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1. Introduction: the new COAG Council system

1.1. In an effort to cut down the bureaucracy and red tape that has grown up around the Council of Australian Governments (COAG), it agreed at its meeting on 13 December 2013 to streamline the COAG Council system and refocus on COAG’s priorities over the next 12 to 18 months.

1.2. The new Council system aligns with the Government’s commitment to respect State sovereignty and allow States and relevant portfolio ministers to get on with policy development and service delivery in areas they are responsible for. Under the new Council system, Councils will be responsible for their own management, with minimal interference from COAG.

1.3. There are now eight COAG Councils:
   - Federal Financial Relations Council;
   - Disability Reform Council;
   - Transport and Infrastructure Council;
   - Energy Council;
   - Industry and Skills Council;
   - Law, Crime and Community Safety Council;
   - Education Council; and
   - Health Council

1.4. There is no longer a distinction between Standing and Select Councils, as all Councils are time-limited. The Council system will be reviewed annually by COAG.

2. General operating principles

2.1. Scope

2.1.1. The overarching scope of each Council was agreed by COAG on 13 December 2013 (Attachment A refers).

2.1.2. Each Council should use this as its starting point for the development of its Terms of Reference for its operation until 30 June 2015.

2.1.3. The template for new Terms of Reference is at Attachment B. It requires Councils to identify:
   - membership and operational arrangements;
   - the scope of the Council’s responsibility; and
   - specific actions to progress Council responsibilities up until 30 June 2015.

2.1.4. All Councils are to consider Indigenous and deregulation matters, noting the importance of these matters to COAG.

2.1.5. COAG will agree Terms of Reference for each Council.

2.1.6. While Councils are free to make decisions and progress work within their remit, major decisions and intergovernmental agreements can still be referred to COAG.
2.1.7. Officials from First Ministers’ Departments will continue to monitor matters dealt with by Councils and, if necessary, escalate matters to the COAG Senior Officials Meeting or COAG for resolution.

2.1.8. Any matters referred to COAG by these Councils should be matters genuinely requiring First Ministers’ attention.

2.2. Commonwealth-State collaboration outside the COAG Council system

2.2.1. Where there are important areas of Commonwealth and State co-operation outside the COAG Council system, Ministers are able to meet on an ad hoc basis on specific issues. It is not expected this would occur more than once per year.

2.2.2. The five legislative and governance fora, which have specific functions under legislation, will continue outside the auspices of COAG.

2.3. Accountability

2.3.1. All Councils are constituted under the auspices of COAG and are accountable, through their Chair, to COAG.

2.3.2. In the interests of reducing the reporting burden, Councils do not need to provide a formal report to COAG, but are required to raise issues with COAG which they consider genuinely require First Ministers’ attention.

2.3.3. The assumption is that all priorities of the Council as set out in the agreed Terms of Reference will be progressed satisfactorily and, only if there is significant divergence or unresolved issues, should Councils escalate this to COAG.

2.3.4. While Councils are encouraged to develop work plans to guide their work, Councils no longer need to provide the work plans for COAG’s agreement.

2.4. COAG review of the Council system

2.4.1. The Council system will be reviewed annually by COAG against its priorities, including whether there is a continuing need for each Council.

2.4.2. The review of the Council system by COAG will:

- ensure the Terms of Reference remain consistent with COAG’s priorities;
- review progress made by the Council on issues referred to them by COAG;
- check progress against the Council’s responsibilities under Commonwealth and State legislation and funding agreements (National Agreements and National Partnerships).

2.4.3. The COAG Secretariat will advise Council Secretariats when the system is being reviewed. At that time, COAG may wish to ask Councils to provide information on their work to inform the review.

2.5. Creating new Councils and revoking existing Councils

2.5.1. There is scope for COAG to consider establishing new COAG Councils, either based on advice from COAG Senior Officials; following a formal, written request to the Chair of COAG from Commonwealth Ministers or other First Ministers; or as a result of COAG identifying new priorities.

2.5.2. When priorities change, COAG may also choose to decommission any existing COAG Councils to reflect those changes.
2.6. **Membership and attendance**

2.6.1. Existing chairing practices have been maintained, with either Commonwealth chairs or rotating chairs.

2.6.2. The sequence of rotating Chairs is to be determined by the Council, with this to be set out in their Terms of Reference.

2.6.3. No more than two Ministers from each jurisdiction will be members of the Councils, with each jurisdiction to nominate a senior Minister from amongst them.

2.6.4. If the Council will work on matters impacting New Zealand and/or the Australian Local Government Association (ALGA), representatives from both may be included in the membership. This will be a decision for each Council.

2.6.5. Delegation of attendance is a matter for each Council. Past practice has been that if a Council member is unable to attend a meeting, they nominate a delegate to attend on their behalf. This applied equally to any member of a Council, including the Chair.

2.7. **Voting and decision making**

2.7.1. The existing voting arrangements of one vote per jurisdiction are retained.

2.7.2. Councils will make decisions on the basis of consensus wherever possible.

2.7.3. Where consensus cannot be reached, the Council will make decisions on the basis of a majority of members. In these circumstances, jurisdictions in the minority are not bound to implement the decisions that have been made. This is consistent with the COAG operational process.

2.8. **Meetings**

2.8.1. Councils will meet up to twice a year, with further work able to be conducted out-of-session.

2.8.2. COAG agreed the Federal Financial Relations Council and the Disability Reform Council may need to meet more often.

2.8.3. As COAG has agreed to meet twice a year usually around April and November, Councils should aim to align their work schedules and meetings to be able to feed into these meetings, as required. For example, ahead of a possible November COAG meeting, Council are encouraged to schedule meetings around early September.

2.8.4. Councils are also strongly encouraged to use the TelePresence network for meetings wherever possible.

3. **Council governance structure**

3.01. Councils should establish effective operational arrangements to ensure they achieve their priorities and responsibilities.

3.02. Councils will generally be supported by a Senior Officials Group. Senior Officials Groups will generally develop and progress issues for upcoming Council meetings.

3.03. Items of a procedural or heavily administrative nature should be delegated to officials to determine, or be dealt with out-of-session.
3.1. Secretariat and Working Groups

3.1.1. Each Council should determine and establish the Secretariat and/or working group arrangements that best suit its requirements, noting it is the clear preference of the Commonwealth Government that supporting architecture is kept to a strict minimum.

3.1.2. Councils may wish to reconstitute new working groups to support the Council for the next 18 months, especially if there has been a change in priorities or scope of the Council. Councils should also consider whether there is a continuing need for working groups established under the previous COAG Council system.

3.1.3. In order to ensure the leanest possible COAG bureaucracy, COAG has agreed that Deputy Senior Officials and/or Deputy Heads of Treasuries will only meet to discuss specific issues and at the specific request of Senior Officials and/or Heads of Treasuries.

4. Branding of Councils

4.1. Council websites

4.1.1. Each Council should have a presence on the internet, that reflects the new name of the Council. The content should be updated regularly, making available key information including, but not limited to:

- terms of reference;
- outcomes of meetings and decisions; and
- links to relevant documents and to the COAG website.

4.1.2. Websites for former Standing or Select Councils that have been revoked should be removed or archived.

4.1.3. Any content on policy matters that is still required can be placed on the relevant Commonwealth/State department websites.

4.2. Naming

4.2.1. The title of the Council should not go beyond the scope intended by COAG (See description of Councils agreed by COAG at Attachment A).

5. Roles and responsibilities

5.1. Role of the Commonwealth-State Relations Branch

5.1.1. The Commonwealth-State Relations Branch within the Economic Division in the Department of Prime Minister and Cabinet provides the Secretariat to COAG.

5.1.2. It is the central point of contact for Councils.

5.1.3. Councils can contact the branch by emailing queries to coagcommonwealth@pmc.gov.au
5.2. Council responsibilities under legislation and policies

5.2.1. Provision of data

5.2.1.1. Councils have extensive responsibilities for providing data in a timely way in relation to National Agreements, some National Partnership Agreements and the Report of Government Services (ROGS).

5.2.1.2. Secretariats should assist and ensure these responsibilities are fulfilled by Councils expeditiously and efficiently. This would ensure that bodies such as the Productivity Commission and the Steering Committee for the ROGS are readily able to fulfil the roles, using the data, given to them by COAG.

5.2.2. Regulatory Impact Statements (RISs)

5.2.2.1. Secretariats also have a vital role in setting up processes to strengthen the compliance and transparency of RISs.

5.2.2.2. Councils are required to prepare COAG RISs for all regulatory proposals which would affect business or impact on competition.

5.2.2.3. The Best Practice Regulation Guide is designed to ensure that regulatory processes at the national level, including RISs, are consistent with principles of best-practice agreed by COAG.

5.2.2.4. The Guide sets out the role of the Commonwealth Office of Best Practice Regulation (OBPR) in assisting Councils and national (intergovernmental) regulatory bodies to prepare RISs that comply with best-practice regulations.

5.2.2.5. In fulfilling its role, the OBPR should be consulted early about whether a RIS should be prepared. The OBPR will report annually on compliance with these requirements to COAG Senior Officials who will initiate any follow up action that is considered necessary.


5.2.3. Intellectual Property (IP)

5.2.3.1. The jurisdiction providing the secretariat services or commissioning the work would generally decide the terms of the IP ownership.

5.2.3.2. Joint ownership of IP materials should be avoided and the terms set out and agreed to by the Council prior to work commencing.

5.2.3.3. For further information and the rights associated with the different types of IP refer to www.ipaustralia.gov.au/ip/index.shtml

5.2.4. Record keeping and Classification

5.2.4.1. Where there is an expectation that a document prepared for the Council or Officials will be made public (for example, communiqués or public records of meetings), all members should be advised early in the preparation of the document.

5.2.4.2. If a member receives a request for a document to be made public (either through a Freedom on Information (FOI) request, a request from a Royal Commission or
some other avenue), all members of the Council should be consulted regarding release of the document. For further information on FOI requirement refer to the relevant jurisdiction’s FOI legislation.

5.2.4.3. Secretariats should meet the recordkeeping and archives legislation that applies in the jurisdiction in which it is based. In the instance where a Council is disbanded, Councils should ensure that there is an appropriate record of its existence and activities.

5.2.4.4. Documents prepared for Councils and officials should be treated as sensitive, unless otherwise agreed by the Council or officials, and only distributed on a strict need to know basis.
Description of COAG Councils agreed by COAG on 13 December 2013

A1. Collaboration on intergovernmental financial matters will continue to be undertaken by the Federal Financial Relations Council. It will also need to progress priority work on the National Injury Insurance Scheme.

A2. The Disability Reform Council will continue its work to oversee the launch and implementation of the National Disability Insurance Scheme.

A3. The Transport and Infrastructure Council will play a key role in progressing infrastructure reforms to boost productivity.

A4. The Energy Council will provide a forum for collaboration on developing an integrated and coherent national energy policy and any implications from the Commonwealth’s abolition of the carbon tax.

A5. The Industry and Skills Council will, as an immediate priority, help develop co-operative joint proposals to facilitate the substantial transition the manufacturing sector will need to make over the coming years and foster internationally competitive high-end manufacturing in Australia.

A6. The Law, Crime and Community Safety Council will assist COAG by developing a national focus on fighting crime.

A7. The Education Council will provide a forum to resolve any outstanding issues on implementation of schools policy and funding matters, or to progress any new reforms.

A8. The Health Council will provide a forum for continued cooperation on health issues, especially primary and secondary care, and consider increasing cost pressures.