ever be a proud emerging Indigenous leader if I don't fight for substantial change?'

– Abbie R, survey, May 2021

Discussions with students and teachers at Wurrumiyanga

On 30 April 2021, co-design members Professor Tom Calma AO and Ms Katrina Fanning PSM met with 21 students and teachers from Xavier College Catholic School at Wurrumiyanga on Bathurst Island and discussed the Indigenous Voice and how it could work for them.

The students split into groups of boys and girls and the co-design members and teachers helped facilitate an engaging discussion about what is important to the students.

They shared what they like about living in the Tiwi Islands, but were also open about some big challenges facing their communities. Together, they came up with a range of ideas about overcoming these issues, touching on both local solutions and larger scale policy solutions.

Keeping this flexible approach helped engage the students on what was important for them and how an Indigenous Voice might work for their community. The meeting at the school was held prior to the 2 community consultation sessions on Bathurst and Melville Islands, and the discussions with the young people provided a great basis for a broader conversation in the community.

Figure 3.15: Mind map created at Wurrumiyanga

Consultation sessions held at Katherine High School

Ms Katrina Fanning PSM visited Katherine High School on 28 April 2021 to talk about the Indigenous Voice. Sessions were held first with the young Aboriginal men in the Clontarf program and then with the young Aboriginal women in the Stars program.

At the Clontarf session, the students focused on different ways that their voices could be heard, like online forums or barbecues. Some students thought the best way would be to have someone they could approach to talk to.

The students in the Stars session felt that young people needed to be given support so that they could build the confidence to speak up. They also discussed how an Indigenous Voice should work within Katherine High School and agreed to have another discussion to progress this.

The sessions demonstrated that the students had a clear idea about how they wanted their voices to be heard. By linking the Indigenous Voice to their daily lives, Katrina was able to encourage the students to engage and participate. School staff played a crucial role in creating a safe environment so that the students felt that they could speak up about what mattered to them.

Broome session attended by Broome Senior High School students

On 3 May 2021, 10 students from Broome Senior High School attended the Broome community consultation session. The session was facilitated by Dr Emma Lee and Professor Cheryl Kickett-Tucker AM. About halfway through the session, Emma and Cheryl encouraged the students to take the floor and talk about their perspectives on Indigenous Voice.

Some of the students found it challenging to speak up in a forum that included many senior members of the community. But the other participants in the room supported them to have their voices heard.

The students felt that they were not given a fair say and were compared unfairly to non-Indigenous students. They also raised concerns about homeless youth. Once they began to feel comfortable speaking, it became clear that they had a lot to say.

Remote perspectives

Figure 3.16: Remote community consultation sessions

Of the

67

locations where community consultation sessions were held:

33

were in remote and very remote locations

This accounted for over

55%

of participants at community consultation sessions

Community consultation session in Wadeye

On 28 April 2021, Senior Advisory Group co-chair, Professor Tom Calma AO, and National Co-design Group co-chair, Dr Donna Odegaard AM, held community consultation sessions in Wadeye on Kardu Diminin Country. Wadeye is located approximately 420kms south west of Darwin, Northern Territory. It is also one of Australia's largest remote Indigenous communities.

As part of the promotion for these community consultation sessions, local broadcasting stations aired daily radio for announcements in local language the entire week prior to the sessions. Additionally, all local service providers were provided with information packs and encouraged to have discussions with board members, who would have discussions within their traditional family groups. Posters were displayed at critical locations throughout the community, such as the local health clinic, local store, public notice boards, and at all service providers.

Community leaders were engaged in preparation for these consultation sessions to ensure that the sessions were conducted in a culturally respectful, safe and appropriate way.

In accordance with community requests and respect for cultural rules, separate sessions were conducted for men and women. The 2 sessions were attended by 152 participants in total who came from Wadeye and smaller communities in the surrounding region. Each session was formally opened with a Welcome to Country by senior men and women in their respective sessions.

Local Indigenous organisations provided on the ground event logistics support, including site preparation and catering, a large mobile outdoor screen and audio system. Information about the Indigenous Voice was interpreted into local languages, with interpreters also facilitating conversations in a number of languages spoken in the region—ensuring a voice for those who would otherwise be unheard.

These two-way conversations about the Indigenous Voice proposals, especially answering participants' questions and hearing their honest feedback, was a valuable part of the co-design process. A summary of both Wadeye community consultation sessions with the views and opinions expressed by community members is available on the Indigenous Voice website.

The voices of Aboriginal and Torres Strait Islander people living in remote communities can often go unheard due to geographical, language and cultural barriers. Co-design members considered it crucial to speak with as many communities as possible in remote Australia. Of the 67 locations where community consultation sessions were held, 33 were in remote and very remote locations. This accounted for over 55 per cent of community consultation session participants.

Of 2,344 submission respondents and 1,063 survey respondents who provided their postcode or location:

- 111 submissions and 108 surveys were from participants in outer regional areas.
- 15 submissions and 22 surveys were from participants in remote areas.
- 4 submissions and 20 surveys were from participants in very remote areas.

Community leaders were engaged before each community consultation session to help understand local requirements and cultural protocols. This ensured community members had the best opportunity to participate in discussions. Community leaders and local networks distributed information about the Indigenous Voice proposals throughout the communities and let people know about community consultation sessions. This was crucial in building trust in the co-design process and providing all community members the opportunity to participate and provide their views.

Perspectives of non-Indigenous Australians

The consultation process was open to and welcomed feedback from all Australians. Non-Indigenous Australians engaged strongly, particularly with submissions and surveys. Submissions and surveys provided an opportunity for non-Indigenous Australians to reflect on their personal experiences and explore why they felt compelled to respond.

Around 90 per cent of individual submissions and around 80 per cent of surveys came from non-Indigenous Australians. Most submissions from non-Indigenous Australians focused on why they consider an Indigenous Voice to be important but did not provide detailed feedback on the proposals. Non-Indigenous respondents often indicated a belief that the design decisions should be reserved for Aboriginal and Torres Strait Islander people.

Alongside widespread general support for an Indigenous Voice, key themes that emerged from non-Indigenous Australians were:

- Non-Indigenous Australians are supportive of the Indigenous Voice proposals as put forward in the Interim Report.
- Many non-Indigenous Australians did not wish to comment on the details or effects of the Indigenous Voice. They preferred to prioritise listening to rather than talking over or about Aboriginal and Torres Strait Islander people.
- An Indigenous Voice would deliver benefits to non-Indigenous Australians as a mechanism for a more equal and better Australia for all.

'As a non-Aboriginal Australian, I fully support a Voice to Parliament so that Aboriginal and Torres Strait Islander people can give advice to Parliament on laws, policies and processes that would improve their lives. For far too long decisions have been made on behalf of Aboriginal and Torres Strait Islanders with disastrous consequences, beginning with invasion. It is beyond time to hear directly from them—they are the experts of their own lives and the wellbeing of their communities. It is only right that we really start to listen.'

– Charlie Burton, submission, March 2021

'As an older white man, I expect our government to include all citizens in our population. Our country needs to give full voice to those it has excluded and dispossessed. Proper inclusion, equitable treatment and elevation of Indigenous people is a measure of how civilised our country is. Increased inclusion is the responsibility of government and all political parties in who they select to stand for public office, public servants, and those from diverse groups in our population.'

– Anonymous, submission, March 2021

'I am not an Indigenous person. I would want the design of the National Voice to be led by Indigenous people, in co-operation with others who can provide structural/legal expertise. The National Voice would work for me by educating me more fully about the needs and priorities of Indigenous people, to add to my present, incomplete understanding.'

– Caroline J, survey, March 2021

'As a non-Indigenous Australian I do not believe it is appropriate for me to comment on the composition and detailed workings of the National Voice. Rather, I believe we must listen to and be guided by our First Nations peoples on those matters.'

– Jodi Steel, submission, March 2021

'As I am white it is not my place to say, please refer to any Noongar peoples voices as to ways to improve the lives of local Indigenous peoples … So often the intervention of white Australia leads to elders and other members of Australia Indigenous communities being talked over or infantilized as if white Australia knows better. Yet no one knows best for the Indigenous peoples of Australia than the Indigenous peoples of Australia. When solutions come from within the community they are much more effective. White Australia needs guidance that is meaningful and will enact change, and we won't see that until Indigenous people have a truly listened to and influential say in matters that directly affect them.'

– Anonymous, submission, April 2021

'I think 2 of the hardest things for us whitefellas to do is (1) to appreciate the impact of our actions on Indigenous Australians, especially those who live quite different lives to our own or whose cultural perspective is different to ours and (2) to listen. An Indigenous voice to help me and more importantly law makers to learn and to listen and to take Indigenous people more properly into account … I think it is important for all non-Indigenous Australians to take an interest in and to engage with Indigenous Australians and a well-designed and communicated National Voice can play an important role in informing all Australians.'

– David R, survey, January 2021

Webinar on the Importance of an Indigenous Voice for the Australian Community

On 16 March 2021, Senior Advisory Group member Professor Daryle Rigney and National Co-design Group members, Ms Fiona McLeod AO SC and the Hon Jeff Kennett AC, held a webinar discussion with Indigenous broadcast journalist Dan Bourchier.

While the session discussed the proposals, it also focused on the importance of an Indigenous Voice to the whole Australian community. As non-Indigenous members of the co-design groups, Ms McLeod and Mr Kennett reflected on their views on the value of an Indigenous Voice.

'Over many years I've seen firsthand the intergenerational impact of laws and practices that have failed our first nations people. And increasingly they're being imprisoned. Increasingly those numbers include women and children. I've witnessed the devastation of families separated and trauma experienced by children in state care. And I've listened to elders, urging our courts to allow traditional culture, to be a way that we can proceed to deal with justice issues, trialling justice reinvestment initiatives for example. I really feel that we must grapple with a way to address self-determination for our first nations.'

– Ms Fiona McLeod AO SC

'I see the voice as being the next step to give recognition to the first peoples and also to give respect and learnings to the culture, because I think there's so much about Indigenous culture, which if we allowed the communities to apply them would overcome some of the aspects of Indigenous life such as suicide, such as breaking the law, that we're experiencing today. So even though not everyone in the Indigenous community agrees with the voice, command is the next natural step to gaining that national recognition that I think first peoples deserve.'

– the Hon Jeff Kennett AC

Figure 3.17: Webinar on the importance of an Indigenous Voice

3.3 Consideration of consultation feedback by co-design groups

Along with actively leading the consultation and engagement process, co-design members considered feedback as it emerged during the process. Co-design members reviewed community consultation session summaries for locations where they hosted sessions as they were finalised. Co-design members also had access to all submissions and community consultation session summaries as they were published on the Indigenous Voice website. Co-design members were also supported with information and promotional material and updated about these as regular contact occurred, including to promote upcoming community consultation sessions and events.

When co-design groups met to consider the feedback and deliberate final proposals, agenda and meeting papers were provided ahead of each meeting. Each formal meeting followed a general pattern, with an introduction or presentation by the co-chairs of each co-design group on the papers, then each member provided an opportunity to provide their advice, comments and ideas. In addition to individual member contributions, some of which provided alternative and dissenting views, there was general group discussion and deliberation on issues. Members were also encouraged to provide feedback in writing following meetings. Where a co-design member was unable to attend a meeting, best efforts were made to provide an opportunity for a separate briefing or discussion.

Through this process, the co-design groups developed the core design for the proposals, followed by drafting the relevant sections of this Final Report. The Senior Advisory Group considered and provided feedback on the co-design groups' work and reflected on the co-design and consultation and engagement processes and the significant opportunity this presents for the Australian community with the establishment and implementation of an Indigenous Voice.

Chapter

4

Implementation considerations, reflections and recommendations

4.1 Implementation of the Indigenous Voice

The co-design groups acknowledged that the decision regarding the timing and pace of implementing the Indigenous Voice will be a matter for the Australian Government. But they also emphasised the significant need for ongoing engagement and buy in from all governments and communities to ensure the Indigenous Voice is an integrated system that can fulfil its potential.

The final proposals provide for a system-wide approach where the 2 parts of the Indigenous Voice – Local & Regional Voices and the National Voice – complement and support each other to ensure the best outcomes. The importance of an implementation approach that will support the Indigenous Voice as a system was considered critical by the co-design groups and throughout consultation.

The final proposals for the Indigenous Voice connect local and regional arrangements to the national level. This provides for communities to work with all levels of government in the local and regional context on community aspirations and priorities. At the national level, Aboriginal and Torres Strait Islander individuals and communities would have the opportunity for their voices to be heard on issues of national significance to Aboriginal and Torres Strait Islander people. This would build a strong foundation for an Indigenous Voice that is accepted, respected and enduring.

Establishing Local & Regional Voice arrangements across the country alongside the formation of the National Voice must be done in a way that sets the overall system up successfully. Noting the members of the National Voice would be drawn from Local & Regional Voices, the co-design groups identified that sensible sequencing for establishing this foundation will be critical for effective implementation. Ensuring robust implementation arrangements in partnership with Aboriginal and Torres Strait Islander peoples will be key to supporting the effectiveness, credibility and ongoing sustainability of the Indigenous Voice.

A Transition and Implementation Working Group ('the working group') with members from the 3 co-design groups considered implementation issues for the Indigenous Voice, including the interactions of implementation between the local and regional and national levels.

Aspects of their consideration included:

- Community aspirations including the need for the prompt establishment of an Indigenous Voice.
- The need to maintain momentum with both communities and government, while allowing time to ensure all the necessary building blocks for successful implementation are in place.
- Engagement with state and territory governments, in particular in relation to the Local & Regional Voice proposal, and timeframes for legislation for all aspects of the Indigenous Voice.
- The value of continuing a co-design approach with Aboriginal and Torres Strait Islander people during the implementation phase, including the community-led design of the Local & Regional Voices.
- Expected implementation timeframes and sequencing of the 2 parts of the Indigenous Voice, and the impacts on its overall effectiveness, including risks.

4.1.1 Continuing co-design into the transition and implementation phase

In response to feedback throughout consultation and engagement about the need for ongoing input from Aboriginal and Torres Strait Islander people as the Indigenous Voice is implemented, the working group proposed a ‘Transition and Implementation Co-Design Group’ be established from the outset.

The Transition and Implementation Co-Design Group would be made up predominantly of Aboriginal and Torres Strait Islander people, and its members could be selected in a way similar to the selection of members of the current Indigenous Voice co-design groups. That is, the Minister for Indigenous Australians would consult with Indigenous Voice co-design co-chairs to select 2 respected Aboriginal and Torres Strait Islander co-chairs, who would then work in partnership to determine the other members of the group.

The group would work with the NIAA to support implementation of the National Voice, and undertake national coordination and support for implementation of Local & Regional Voices. The NIAA would work with this group and provide secretariat support as it has done for the co-design process. There are a range of implementation tasks the Government would need to undertake, which the Transition and Implementation Co-Design Group could support, including:

- Supporting engagement with states and territories as needed to build widespread support for implementation of Local & Regional Voices.
- Helping to develop further detail to prepare for the implementation of the Local & Regional Voices and the National Voice.
- Assisting to address any systemic issues that may arise in the overarching implementation of Local & Regional Voices.

Separate, regional level community-led 'design groups' comprising a broad range of Aboriginal and Torres Strait Islander stakeholders from each region would form, with government support, to drive the design of governance arrangements specific to each Local & Regional Voice with relevant communities. These groups would also work through the process of designing and establishing local arrangements including formal recognition of their Local & Regional Voice.

4.1.2 Implementation of Local & Regional Voices

In response to the strong call for moving to implementation as soon as possible, the working group has put forward 1 July 2022 as the suggested start date for the commencement of the roll-out of Local & Regional Voices. This assumes a Government decision by the end of 2021.

The group noted key steps to prepare for implementation of Local & Regional Voices would need to include:

- **Government-led** engagement with states, territories and local governments to obtain commitment to participate in Local & Regional Voice arrangements in line with the proposed purpose, scope and principles articulated in this Final Report. The need for all levels of government to be involved was highlighted in consultation feedback as critical to the effectiveness of the proposed Local & Regional Voice arrangements.
- **Bilateral engagement in each state and territory** between the Australian Government, relevant state or territory, state level Local Government Association, and relevant Aboriginal and/or Torres Strait Islander community stakeholders to determine regional boundaries, as set out in Chapter 1.
- **Community-led** design of Local & Regional Voice arrangements in each region, within the Local & Regional Voice framework parameters. This would be facilitated by community-led 'design groups' in each region. These groups would comprise a broad range of Aboriginal and Torres Strait Islander people and stakeholders from across each region. They would be supported to drive the design of Local & Regional Voice governance arrangements with relevant communities and prepare for the recognition process. Further detail is set out in Chapter 1.

The process outlined above is designed to respect strong feedback across all forms of consultation and engagement that for Local & Regional Voices to be successful in the long-term, the design of governance arrangements must occur at the local and regional level and be led and owned by the relevant communities. This means each region will move at a different pace. It is estimated that it could take up to 3 years for the vast majority of Local & Regional Voices to be fully established, noting some regions – particularly those with existing governance arrangements – would be able to move more quickly than others.

While the proposed roll-out of Local & Regional Voices will commence from 1 July 2022 (if a Government decision is made by the end of 2021), this timeframe is contingent on quickly securing commitments from states and territories, and agreeing details of regions. It would also depend on legislation being introduced, to clearly demonstrate Government's commitment and address the issue of the community's lack of trust which was highlighted during the consultations.

4.1.3 Implementation of the National Voice

The National Co-Design Group agreed to a 'structurally linked' membership model with members selected by Local & Regional Voices. This would ensure a strong connection with local communities and legitimacy in the National Voice membership. Until the vast majority of Local & Regional Voices are fully established, the National Voice cannot be fully established under the structurally linked membership model.

2 options have been identified to ensure momentum does not have to be stalled until full establishment of Local & Regional Voices. Each option sets out the possible establishment timeframes that could occur if the required steps to implement the Indigenous Voice are progressed soon after a Government decision is made. Both options assume a Government decision will be made by the end 2021, and that the Local & Regional Voice roll-out will commence from 1 July 2022.

National Voice Implementation Option 1: Interim Body for a National Voice from 1 July 2022

Figure 4.1: Implementation Option 1

Key details:

- Following a decision by the Australian Government, a Transition and Implementation Co-design Group would be established to support the roll-out and establishment of Local & Regional Voices at the national level and an Interim Body for a National Voice.
- Local & Regional Voices would commence being rolled out from 1 July 2022, following the enactment of the Indigenous Voice enabling legislation.
- An Interim Body for a National Voice (Interim Body) would be established approximately 1 July 2022. The Interim Body would exist until the vast majority of Local & Regional Voices are established and the National Voice could be fully constituted according to the structurally linked membership model.
- The Office of the National Voice with an interim CEO could be established to manage administrative and operational functions for the Interim Body as well as functions related to the set-up of the inaugural National Voice.
- The inaugural National Voice would be expected to be established from 1 July 2024 or later, recognising this is reliant on the vast majority of Local & Regional Voices being in place.
- The Transition and Implementation Co-design Group would continue for one year after the Interim Body is established. The 12 month overlap would help support a smooth transition to the Interim Body and continue national level support for the roll out of Local & Regional Voices.

The key benefit of Option 1 would be prompt establishment of a National Voice, which responds to the sense of urgency expressed by many Aboriginal and Torres Strait Islander participants in the consultations. The working group noted and considered significant complexities involved in the roll out of Local & Regional Voices across Australia. This could lead to slippage in the estimated timeframes to reach a vast majority of Local & Regional Voices. Option 1 recognises that while it will be necessary to proceed with the roll out of Local & Regional Voices at community pace, this should not stop or unduly delay the implementation of National Voice arrangements.

Interim Body for a National Voice

Establishing an Interim Body ahead of establishing the National Voice responds to the sense of urgency that the community has expressed during consultations, and creates the foundations of the Indigenous Voice as an integrated system in the crucial early stages.

The Interim Body membership would be smaller than the inaugural National Voice to reflect the continuing implementation of a fully established and representative National Voice. Part of its primary function could be to develop the operational policy and procedures for the National Voice, prepare the detail for establishing the Youth and Disability Permanent Advisory Groups for the National Voice, and establish the Ethics Council. The Ethics Council would then have a role in providing advice on the prospective candidates for the inaugural National Voice.

The Interim Body would also provide a mechanism for advice at the national level to avoid the risk of not meeting community expectations on the urgency of establishing a National Voice. It could provide advice to Government and the Australian Parliament on proposed laws and policies for Aboriginal and Torres Strait Islander people, ahead of the establishment of the inaugural National Voice.

Without an Interim Body, other policy specific organisations or groups may continue to be established in an ad hoc way which could undermine the function and legitimacy of the inaugural National Voice. This would further complicate an already complex operating environment. It was noted the Interim Body could temporarily fill this gap and provide a mechanism for national advice on proposed laws and policies as soon as possible.

The Interim Body would also provide a lead-in time for culture change to occur within the Australian Parliament and Government, allowing these institutions time to adapt to working with a new national advisory body for Aboriginal and Torres Strait Islander peoples. The Transition and Implementation Co-design Group could work with the Australian Government to determine the precise scope of the Interim Body as this transition occurs.

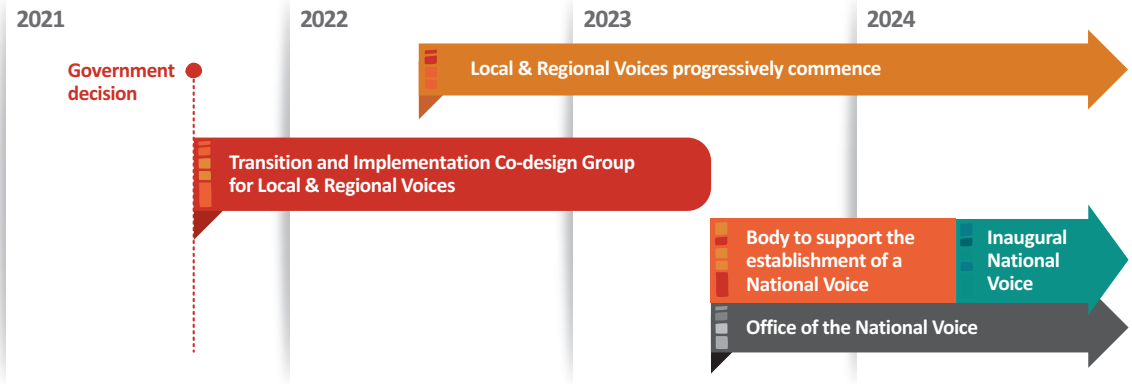
The working group also discussed the risk that establishing an Interim Body for a National Voice at the same time as starting the roll out of Local & Regional Voices would mean there are insufficient mechanisms to ensure membership is representative or has legitimacy and authority. While the working group considered this would likely draw criticism from the community, as the Interim Body would not be able to draw its members from Local & Regional Voices, it expected this risk could be mitigated by the Transition and Implementation Co-design Group being tasked to work with the Government and community to determine the most credible way possible for Interim Body members to be selected.

Another way of mitigating this risk would be to commence the Interim Body from 1 July 2023, when it may be possible to draw on those Local & Regional Voices that have been established by then.

The members of an Interim Body for the National Voice could be appointed by the Minister and could be determined in a number of ways, including drawing from Local & Regional Voices (where they exist) or other relevant bodies; seeking expressions of interest from Aboriginal and Torres Strait Islander people; or nominations from states and territories. The Interim Body could be made up of one member for each jurisdiction and the Torres Strait Islands. Gender balance would be ensured during the member determination process.

National Voice Implementation Option 2: Body to support the establishment of a National Voice from 1 July 2023

Figure 4.2: Implementation Option 2



Key details:

- Following a decision by the Australian Government, a Transition and Implementation Co-design Group would be established to support the roll-out and establishment of Local & Regional Voices at the national level and to support the establishment of a National Voice.
- Local & Regional Voices would commence being rolled out from 1 July 2022, following the enactment of the Indigenous Voice enabling legislation.
- The Transition and Implementation Co-design Group would cease upon the formation of the body to support the establishment of the National Voice. This body would undertake similar functions to the co-design group only in regards to the National Voice.
- A body to support the establishment of a National Voice (the body) would operate from 1 July 2023 to resolve final establishment details for a National Voice.
- An Office of the National Voice with an interim CEO could be established to manage administrative and operational functions of the body, as well as functions related to the set-up of the inaugural National Voice.
- This would ensure arrangements are in place to enable the National Voice membership determination processes to progress as quickly as possible once the vast majority of Local & Regional Voices are in place.
- The inaugural National Voice would then be established once this majority is reached (expected from 1 July 2024 or later), and National Voice members would be selected by established Local & Regional Voices.

Option 2 acknowledges that until a vast majority of Local & Regional Voices are established, a National Voice cannot be partially or fully constituted under the membership model that requires structural links to Local & Regional Voices.

The working group further considered that a risk of adopting Option 2 and not establishing an Interim Body for a National Voice is that it would likely continue a vacuum of advice at the national level and not meet community expectations regarding the urgency in establishing a National Voice. This risk could be partially mitigated by setting up the body, which would provide a signal that the fully established National Voice is approximately a year away, and reduce the chance of ad hoc policy specific advisory groups being established outside this process.

Body to support the establishment of a National Voice

The members of the body would be appointed by the Minister and could be determined using similar options as identified for the Interim Body in Option 1. The Transition and Implementation Co-design Group could be involved in the nomination of the body's members, and membership would not necessarily be drawn from (the limited number of) established Local & Regional Voices.

There is a risk that the body could be criticised by community as not being representative or reflective of the Local & Regional Voices. This criticism can be mitigated, as the body is not intended to be representative and would not be providing advice to the Government on behalf of Aboriginal and Torres Strait Islander people. Instead, it would be focussed on the operational design and establishment matters for a National Voice. This would include establishing the Ethics Council to provide advice on the prospective candidates of the inaugural National Voice.

4.2 Senior Advisory Group Reflections

The Senior Advisory Group has provided advice to support the Local & Regional and National co-design groups to develop options, as well as guide the overall process throughout. This Final Report is the culmination of the national consultation on an Indigenous Voice and a continuation of the ongoing collaboration of 52 co-design members who have worked together since late 2019 to develop proposals for an Indigenous Voice. Our initial proposals were outlined in the Indigenous Voice Co-design Process Interim Report to the Australian Government, presented to the Minister for Indigenous Australians in October 2020 and released for public consideration and consultation in January 2021.

Public consultation on the proposed Indigenous Voice was arguably the most important step in the co-design process. All Australians were invited to participate and be heard, and it was particularly important for co-design members to hear and capture input from as many Australians as possible.

In line with the recommendations of the Interim Report, in early 2021, a consultation process commenced that was open to all Australians and focused on obtaining feedback on the Indigenous Voice proposals. Co-design members led this process, and despite all the challenges we have faced with the COVID-19 pandemic, members were able to travel across the country to talk directly with communities. Members heard the personal reflections and feedback from people directly and fed this in as we developed the refined proposals set out in this Final Report.

It is clear from the feedback from the public that Australians overwhelmingly embrace the concept of an Indigenous Voice. The public has responded and said a voice for Aboriginal and Torres Strait Islander people is not only fair and right but also long overdue. Australians have attended community consultation sessions, webinars and targeted stakeholder meetings, submitted online feedback through surveys and submissions and said they not only want an Indigenous Voice but that Australia needs an Indigenous Voice.

Through the consultation process, people reflected on the lessons from past representative bodies, international comparisons and historical policies affecting Aboriginal and Torres Strait Islander people. They reflected on what they see as the successes as well as what could be done differently through the Indigenous Voice. Many see that an Indigenous Voice would be a great benefit not just for Aboriginal and Torres Strait Islander people themselves but also all Australians. An Indigenous Voice is seen as an opportunity to ensure fairness and that Aboriginal and Torres Strait Islander people have a real say in the policies, programs and services that affect them.

Aboriginal and Torres Strait Islander people have said they want to redefine the relationship with governments, set their own parameters and pursue their aspirations in partnership with governments. The Local & Regional Voices and National Voice proposals provide a mechanism to do this.

By being at the partnership table, Aboriginal and Torres Strait Islander people would have the opportunity to share their experiences, ideas, aspirations, priorities and advice, informing appropriate laws, policies and programs. It would provide a platform to interact and work alongside other Australians to achieve the best possible outcomes.

The importance of listening to the unheard voices, including youth and those with disability, is echoed by the broader public feedback. Australians want to ensure diversity in representation and that all Aboriginal and Torres Strait Islander people have an equal opportunity to participate.

The risk of not acting urgently is the continuation of the crushing levels of poverty, disadvantage and inequity experienced by so many Aboriginal and Torres Strait Islander people, particularly those in remote areas where access to services is generally limited. Implementing the Indigenous Voice proposals sooner rather than later would increase the potential benefits to this generation and generations to come. There is huge value in having a Local & Regional Voice to engage with and improve relationships at the local level and share decision-making, particularly around priorities, with all levels of government. This initiative is appropriate and empowering and a means to achieve practical change leading to better outcomes for Aboriginal and Torres Strait Islander peoples.

What we also heard is the importance of the Indigenous Voice operating as one interlinked and complementary system. For the success of Local & Regional Voices, we also need a National Voice. Through consultation, it is clear that people in communities want a say on what is happening at the local level, and they also want to ensure that there is a way to feed advice through to the Australian Parliament and Government when more systemic change is required that goes beyond the matters that can be resolved locally. The National Voice provides a practical mechanism for Parliament and Government to receive and seek advice at a national level and from a body grounded in local and regional foundations.

The proposals are well considered and have now been tested across Australia. They are robust and considered enough to act on now, with the flexibility to allow arrangements to continue to evolve and improve.

It will be essential for the next steps to be flexible and for pathways for implementation to be clearly laid out. Given the different levels of structural arrangements currently in place, some communities will be ready to set up or transition quickly to a Local & Regional Voice while others will need more time and support on their journey.

Clear commitment from all levels of government is required ahead of the implementation of Local & Regional Voices. As part of this commitment governments at the local, state and territory and Commonwealth levels will need to come together and develop the way they work with each other and with Aboriginal and Torres Strait Islander communities across the country. The reform needed on behalf of governments to ensure the success of the Indigenous Voice is significant, and it will be vital that all governments commit to this change over the long term.

The security and longevity of the Indigenous Voice are fundamental for genuine buy-in and will support active participation from communities around the country. People have been disappointed in the past with the relatively frequent changes to representative arrangements. The possibility of history repeating itself with the proposed Indigenous Voice is a significant concern that should not be ignored. This was a consistent fear voiced throughout the public consultation phase, and it is a concern shared by the co-design group. People will expect to see more than soothing words to be convinced that this concern will be addressed; if there is one issue that the government must grapple with to give ongoing confidence, it is this.

The Indigenous Voice provides the platform for Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians to elevate and enhance their existing relationship. With the implementation of the Indigenous Voice, all Aboriginal and Torres Strait Islander people would have a mechanism to articulate their views, needs and aspirations. This would allow for critical and essential local community priorities to be progressed with shared responsibility and systemic issues to be raised and addressed at a national level.

Improving outcomes for Aboriginal and Torres Strait Islander peoples delivers economic and social benefits for all Australians.

4.2.1 Unheard voices being heard

The Senior Advisory Group has continuously advocated for the Indigenous Voice to provide extra guarantees and support to ensure the unheard voices would have equal opportunity to participate.

Consultation feedback confirmed the importance of diversity of representation in order to demonstrate legitimacy. These issues have been explored in Chapters 1, 2 and 3. The support and empowerment of the youth cohort remain a key consideration. Mentoring and preparedness training in schools, such as youth parliament, are important building blocks to ensure emerging leaders are supported to participate in the Indigenous Voice. Disenfranchised youth, such as those who are or have been in contact with the criminal justice system, require additional consideration and support.

Another critical consideration is the inclusion of Aboriginal and Torres Strait Islander people who may not traditionally have had access to a platform to express their point of view or to raise topics of concern. To enable this, it is important to acknowledge different historical experiences and the challenge of bringing together varying views in one location; however, this is necessary to ensure all participants are heard. An example of this is individuals who are not connected to or represented by an Indigenous organisation within their local community.

Whilst recognising the role that prominent Indigenous individuals and organisations have in leading their communities and shaping Indigenous affairs, we heard very strongly in our consultations that this was not always representative of community views and the critical importance of ensuring that emerging and unheard voices are part of the Indigenous Voice.

4.2.2 Sense of urgency

Australians responded to the call to participate in the consultation process and provide their feedback. The dominant view across both Aboriginal and Torres Strait Islander people and non-Indigenous Australians participating in the process was that the time is right for Aboriginal and Torres Strait Islander peoples to have a voice to speak to the Australian Parliament and Government and for them, in turn, to seek input and listen.

Consultation feedback told co-design members very clearly that Australia is more ready than ever to take the next steps forward on this journey.

The need for further consultations with community members in the practical development and implementation of the Indigenous Voice was raised frequently at consultations sessions. The Senior Advisory Group agrees that many more community conversations are required on how to establish and implement Local & Regional Voices, as proposed in this Final Report. In fact, this is considered the start of an ongoing dialogue among Aboriginal and Torres Strait Islander peoples and broader Australia once the Government has responded to the Final Report. A participatory process will ensure the Indigenous Voice is owned by the community.

One Senior Advisory Group member argues for a further round of consultations on a fully developed model ahead of moving to implementation. While it is true there is still much work to do, the majority of the Senior Advisory Group reflected on the need to get an Indigenous Voice started and let it evolve, noting its flexibility is one of its key strengths. The success of the Indigenous Voice will depend on its relationships. These take time to establish and mature. A rigid and overly prescribed structure would stifle this natural evolution and continuous adaptation. It would also deny communities the opportunity to start acting as soon as possible to put this flexible design into practice—an opportunity that they are clearly seeking.

Members within the Senior Advisory Group reflected that local and regional issues were a dominant focus of community consultations. Not just the details of how Local & Regional Voices would work in communities but critical issues such as lack of housing, employment and training opportunities, meaningful participation, youth and justice issues were regularly raised. The level of poverty across communities was considered crushing, and the lack of any platform for people to raise these issues was stark. This provided the impetus for communities calling for an urgent response.

4.2.3 Getting there and ongoing support

While there is a sense of urgency to put Indigenous Voice arrangements in place, the Senior Advisory Group reflected on the need to set clear and realistic expectations regarding implementation. These expectations need to be shared across Australia to ensure everyone fully understands the transition opportunities and challenges. As discussed in Chapter 1, communities, organisations and structures are at varying stages of maturity in their planning and priority setting.

Given the different starting points and levels of capacity across locations, some communities are likely to design and establish their arrangements sooner, and others will need more time. Co-designing an Indigenous Voice is a process, not an event. The Indigenous Voice model must allow time, accommodate the hurdles and delays, remain flexible and provide appropriate support and time for the arrangements to reach their full potential.

Consultation feedback also addresses this very issue. Continuous and adaptive feedback is required throughout the implementation lifecycle and beyond, noting a more formal sequenced approach to monitoring and evaluation is likely to be inadequate due to the time required, cultural sensitivities and fundamentally different notions of success and effectiveness. However, clear stages of review, with all stakeholders, is an effective part of the co-design process, as is preparedness to be flexible, learn and adapt with continuous and prompt feedback. Alternative approaches to monitoring implementation would foster innovation and suit the diversity of Local & Regional Voices. In their submission, Empowered Communities proposed a 'learning as we go' approach, which involves having '*accurate baseline data, rapid local feedback loops, central coordination, expert advice and regular reports … embedding a dynamic and developmental monitoring and evaluation framework*'.[115] The practical application of innovative and user-friendly tools such as 'a journey tracker' to help communities set goals and articulate and respond to expected blockages. An implementation checklist could be another maturity process tool to assist communities and organisations.

The Senior Advisory Group noted the importance of accessible, practical and innovative support and tools for local communities to determine the best framework for them, as well as pathways to transition to those arrangements.

[115] Empowered Communities, submission, March 2021.

4.2.4 Security and longevity

The history of Aboriginal and Torres Strait Islander peoples' relationship with governments has seen frequent changes and generally lacked long-term security for the mechanisms established to speak for Aboriginal and Torres Strait Islander peoples. Consultation feedback overwhelmingly stressed the need for adequate protections to ensure longevity and avoid the history of cyclical changes in representative arrangements (e.g., ATSIC and the National Congress of Australia's First Peoples). Aboriginal and Torres Strait Islander people constantly wrestle with the churn of programs and policies, and governments and public servants. This emphasises the importance of legislation enabling the Indigenous Voice system as a whole. The lack of an enduring mechanism to speak to the Australian Parliament and Government mutes the voices of Aboriginal and Torres Strait Islander people and their ability to influence a proper response to their needs and aspirations.

This has implications for the next steps in the Indigenous Voice design and implementation process. At present, there is enormous goodwill across communities and momentum and expectation is high, representing a historic opportunity to harness this momentum. If governments continue to demonstrate their commitment, this is likely to continue throughout implementation.

As discussed in the Interim Report, the expectation of appropriate funding and long-term commitment from the Australian Government will be particularly important in establishing the Indigenous Voice. There must be adequate safeguards to support sustainability. Governments will need to provide support and resourcing, both during the establishment and transitional period and for ongoing operations.

4.2.5 The importance of governments being genuinely involved

Aboriginal and Torres Strait Islander people need to engage with all levels of government to have their voices heard. It is also imperative that the Indigenous Voice is not pigeonholed to only deal with the Indigenous elements of governments but works with all portfolios and agencies.

The co-design groups identified this issue in the Interim Report, and it remains an essential consideration. As identified in Chapter 1, state and territory governments' commitment to fully support and sign up to the framework for Local & Regional Voices is required. The effectiveness of the Indigenous Voice would only be as good as its relationships at the local and regional level. The functions of Local & Regional Voices should include advice to state and territory governments in respect of their laws and service delivery, as well as connections with the state- or territory-level representative bodies where they exist. Buy-in from local governments was also identified as a critical issue. It will be important that this is also pursued, particularly as Local & Regional Voices continue to evolve.

The partnership table with Local & Regional Voices must involve all tiers of government. Many submissions spoke about the need for reform across governments to connect and be flexible in responding to community needs. Community consultation sessions identified relationships and partnerships with governments as a key to the success of an Indigenous Voice. Appropriate legislation is one way in which the commitment could be demonstrated in each state and territory. For governments, there will need to be genuine partnerships between tiers of government for this to work. There is real potential for broader positive change in state and territory relationships if this is embraced.

The Senior Advisory Group would like to thank all who took the time to participate in the process and assure people that the information received has been collated, analysed, considered and used to shape this Final Report. You have been heard and you have influenced the final proposals for an Indigenous Voice.

4.3 Recommendations

The Senior Advisory Group recommends that the Australian Government:

1. Progress an Indigenous Voice by implementing the Local & Regional Voices and National Voice proposals as set out in the Final Report.
2. Recognise the importance of involving all levels of government in Local & Regional Voices and seek to negotiate formal commitments as soon as practical. This will demonstrate the commitment of governments to working in partnership to deliver on the significant structural Indigenous Voice reform.
3. Recognise the importance of ensuring sustainability and security for an Indigenous Voice. This requires the provision of funding certainty and appropriate safeguards as part of any enabling legislation, including the establishment of the National Voice as a new independent Commonwealth entity.
4. Recognise the need to continue to work in partnership to progress implementation. This includes further conversations and co-design to ensure the effectiveness and legitimacy of the Indigenous Voice.
5. Recognise the need for a comprehensive communication strategy to support community understanding, ensure transparent and consistent messages and prepare for implementation.
6. Note the support for the enshrinement of the Indigenous Voice in the Constitution that was expressed particularly through the submissions received as part of the consultation process.
7. Release the Final Report to the public.

List of appendices

A. Membership

Senior Advisory Group Member biographies

Professor Dr Marcia Langton AO
Co-chair

Professor Dr Marcia Langton AO is a descendant of the Iman people and was born and raised in Queensland. She is an anthropologist, geographer and public intellectual. She was awarded the Doctor of Philosophy for her thesis on Aboriginal land tenure in eastern Cape York at Macquarie University in 2005 and a BA (Honours) in 1983 at the Australian National University. She was awarded the Honorary Doctor of Letters by the Australian National University in 2019 for her contribution to Indigenous Studies. Her work as an anthropologist, geographer and public intellectual spans almost 5 decades in the fields of political and legal anthropology, Indigenous agreements, engagement with the minerals industry, and Indigenous culture, filmmaking and art. Since 2000, Professor Langton has held the Foundation Chair of Australian Indigenous Studies at the University of Melbourne. Professor Langton is a Fellow of the Academy of Social Sciences in Australia, a Fellow of Trinity College in Melbourne and an Honorary Fellow of Emmanuel College at The University of Queensland. She was appointed the first Associate Provost at the University of Melbourne in 2017 and was the first woman to hold the position of Chair of the AIATSIS Council (1992 – 1998). In 1993 Professor Langton was awarded a Member of the Order of Australia for her service as an anthropologist and advocate of Aboriginal Issues. In addition to her academic work, her most popular books are Well, I Heard it on the radio (Short title), The Quiet Revolution, Welcome to Country. A Travel Guide to Indigenous Australia, and Welcome to Country. An Introduction to our First Peoples for Young Australians.

Professor Tom Calma AO
Co-chair

Professor Tom Calma AO is of Kungarakan and Iwaidja heritage from the Darwin region. Currently the Chancellor of the University of Canberra, a Professor at the University of Sydney and the National Coordinator for Tackling Indigenous Smoking he has served as Race Discrimination Commissioner (2004-2009) and Aboriginal and Torres Strait Islander Social Justice Commissioner (2004-2010). He was a senior diplomat (1995-2002) and senior advisor to the Minister of Immigration, Multicultural and Indigenous Affairs and awarded an Order of Australia in 2012 in recognition of his advocacy, work in human rights and social justice and distinguished service to the Indigenous community.

Ms Geraldine Atkinson

Ms Geraldine Atkinson is a Bangerang/Wiradjuri woman who has devoted her career to expanding the possibilities available to Koorie people through education. Beginning as a Teacher's Aide in 1976, Ms Atkinson has been President of the Victorian Aboriginal Education Association Incorporated since 1999. Ms Atkinson was also elected as Co-chair of the First People's Assembly of Victoria in 2019.

Professor Fr Frank Brennan SJ AO

Professor Fr Frank Brennan SJ AO is a fellow of the PM Glynn Institute at the Australian Catholic University and Research Professor at the Australian Centre for Christianity and Culture. He is the Rector of Newman College, University of Melbourne and has written books on Aboriginal issues. He chaired the 2009 National Human Rights Consultation and was a member of the 2018 Religious Freedom Review and in 1995 was awarded an Officer of the Order of Australia for services to Aboriginal Australians.

Ms Marcia Ella-Duncan OAM

Ms Marcia Ella-Duncan OAM is a descendant of the Walbunja people of the far south coast of New South Wales and also has kinship connection with the Bidgigal people of Botany Bay. Ms Ella-Duncan has held senior state government and ATSIC positions, was Chair of La Perouse Local Aboriginal Land Council from 2009-2017 and participated in various high-level review committees. The first Indigenous woman to hold a scholarship at the Australian Institute of Sport in Canberra and to represent Australia in netball, Ms Ella-Duncan was awarded the Order of Australia Medal in 1988 for her services to netball.

Ms Joanne Farrell

Ms Joanne Farrell has recently retired from Rio Tinto after 32 years. She has worked with BHP and the Western Australian Government. Director of the Western Australian Museum, the Australia China Business Council and Royal Flying Doctor Service (Western Australia operations), a member of the University of Western Australia's Senate and member of Chief Executive Women, Ms Farrell has led partnerships with Indigenous communities on skills development, employment, economic capacity building and agreement making.

Mr Mick Gooda

Mr Mick Gooda is a descendent of the Gangulu people of Central Queensland, he has advocated and represented on behalf of Aboriginal people for the past 25 years. Mr Gooda was the former Aboriginal and Torres Strait Islander Social Justice Commissioner. Immediately prior to taking up the position of Social Justice Commissioner, Mr Gooda was CEO of the Cooperative Research Centre for Aboriginal Health for over 5 years and was appointed to the Eminent Panel for the Queensland Pathway to Treaty discussions in 2019.

Mr Chris Kenny

Mr Chris Kenny hosts The Kenny Report on Sky News and is an Associate Editor at The Australian. He holds a BA (Journalism) from the University of South Australia. His journalism career began at The Murray Pioneer in Renmark, South Australia. He has worked for The News in Adelaide, ABC's 7.30 Report, the Ten Network and Channel Nine Adelaide. In 2002 he became media advisor for then foreign minister Alexander Downer, before being promoted to chief of staff, a position he held until 2007.

Cr Vonda Malone

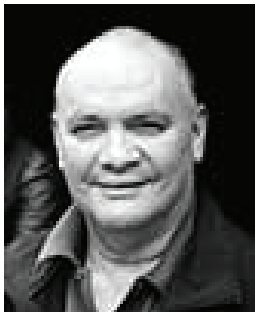
Cr Vonda Malone is the first female Mayor of the Torres Shire Council. In 2018 Cr Malone was awarded the McKinnon Prize for Emerging Political Leader of the Year, recognising her progressive leadership in the Torres Strait. Chair of the Torres and Cape Indigenous Councils Alliance, founding Chair of Torres Health Indigenous Corporation, and a member of the Indigenous Reference Group for the Developing Northern Australia Initiative, Cr Malone has 22 years' experience working with the Australian Government.

Ms Alison Page

Ms Alison Page is a descendant of the Walbanga and Wadi Wadi people of the Yuin nation. One of 3 associates of Merrima Design, she was inducted into the Design Institute of Australia's Hall of Fame in 2015. Chair of the National Centre of Indigenous Excellence, Director of Ninti One Ltd and Australian National Maritime Museum Councillor, she was founding CEO of the Saltwater Freshwater Arts Alliance, Director of the annual Saltwater Freshwater festival, founder of the National Aboriginal Design Agency, and member of the Expert Panel on Constitutional Recognition of Indigenous Australians.

Mr Noel Pearson

Mr Noel Pearson is a lawyer, land rights activist and Director of the Cape York Institute for Policy and Leadership, an organisation promoting the economic and social development of Cape York in far north Queensland. Mr Pearson played a pivotal role in the establishment of the Cape York Land Council in 1990, has led a number of major reforms for Cape communities and has served as a member of the Expert Panel on Constitutional Recognition of Indigenous Australians and the Referendum Council.



Professor Daryle Rigney

Professor Daryle Rigney is a Ngarrindjeri Nation citizen and currently serves as the Director of Indigenous Nations and Collaborative Futures Research, Jumbunna Institute for Indigenous Education & Research at the University of Technology Sydney. For many years he has worked on nation-building with Indigenous leaders locally, nationally and internationally, the Ngarrindjeri Regional Authority (and as spokesperson on treaty negotiations in 2018) and Australian private and public sector entities. He is a Director of the Australian Indigenous Governance Institute, Senior Fellow Atlantic Fellows for Social Equity, a member of the University of Arizona's Native Nations Institute Indigenous Advisory Council and previously served as a director of The Australian Centre for Social Innovation. In 2013 Professor Rigney was acknowledged as NAIDOC South Australian Aboriginal person of the year.

Mr Benson Saulo

Mr Benson Saulo was the first Indigenous Australian to be appointed the Australian Youth Representative to the United Nations, and was the lead negotiator for the resolution on Impacts of the Global Financial Crisis on Young People in 2011. Mr Saulo was appointed Director of the National Indigenous Youth Leadership Academy in 2012. Former Head of Partnerships – Investments at Australian Unity, and Group sponsor of their Reconciliation Action Plan and former Youth Representative to the National Commission for UNESCO, Mr Saulo received the NAIDOC Youth of the Year award in 2014.

Ms Pat Turner AM

Ms Pat Turner AM is the daughter of an Arrernte man and a Gurdanji woman. As CEO of National Aboriginal Community Controlled Health Organisation, she is at the forefront of community efforts to Close the Gap in health outcomes for Aboriginal and Torres Strait Islander people. With more than 40 years' experience in senior leadership positions in government, business and academia including being the only Aboriginal woman and longest serving CEO of the Aboriginal and Torres Strait Islanders Commission, she was inaugural CEO of NITV and is the Coalition of Peaks Convenor and Co-Chair of the Joint Council on Closing the Gap. Ms Turner received a Member of the Order of Australia in 1990 for public service.

Professor Maggie Walter (PhD; FASSA) (palawa)

Professor Maggie Walter (PhD; FASSA) (palawa) is a Professor of Sociology at the University of Tasmania and teaches and publishes in the fields of race relations, inequality and research methods and methodologies. Professor Walter is a founding member of the Miaim nayri Wingara Australian Indigenous Data Sovereignty Collective and the Global Indigenous Data Alliance.

Mr Tony Wurramarrba

Mr Tony Wurramarrba is a Warnindilyakwa man from Groote Eylandt. Chair of the Anindilyakwa Land Council, Tony successfully negotiated a comprehensive mining agreement with BHP Billiton on behalf of traditional owners. He took the lead in negotiations to partner with the Commonwealth and Northern Territory governments to deliver major investment in the region, and is a member of the Aboriginals Benefit Account Advisory Committee, advising the Minister for Indigenous Australians on funding initiatives of benefit to Aboriginal people in the Northern Territory.

Professor Peter Yu AM

Professor Peter Yu AM is a Yawuru Man from Broome in the Kimberley region with 35 years' experience in Indigenous development and advocacy at the state, national and international level. Mr Yu was the Executive Director of the Kimberley Land Council during the 1990s, a key negotiator in the landmark Yawuru native title agreement, former Deputy Chair of the Indigenous Land Corporation, Chair of the Western Australia Aboriginal Housing Board and is a Board Member of the North Australian Indigenous Land and Sea Management Alliance Ltd, Deputy Chair of the AFL Aboriginal Advisory Committee, Deputy Chair of Broome Future Alliance Ltd and ANU Council Member.

Dr Galarrwuy Yunupingu AM

Dr Galarrwuy Yunupingu AM is a prominent leader in the Australian Indigenous community, and has been involved in the fight for land rights throughout his career. Dr Yunupingu is the Chair of the Yothu Yindi Foundation and Gumatj Corporation. He chaired the Northern Land Council for 25 years from 1977 and was made a Member of the Order of Australia for his services to the Aboriginal community in 1985. In 2015, he was honoured by the University of Melbourne with an Honorary Doctor of Laws.

National Co-design Group member biographies

Dr Donna Odegaard AM
Co-chair

Dr Donna Odegaard AM is a Larrakia and Torres Strait Islander. Awarded an Honorary Doctor of Letters for lifelong contribution to Indigenous rights, land rights, heritage, education, Indigenous media, and Reconciliation. Other achievements include: Naming Lady HMAS Larrakia RAN, MA Law/Phil, University of Newcastle, PhD, Doctor of Law/Phil, University of Newcastle, Indigenous Ulumni Award University of Newcastle. Dr Odegaard is the founder and chairperson of First Nations Broadcasting Australia, First Nations TV, First Nations Tourism, First Nations Radio, First Nations Radio National. A consultant and advisor to governments, industry and business on Indigenous business, leadership, tourism and media. Other roles include; National and International Indigenous Leader Indigenous business, trade and economic development, Indigenous Reference Group Ministerial Forum, Developing Northern Australia, Indigenous Advisory Committee, Commonwealth Department of Agribusiness, Water and Heritage, Board Director, Indigenous Land and Sea Corporation and Chairperson National Centre for Indigenous Excellence, Redfern NSW. A successful business woman for over 30 years in farming, fashion and interior design, mining.

Mr Ray Griggs AO CSC
National Indigenous Australians Agency co-chair

Mr Ray Griggs AO CSC was appointed the inaugural CEO of the National Indigenous Australians Agency on 1 July 2019 and in that role was responsible for leading policy, program and delivery reform in line with the Government's commitment to improving the lives of Aboriginal and Torres Strait Islander Australians. Before the establishment of the National Indigenous Australians Agency, Mr Griggs was Associate Secretary of the Indigenous Affairs Group in the Department of the Prime Minister and Cabinet. He spent 4 decades in the Royal Australian Navy, in a range of command and operational roles and is an Officer in the Order of Australia. Mr Griggs is now the Secretary of the Department of Social Services.

The Hon Fred Chaney AO

The Hon Fred Chaney AO was one of the founding Co-Chairs of Reconciliation Australia and an early advocate for Aboriginal voting rights. Mr Chaney was part of establishing the Aboriginal Legal Service of Western Australia and was the federal Minister for Aboriginal Affairs between 1978 and 1980. Also Deputy President of the National Native Title Tribunal and Chair of Desert Knowledge Australia, Mr Chaney was instrumental in establishing the Graham (Polly) Farmer Foundation, which supports Indigenous young people to reach their potential. In 1997 Mr Chaney became an Officer of the Order of Australia in recognition of service to the Parliament of Australia and to the Aboriginal community.

Ms Zell Dodd

Ms Zell Dodd is a proud descendant of the Ngarrindjeri, Kaurna & Nurrunga people. Ms Dodd was born and went to school in Naracoorte in the south east of South Australia and is the current CEO of the Ceduna Koonibba Aboriginal Health Service. Ms Dodd has more than 25 years' experience working for and with Aboriginal and Torres Strait Islander Australians shaping mainstream health services, systems and structures and extensive experience in government and non-government sectors.

Ms Katrina Fanning PSM

Ms Katrina Fanning PSM is a Wiradjuri woman and Chair of the Australian Capital Territory Aboriginal and Torres Strait Islander Elected Body and the Australian Rugby League Indigenous Council and is a Board Member with Winnunga Nimmityjah Aboriginal Health and Community Services, the Fred Hollows Foundation, the Women's Legal Centre in the Australian Capital Territory and the Canberra Raiders. Owner and Managing Director of Coolamon Advisors, an Indigenous consulting firm based in Canberra, she has previously held Senior Executive roles in government and received a Public Service Medal in 2015 for outstanding public service in Indigenous affairs.

Mr Damian Griffis

Mr Damian Griffis is a descendant of the Worimi people and CEO of the First People's Disability Network Australia. A leading advocate for the human rights of Aboriginal and Torres Strait Islander Australians with a disability, Mr Griffis played an integral part in establishing the Aboriginal Disability Network in New South Wales and the national representative organisation the First Peoples Disability Network. Mr Griffis was awarded the Australian Human Rights Tony Fitzgerald (Community Individual) Memorial Award in 2014.

Mr Steven Wanta Patrick Jampijinpa

Mr Steven Wanta Patrick Jampijinpa currently sits on the Warlpiri Youth Development Aboriginal Corporation board as Senior Cultural Advisor for his community, Lajamanu, in the Northern Territory. Mr Patrick was a contributing author for 'Ngurra-kurlu: A way of working with Warlpiri people' – a report which outlines key elements of Warlpiri culture being land, law, language, ceremony and skin. Mr Patrick, along with other Warlpiri elders, developed an app to tackle Indigenous youth suicide in 2017 and he has worked as a Community Liaison Officer and Teacher's Assistant at the Lajamanu Community Education Centre.

The Hon Jeff Kennett AC

The Hon Jeff Kennett AC was an Officer in the Royal Australian Regiment, serving at home and overseas. Premier of Victoria from 1992 to 1999, a Member of the Victorian Parliament for 23 years, and Leader of the Opposition from 1982 to 1989 and 1991 to 1992, Mr Kennett is Chair of EQT Holdings, Open Windows Australia Pty Ltd, CT Management Group Pty Ltd, Director of Amtek Corporation Pty Ltd., and is the founder and former Chair of Beyond Blue. Mr Kennett is also Chair of The Torch - a program assisting incarcerated Indigenous men and women and post their release, and President of the Hawthorn Football Club. He received a Companion of the Order of Australia in 2005 for service to the Victorian Parliament and the introduction of initiatives for economic and social benefit, to business and commerce, and to the community in the development of the arts, sport and mental health awareness strategies.

Professor Cheryl Kickett-Tucker AM

Professor Cheryl Kickett-Tucker AM is a Wadjuk Noongar Traditional Owner, academic community development practitioner, children's fiction author and emerging photographer. Professor Kickett-Tucker has worked with Aboriginal people all her life in the fields of education, sport and health. Executive Director of Pindi Pindi Ltd, Centre for Research Excellence in Aboriginal Wellbeing, Director of Research and Community Development at Koya Aboriginal Corporation and Research Fellow at Curtin University, Professor Kickett-Tucker is passionate about using her research to make a real difference to the lives of Aboriginal children and their families.

Ms Kristal Kinsela

Ms Kristal Kinsela is a proud descendant of the Jawoyn and Wiradjuri nations. She is Director National Aboriginal Sporting Chance Academy, Director Jaramer Legal and a Director Uniting NSW/ACT. A passionate advocate of the Indigenous business sector, Kristal was awarded the 2017 NSW Aboriginal Woman of the Year and 2017 Supplier Diversity Advocate of the Year awards. She was further recognised on the 2019 AFR 100 Women of Influence list for entrepreneurship and leadership.

Dr Emma Lee

Dr Emma Lee is an Aboriginal and Torres Strait Research Fellow at Centre for Social Impact, Swinburne University of Technology. Her research fields over the last 25 years have focused on Indigenous affairs, land and sea management, policy and governance of Australian regulatory environments. Dr Lee has published in diverse journals ranging from Biological Reviews to Annals of Tourism Research. She is a key architect of the Tasmanian Government's 'Reset the Relationship' Whole of Government strategy, contributing to shaping of the first joint management plan of a protected area in Tasmania, constitutional reform and establishing a market for cultural fisheries in Tasmania. Dr Lee has received a number of awards for this work.

Mr Jamie Lowe

Mr Jamie Lowe is a Gunditjmara Djabwurrung man and CEO of the National Native Title Council, a national peak body set up to maximise the contribution of native title to achieving and improving the economic, social and cultural participation of Indigenous Australians. Recently elected to the executive of First Peoples' Assembly of Victoria, as Victorian Aboriginal Peoples move towards treaty, Mr Lowe has a background in both government and non-government sectors and has expertise and skills in governance, management, strategic planning and economic development.

Ms Fiona McLeod AO SC

Ms Fiona McLeod AO SC is a Senior Counsel at the Victorian Bar and former President of the Law Council Australia and the Australian Bar Association. Ms McLeod led the class action into the Murrindindi Black Saturday bushfires and the Commonwealth legal team in the Victorian Bushfires Royal Commission, the Queensland Floods Commission and Royal Commission into Institutional Child Sex Abuse representing the whole of government in each matter. Ms McLeod received an Officer of the Order of Australia in 2000 for her distinguished service to the law and the legal profession, at the national and international level.

Professor Gracelyn Smallwood AM

Professor Gracelyn Smallwood AM has been an advocate for the rights of Aboriginal and Torres Strait Islander Australians since 1968. Awarded the Queensland Aboriginal of the Year in 1986, the Henry Kemp Memorial Award at the International Society for Prevention of Child Abuse and Neglect in 1994, the Deadly Award for Outstanding Lifetime Achievement in Indigenous Health in 2007, and NAIDOC Person of the Year in 2014, Professor Smallwood is a registered nurse, midwife and trained in mental health, with experience both in Australia and internationally. Professor Smallwood became a Member of the Order of Australia in 1992 for her service to Aboriginal Health and Welfare and to Public Health particularly in relation to HIV/AIDS.

Mr Marcus Stewart

Mr Marcus Stewart is a Nira illim bulluk man and a Taungurung traditional owner from central Victoria. Mr Stewart was the CEO of the Federation of Victorian Traditional Owner Corporation and has over 15 years' experience in Indigenous affairs. He was elected the Co-Chair of the First People's Assembly of Victoria in 2019 and has extensive experience strategic policy direction and design implementation through his senior roles in the Victorian State Government.

Mr Richard Weston

Mr Richard Weston was recently appointed as the first Deputy Children's Guardian for Aboriginal Children and Young People in NSW at the NSW Government Office of the Children's Guardian. Previously, he was Chief Executive Officer for SNAICC, the national peak body for Aboriginal and Torres Strait Islander children, and the co-chair for Family Matters. As a descendant of the Meriam people of the Torres Strait, Richard has worked in Aboriginal and Torres Strait Islander affairs for more than 20 years. For 9 years, he held the position of CEO of The Healing Foundation leading the strategic development of the organisation. And previously, Richard led Indigenous-controlled health services in far west New South Wales and Queensland.

Dr Joseph Elu AO

Dr Joseph Elu AO was initially a member of the National Co-design Group until retiring in September 2020. Dr Joseph Elu AO is a Director of the Torres Strait Regional Authority Board, for his community Seisia. He is also the Divisional Councillor for Seisia on the Northern Peninsula Area Regional Council, Chairperson of Seisia Enterprises Pty Ltd and Seisia Community Torres Strait Islander Corporation. In 2017 Dr Elu was appointed the Deputy Chairperson of the Indigenous Land Council. He was Chairperson for Indigenous Business Australia for 12 years. In 2008 he was awarded an Officer of the Order of Australia as well as the NAIDOC Lifetime Achievement Award. In 2001 and in 2002 he was awarded the Centenary medal. During his career, Dr Elu has been an influential leader in Torres Strait Islander and Aboriginal affairs and Indigenous economic development.

Local & Regional Co-design Group member biographies

Professor Peter Buckskin PSM FACE
Co-chair

Professor Peter Buckskin PSM FACE is a Narungga man from the Yorke Peninsula in South Australia. He is a member of the Lowitja Institute Board of Directors and former Dean of Aboriginal Engagement and Strategic Projects at the University of South Australia. Co-Convenor of the State's Advisory Committee on the recognition of Aboriginal people in the South Australian Constitution Act 1934, he has more than 30 years' experience as an educator and public servant and received a Commonwealth Public Service Medal (PSM) for outstanding public service in the provision of educational equality for Australia's Indigenous peoples in 2001.

Ms Letitia Hope
National Indigenous Australians Agency co-chair

Letitia Hope is the Deputy Chief Executive Office for Operations and Delivery at the National Indigenous Australians Agency. A proud Bundjalung (Northern Rivers NSW), Torres Strait Islander and South Pacific Islander woman. Ms Hope has had a wide career working across Commonwealth and State governments in both mainstream and specialised social policy development, human services delivery and health and community services program development. Ms Hope holds an Executive Masters of Public Administration through the Australian National University.

Ms Isabelle Adams

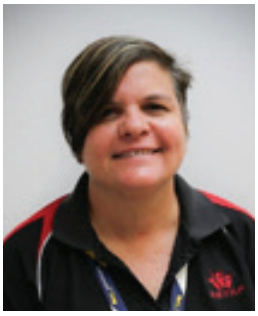
Ms Isabelle Adams is Gurindji (Northern Territory) and Wuthuti (Cape York, Qld) and lives in Western Australia. Ms Adams is the joint-coordinator for the Kulunga Aboriginal Research Development Unit (KARDU) in the Telethon Kids institute. Ms Adams has more than 20 years' experience in the education and training industry and 15 years in the business sector as a consultant, researcher and trainer in a range of areas in Indigenous Affairs. She was awarded a Rotary International Paul Harris Fellow for Services to the Community and has held membership on a number of State and National bodies.

Cr Ross Andrews

Cr Ross Andrews is a Yarrabah man with cultural ties to both Djungan and Yalanji nations in Far North Queensland. The current Mayor of Yarrabah Aboriginal Shire Council sits on the Far North Queensland Regional Organisations of Council, is a Commissioner for Declarations; director of the Wugu Nyambil Board; member of Advance Queensland Aboriginal & Torres Strait Islander Business Innovation Reference Group and Chair of the Yarrabah Leaders Forum.

Ms Ruth Davys

Ms Ruth Davys, Wiradjuri woman, former Chairperson of Riverina Murray Regional Alliance, is the Co-founder and CEO, Marketing and Product Developer of Giilangyaldhaanygalang, an entirely Aboriginal-owned business partnership specialising in Wiradjuri language education services and resources. Ms Davys is also a casual lecturer in the Wiradjuri Language Culture and Heritage Graduate certificate run at Charles Sturt University Wagga Wagga campus.



Ms Triscilla Holborow

Ms Triscilla Holborow is a Traditional Owner from the Yaburara and Yindjibarndi tribes. Ms Holborow is passionate about helping Aboriginal people obtain meaningful and long-term employment, engaging and upskilling communities for a better future, she co-founded Real Employment for Aboriginal People in 2010 and has won several awards relating to Aboriginal employment. Ms Holborow has more than 25 years' experience working in the mining and oil and gas sectors.

Mr Paul House

Mr Paul House is a Ngambri-Ngunnawal custodian with multiple local Aboriginal ancestries from the Canberra region, however identifies as a descendant of Ngambri – Walgulu man Henry 'Black Harry' Williams and Ngunnawal – Wallaballoa man 'Murjinille' aka William Lane ('Billy the Bull'), including Wiradjuri ancestries. Mr House began his public service career in the Commonwealth Department of Aboriginal Affairs, and has since occupied various positions across both New South Wales and Commonwealth public sector agencies.

Mr Chris Ingrey

Mr Chris Ingrey is of Dhungutti and Dharawal descent and is from the La Perouse Aboriginal community in Sydney. He is currently the CEO of the La Perouse Local Aboriginal Land Council, a Director of the Inner Sydney Empowered Communities and Eastern Zone Gujaga Aboriginal Corporation and was a previous Director of the La Perouse Local Aboriginal Land Council and has led significant reforms to the governance and economic development of the La Perouse Aboriginal community.

Ms Fiona Jose

Ms Fiona Jose is the CEO of Cape York Partnership, an Indigenous organisation driving a comprehensive reform agenda improving the lives of Indigenous families in the Cape York region. She joined Cape York Partnership in 2010 where she held senior management positions following more than 15 years of experience in management, business development, and government relations in aviation and education. She is one of 8 First Nations leaders driving structural change through the national Empowered Communities initiative.

Cr Getano Lui Jr AM

Cr Getano Lui Jr AM is a serving Councillor on the Torres Strait Islands Regional Council (TSIRC) (State) and Deputy Chair and Member for Iama (Yam Island) on the Board of the Torres Strait Regional Authority (TRSA). He has been Chair of the Yam Island Community Council, Islanders Board of Industry and Service, Island Coordination Council and inaugural Chair of TSRA. He has been a Member in the General Division of the Order of Australia (AM) since 1994, for his service to the Torres Strait Region.

Mr Albert McNamara

Mr Albert McNamara is an Aboriginal elder with family connections to Yamatji, Martu and Noongar Country. A qualified wood machinist, it is the work that Mr McNamara did in state education in Western Australia, working in policy for more than a decade, which he is most known. Mr McNamara is on the Aboriginal Elder Advisory Group of Richmond Wellbeing and provides advice to City of Armadale, City of Perth, and City of Fremantle. He is involved with the Looking Forward project with Dr Michael Wright and was awarded the 2008 NAIDOC Aboriginal Male Elder.

Mr Wayne Miller

Mr Wayne Miller of the Wirangu people is the CEO of the Ceduna Aboriginal Corporation. Passionate about employment, education and economic development for Aboriginal people, he is a Member of the Housing South Australia Aboriginal Advisory Council and former member of the South Australian Aboriginal Advisory Council and South Australian Corrections 10 by 20 Strategy Aboriginal Advisory Committee.

Ms Karen Milward

Ms Karen Milward is a Yorta Yorta woman who was born and raised in Melbourne and is a strong advocate for developing culturally appropriate solutions to the issues confronting Indigenous people, which empower individuals and communities so they can confidently and effectively move forward. Karen has owned and operated Karen Milward Consulting Services since 2004. Chairperson of Community First Development, Mullum Mullum Indigenous Gathering Place, Kinaway Chamber of Commerce Victoria Ltd and Director, Yarra Valley Water. Karen has extensive experience in delivering tailored training programs, leadership development, evaluations and social research, project management, feasibility studies and community development.

Ms Lavene Ngatokorua

Ms Lavene Ngatokorua is a Wankangurru/Adnyamathanha woman and mother to Dre. Lavene is a courageous leader who is recognised for her lifelong advocacy on behalf of community. As an artist and curator Lavene has established a contemporary practice focused on exploring and expressing her cultural connections and strong humanitarian beliefs.

Ms Vicki O'Donnell

Ms Vicki O'Donnell is a Nyikina Mangala Aboriginal woman from Derby and Chair for the Aboriginal Health Council of Western Australia. She was appointed to the Western Australian Aboriginal Advisory Council tasked with playing a key role in state priorities including the development of an Aboriginal empowerment strategy, Closing the Gap, Aboriginal youth suicide and reduced incarceration of Aboriginal people in custody.

Dr Aden Ridgeway

Dr Aden Ridgeway was the Deputy Leader of the Australian Democrats and served as a Senator for New South Wales from 1999. Dr Ridgeway is a Gumbayynggir man and was the Regional Councillor for the Aboriginal and Torres Strait Islander Commission's Sydney region and Executive Director of the New South Wales Aboriginal Land Council before he was elected to the Australian Senate.

Ms Marion Scrymgour

Ms Marion Scrymgour is the CEO of the Northern Land Council, the first woman to hold the CEO position at any Northern Territory land council. A former CEO of the Tiwi Islands Regional Council, the Wurli-Wurlinjang Aboriginal Health Service and Katherine West Aboriginal Health Board, she became the first Aboriginal woman to be elected to the Northern Territory Legislative Assembly in 2001, representing the electorate of Arafura until 2012.

Ms Kerry Sculthorpe

Ms Kerry Sculthorpe has tertiary qualifications in social work and public policy and expertise in research ethics. She is a former chair of the AIATSIS Research Ethics Committee and was a manager of ATSIC in Tasmania from 1990. From 1996 until 2002 she was a member of the Senior Executive Service of the Australian Public Service. Kerry has participated in national fora on Indigenous education, health, land rights and legislation, and published a number of reports on Aboriginal issues. This includes her involvement in the Strategic Plan of Aboriginal Engagement Steering Committee at the University of Tasmania.

B. Terms of Reference

Terms of Reference
Senior Advisory Group

Context

1. The Government is committed to a process of co-design to determine options to improve local and regional decision-making and a national voice.
2. This approach reflects the Government's commitment to working in partnership with Indigenous Australians, and their longstanding desire to have a greater involvement in the issues that affect them.
3. The co-design process to determine options for a voice will have 2 separate co-design groups, one to focus on local and regional decision-making (Local & Regional Group) and the other to look at options for a national voice (National Group).
4. A Senior Advisory Group will provide advice and support across the co-design process for a voice and act as a forum for the Minister for Indigenous Australians (the Minister) to test ideas and build consensus.

Purpose

5. The Senior Advisory Group is commissioned to work with the Minister to provide overarching guidance and advice to the co-design groups on local and regional decision-making and for a national voice.
6. The Senior Advisory Group will support the Minister and Australian Government, and the co-design groups as needed. The Senior Advisory Group will continue to meet throughout both the design and consultation stages of the co-design process.

Scope

7. The Senior Advisory Group will:
    a. Provide a forum to work in partnership with the Minister, including overseeing the direction of the co-design process.
    b. Advise the Minister on the process for co-design of local, regional and national elements of a voice, including on membership for the respective co-design groups.
    c. Provide input and advice at key points to support the National and Local & Regional Groups develop options, as well as guide the overall process throughout.
    d. Review options developed by the National and Local & Regional Co-Design Groups and provide advice, recommendations and support to the Minister.
    e. In line with the media protocol and code of conduct, support the Minister in public messaging and engagement with other key stakeholders on the co-design process.
8. The Minister will be responsible for leading ongoing engagement with state and territory governments, as well as cross-party Parliamentarians groups and Government colleagues as required. Senior Advisory Group members may be asked to assist these discussions as required.

Activities

9. The Senior Advisory Group will:
    a. Help guide the co-design groups throughout the process, as needed and provide advice as options are considered and developed.
    b. Review options put forward by the co-design groups throughout the development stage and provide advice and support to the Minister in the consideration of what should proceed to broader consultation.
    c. Provide advice to the Minister and National and Local & Regional Co-Design Groups on how to approach engagement in the consultation stage.
    d. Consider feedback received throughout the consultation stage, as well as ongoing feedback and submissions received throughout the co-design process ahead of finalising recommendations to the Minister.
    e. Following the finalisation of the consultation stage, provide advice to the Minister on the outcome and potential next steps.
    f. Provide an interim report to the Minister at the end of the development stage with advice to the Minister about what options should proceed to consultation, and a final report following the refinement of options by the co-design groups after consultation.
    g. In line with the media protocol and code of conduct, support the Government on public messaging to update the broader community on the co-design process.
    h. Meet with the co-design groups and the Minister at key points throughout the process.

Timeframes

10. November 2019 – support commencement of co-design process, and provide advice to and help guide co-design groups as needed throughout both processes (ongoing).
11. By November 2020 – review local and regional decision-making/national voices options put forward for testing, and provide advice and support to the Minister, ahead of Government's consideration.
12. From late 2020 – help guide the consultation and engagement process to test options for local and regional decision-making and a national voice.
13. Following consultation – review the final report with options and models refined following consultation and engagement, and provide advice to the Minister.

Membership

14. The Minister will invite individuals to participate in the Senior Advisory Group. The Senior Advisory Group is responsible for determining how they conduct discussions. The Senior Advisory Group will include 2 co-chairs, Professor Tom Calma AO and Professor Dr Marcia Langton AM. The co-chairs will chair meetings and ensure work progresses out of session as required. They will also lead engagement with the Minister. The co-chairs will also brief the Government or their representatives at key points throughout the co-design process, as required.
15. The Senior Advisory Group will have a majority of Indigenous Australians who have a spread of skills and experience, and those with extensive experience and ability to work strategically across the co-design process. Consideration will also be given to achieving a balance of: gender; representation across jurisdictions; and the urban, regional and remote spectrum, as much as possible.
16. The Senior Advisory Group will comprise around 20 members as determined by the Minister.
17. Deliberations of the Senior Advisory Group, discussions with the Minister, any sub-groups and external experts will be confidential. Liaising outside the group to discuss potential options should have prior agreement from the Senior Advisory Group co-chairs. Public comment about the group's deliberations and discussions will be subject to a media protocol and code of conduct.

Secretariat

18. All secretariat, logistical and administrative support will be provided by the National Indigenous Australians Agency. This will include planning, logistics, travel arrangements and meeting support.
19. Deliberations of the Senior Advisory Group, including discussions with the Minister, any sub-groups, and external experts, will be confidential, and subject to the co-chairs' code-of-conduct confidentiality arrangements.

Out of scope

20. The following matters are out of scope for the Senior Advisory Group:
    a. Final decision on which options progress to testing.
    b. Making recommendations as a Group through this co-design process on constitutional recognition, including determining the referendum question or when a referendum should be held.
    c. Making recommendations as a Group through this co-design process on the establishment of a Makarrata Commission (as called for by the Uluru Statement from the Heart), agreement making, treaty and truth-telling.
    d. Overall budget, deliverables and associated timing and the overarching timeframe for the co-design process.

Terms of Reference
National Co-design Group

Context

1. The Government is committed to a process of co-design to determine options to improve local and regional decision-making and a national voice.
2. This approach reflects the Government's commitment to working in partnership with Indigenous Australians, and their longstanding desire to have a greater involvement in the issues that affect them.
3. The co-design process to determine options for a voice will have 2 separate co-design groups, one to focus on local and regional decision-making (Local & Regional Group) and the other to look at options for a national voice (National Group).
4. A Senior Advisory Group will provide advice and support across the co-design process for a voice and act as a forum for the Minister for Indigenous Australians (the Minister) to test ideas and build consensus.

Purpose

5. The National Co-Design Group (National Group) is commissioned to consider proposed models for a national voice, and provide advice on preferred options.

Scope

6. The principal focus of the National Group is to develop options and models for a national voice, including articulating relevant detail (such as the structure, membership, functions and operation of a voice), and how to give a national voice legal form, excluding drafting of the establishing legislation.
7. Proposed options must not create barriers to the operation of existing Commonwealth Government Parliamentary processes.
8. The National Group will undertake this process in 2 stages:
    a. Stage one - develop possible approaches, models and options, and engaging with key stakeholders as needed.
    b. Stage two - support consultation and engage with Indigenous leaders, communities and stakeholders across the country; and refine recommendations for national options prior to providing them to Government for consideration.
9. The Minister will be responsible for leading ongoing engagement with state and territory governments, as well as the cross-party Parliamentarians group and Government colleagues to build consensus around possible options. National Group members may be asked to provide advice or assist in these discussions, as required.

Activities

10. The National Group will:
    a. Develop a work plan for the Group, which includes links with the broader co-design process, and consultation and engagement with Indigenous communities, Indigenous leaders, experts and other key stakeholders in stage two. This will be done in consultation with the Senior Advisory Group and Local & Regional Group.
        i. The development of options and models will draw on existing work done to date where appropriate.
        ii. The options should enable the Government to consider how a voice could be given legal effect.
    b. Work in partnership with the Local & Regional and the Senior Advisory Groups at key points, to ensure options for a national voice can be informed by, and connect with local and regional elements of a voice.
    c. Consider the impact of existing mechanisms for agreement making with Aboriginal and Torres Strait Islander Australians on options for a voice.
    d. Develop options and models, including drawing on previous work, to put forward to the Minister for consultation and engagement, following consultation with the Local & Regional Group and Senior Advisory Group.
    e. Support consultation and engagement with Indigenous communities, leaders and other stakeholders across the country.
    f. Support and advise the Government on public messaging to update the broader community on the co-design process.
    g. Refine options and models based on feedback from consultations and engagement.

h. Provide a final report for the Minister after consultation and refinement have been completed, with preferred options and models. The Senior Advisory Group will review these options and models and provide advice alongside the National Group's report to the Minister.

i. Seek advice from the Senior Advisory Group and the Local & Regional Group throughout the process, as appropriate.

j. Provide regular updates to the Minister and Senior Advisory Group on progress and key issues as they emerge.

k. The National Group may request technical expertise if needed, through the National Indigenous Australians Agency (NIAA).

Timeframes

11. The process will be undertaken in 2 stages:
    a. Stage one – early to late 2020
        - At the conclusion of stage one, options and models will be provided in an interim report (by late 2020). This report will be provided to the Minister alongside the advice of the Senior Advisory Group for decision by Government, ahead of the consultation and engagement stage.
    b. Stage two – commencing late 2020
        - At the conclusion of stage two, a final report with options and models refined following consultation and engagement will be provided to the Minister, alongside advice from the Senior Advisory Group.

Membership

12. The Minister will invite individuals to participate in the National Group, following consultation with the Senior Advisory Group, and appoint a co-chair from among the Indigenous non-government members. The second co-chair will be a senior official from the NIAA.
13. The National Group is responsible for determining how they conduct discussions. The 2 co-chairs will chair meetings and ensure work progresses out of session.
14. The 2 co-chairs will also be key contacts and representatives for the National Group. They will lead engagement with the Senior Advisory Group and Local & Regional Group, Minister and the Government at key points, as required.
15. The non-government members of the National Group will comprise a majority of Indigenous Australians. Consideration will also be given to achieving a balance of: gender; representation across jurisdictions, and the urban, regional and remote spectrum, as much as possible.
16. The National Group will comprise up to 20 members, (inclusive of one government co-chair and one Indigenous non-government co-chair) as determined by the Minister.
17. Deliberations of the National Group, discussions with the Minister, any sub-groups and external experts will be confidential. Liaising outside the group to discuss potential options should have prior agreement from the National Group co-chairs. Public comment about the Group's deliberations and formal discussions will be subject to a media protocol and code of conduct.

Secretariat

18. All secretariat, logistical and administrative support will be provided by NIAA. This will include planning, logistics, travel arrangements and meeting support.

Out of scope

19. The following matters are out of scope for the National Group:
    a. Drafting of legislation to establish a National Voice.
    b. Design of options and models for local and regional elements of a voice, other than considering linkages with local and regional elements of a voice, in order not to duplicate work across the 2 co-design groups.
    c. Final decision on which options and models progress to consultation and engagement in stage two.
    d. Making recommendations as a Group through this co-design process on constitutional recognition, including determining the referendum question or when a referendum should be held.
    e. Making recommendations as a Group through this co-design process on the establishment of a Makarrata Commission (as called for by the Uluru Statement from the Heart), agreement making, treaty and truth-telling.
    f. Overall budget, deliverables and associated timing and the overarching timeframe for the co-design process.

Local & Regional Co-Design Group

Context

1. The Government is committed to a process of co-design to determine options to improve local and regional decision-making and a National Voice.
2. This approach reflects the Government's commitment to working in partnership with Indigenous Australians, and their longstanding desire to have a greater involvement in the issues that affect them.
3. The co-design process to determine options for a voice will have 2 separate co-design groups, one to focus on local and regional decision-making (Local & Regional Group) and the other to look at options for a National Voice (National Group).
4. A Senior Advisory Group will provide advice and support across the co-design process for a voice and act as forum for the Minister for Indigenous Australians (the Minister) to test ideas and build consensus.

Purpose

5. The Local & Regional Co-design Group (Local & Regional Group) is commissioned to articulate preferred approaches to improved local and regional decision-making and Indigenous regional governance and provide advice on preferred options.

Scope

6. The principal focus of the Local & Regional Group is to articulate effective regional mechanisms for improved local and regional decision-making by Indigenous Australians in partnership with governments, including their purpose and scope. The Local & Regional Group will consider how existing regional mechanisms and Indigenous regional governance structures can give effect to the notion of a Local & Regional Voice.
7. The Local & Regional Group will undertake this process in 2 stages:
    a. Stage one – developing possible approaches (e.g. principles-based), models and options for broader conversations and engaging key stakeholders as needed.
    b. Stage two – support conversations and engage with Indigenous leaders, communities and stakeholders across the country, and refine options and models, prior to providing them to the Government for consideration.
8. The Minister will be responsible for leading ongoing engagement with state and territory governments, as well as the cross-party Parliamentarians group and Government colleagues to build consensus around possible options. Local & Regional Group members may be asked to provide advice or assist in these discussions, as required.
9. There will also be engagement, as required, between the Local & Regional Group and the Senior Officials Group (representing local, state and Commonwealth). The extent and details of links between the officials' group and the broader co-design process will be determined by co-chairs of the co-design groups, in consultation with the officials' group.

Activities

10. The Local & Regional Group will:
    a. Develop a work plan for the Group, which includes links with the broader co-design process, and conversations and engagement with Indigenous communities, Indigenous leaders, experts and other key stakeholders in stage two. This will be done in consultation with the Senior Advisory Group and the National Group.
    b. Articulate how current regional and local arrangements and mechanisms can give effect to local and regional voices.
    c. Identify options, such as principles and a framework for local and regional decision-making and Indigenous regional governance, which could underpin implementation across the country (regardless of existing mechanisms).
    d. Draw on the existing local and regional decision-making and Indigenous regional governance models, as well as the principles and design questions identified by the Joint Select Committee 2018, as a starting point for the development of possible future arrangements.
    e. Consider the impact of the possible future arrangements on the existing regional models, and how these could be encompassed within the improved approach.
    f. Provide input to inform discussions between levels of government on how to align and improve various existing regional governance and decision-making models, as appropriate. These discussions will be led by the Minister.

g. Work in partnership with the National and the Senior Advisory Groups at key points, to ensure local and regional elements of a voice can be considered as part of a national model.
h. Support and advise the Government on public messaging to update the broader community on the co-design process.
i. Develop options and models to put forward to the Minister for broader conversation and engagement, following consultation with the National Group and Senior Advisory Group.
j. Support conversations and engagement with Indigenous leaders, communities and stakeholders across the country.
k. Refine options and models based on feedback from conversations and engagement.
l. Provide a final report for the Minister after conversations and refinement have been completed, with preferred options and models. The Senior Advisory Group will review these options and models and provide advice alongside the Local & Regional Group's report to the Minister.
m. Seek advice from the Senior Advisory Group and the National Group throughout the process, as appropriate.
n. Provide regular updates to the Minister and the Senior Advisory Group on progress and key issues as they emerge.
o. The Local & Regional Group may request technical expertise if needed, through the National Indigenous Australians Agency (NIAA).

Timeframes

11. The process will be undertaken in 2 stages:
    a. Stage one – early to late 2020
        – At the conclusion of stage one, options and models will be provided in an interim report (by late 2020). This report will be provided to the Minister alongside the advice of the Senior Advisory Group for decision by Government, ahead of the conversation and engagement stage.
    b. Stage two – commencing late 2020
        – At the conclusion of stage two, a final report with options and models refined following conversation and engagement will be provided to the Minister, alongside advice from the Senior Advisory Group.

Membership

12. The Minister will invite individuals to participate in the Local & Regional Group, following consultation with the Senior Advisory Group, and appoint a co-chair from among Indigenous non-government members. The second co-chair will be a senior official from the NIAA.
13. The Local & Regional Group will be responsible for determining how they conduct discussions. The 2 co-chairs will chair meetings and ensure work progresses out of session.
14. The 2 co-chairs will also be key contacts and representatives for the Local & Regional Group. They will lead engagement with the Senior Advisory Group and the National Group, Minister and the Government at key points, as required.
15. The non-government members of the Local & Regional Group will comprise a majority of Indigenous regional leaders and others with expertise relevant to Indigenous regional governance and decision-making. Consideration will also be given to achieving a balance of gender, representation across jurisdictions, and the urban, regional, and remote spectrum, as much as possible.
16. The Regional Group will comprise up to 20 members, (inclusive of one government co-chair and one Indigenous non-government co-chair) as determined by the Minister.
17. Deliberations of the Local & Regional Group, discussions with the Minister, any sub-groups and external experts will be confidential. Liaising outside the group to discuss potential options should have prior agreement from the Local & Regional Group co-chairs. Public comment about the Group's deliberations and discussions will be subject to a media protocol and code of conduct.

Secretariat

18. All secretariat, logistical and administrative support will be provided by NIAA. This will include planning, logistics, travel arrangements and meeting support.

Out of scope

19. The following matters are out of scope for the Local & Regional Group:
    a. Design of options for a national voice, other than considering linkages of local and regional elements and a national voice, in order not to duplicate work across the 2 co-design groups.
    b. Final decision on which options progress to conversations and engagement in stage two.
    c. Making recommendations as a Group through this co-design process on constitutional recognition, including the referendum question or when a referendum should be held.
    d. Making recommendations as a Group through this co-design process on the establishment of a Makarrata Commission (as called for by the Uluru Statement from the Heart), agreement making, treaty and truth-telling.
    e. Overall budget, deliverables and associated timing and the overarching timeframe for the co-design process.

C. Consultation information

The table below includes community consultation sessions and stakeholder meetings held in these locations during the course of the consultation process and co-design members' visit. Overall, there were 115 community consultation sessions and at least 41 additional sessions and meetings.

The notes from each community consultation session were summarised and published on voice.niaa.gov.au.

Consultation by location

Location	State	Community consultation session date/s	Sessions/ meetings	Participants
Inner Sydney	NSW	24 & 25 February	5	61
Adelaide	SA	26 February	2	46
Western Sydney - Campbelltown	NSW	9 March	2	23
Western Sydney - Mt Druitt	NSW	9 & 10 March	3	54
Brisbane	QLD	9 & 10 March	5	73
Mount Gambier	SA	10 March & 21 May	2	14
Toowoomba	QLD	11 March	2	34
Murray Bridge	SA	11 March	1	23
Central Coast	NSW	12 March	1	59
Moree	NSW	15 March	2	22
Tamworth	NSW	16 March	3	35
Wagga Wagga	NSW	16 March & 19 May	4	41
Port Lincoln	SA	16 March	2	23
Coffs Harbour	NSW	17 & 18 March	2	29
Dubbo	NSW	22 March	3	78
Broken Hill	NSW	24 March	2	20
Pukatja	SA	25 March	1	145
Canberra	ACT	30 March	3	37
Mildura	VIC	30 March	2	36
Narooma	NSW	31 March	1	13
Bairnsdale	VIC	31 March	1	3
Perth	WA	6 April	3	41
Albany	WA	7 April	1	25
Shepparton	VIC	7 April	2	8
Bunbury	WA	8 April	2	23
Rockhampton	QLD	8 April	2	20
Woorabinda	QLD	8 April	2	35
Cairns	QLD	13 April	4	104
Port Hedland	WA	13 & 14 April	3	28

Location	State	Community consultation session date/s	Sessions/ meetings	Participants
Napranum	QLD	14 April	2	55
Weipa	QLD	14 April	1	8
Melbourne	VIC	14 April	2	27
Aurukun	QLD	15 April	8	35
Carnarvon	WA	15 April	1	59
Hobart	TAS	15 & 16 April	2	30
Kalgoorlie	WA	19 April	2	41
Townsville	QLD	19 April	2	80
Palm Island	QLD	20 April	2	78
Ceduna	SA	20 April	4	38
Mt Isa	QLD	21 April	3	84
Port Augusta	SA	22 April	4	73
Darwin	NT	27 April	4	104
Wadeye	NT	28 April	2	152
Katherine	NT	28 April	4	63
Kununurra	WA	29 April	2	47
Ngukurr	NT	29 April	1	20
Tiwi Islands – Wurrumiyanga (Bathurst Island)	NT	30 April	2	86
Tiwi Islands – Pirlangimpi (Melville Island)	NT	30 April	1	19
Broome	WA	3 May	3	46
Coober Pedy	SA	4 May	3	18
Derby	WA	4 May	2	36
Maningrida	NT	4 May	2	44
Angurugu (Groote Eylandt)	NT	5 May	1	104
Tennant Creek	NT	5 May	3	78
Halls Creek	WA	6 May	4	70
Lajamanu	NT	6 May	1	40
Amata	SA	6 May	2	84
Alice Springs	NT	6 & 7 May	4	44
Nhulunbuy	NT	7 May	2	29
Ramingining	NT	7 May	1	54
Galiwin'ku	NT	7 May	1	35
Launceston	TAS	11 May	2	22
Devonport	TAS	12 May	1	10
Doomadgee	QLD	12 May	3	86
Geraldton, Tom Price and Newman	WA	12 May	1	16
Thursday Island	QLD	14 May	2	55
Bourke	NSW	20 May	1	13

Stakeholder meetings

The list below includes details of stakeholder meetings held by co-design members and staff from the National Indigenous Australians Agency during the consultation period. Some organisations were met with on more than one occasion. Overall, there were 124 separate stakeholder meetings with 1,280 people engaged.

Stakeholder meetings

- Aboriginal Advisory Council of Western Australia
- Aboriginal and Torres Strait Islander Legal Services
- Aboriginal and Torres Strait Islander Social Justice Commissioner
- Aboriginal Art Association of Australia
- Aboriginal Health Reference Group
- Aboriginal Hostels Limited
- Amata leaders
- Aurukun: Community Development Program participants
- Aurukun Shire Council
- Australian Chamber of Commerce and Industry
- Australian Institute of Aboriginal and Torres Strait Islander Studies
- Australian Olympic Committee
- Australians for Native Title and Reconciliation
- Australian Human Rights Commission: President
- Broome Women's Leadership Meeting
- Business Council of Australia
- Cape York Employment
- Centre for Social Innovation South Australia
- Charles Sturt University: Dubbo campus
- Cherbourg Aboriginal Shire Council
- Clontarf Foundation: Katherine
- Closing the Gap Steering Committee
- Commonwealth Department briefing sessions
- Cradle Coast Authority: Board Directors
- Deadly Inspiring Youth Doing Good
- Derby leaders group
- Doomadgee: Community Development Program participants
- Doomadgee Aboriginal Shire Council
- Dreamtime Art
- Empowered Communities National Leaders Group
- Far West Coast Aboriginal Corporation
- First Australians Chamber of Commerce and Industry
- First Nations Media Australia
- First Peoples' Assembly of Victoria
- Fitzroy Crossing leaders meeting
- Football Australia
- Forbes community leaders
- Halls Creek Aboriginal Community Controlled Organisations
- Halls Creek Senior High School
- Halls Creek Shire and Tjurabalan leaders
- Hedland Aboriginal Strong Leaders Group
- Indigenous Land and Sea Corporation
- Jawun
- Kimberley Chairs and Chief Executive Officers forum
- Kokatha Aboriginal Corporation
- Koonibba community meeting
- Kununurra Aboriginal Community Controlled Organisations
- Lhere Artepe Aboriginal Corporation
- Lives Lived Well
- Local Elders, Brisbane consultation
- Local Government Association of the Northern Territory
- Members of Parliament and staff briefing sessions
- Mildura TAFE
- Murdi Paaki Regional Assembly
- National Native Title Council
- Napranum: Community Development Program participants
- Northern Australia Indigenous Reference Group
- New South Wales Council of Aboriginal Regional Alliance
- New South Wales Indigenous Chamber of Commerce
- Northern Territory Treaty Commissioner
- Nyamba Buru Yawuru Limited
- Office of the Children's Commissioner NT
- Office of the Registrar of Indigenous Corporations
- Office of Township Leasing
- Palm Island Council
- Port Lincoln community workshop
- Productivity Commission
- Queensland's Treaty Advancement Committee

- Reconciliation Australia Board
- Riverina Youth Justice Centre
- Senior Officers Meeting – Compensation Working Group
- South Australian Commissioner for Aboriginal Engagement
- Spinifex State College: Mt Isa
- Stars Foundation: Katherine
- State and territory officials briefings
- Tamworth High School
- Tasmanian Regional Aboriginal Communities Alliance
- Tennant Creek women's meeting
- Torres Strait Regional Authority
- UnitingCare
- Uphold and Recognise
- Umoona Community Council
- Victorian Commissioner for Aboriginal Children and Young People
- Woolworths
- Woorabinda Council and service providers
- Wreck Bay Aboriginal Community Council
- Xavier College Tiwi Islands
- Yadgalah Aboriginal Corporation
- Yarrabah community meeting

Webinars

There were 13 webinars with 1,486 people engaged.

The table below includes the details of webinars held.

Date	Webinar
1 Feb 2021	Introducing the Indigenous Voice proposals
4 Mar 2021	The proposal for a National Voice
9 Mar 2021	Indigenous Voice: Engaging our community in the co-design process (Centre for Social Impact) – webinar 1
15 Mar 2021	The proposal for a Local and Regional Voice
16 Mar 2021	The importance of an Indigenous Voice for the Australian Community
25 Mar 2021	Reconciliation Australia
29 Mar 2021	Institute of Public Administration Australia
19 Apr 2021	Close the Gap Campaign Steering Committee
4 May 2021	Indigenous Voice: Engaging our community in the co-design process (Centre for Social Impact) – webinar 2
5 May 2021	Business Council of Australia
19 May 2021	Indigenous Voice Community Meeting for First Nations People with Disability
21 May 2021	Indigenous Voice Briefing for Disability Sector
24 May 2021	Indigenous Voice Consultation Wrap-Up

Submissions

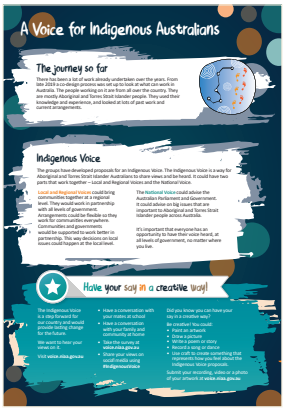
The process for public submissions was open from the 9 January – 30 April 2021. In this time a total of 2,978 submissions were received, with 2,741 published on the Indigenous Voice website. Each published submission is available to view here: Submission - Indigenous Voice (voice.niaa.gov.au).

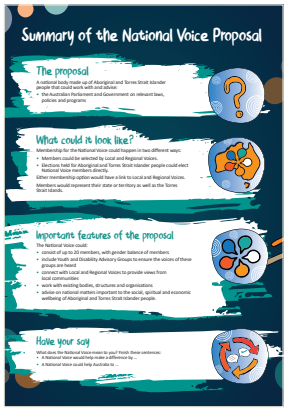
D. Consultation products

Indigenous Voice resources

Indigenous Voice – Have Your Say

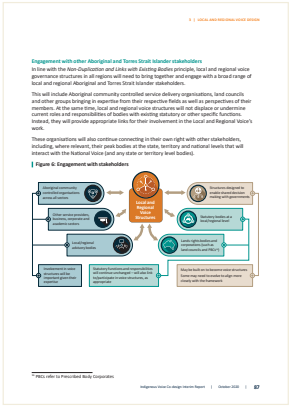
A youth-focused flyer summarising detail from Interim Report.





Indigenous Voice Co-design Process Interim Report 2020

Indigenous Voice Co-design Process Interim Report resulting from Stage One co-design.



Indigenous Voice Proposal – Key Features

A flyer highlighting the key features of the Indigenous Voice proposals.

Outline of Indigenous Voice Proposal

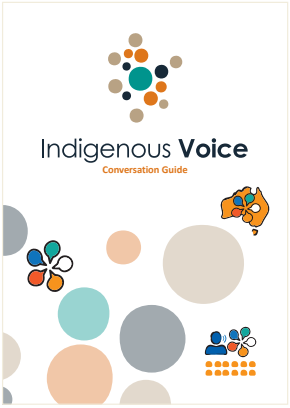
A one page outline of Indigenous Voice Proposals.

Discussion paper

Short document providing an overview of the Local & Regional Voice proposal and National Voice proposal.

Conversation Guide

A supporting document for consultation, designed to facilitate discussion among participants. The guide provides an overview of the journey to an Indigenous Voice, each proposal and feedback mechanisms.



Videos and animations

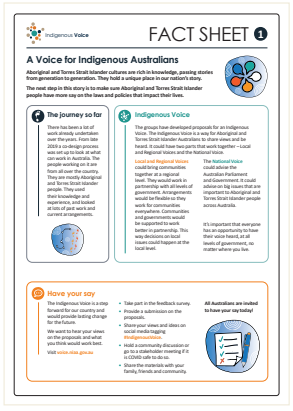
A series of video animations were developed to support understanding of the Indigenous Voice proposals during the consultation period.

Indigenous Voice Consultation Session Poster

A poster used to promote upcoming consultation sessions and webinars.

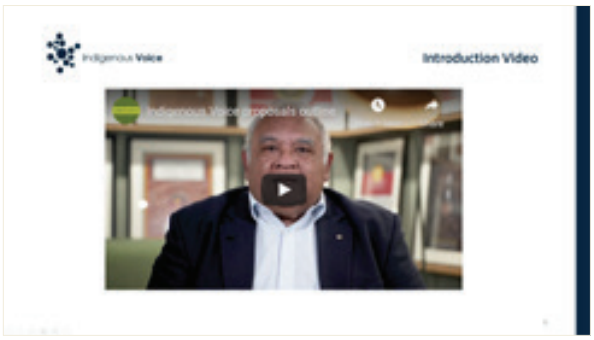
Fact sheet 1 – A Voice for Indigenous Australians

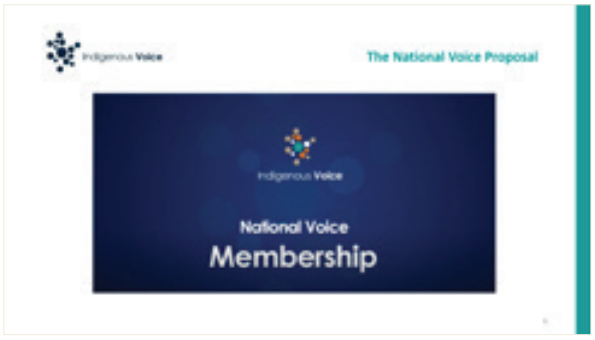
An A4 fact sheet summarising key facts about the Indigenous Voice proposals.

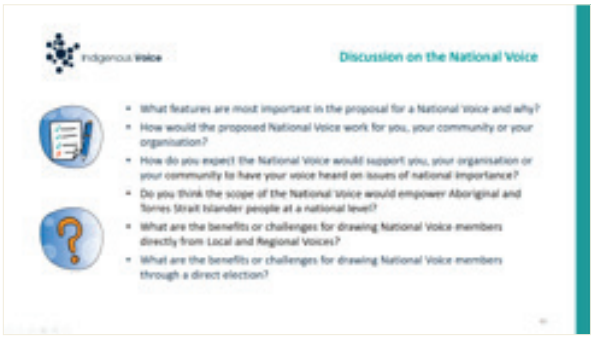


PowerPoint presentation for consultation sessions and stakeholder meetings

The following was used as a tool by co-design members when facilitating discussion at community consultation sessions and stakeholder meetings.



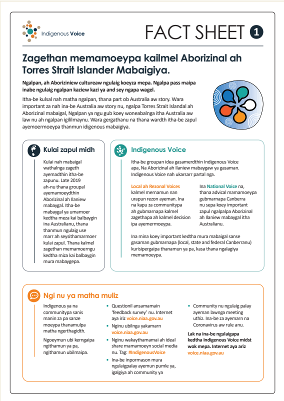




Resources in language

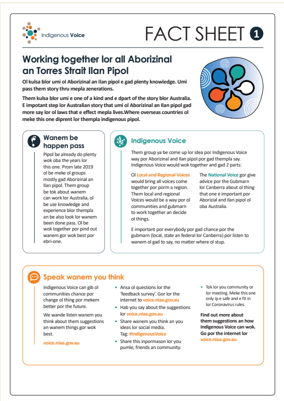
Indigenous Voice Factsheet QLD Kala Laga Ya

Fact Sheet 1 translated in Kala Laga Ya language.



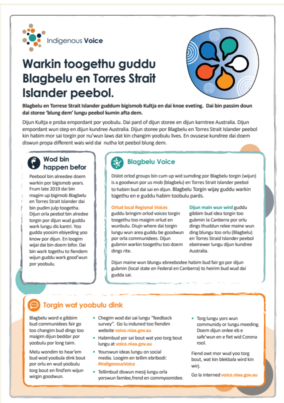
Indigenous Voice Factsheet QLD Torres Strait Creole

Fact Sheet 1 translated in Torres Strait Creole language.



Indigenous Voice Factsheet WA Kimberly Kriol

Fact Sheet 1 translated in Kimberly Kriol language. Available in print and audio.



Indigenous Voice Factsheet WA Martu

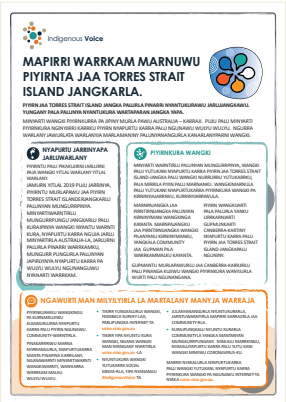
Fact Sheet 1 translated in Martu language. Available in print and audio.

Indigenous Voice Factsheet WA Ngaanyatjarra

Fact Sheet 1 translated in Ngaanyatjarra language. Available in print and audio.

Indigenous Voice Factsheet WA Walmajarri

Fact Sheet 1 translated in Walmajarri language. Available in print and audio.



Additional audio factsheets translated into Indigenous languages:

- Indigenous Voice Factsheet NT Anindiliyakawa
- Indigenous Voice Factsheet NT Burarra
- Indigenous Voice Factsheet NT Eastside Creole
- Indigenous Voice Factsheet NT Warlpiri
- Indigenous Voice Factsheet NT Yolngu Matha

Audio announcements

As part of the engagement process, a series of public notices were used for promotion. Some of these public notices were translated into Indigenous languages for accessibility and inclusivity. Below are examples of translated audio that was used:

- Indigenous Voice audio announcement QLD Kala Laga Ya
- Indigenous Voice audio announcement QLD Torres Strait Creol Yumplatok Corden
- Indigenous Voice audio announcement WA Kimberly Kriol
- Indigenous Voice audio announcement WA Ngaanyatjarra
- Indigenous Voice audio announcement WA Walmajarri

Webinars

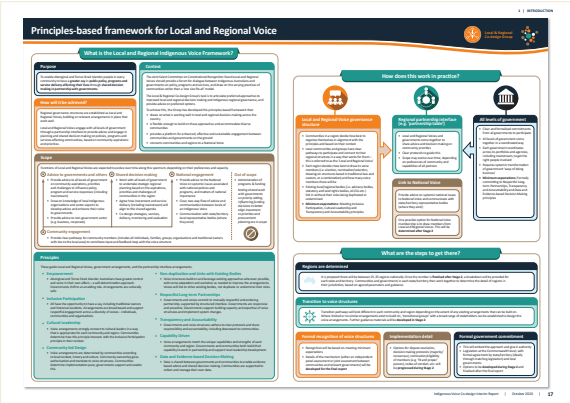
The following webinars were recorded and posted on the Indigenous Voice website:

- Introducing the Indigenous Voice proposals
- The proposal for a National Voice
- The proposal for a Local and Regional Voice
- The importance of an Indigenous Voice for the Australian Community
- Indigenous Voice Consultation Wrap-Up

Local & Regional Voice proposal resources

Detailed Local & Regional Voice Proposal

An A3 flyer outlining the detail of the Local & Regional Voice proposal.

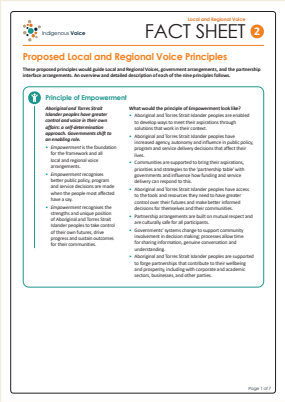


Local & Regional Voice proposal – Key features

An A4 fact sheet outlining the key features of the Local & Regional Voice proposal.

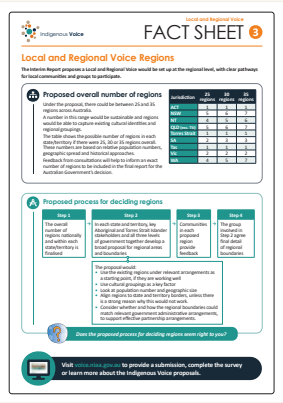
Fact sheet 2 – Proposed Local & Regional Voice Principles

A4 fact sheet explaining the principle-based framework of the Local & Regional Voice proposal.



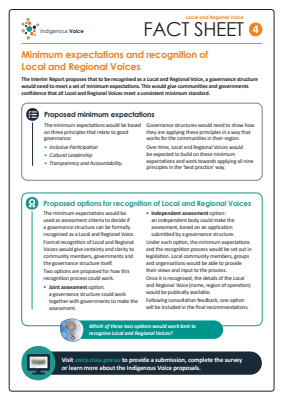
Fact sheet 3 – Local & Regional Voice Regions

An A4 fact sheet detailing the proposed process of setting up Local & Regional Voices.



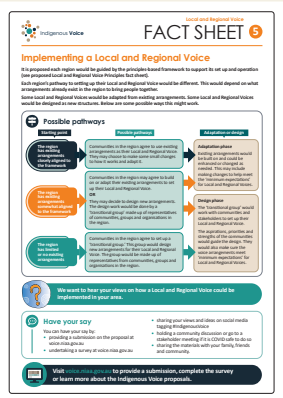
Fact sheet 4 – Minimum expectations and recognition of Local & Regional Voices

An A4 fact sheet outlining a set of minimum expectations for the establishment of Local & Regional Voices.



Fact sheet 5 – Implementing a Local & Regional Voice

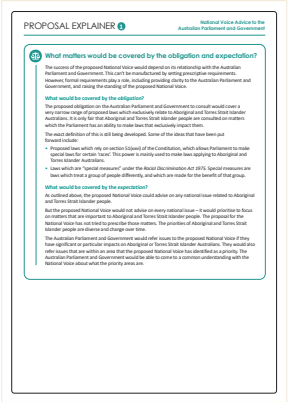
An A4 fact sheet outlining the proposed implementation of Local & Regional Voices.

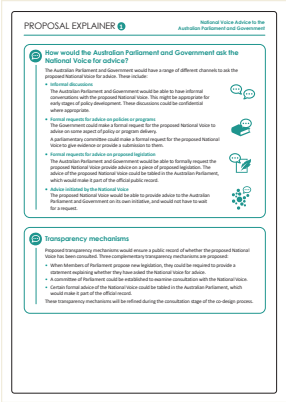


National Voice Proposal Resources

Proposal Explainer 1 - Advice to Parliament and Government

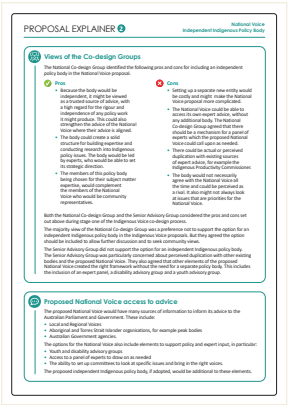
A paper outlining how the proposed National Voice could provide advice to the Australian Parliament and Government.





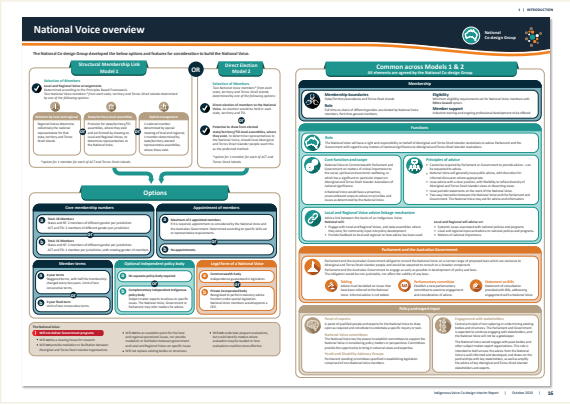
Proposal Explainer 2 - Independent Indigenous Policy Body

A paper supporting the process of seeking feedback on whether an independent Indigenous policy body should be included in the final proposal for a National Voice.



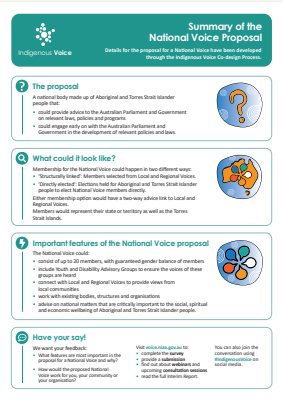
Detailed National Voice Proposal

An A3 paper outlining the detail of the National Voice proposal.



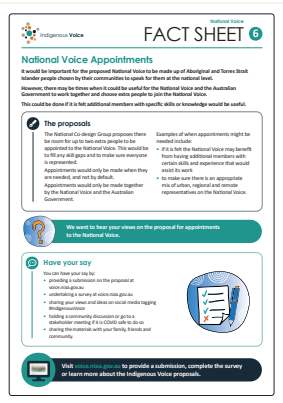
National Voice Proposal – Key Features

An A4 paper summarising the key features of the National Voice Proposal.



Fact sheet 6 – National Voice Appointments

An A4 fact sheet explaining the proposed appointment process to the National Voice.



Fact sheet 7 – National Voice Membership Numbers

An A4 fact sheet outlining the options for membership numbers in the National Voice.

Fact sheet 8 – National Voice Membership Term Lengths

An A4 fact sheet outlining options for National Voice membership term lengths.

Indigenous Voice

National Voice

FACT SHEET 8

National Voice Membership Term Lengths

Stability in the proposed National Voice membership would be important. It would also be important to ensure membership could be refreshed with new ideas and perspectives. Meeting these membership objectives could be achieved by both:

- **limiting how long a person can be a member of the National Voice before they have to be re-selected**
- **having long enough terms for members to be able to fulfil their roles.**

Limiting the number of times a person can be a member in a continuous period – the number of back-to-back terms – could also help bring new members with different experiences and ideas to the National Voice.

The proposals

There are two options proposed by the National Co-design Group for term lengths for National Voice members. Under both options, a person could not serve more than two back-to-back terms as a National Voice member.

Option 1 - Four year terms

This option would give National Voice members a term of **four years**.

Terms would be staggered, which would see half of the National Voice positions be open for selection every two years.

This would ensure the National Voice is stable with only half of the membership refreshed at a time.

There would always be current members with a good understanding of the work of the National Voice and familiar with how it operates.

This option would also see current and experienced National Voice able to brief an incoming Australian Government after a federal election.

Option 2 - Three year terms

This option would give National Voice members a term of **three years**.

Terms would not be staggered with this option.

All National Voice positions would be open for selection at once, every three years.

It is expected that there would be some members reselected and would provide some continuity. However there would be no deliberate overlap as in Option 1.

This option would provide greater opportunity for new membership because selection of the full membership group would occur more frequently than in Option 1.

We want to hear your views on the proposal for term lengths for the National Voice.

Have your say

You can have your say by:

- providing a submission on the proposal at voice.niaa.gov.au
- undertaking a survey at voice.niaa.gov.au
- sharing your views and ideas on social media tagging #IndigenousVoice
- holding a community discussion or go to a stakeholder meeting if it is COVID safe to do so
- sharing the materials with your family, friends and community.

Visit voice.niaa.gov.au to provide a submission, complete the survey or learn more about the Indigenous Voice proposals.

Fact sheet 9 – National Voice Disability Advisory Group

An A4 fact sheet outlining the proposed permanent National Voice Disability Advisory Group.

Indigenous Voice

National Voice

FACT SHEET 9

National Voice Disability Advisory Group

In 2015, nearly one in four Aboriginal and Torres Strait Islander people were living with a disability for at least six months. Of these people, nearly a third were living with severe or profound disability at the time.[1]

Because of this, the proposed National Voice would have a permanent Disability Advisory Group made up of Aboriginal and Torres Strait Islander people with lived experience of disability.

This group would give advice to the National Voice on how laws and policies impact on Aboriginal and Torres Strait Islander people with disability.

The Disability Advisory Group would also bring issues to the attention of the National Voice.

Disability in the Indigenous community

There are many different kinds of disabilities that people experience. These include deafness, blindness, cognitive impairment, mental illness, and physical disabilities, among other experiences of disability.

Having a disability can affect a person's participation in all sorts of ways, including in ways that are not obvious to others.

People with disability can also experience discrimination, even if it is done unintentionally and/or unconsciously.

The actions or inaction of others can also limit the ability of a person with disability to participate in discussions about laws and policies that affect them.

The significant proportion of Aboriginal and Torres Strait Islander people living with disability increases the importance of making sure their voices are heard when laws and policies are made that affect their lives.

The National Co-design Group looked at these issues and decided it was important that a National Voice have a permanent Disability Advisory Group. This would be a group the National Voice can call on to make sure the impacts on Aboriginal and Torres Strait Islander people with disability are considered when relevant to any advice being sought by the Parliament or Government.

This group would also bring any matter it thinks is important to the attention of the National Voice.

The Disability Advisory Group would not replace or undermine any existing bodies or structures.

We want to hear your views on how a Disability Advisory Group might benefit Aboriginal and Torres Strait Islander people with disability, and what sorts of issues you think should be looked at by this group.

Have your say

You can have your say by:

- providing a submission on the proposal at voice.niaa.gov.au
- undertaking a survey at voice.niaa.gov.au
- sharing your views and ideas on social media tagging #IndigenousVoice
- holding a community discussion or go to a stakeholder meeting if it is COVID safe to do so
- sharing the materials with your family, friends and community.

Visit voice.niaa.gov.au to provide a submission, complete the survey or learn more about the Indigenous Voice proposals.

[1] AIHW 2019, *Disability support for Indigenous Australians.*

Fact sheet 10 – National Voice Youth Advisory Group

An A4 fact sheet outlining the proposed permanent National Voice Youth Advisory Group.

Indigenous Voice

National Voice

FACT SHEET 10

National Voice Youth Advisory Group

More than half of Aboriginal and Torres Strait Islander people are aged 25 years or younger.[1] As future Aboriginal and Torres Strait Islander leaders, it is important their views are heard and considered.

Because of this, the proposed National Voice would have a permanent Youth Advisory Group made up of Aboriginal and Torres Strait Islander youth.

The Youth Advisory Group would give advice to the National Voice on how laws and policies impact on Aboriginal and Torres Strait Islander youth. The group would also bring issues to the attention of the National Voice.

Influencing decisions

Aboriginal and Torres Strait Islander youth should be able to influence the decisions being made today. This is not just because those decisions affect them now, but also because those decisions will affect them in the future – a future they will inherit.

The world is changing rapidly, and in ways that older generations have not experienced before. This makes it more challenging to understand how laws and policies affect Aboriginal and Torres Strait Islander youth without speaking directly to them.

The National Co-design Group looked at these issues and decided it was important that a National Voice have a permanent Youth Advisory Group.

This would be a group the National Voice can call on to make sure the impacts on Aboriginal and Torres Strait Islander youth are considered when advice is sought by the Australian Parliament or Government. This group would also bring any matter it thinks is important to the attention of the National Voice.

Having a permanent Youth Advisory Group would recognise that Aboriginal and Torres Strait Islander youth are best placed to understand and advise on how laws and policies will impact them.

The Youth Advisory Group would not replace or undermine any existing bodies or structures.

We want to hear your views on how a Youth Advisory Group might benefit Aboriginal and Torres Strait Islander youth, and what sorts of issues you think should be looked at by this Group.

Have your say

You can have your say by:

- providing a submission on the proposal at voice.niaa.gov.au
- undertaking a survey at voice.niaa.gov.au
- sharing your views and ideas on social media tagging #IndigenousVoice
- holding a community discussion or go to a stakeholder meeting if it is COVID safe to do so
- sharing the materials with your family, friends and community.

Visit voice.niaa.gov.au to provide a submission, complete the survey or learn more about the Indigenous Voice proposals.

[1] 2016 Census data.

E. Summary of meeting dates

As at 30 July 2021 there have been more than 100 meetings of co-design groups, working groups, member briefings and design discussions.

In addition there were:

- Meetings of all co-chairs, and regular discussion between co-chairs and the National Indigenous Australians Agency.
- Meetings of the Senior Officials Group, comprising state and territory officials and the Australian Local Government Association.

Co-design group meetings

Senior Advisory Group

Stage two

Date	Meeting
13 July 2021	Senior Advisory Group meeting
29 June 2021	Senior Advisory Group meeting
24 May 2021	Senior Advisory Group meeting

Stage one

Date	Meeting
14 October 2020	Senior Advisory Group meeting
29 September 2020	Senior Advisory Group meeting (local and regional and engagement focus)
21 September 2020	Senior Advisory Group meeting (national focus)
31 August 2020	Senior Advisory Group Engagement Working Group
27 August 2020	Senior Advisory Group meeting (local and regional focus)
25 August 2020	Senior Advisory Group meeting (national focus)
23 July 2020	Senior Advisory Group meeting (engagement focus)
08 July 2020	Senior Advisory Group meeting (consolidating feedback)
30 June 2020	Senior Advisory Group meeting (local and regional focus)
23 June 2020	Senior Advisory Group meeting (national focus)
17 February 2020	Senior Advisory Group meeting
13 November 2019	Senior Advisory Group meeting

National Co-design Group

Stage two

Date	Meeting
12 July 2021	National Co-design Group meeting
04 June 2021	National Co-design Group meeting
30 April 2021	National Co-design Group meeting

Stage one

Date	Meeting
06 October 2020	National Co-design Group meeting
08 September 2020	National Co-design Group meeting
18 August 2020	National Co-design Group meeting
10 August 2020	National Options Working Group
06 August 2020	National Functions Working Group
06 August 2020	National Structure and Membership Working Group
21 July 2020	National Co-design Group meeting (presentation of Senior Advisory Group feedback)
14 July 2020	National Establishment Working Group
12 May 2020	National Co-design Group meeting
26 March 2020	National Structure and Membership Working Group
24 March 2020	National Functions Working Group
25 & 26 Feb 2020	National Co-design Group meeting

Local & Regional Co-design Group

Stage two

Date	Meeting
12 July 2021	Local & Regional Co-design Group meeting
16 June 2021	Local & Regional Co-design Group meeting
13 April 2021	Local & Regional Co-design Group meeting
12 February 2021[i]	Local & Regional Co-design Group meeting

Stage one

Date	Meeting
07 October 2020	Local & Regional Co-design Group meeting
14 September 2020	Local & Regional Co-design Group meeting
21 August 2020	Local & Regional Co-design Group meeting
13 August 2020	Local & Regional supplementary session
29 July 2020	Local & Regional Co-design Group meeting (presentation of Senior Advisory Group feedback)
28 July 2020	Local & Regional Linkages and Impact Working Groups (follow up)
24 July 2020	Local & Regional Impact Working Group
01 July 2020	Local & Regional supplementary session
19 June 2020	Local & Regional Regions Working Group
16 June 2020	Local & Regional supplementary session
26 May 2020	Local & Regional Co-design Group meeting
16 April 2020	Local & Regional Structures and Interface working group
08 April 2020	Local & Regional Framework Working Group
12 March 2020	Local & Regional supplementary session
10 and 11 March 2020	Local & Regional Co-design Group meeting

[i] This meeting did not proceed due to technical difficulties, but feedback was provided in follow up discussions with members.

Other meetings

Stage two

Transition and Implementation Working Group – representatives from all 3 co-design groups

Date	Meeting
21 June 2021	Transition and Implementation Working Group

Representatives from all 3 co-design groups

Date	Meeting
28 Jan 2021	Stage two preparation meeting
21 Jan 2021	Stage two preparation meeting

Stage one

Linkages Working Group – representatives from all 3 co-design groups

Date	Meeting
17 August 2020	Linkages Working Group
20 July 2020	Linkages Working Group

All co-chair meetings

Stage two

Date	Meeting
26 July 2021	All co-chair meeting
13 July 2021	All co-chair meeting
01 July 2021	All co-chair meeting
19 February 2021	All co-chair meeting
15 January 2021	All co-chair meeting

Stage one

Date	Meeting
8 October 2020	All co-chair meeting
1 October 2020	All co-chair meeting
17 September 2020	All co-chair meeting
25 August 2020	All co-chair meeting
17 June 2020	All co-chair meeting
18 May 2020	All co-chair briefing on the Coalition of Peaks
22 April 2020	All co-chair meeting

Member briefings and design discussions[ii]

Senior Advisory Group

Stage two

Date	Meeting
16 July 2021	Member session
09 July 2021	Member session
30 April 2021	Member session

Stage one

Date	Meeting
14 October 2020	Member session
12 October 2020	Member session
30 September 2020	Member session
18 September 2020	Member session
17 September 2020	Member session
15 September 2020	Member session
13 August 2020	Senior Advisory Group Youth engagement discussion
05 August 2020	Member session
22 July 2020	Member session
17 July 2020	Member session
06 July 2020	Member session
06 July 2020	Member session
29 June 2020	Member session
29 June 2020	Member session
26 June 2020	Member session
26 June 2020	Member session
22 June 2020	Member session
19 June 2020	Senior Advisory Group Youth engagement discussion
25 May 2020	Senior Advisory Group Non-Indigenous engagement discussion
20 May 2020	Member session
17 April 2020	Senior Advisory Group Youth engagement discussion
02 April 2020	Senior Advisory Group Youth engagement discussion
26 and 27 February 2020	Senior Advisory Group Youth engagement discussion

[ii] This list is intended to be comprehensive, but is not an exhaustive list of all co-design member interactions.

National Co-design Group

Stage two

Date	Meeting
09 July 2021	Member session
09 July 2021	Member session
08 July 2021	Member session
10 June 2021	Member session
03 June 2021	Member session
02 June 2021	Member session
20 May 2021	Co-design member discussion on the role and processes of Parliament and Government
28 April 2021	Member session
27 January 2021	Member session

Stage one

Date	Meeting
27 October 2020	Member session
14 October 2020	Disability advisory group design discussion
02 October 2020	Stage two engagement briefing session
02 October 2020	Member session
30 September 2020	Member session
28 September 2020	Youth advisory group design discussion
24 September 2020	Member session
22 September 2020	Member session
15 September 2020	Youth advisory group design discussion
11 September 2020	National Co-design Group briefing session: local and regional information
09 September 2020	Member session
02 September 2020	Disability advisory group design discussion
02 September 2020	Member session
27 August 2020	Member session
13 August 2020	Member session
31 July 2020	Member session
29 July 2020	Member session
27 July 2020	Member session
16 July 2020	Member session
28 May 2020	Member session

Local & Regional Co-design Group

Stage two

Date	Meeting
14 July 2021	Member session
14 July 2021	Member session
30 March 2021	Member session
24 March 2021	Member session
23 February 2021	Member session
16 February 2021	Member session
15 February 2021	Member session
12 February 2021	Member session
12 February 2021	Member session

Stage one

Date	Meeting
02 October 2020	Stage two engagement briefing session
28 September 2020	Local & Regional Co-design Group briefing session: national information

Senior Officials Group

Stage two

Date	Meeting
10 June 2021	Senior Officials Group meeting
01 April 2021	Bilateral meeting with Western Australia
30 March 2021	Bilateral meeting with the Australian Local Government Association
12 March 2021	Bilateral meeting with Victoria
02 March 2021	Bilateral meeting with Queensland
25 February 2021	Bilateral meeting with South Australia
17 February 2021	Bilateral meeting with Northern Territory
16 February 2021	Bilateral meeting with New South Wales
22 January 2021	Senior Officials Group meeting

Stage one

Date	Meeting
20 October 2020	Bilateral meeting with Victoria (emerging policy)
09 October 2020	Bilateral meeting with South Australia (emerging policy and engagement design)
07 October 2020	Bilateral meeting with Tasmania (emerging policy)
02 October 2020	Bilateral meeting with Western Australia (engagement design)
28 September 2020	Bilateral meeting with Victoria (engagement design)
23 September 2020	Bilateral meeting with New South Wales (emerging policy)
23 September 2020	Bilateral meeting with New South Wales (engagement design)
22 September 2020	Bilateral meeting with Northern Territory (emerging policy and engagement design)
15 September 2020	Bilateral meeting with Tasmania (engagement design)
20 August 2020	Senior Officials Group meeting
13 July 2020	Bilateral meeting with the Australian Local Government Association
7 July 2020	Bilateral meeting with Australian Capital Territory
24 June 2020	Bilateral meeting with Western Australia
18 June 2020	Bilateral meeting with Queensland
28 May 2020	Bilateral meeting with South Australia
27 May 2020	Bilateral meeting with New South Wales
20 May 2020	Bilateral meeting with Northern Territory
15 May 2020	Bilateral meeting with Victoria
7 May 2020	Bilateral meeting with Tasmania
7 April 2020	Senior Officials Group meeting
25 February 2020	Senior Officials Group meeting
19 and 20 February 2020	Senior Officials Group meeting (20 February teleconference, some members briefed separately on 19 February)

Indigenous Voice Co-design Process

Final Report to the Australian Government

July 2021