

**BROAD PROTOCOLS FOR THE
OPERATION OF MINISTERIAL COUNCILS**

1. Preamble

Ministerial Councils are a means of coordinating across jurisdictions, national approaches to issues. It is important that Ministerial Councils operate as efficiently as possible to achieve this objective. One of the aims of these Broad Protocols is to facilitate high-quality consultative decision-making, through a robust framework that is accountable, fiscally prudent, and administratively efficient.

2. Representation of Constituent Governments

It is the responsibility of Ministers to ensure they are in a position appropriately to represent their governments at Council meetings. This is of particular importance where resolutions require commitment, especially financial commitment, from respective governments.

Issues with cross-portfolio or whole-of-government implications or of a highly controversial nature may require prior consideration by governments at Cabinet level.

Where new issues or alternative proposals arise at meetings on which a Minister believes further consideration by Cabinet is required, it is the responsibility of that Minister to make this clear to the Council.

Ministerial Councils exercising formal decision-making responsibilities must submit a report on decisions taken on an annual basis to the Council of Australian Governments.

3. Development of Agendas

Council arrangements should include processes for ensuring that all parties have input to the development of agendas and that agendas are agreed at the earliest possible date prior to meetings. It is desirable that the Agenda setting process is commenced sufficiently ahead of the proposed Ministerial Council meeting to ensure that final Agendas and papers are circulated no later than three weeks prior to the meeting.

If additional items are proposed for discussion after the agenda is finalised the Ministerial Council Chair must seek the views of jurisdictions prior to the inclusion of any proposed additional items. These additional items may be included formally on the meeting Agenda only if they are unable to be handled out-of-session and only following the agreement of a majority of members. No individual jurisdiction shall have the power of veto.

Agendas for Ministerial Council meetings should focus on items of strategic national significance and, where possible Ministerial Councils should avoid having standing discussion items. To this end, out-of-session consideration of these types of items may be appropriate, to assist Ministerial Councils in maintaining their focus on items of national significance.

4. Provision of Agenda Papers

Council arrangements must include processes for ensuring that agenda papers are circulated sufficiently in advance to allow appropriate prior consideration by the constituent governments, particularly where there are budgetary implications.

It is desirable that the agenda-setting process is commenced sufficiently ahead of the proposed Ministerial Council meeting to ensure that final Agendas and papers are circulated a minimum of three weeks prior to the meeting. Ministerial Councils should ensure that members are notified of the status of document versions circulated for consideration.

However Ministerial Councils should be aware that additional time should be allowed if Cabinet consideration is required for approval of jurisdictional positions.

5. Arrangement of Officials' Meetings

Officials' meetings held to develop issues for the consideration of Ministers should be held a minimum of five weeks prior to the meeting, to allow proper consideration of the issues. It is desirable that the agenda-setting process is commenced sufficiently ahead of the proposed Official's meeting to ensure that final Agendas and papers are circulated no less than three weeks prior to the meeting.

6. Record Keeping Arrangements

Processes for record keeping and minute taking are the responsibility of individual Councils. Copies of Minutes from Ministerial Council meetings should be forwarded to the Department of the Prime Minister and Cabinet (PM&C) after each meeting. PM&C will circulate these minutes to other First Ministers' Departments.

7. Resolutions

Decision-making procedures such as voting rules are the responsibility of individual Councils, unless specific rules are included in relevant legislation or included in the establishment criteria/charter of the Ministerial Council. Arrangements for announcing resolutions reached by Ministerial Councils should be agreed by all members of a Council. When matters require further consideration, any Ministerial Council announcements should not pre-empt this further consideration, particularly where matters involve financial implications that have not been settled by Councils.

8. Liaison between Councils

When considering intergovernmental matters which have implications beyond the areas of responsibility of a Ministerial Council, other relevant Councils should be consulted through liaison between the Chairs in the first instance. Ministerial Councils should also refer such issues to Heads of Government where they have major cross-portfolio or whole-of-government implications.

9. Involvement of the Australian Local Government Association (ALGA)

Except for matters where membership is explicitly set out by statute or agreement, it is up to individual Ministerial Councils to decide (and regularly review) whether ALGA should be a member or attend proceedings.

10. Involvement of Other Countries

Except for matters where membership is explicitly set out by statute or agreement, it is up to individual Ministerial Councils to decide whether other countries or any other parties should be members or attend proceedings. The continued involvement of other countries with individual Ministerial Councils should be regularly reviewed.

11. Efficiency of Council Operations

Each Ministerial Council should regularly review the efficiency of its administrative arrangements, including the frequency of meetings. This review should include the structure of the secretariat and funding issues and should take place, at a minimum, every three years. One issue it should consider is whether a rotating secretariat or a permanent secretariat is more appropriate.

All Ministerial Councils should ensure that they comply with the Broad Protocols and General Principles.

In this respect, arrangements for the operation of individual Councils should also take account of the involvement of its members in other Ministerial Councils, including the possibility of joint back-to-back meetings where appropriate, and the use of teleconferencing and/or videoconferencing.

Ministerial Council Secretariats should submit no later than September each year to PM&C an update on key issues and associated outcomes deliberated by the Ministerial Council during the preceding financial year.

12. Consultation with Interest Groups

In any consultations with interest groups, Ministerial Councils should ensure that consideration of major policy initiatives by their constituent governments is not pre-empted or precluded. The status of any documents released to those groups or the general public should also be made clear.

13. Information about Councils

Each Ministerial Council should make available in a convenient form, and provide annually to PM&C for inclusion on its COAG website, information on its:

- title and membership;
- role and responsibilities, including any pursuant to statute or agreement;
- administrative arrangements; and
- contact officer and address.

14. Reports to COAG

On an annual basis, all Ministerial Council Secretariats should provide a copy to PM&C of their:

- minutes;
- a list of all resolutions; and
- any other relevant documents.

This will allow the preparation of a consolidated report of Ministerial Council activities for COAG if requested.

15. COAG Principles and Guidelines on National Standard Setting by Ministerial Councils and National Regulatory Bodies

Under the 1995 COAG Principles and Guidelines, COAG and Ministerial Councils are required to prepare Regulatory Impact Statements (RISs) for all regulatory proposals which would affect business or impact on competition. The RIS obligations complement similar requirements at the Commonwealth and State/Territory levels and can be used to satisfy those obligations. Regulatory proposals must satisfy the principles for good regulatory practice and the guidelines for the preparation of RISs set out in the COAG Principles and Guidelines.

Under the amendments to the COAG Principles and Guidelines endorsed by Heads of Government in November 1997 and amended in 2004, draft RISs should be provided to the Commonwealth Office of Regulation Review (ORR) for comment prior to finalisation. The ORR's role is to assist Ministerial Councils and national (that is, intergovernmental) regulatory Bodies to prepare RISs which comply with the COAG Principles and Guidelines. The ORR will report annually on compliance with the COAG Principles and Guidelines and can at any time bring concerns it may have about particular regulatory proposals to the attention of Heads of Government through the COAG Committee on Regulatory Reform.

16. The Trans-Tasman Mutual Recognition Arrangement (TTMRA)

Ministerial Councils have statutory decision-making functions under the TTRMA. Councils can be required to make determinations in relation to the Temporary Exemption, Special Exemption and Referral mechanisms. When Ministerial Councils are considering TTRMA-related issues, determinations are made on a vote in favour by at least two-thirds of Participating Parties. This requirement, effective only for TTMRA issues, supersedes any existing voting arrangements of Ministerial Councils. New Zealand will not vote on issues that are relevant to Australian jurisdictions only. When considering TTRMA issues, New Zealand is to have full membership and voting rights on Ministerial

Councils. Any proposed standards or regulations considered under the TTRMA are to be developed consistently with the COAG Principles and Guidelines.