

# Australia's Federation: post-pandemic playbook



Jarrold Ball

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## Overview

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This CEDA report analyses the effectiveness of the revised approach to Commonwealth-state relations through National Cabinet adopted in the COVID-19 crisis, and actions that should now be taken to lock in its long-term effectiveness. This report builds on previous CEDA research, including *A Federation for the 21<sup>st</sup> Century* (2014) and *Sustainable Budgets* (2019). Effective Commonwealth-state collaboration is critical to progress in areas the community cares about most – health, housing, education and justice, and sits at the core of many of the recommendations in the Productivity Commission's *Shifting the Dial* report, aimed at lifting Australia's lacklustre productivity performance.

Over the last decade, by most accounts, the effectiveness of Commonwealth-state relations in Australia through the Council of Australian Governments (COAG) has been dire. Commonwealth-state relations have been transformed during COVID-19 with broad consensus that the performance of National Cabinet has underpinned the effectiveness of Australia's response to both the health and economic crisis.

The success of National Cabinet can be explained by a range of factors, many of which reflect the unique experience of COVID-19:

- » National Cabinet was established amid a galvanising event like no other. The singular common goal of managing and defeating COVID-19 was widely understood and highly relevant to the community;
- » The absence of formal requirements for the conduct of Commonwealth-state relations enabled the National Cabinet to be established quickly, demonstrating the value of rapid experimentation in the Federation, prior to drafting detailed guidelines and agreements that generally stymie progress;
- » The decisions of National Cabinet established consistent overarching responses while permitting variation in their roll out to reflect different health systems, demographics and rates of infection prevailing across states and territories;
- » Leaders focused on problem solving and decision-making and avoided the highly engineered, politicised and public bargaining that characterised COAG processes over the past decade;
- » Experts were brought to the fore in a more visible way, closer to leaders' decision-making processes than seen previously.

Having established an effective forum for Commonwealth-state relations, National Cabinet needs to be given the best chance of succeeding for the longer term. There are critical risks ahead that threaten to derail National Cabinet including:

- » upcoming state and territory elections, which may increase the incentive to break solidarity and increasingly differentiate state positions;
- » fiscal tensions and the imbalance between the formal allocation of powers across governments, historically weighted to the states, and the evolved allocation of financial powers, weighted to the Commonwealth;
- » the risk that the diminution or absence of a common 'enemy' may weaken the focus or motivations for collaboration over time.

# Five Actions

To ensure the success of the National Cabinet

1

Enhanced transparency and reporting through a log of agreed outcomes + more regular updates of the Productivity Commission's Performance Reporting Dashboard



2

Two new targeted institutions:

- a dedicated secretariat that is constituted to recognise the views and expertise of the states and territories as well as the Commonwealth in agenda setting, prioritisation and reform design
- an implementation forum to independently adjudicate and unblock delays and disagreements in the implementation of reforms.



3

Abolishing tied funding agreements in their current form and replacing with Outcome Agreements that link funding to outcomes achieved, not inputs and specified processes.



4

The Commonwealth Government committing to reduce the fiscal imbalance between the Commonwealth and the states commencing with a whole of Federation intergenerational report in 2021 as a precursor to Commonwealth-State tax reform.



5

A sharply prioritised National Cabinet agenda focused on:

- The next 6-12 months: the health response to COVID-19, supporting economic activity and utilising digital technologies and data to meet community demand for human services safely and sufficiently
- 2021 and 2022: pursuing more ambitious structural reforms to boost productive capacity in the economy.



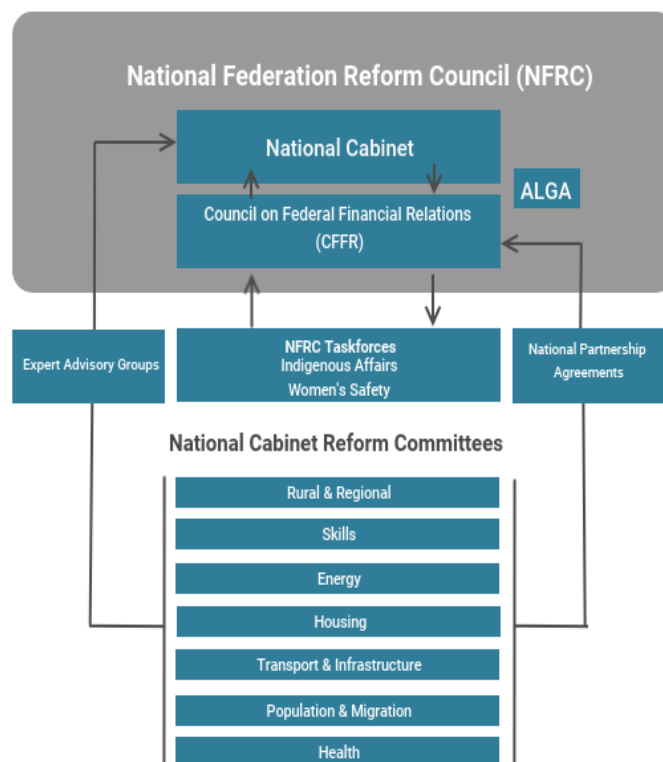
Experts often say that Australia's Federation is a strength in theory but a weakness in practice. COVID-19 has demonstrated that there is no reason why this situation must continue, provided we get the governance arrangements right, maintain political will and place a singular focus on using it to make people's lives better.

The remainder of the report elaborates on these issues further in four parts:

1. Assessing the success of National Cabinet
2. Future risks to National Cabinet
3. Setting up National Cabinet for success
4. A fit for purpose agenda of work

## 1. Assessing the success of National Cabinet

The very broad consensus is that National Cabinet has been a success.<sup>1</sup> Global recognition that Australia has managed the pandemic effectively to date has cemented this view. As a result of its success, federal leaders have decided to make it a permanent fixture of Commonwealth-state relations, as part of a new National Federation Reform Council.



The National Cabinet is for all intents and purposes an intergovernmental forum like COAG before it. Yet the term Cabinet is something all first ministers innately understand as a core practice of the executive in all Australian governments. It may not have a formal legal basis but the language of solidarity and secrecy of National Cabinet is culturally intuitive and appealing to political leaders, particularly in the current circumstances.

A range of explanations have been offered for its success. Understanding these success factors is important to lock in lessons for future national crises and to maintain the momentum of the National Cabinet beyond this pandemic.

### A galvanising event like no other

A one in 100-year pandemic has galvanised Australian leaders in a way that it has not in many other countries.

The task for National Cabinet has been a singular focus on controlling and ultimately defeating COVID-19, and this objective is well understood and critically relevant to the entire community. This has fed growing positive public sentiment about government – for example, a recent poll found that 65 per cent of Australians rated governments' performance as good or excellent.<sup>2</sup>

The immediate response to COVID-19 centred on health and biosecurity, areas where both levels of government have interdependent roles and responsibilities, underscoring the importance of coordination and cooperation to planning effectively. In health this required the Commonwealth Government to draw on the national stockpile for protective equipment and take steps to shore up primary care through telehealth, while state governments coordinated the efforts of their public hospitals. In biosecurity COVID-19 required the control of borders (internal and international) to contain the spread of the virus and coordination to ensure that critical goods could still move in this environment.

The unique nature of COVID-19 has not galvanised leaders in federations globally towards rapid and effective decision-making to the same extent. For example, infectious-disease experts, health officials and politicians have criticised all levels of government in Canada for a slow and poorly coordinated health response to COVID-19 across their provinces.<sup>3</sup>

While opinions will differ on the success of different federations and the factors driving it, Australia's relative success owes a lot to the information and data shared across jurisdictions enabled by the National Health Security Act 2007, which authorises the exchange of public health surveillance information. In Canada, it was reported that provincial governments were receiving this information on their counterparts at the same time as the general population.<sup>4</sup>

Similarly, it was suggested that Canadian provinces were 'looking over their shoulder' seeking to anticipate neighbouring provinces' next actions.<sup>5</sup> In Australia there was considerable discussion and deliberation across all jurisdictions on the nature, timing and rollout of non-pharmaceutical interventions such as social distancing and other social restrictions.

## Acknowledging the complex nature of the federation

Commonwealth-state relations are often burdened by expectations or perceptions about what can be agreed on rather than what **needs** to be agreed on to deliver better economic and social outcomes. As recently as August last year when COAG met, the Prime Minister referred to a strong focus *on the things that can be agreed upon and taken forward*.<sup>6</sup>

In contrast, the response during COVID-19 has focused on what needs to happen and how to make that happen, recognising the complexity of Australia's Federation with different health systems, different demographics, population density and different rates of COVID-19 infection. Instead standardising processes, the focus has been on standardising outcomes – i.e. eliminating the spread of COVID.

In some cases (e.g. the relaxation of social restrictions), National Cabinet agreed on the broad framework while states have implemented the easing of restrictions on their own timelines. At times this may have looked messy and confusing to the public, but it allowed leaders to simultaneously maintain authority in their state or territory and commit to the National Cabinet process.

## Regular decision-making rather than ceremonial bargaining.

The National Cabinet has met more regularly and in a virtual setting, limiting the potential for political posturing through press conferences and other means. National Cabinet has met in a virtual setting several times a week in some cases and is expected to meet at least fortnightly for the remainder of COVID before reverting to monthly meetings in a normal year.<sup>7</sup>

Over the course of 2018 and 2019, COAG met just four times. More regular meetings have allowed leaders to move from highly engineered bargaining involving communiques and press conferences to dedicated decision-making and problem solving. Experts are rightly questioning whether this is in fact a Cabinet, but it has certainly acted more like a Cabinet or a Board since COVID-19.

## Experts to the fore

There was a concern leading into COVID-19 that the role of experts had diminished in public policy making – whether it was the emphasis on public servants delivering the government's agenda rather than formulating policy or concerns about dwindling reliance on scientific advice.<sup>8</sup>

In his recent speech to CEDA's State of the Nation, the Prime Minister emphasised the important role of experts in informing the National Cabinet, whether this is the Chief Health Officer, Treasury Secretary, Governor of the Reserve Bank or Chair of the Productivity Commission.<sup>9</sup> Previous Commonwealth-state reform efforts, be they in health, education or tax, have been guided by experts but those experts were often far less visible and their processes much more separate from decision-making. During the pandemic, the visibility of public health experts has added credibility to and reinforced the decisions and messages of political leaders.

## No restraints on Commonwealth-state relations

The way Commonwealth-state relations are conducted, including the frequency of meetings, who can attend and how decisions are taken, is not enshrined in the constitution or legislation. Perhaps ironically, it is this lack of a constitutional or legislative basis for the conduct of Commonwealth-state relations that enabled the Prime Minister to quickly establish the National Cabinet. Existing structures such as COAG had no precedence over the alternative arrangements leaders sought to establish. Nonetheless, the decisions it makes, and the implementation of those decisions, is subject to legislation and other instruments such as intergovernmental agreements.

This demonstrates that innovative steps in Commonwealth-state relations can be taken in absence of rigid guidelines or agreements where there is a shared objective, goodwill and a willingness to try new approaches, even if they fail or need bolstering with more detailed arrangements in future.

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## 2. Future risks to National Cabinet

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As well as capturing the key ingredients to its success and seeking to maintain them, National Cabinet will need to contend with a range of risks in coming months and years that could impede its effectiveness and legitimacy.

### Political cycles

Political tensions are ever present in Commonwealth-state relations and while these have been more muted during COVID-19, they continue to exist and will be exacerbated by the various political cycles of Commonwealth and state governments. Jennifer Menzies has previously noted the impact of political cycles on Australia's federal relations:

*"Our short political cycle in Australia results in the constant churn of leaders and agendas. With the shifting array of partisan make-up and personalities, there is the added complexity of new governments with new views on what the role of intergovernmental relations is in Australia."<sup>10</sup>*

As Figure 1 demonstrates, the National Cabinet is running headlong into a series of elections. The Queensland election in October this year is the first big test of whether National Cabinet can retain momentum across political cycles. Whether or not the Commonwealth Government goes to an early election will largely determine the nature of National Cabinet in 2021.

Election periods will intensify incentives for governments to depart from decisions taken at National Cabinet or to blame other levels of government for policy shortcomings. Elections can result in major changes in political dynamics across both state and federal spheres and changes in personnel at the National Cabinet table, weakening established relationships and goodwill.

### Fiscal imbalance

The extreme imbalance between the formal allocation of powers between governments, historically

weighted to the states, and the evolved allocation of financial powers, weighted to the Commonwealth, is the Achilles heel of Commonwealth-state relations. This arrangement is in part the legacy of another crisis – during World War II the Commonwealth Government took full control of the personal income tax base and did not relinquish it.

## The level of imbalance

It is part of the reason why today states and territories obtain around 44 per cent of their revenues from the Commonwealth Government, with 27 per cent untied through the GST and 17 per cent from tied grants. As evident in Figure 2, states and territories obtain just 31 per cent of their revenue from their own tax bases. In Australia's case, the level of fiscal dependence of the states on the Commonwealth is amongst the highest of all federations in the world, with only Belgium and Austria higher.<sup>11</sup>

## The consequences of imbalance

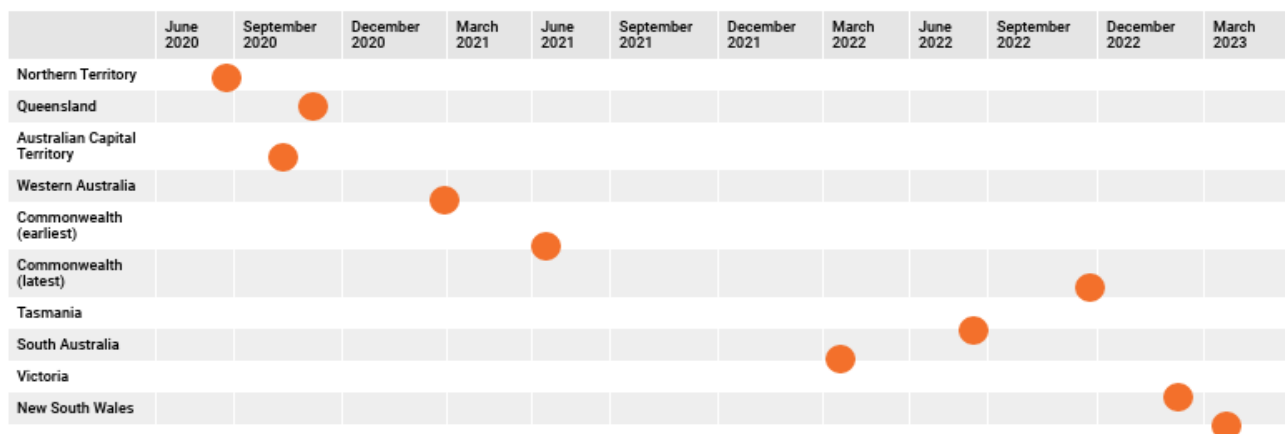
The overall imbalance between the quantum of states' revenue-raising capacity on the one hand and responsibility for big expenditure programs like health and education on the other creates blurred lines of accountability and potential for blame shifting from both levels of government.

In addition, tied grants give major decision-making influence or even control to the Commonwealth not only for the actual grant spending but for the associated matched state spending. The current architecture of these grants works against policy innovation in many cases and comes with high administrative costs as noted in the draft report of the NSW Review of Federal Financial Relations.<sup>12</sup>

Based on CEDA's analysis of the current list of tied funding agreements<sup>13</sup> there are:

- » two national specific purpose payments
- » five national agreements
- » 22 national partnership agreements
- » 82 project agreements
- » four 'other' agreements.

**Figure 1: Upcoming elections**



Source: Parliamentary Library



National partnership agreements have been consolidated in recent years, but even this process itself was subject to a *National Partnership for streamlined agreements*.

The totality of agreements have included a wide array of projects and programs – hospital expansions, occasional care, wireless internet on trains, sporting stadiums and legal assistance. The current approach sees states and territories increasingly accountable to the Commonwealth Government for funding and performance, rather than both levels of government being accountable to the public for outcomes delivered. There is continued blurring of responsibility for policy, funding and service delivery undermining accountability and transparency to the public.

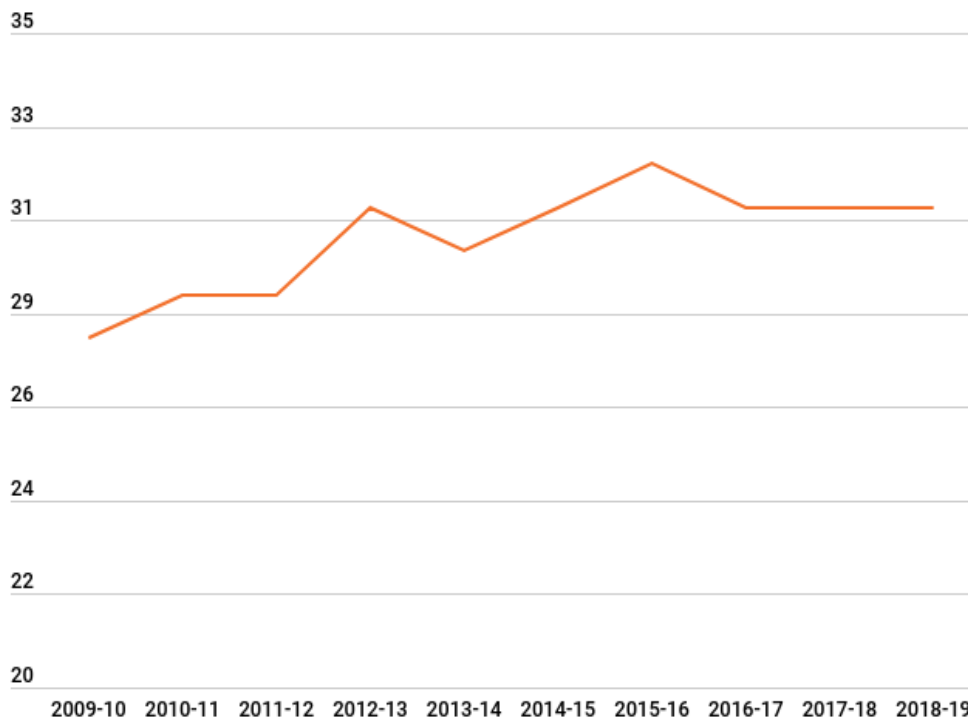
The template approach to funding agreements inhibits innovation and tailoring policy responses to local circumstances. In addition, the stability and predictability of state and territory government finances is undermined by continual negotiations and changes to funding conditions.

The central tension in the federation is caused by this financial imbalance, together with Commonwealth frustration at the constitutional limits to its formal powers. The Commonwealth uses its financial strength to achieve its objectives vis-a-vis state functions.

Similar to the political tensions, the tensions resulting from the fiscal imbalance have been somewhat muted (at least in the public view) of late, but they are re-emerging. For example, the Federal

**Figure 2: States and territories own source tax revenue**

(% of total revenue)



Source: ABS

Treasurer has recently rejected calls by the states for the Federal Government to assist in funding tax reform.<sup>14</sup>

While the fiscal imbalance will never be completely closed, all parties will need to be willing to explore reforms in these areas over coming years. This could begin with the simplification of tied grant agreements and a consolidation of the number of agreements, ahead of reform to the Commonwealth-state tax mix.

This will not only enhance goodwill with the states and territories to pursue other reforms in areas such as health, and give them greater autonomy to lead on reforms without seeking Commonwealth funding, it could also assist in a tax mix switch to remove some of the most economically harmful taxes like stamp duties.

### Collective effort and partnership breakdown

National Cabinet has succeeded because its pandemic response has recognised the complexity of the Federation and the genuine case for different approaches across jurisdictions. Long-term agenda setting and reform will also require that the states and territories are treated as equals with the Commonwealth Government, continuing to have a genuine seat at the National Cabinet table.

National Cabinet was established swiftly and has worked well but the basis upon which it has been established is likely to create difficulties over the longer term. In its draft report, the New South Wales Review of Federal Financial Relations notes that:

*... the National Cabinet has been established as the 'Cabinet Office Policy Committee' of the Commonwealth Cabinet. This is a committee of which only the Prime Minister is a permanent member. According to the Commonwealth's Cabinet Handbook, this committee derives its power from the Commonwealth Cabinet, and the Commonwealth Cabinet retains ultimate power over its decisions and may alter those decisions. The Cabinet Handbook also says that the Prime Minister is responsible for the membership of the committee, regulates its arrangements, determines its agenda and when and where the meetings take place. The Commonwealth Cabinet Secretary is also given power to finalise the committee's agenda. Where a collective decision cannot be reached, the Cabinet Handbook says that the Prime Minister's view 'is authoritative'.<sup>15</sup>*

Being treated as equals is not just having a say on agendas, but also taking a lead on reforms. Previous successful reforms like National Competition Policy and the Seamless National Economy agenda both saw individual jurisdictions leading the analysis and design for certain reforms.

### Accountability and transparency

National Cabinet is an intergovernmental forum and the rules of cabinet such as solidarity and secrecy do not have any formal basis, and unlike a traditional cabinet, must stretch across party lines.<sup>16</sup>

Leaders in National Cabinet are ultimately accountable to their own cabinets, Parliaments and electorates for the decisions they make in National Cabinet. In addition to these stretched lines of

accountability, the urgency of the crisis appears to have contributed to less transparency than is desirable in terms of ensuring good governance over time. For example, the Prime Minister's announcement that National Cabinet would be permanent amounted to a press conference transcript, a short announcement on the PM&C website and a slide outlining the high-level structure of National Cabinet and associated intergovernmental bodies.<sup>17</sup>

It is inevitable that the public and Parliaments will come to expect a greater and more systematic level of transparency about the decisions and performance of National Cabinet and its associated Councils, Task Forces and Committees once the immediacy of the current crisis passes.

The long-term success of National Cabinet will ultimately be judged by its performance. The latest Productivity Commission snapshot of performance across major Commonwealth-State agreements before COVID-19 is summarised in Table 1 (see page 12). Outcomes were on track, improving or achieved in just 9 of 35 areas. National Cabinet and its associated Committees and Task Forces will need to be much more disciplined, transparent and accountable about the progress it is making and proactively overcoming areas of poor performance.

### Reverting to historical practices

One of the greatest risks for National Cabinet is that leaders or the public servants supporting it revert to old practices and procedures that clearly have not worked in the past.

Commonwealth-state relations have a way of reverting to old habits. For example, at the end of 2008, leaders ushered in "the most significant reform of Australia's federal financial relations in decades."<sup>18</sup> It saw a new intergovernmental agreement (IGA) on federal financial relations designed to reduce Commonwealth prescriptions on service delivery by the states and rationalise the number of tied grants to the states. The intention was to focus on outcomes and facilitate more tailored local solutions. As noted above, the proliferation of prescriptive agreements returned in the decade following this important reform.

### Unwieldy agenda

National Cabinet's singular focus and success to date will be quickly undone if it becomes overloaded. Worse still, unwieldy agendas become very difficult to unwind once in place. Once COAG became what former New South Wales Premier Barry O'Farrell referred to as a 'parking lot for tough decisions', progress stalled and its legitimacy was called into question.<sup>19</sup> National Cabinet simply cannot lose the advantage of ruthless prioritisation and a focus on outcomes it has developed during the pandemic.

As government priorities evolve in response to political cycles and personnel change, having a clear shared objective and priorities associated with that objective are critical to maintaining focus. For the next six to 12 months, that focus will most likely continue to be squarely on managing the impacts of COVID-19 on the nation's health, economy and wellbeing.

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## 3. Setting up National Cabinet for success

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Based on the critical factors driving the success of National Cabinet during the COVID-19 crisis and the future risks, there are five areas where action will be necessary to bolster its chances of success.

### Transparency of outcomes and results

Detailed communiques and funding agreements have failed to keep governments accountable. What's needed is a clear focus on the outcomes agreed to by National Cabinet in key areas of reform and service delivery and regular updates on progress in meeting them. This could take the form of a log of agreed outcomes and more regular updates of the Productivity Commission's Performance Reporting Dashboard.

### The right institutions

CEDA is concerned that the institutions supporting National Cabinet and the National Federation Reform Council properly recognise the views and expertise of States and Territories in agenda setting and leading reform efforts. Bringing a diversity of experience and thinking on policy and service delivery is critical to recognising the benefits of the Federation.

This could be achieved through the establishment of an independent secretariat as recommended by the New South Wales Federal Financial Review draft report and Dr Jacob Deem and Jennifer Menzies from Griffith Business School.<sup>20</sup> It was also canvassed in the independent review of the Australian Public Service (APS). CEDA supports a dedicated secretariat being established and staffed with nominees from each jurisdiction within state Departments of Premier and Cabinet and the Department of Prime Minister and Cabinet that formulates agendas and performs many of the functions that intergovernmental secretariats currently undertake.

In addition, one of the most significant shortcomings of Commonwealth-state relations is the failure to promptly troubleshoot or address stalemates or areas of insufficient progress in implementation as evident in the performance dashboard in the previous section. The National Cabinet could utilise an honest broker – an independent, objective adjudicator who coordinates and breaks through impediments to reform. Such a process could capture implementation learnings and establish workarounds where progress has stalled. It would be light on bureaucracy by bringing together the parties rolling out programs and reforms, with an independent adjudicator experienced in implementation, and an accompanying process for escalating and resolving issues in the forum. CEDA proposes that this be established through an Implementation Forum, modelled on the National Coordination Mechanism. This mechanism was activated by the Prime Minister in response to COVID-19 and sees the Department of Home Affairs coordinating issues management outside of the health response.<sup>21</sup>

### Simple funding agreements

The Commonwealth and states and territories have continued to strike funding agreements during the COVID-19 period, including the **National Partnership on COVID-19 Response**. The prescriptive, one-size-fits-all approach to the drafting of such agreements has largely continued. The Common-

Table 1: summary of performance reporting dashboard

Housing			Skills			Disability		
1	Increase in the number of social housing occupants with greatest need as a proportion of new allocations	Mixed results	10	Reduce the number of Australians without a Certificate III qualification or above	Not on track	23	Labour force participation	Not met
2	Reduce homelessness	New indicator	11	Increase the number of higher level qualifications	Not on track	24	Need for more formal assistance	Not met
3	Reduce rental stress	New indicator	12	Improve employment outcomes for VET graduates	Negative change	25	Participation in social and community activities	Negative change
4	Increase the rate of Indigenous home ownership	No improvement	Healthcare			Indigenous		
			13	Life expectancy	Improving	26	Close the life expectancy gap within a generation	Not on track
			14	Reduce the prevalence of Type 2 Diabetes	On track	27	Halve the gap in mortality rates for Indigenous children	Not met
			15	Increase the proportion of adults at a healthy body weight	Not met	28	Enrolment in early childhood education	On track
			16	Increase the proportion of children at healthy body weight	Not met	29	Halve the gaps for Indigenous students in reading	Not met
			17	Reduce the rate of smoking	Not met	30	Halve the gaps for Indigenous students in numeracy	Not met
			18	Reduce the rate of smoking amongst Indigenous Australians	Not met	31	Halve the gap for Indigenous people aged 20-24 in Year 12 attainment or equivalent attainment	On track
			19	Waiting times for general practitioners	Negative change	32	Halve the gap in employment outcomes between Indigenous and non-Indigenous Australians	Not met
			20	Potentially avoidable deaths	Improving	33	Close the gap for Indigenous school attendance	Not met
			21	Waiting times for emergency hospital care	Negative change	Infrastructure		
			22	Aged care places	Improving	34	Road and rail projects	On track
Education			Legal assistance					
5	Lift the Year 12 or equivalent or Certificate III attainment rate	No improvement	35	Targeting of legal representation services to financially disadvantaged people	Achieved			
6	Australian students in top and bottom two bands of NAPLAN for reading	Mixed results						
7	Australian students in top and bottom two bands of NAPLAN for numeracy	Mixed results						
8	Increase the proportion of students attending school 90 per cent or more of the time	Negative change						
9	Early childhood services meeting the National Quality Standard	Achieved						

Source: Productivity Commission & Data61. Accessed at <https://performancedashboard.d61.io/aus>

wealth and states and territories should establish a new, simple and flexible methodology for establishing 'Outcome Agreements' for any tied funding arrangement.

Such agreements would only be prescriptive in relation to the outcomes sought, the approach to reporting on progress on those outcomes and the process for addressing impediments to progress. This would be in accordance with the original ambitions and objectives of the Intergovernmental Agreement on Federal Financial Relations when it was updated over a decade ago.

### Willingness to tackle fiscal imbalance

Beyond simpler agreements for tied funding, there is a longer term need to reduce the reliance on tied funding and reduce the extreme fiscal imbalance in Australia's Federation. This is the most enduring means of reducing the divergence between spending and revenue responsibilities across political cycles and changing fiscal conditions.

This will by necessity involve major tax reform. As noted in the next section of this paper, tax reform on that scale is likely to prove difficult in the immediate macroeconomic and fiscal environment.

The Commonwealth Government should, however, signal its willingness to address these issues. A logical place to start would be broadening the scope of the planned intergenerational report in 2021 to take a whole-of-federation view. It would comprehensively outline the long-term entangled fiscal fates of the Commonwealth Government and the states and territories; service delivery interdependencies and pressures; and the combined revenue task for governments. In this way, it would provide an authoritative baseline to examine future expenditure and revenue trends, and the size of the task for Commonwealth-state tax reform.

### Fit for purpose agenda

National Cabinet's agenda should be tightly focused on maintaining and improving the wellbeing of the community through an incredibly difficult period through health, job creation and the continuity of high-quality services and supports to the community. This is achievable with disciplined prioritisation and appropriate delegation of responsibilities to the National Federation Reform Council Taskforces and National Cabinet Reform Committees that have been established. The next section provides further detail.

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## 4. A fit for purpose agenda of work

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The ultimate success or failure of National Cabinet will be judged on its effectiveness in implementing an agenda that improves the wellbeing of Australians. This will require disciplined prioritisation, phasing that recognises the current fragility of the economy and appropriate delegation to the subcommittees of National Cabinet that have been established. It is also important to retain flexibility – the rising rate of infections in Victoria since late June has demonstrated how quickly COVID-19 can re-emerge in some regions and shake confidence more broadly.

## Determining the priorities

Many commentators are currently making the case for major structural reforms to facilitate stronger growth and job creation. With an economy that is not expected to return to 2019 levels until at least 2022, the enthusiasm for pro-growth reforms is understandable.

While governments should certainly be exploring such reforms, serious design and implementation, the priority should be boosting demand in the economy and managing the fallout of COVID-19. Boosting productive capacity on the supply side is a second order priority.

Take the example of the Goods and Services Tax (GST) and any role that it could play in replacing economically damaging taxes. Leading into COVID-19, Japan increased its sales tax, resulting in a negative quarter of economic growth at the end of 2019.<sup>22</sup> An economy in recession with fragile confidence is less able to absorb the immediate transitional costs of many reforms. This does not mean that policymakers should not be ambitious for reform, but they must also be patient until the crisis abates.

## Criteria

CEDA believes the following five questions will assist in managing the COVID-19 crisis while promoting patient, disciplined ambition for Commonwealth-State reforms.

### *1. How critical is it to managing the impacts or capitalising on the lessons of COVID-19 on health, the economy and continuity of access to essential services for the community?*

The singular focus of Commonwealth state and territory leaders will remain on managing the health and economic implications of COVID-19 for some time yet – most likely the rest of 2020 and into 2021. Therefore, the first question for any prospective reform idea must be how it aligns with this immediate focus. If it does not, then it may be a longer-term consideration in 2021 and 2022 subject to its economic costs and benefits.

### *2. How effective will the action be in boosting business and community confidence?*

Economic confidence indicators lead business and the community's intentions to invest, create jobs and spend money. Therefore, any actions that governments can take to stir animal spirits and underpin confidence are critical at the present time.

Evidence in Australia and the United States has shown that social restrictions are not the only driver of changed consumer behaviour. In Australia, foot traffic and restaurant bookings fell before hard lockdowns were put in place.<sup>23</sup> In the United States, research just released suggests that less than 12 per cent of reductions in consumer foot traffic can be explained by hard lockdowns, with factors such as local death tolls playing a much larger role in caution shown by consumers.<sup>24</sup> It underlines the importance of governments effectively managing the health and economic impacts of COVID-19 to cushion confidence.

### *3. What are the relative economic costs and benefits, both in the short and long-term?*

In the current environment, there will be an attraction to economic sugar hits – reforms or government interventions that can boost economic activity in the short-term but exacerbate inequality or have adverse impacts on the environment. For example, the evidence to date suggests that the adverse labour market impacts of COVID-19 have fallen most heavily on workers with low weekly earnings, underlining the heightened risks of inequality coming out of this crisis.<sup>25</sup> It is important that all prospective reforms are assessed based on their broader impacts and potential for unintended consequences.

### *4. To what extent is there a need for Commonwealth-state cooperation and coordination?*

In a crisis environment where there are strong incentives for all governments to be seen to be doing something, it will be important that National Cabinet is not burdened with activities that simply do not require Commonwealth-state cooperation. For example, the Commonwealth Government holds most of the macroeconomic levers for responding to the economic crisis. Some fiscal programs will require a level of coordination (e.g. infrastructure) while others require none (e.g. JobKeeper and JobSeeker).

This does not mean that there is a shortage of reforms to be considered, particularly longer term structural ones that boost productive capacity. The Productivity Commission's five-year productivity review *Shifting the dial* had 28 recommendations – 23 of them involve coordination and cooperation between levels of government – on health, education and infrastructure.<sup>26</sup>

### *5. What is the recent track record of cooperative reforms by the Commonwealth, states and territories in this area?*

The recent track record of the Federation in tackling a reform area will be an important consideration in the prioritisation and timing of it. Recent institutional memory or success in implementing reforms should allow for more rapid design and pursuit of a reform. In contrast, areas where there has been very limited success (e.g. tax reform) will require longer lead times for design and building momentum for change. There is also an opportunity to capitalise on areas where capability and momentum has grown during COVID-19 – for example, digital delivery of human services.

## Timing

Policymakers have struggled to predict the pace and severity of COVID-19. For example, policymakers believed that lockdowns would be longer and more severe in March than they did in May evident in revised expectations of JobKeeper numbers and expenditure. It is therefore likely that expectations will continue to be updated in line with the path of COVID-19 and with that the appropriate timing of different policy interventions.

As a starting point for conceptualising the phasing of National Cabinet's agenda, it is useful to think of it in at least two phases:



1. Respond to COVID-19, support and stabilise the economy and critical services (the next six-12 months)
2. Building momentum and beginning to implement structural reforms (mid 2021 and beyond)

### What could the agenda look like?

CEDA has identified 14 areas of reform that are currently part of public discussion. This includes:

- » current areas of focus for National Cabinet
- » areas raised in public discussion including relevant CEDA forums
- » areas of implied importance in the National Federation Reform Council (NFRC), NFRC Task-forces or indicative National Cabinet Reform Committees outlined by the Prime Minister

Each of the 14 areas is described below and a high level assessment against the reform criteria is provided in Table 2 (see page 25).

#### 1. COVID-19 health and essentials response

There are a range of matters that will continue to occupy National Cabinet in relation to outbreaks, quarantine, resuming critical people movements and the timetable for easing remaining restrictions. As noted above, the manner in which these issues are handled has a major impact on community health, safety and confidence. We should expect that these issues will continue to take priority even if the overall scope of issues in this category narrows over time.

#### 2. Managing residual demand – health and human services

Notwithstanding the adjustments made utilising tools like telehealth during COVID-19 there are significant backlogs in health and other human services. It has been estimated that more than 400,000 elective surgeries including 25,000 cancer surgeries were cancelled due to COVID-19.<sup>27</sup> Other areas of unresolved demand may take longer to manifest themselves as the community returns to more normal patterns of attending health and other appointments. During this time, measures to expand capacity, accessibility and improve efficiency like better sharing of data across care settings and support services, and digital delivery will assist in safely meeting demand.

#### 3. Infrastructure projects

The Prime Minister has already announced fast-tracking existing infrastructure projects and an additional \$1.5 billion to immediately commence work on priority projects identified by states and territories as part of the government's Jobmaker plan. Governments will need to monitor the progress of these projects, their impact on jobs and economic activity, and the need for additional stimulus. This

additional stimulus may well need to take an alternative form given the age and gender profile of displaced workers who will not easily transition into infrastructure jobs.

#### 4. Streamlining project approvals and business regulation

The government has already flagged reforms to reduce environmental approval times for major projects and a reinvigorated focus on deregulation for business.<sup>28</sup> The former will assist in expediting jobs and investment while the latter is important to offset some of the increased business costs from COVID-19 from more stringent health and safety requirements and changed consumer behaviour. For example, in an environment of social distancing, fewer restrictions on trading hours will assist in safely meeting consumer demand through the day. While regulatory reform has not always progressed as quickly as business would like, it has been an area where Commonwealth-state relations have built a reasonable track record of meeting commitments.

#### 5. Social housing investment

At last count there were over 140,000 people on public housing waiting lists.<sup>29</sup> Social housing investment has the potential to boost economic activity while improving the livelihoods of Australia's poorest households. Australian Governments have demonstrated their capacity to implement such initiatives and the economic benefits that follow. Following the global financial crisis, the \$5.6 billion Social Housing Initiative agreed by COAG resulted in the construction of 19,700 new homes while creating 9,000 full time jobs in the construction industry and increasing GDP by 0.1 per cent.<sup>30</sup>

#### 6. Residential and commercial tenancy relief

Governments have introduced a range of mechanisms to provide relief to residential and commercial tenants, including the National Cabinet's Mandatory Code of Conduct for Commercial Leasing Principles During COVID-19.<sup>31</sup> These will require continued monitoring in coming months in line with the future path of COVID-19 across different jurisdictions.

#### 7. Women's safety

Australian Governments' efforts on women's safety are currently guided by the ***National Plan to Reduce Violence against Women and their Children 2010-2022***. In 2019, the Australian National Audit Office found that performance monitoring, evaluation and public transparency was lacking, such that it was difficult to gain assurance that governments were on track to meet the target and outcomes set in the National Plan.<sup>32</sup> Governments are currently developing a new National Plan. With the shortcomings of the previous plan identified and experts warning of growing demand for domestic violence support services following the end of lockdowns<sup>33</sup>, governments will now need to develop a strong plan that is subject to rigorous monitoring.

### 8. Skills reform

The Prime Minister has already nominated skills reform as a key priority for Australia's economic recovery. It is clear that our skills system will need to be more responsive to provide workers with retraining to improve their employability during the recession.

The National Agreement for Skills and Workforce Development defines the long-term objectives of governments in skills and workforce development. The Productivity Commission finds that the agreement is not fit for purpose and the \$6.1 billion that governments spend each year on vocational education and training could be more effectively allocated.<sup>34</sup>

### 9. Tax and federal-state financial relations

Tax mix switches that eliminate our most economically damaging taxes will support economic growth. But major tax reform can also result in difficult short-term transitions – for example, Japan experienced a negative quarter of growth coming into COVID due to the impact of an increase in sales tax. Major changes of this nature also require compensation, which will be difficult in a fiscally constrained environment as the Commonwealth Government incurs the costs not just of the COVID-19 response but new spending in areas such as aged care and defence.

Commonwealth-state tax reform should be pursued progressively from 2021 – beginning with a whole-of-Federation intergenerational report.

Our federal system of government means long-term fiscal trends in the states impact on Commonwealth Government policy and its fiscal position. It is also often the case that reforms delivering savings at one level of government impose costs at another. These interdependencies must be a central consideration of federation-based reform. This requires a whole-of federation intergenerational report.

There is plenty that can be done in the meantime to grease the wheels of financial relations – for example, consolidating and refocusing funding agreements.

### 10. Closing the gap

As evident in table 1, Australia has fallen well short of its targets to close the gap between Indigenous and non-Indigenous Australians. The Joint Council on Closing the Gap will shortly finalise a new national agreement on closing the gap, which will go to National Cabinet. If Australia is to do better in this area in the future, leaders will need to more carefully monitor progress and promptly address impediments.

### 11. Data sharing and digital service delivery

COVID-19 has reinforced the importance of Australian governments seamlessly sharing data to improve service coordination and delivery. Government agencies such as the Data Analytics Centre in

New South Wales have drawn on data from across NSW, the Commonwealth and the private sector to provide insights to the State Emergency Operations Centre, Ministers, Secretaries and Deputy Secretaries and Senior agency staff.<sup>35</sup>

While governments have focused on establishing overarching legislation in their jurisdictions to facilitate better sharing between their own departments, there has until now been insufficient appetite for Commonwealth-State data sharing. This is despite the financial entanglement identified above and that service demand or fiscal trends at one level of government can often provide leading indicators of pressures to come at another level of government. More fundamentally, connecting the dots across Commonwealth and state governments could facilitate a streamlined and seamless digital experience for citizens, in line with the Commonwealth Government's aspiration to be one of the world's top three digital governments by 2025.

The Australian Data and Digital Council of relevant Ministers is meeting every four weeks at the present time. In the short-term, it should be facilitating pragmatic opportunities for data sharing across the federation that would assist in Australia's response to COVID-19. In the long-term, it could be pushing more aggressively to meet the government's ambitious 2025 target.

### 12. Health reform

In coming years, Australian Governments will need to put a serious program of reform for the health system back on the table. COVID-19 has demonstrated what an asset Australia's health system is and that asset needs regular care and maintenance.

A program of reform could include:

- Taking immediate steps to improve information and transparency in the system. We need to understand better how the system is performing by sharing information and using it to improve. Initial steps could include:
  - » publishing institution-level hospital and health agency performance data for all indicators in the National Health Performance Authority's Performance and Accountability Framework 2012;
  - » mandating hospitals to report data into clinical quality registries under the National Safety and Quality Health Service Standards;
  - » sharing existing hospital cost data across public hospitals, including condition-level data to identify and address poor performance.
- De-funding proven low value health interventions, including appropriate information and awareness campaigns.
- Developing an architecture for patient-centred care, including better information, reporting and feedback loops on customer experience and outcomes.
- Providing greater autonomy and reallocating some funding to Primary Health Networks (PHNs) and Local Hospital Networks (LHN) to deliver better integrated care to address chronic conditions and reduce the need for hospitalisation.

### 13. Regional economies

The pace and nature of economic recovery will vary across different regions of Australia. The Productivity Commission has found that remote regions and outer regional areas have lower capacity to adapt in the event of economic shocks and industry transitions.<sup>36</sup> Responding to the circumstances of different regions will require coordination across governments on policy interventions to ensure they are well targeted and appropriate for regional circumstances.

### 14. Energy and environment

At CEDA's recent livestream discussion on resetting the Federation, former Victorian Premier John Brumby suggested that National Cabinet was the best place to resolve Australia's stalemate on energy and climate change and agree to a single national approach.<sup>37</sup> The history of climate change policy in Australia shows that initial analysis of market-based approaches to tackling climate change began in state government initiated reviews.

Beyond the direct consideration of climate change issues, governments will need to resolve the future of the Energy Security Board (ESB), which was formed to implement the Finkel energy reform blueprint. The ESB was working on the post-2025 design of the Australian energy market, recognising the impact of diverse sources of non-dispatchable generation from renewable sources of energy. Governments will need to respond to and resolve these issues to support efficient, affordable, reliable and clean energy in future. In addition to these issues, the Productivity Commission is currently undertaking an inquiry into the National Water Initiative that will report in 2021. Meeting the growing needs of cities while maintaining affordability will require long-term planning and investment to avoid poor and rushed decisions in the event of a looming shortage.<sup>38</sup> The findings of the inquiry will require a coordinated federal response.

**Table 2: reform priorities and their level of alignment with the criteria**

	Manage COVID-19?	Impact on business & community confidence?	Economic benefits relative to other priorities?	Commonwealth-state cooperation necessary?	Track record on reform	Timing (relevant phases)
COVID-19 health and essentials response	High	High	High	High	High	1
Managing residual demand – health and social services	High	Medium	Medium	High	Medium	1
Infrastructure projects	Medium	Medium	High	Medium	Medium	1-2
Streamlining project approvals and business regulation	Medium	High	High	High	Medium	1
Social housing investment	Medium	High	High	High	Medium	1-2
Residential and commercial tenancy relief	High	Medium	Medium	High	Medium	1
Women’s safety	High	Medium	Medium	High	Low	1-2
Skills reform	Medium	High	High	High	Low	1-2
Tax and federal-state financial relations	Low	High	High	High	Low	2
Closing the gap	Low	Medium	High	High	Low	1-2
Data sharing and digital service delivery	Medium	Medium	High	High	Low	2
Health reform	Low	High	High	High	Low	2
Regional economies	Medium	Medium	Medium	Medium	Low	2
Energy and environment	Low	Medium	High	High	Low	2

Timing: 1 = 6-12 months 2 = mid 2021 and beyond

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