

**From:** Vice President Asbury  
**Sent:** Wednesday, 11 December 2024 3:17 PM  
**To:** Justice Hatcher <[REDACTED]>  
**Subject:** FW: RTAG email template

Dear Justice Hatcher

Attached is the Response of the Road Transport Advisory Group to your Directions under s. 40E(5) of the Fair Work Act 2009, requiring the Road Transport Advisory Group to provide advice in relation to applications for minimum standards orders, a contractual chain order and a modern award. We apologise for the Response being provided outside the time required by your Direction. The delay was occasioned by the availability of the Chair and members of RTAG due to work commitments, which made it difficult to coordinate this Response. We respectfully request that you issue a further Direction granting an extension of time to provide the Response.

Regards,

**Ingrid Asbury**

Ingrid Asbury

**Vice President, Fair Work Commission**

**Chair, Road Transport Advisory Group**

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## Response to Directions issued by the President of the Fair Work Commission

### Overview

1. In Statements issued between September and November 2024, the President of the Fair Work Commission (Commission) advised that he had decided to obtain advice from the Road Transport Advisory Group (RTAG) in relation to four applications made by the Transport Workers' Union of Australia (TWU). The applications seek orders relating to employee-like workers and road transport contractors under various provisions concerning regulated workers in the Fair Work Act 2009 (the Act). In summary, the applications are:
  - **MS2024/1**— application for an employee-like minimum standards order in relation to 'last mile package delivery'.
  - **MS2024/2** – application for a road transport minimum standards order in relation to 'last mile package delivery'.
  - **MS2024/3** — application for an employee-like minimum standards order in relation to delivery of food and beverages.
  - **MS2024/4**— application for a road transport contractual chain order.
2. The President has also decided that an application by Menulog Pty Ltd for an award to cover the on-demand delivery service industry – **AM2021/72** – would be referred to the RTAG for advice. Consistent with Statements setting out these decisions, the President issued Directions to the RTAG under s. 40F(5) of the Act, requiring that the RTAG provide advice as follows:
  - 1) How priorities for the work of the Commission should be determined in relation to the applications.
  - 2) A proposed process for the RTAG to provide advice in relation to the matter or matters it identifies as priorities, including a time frame for consultation; service of the applications; whether subcommittees will be formed by the RTAG; and, if so, how they will be composed and operated, consistent with a Direction that the RTAG take an inclusive and broadly representative approach.
  - 3) Advice as to how the RTAG proposes to conduct itself more generally including any proposed terms of reference, taking into account the need for the RTAG to be open and transparent in the way it conducts itself.
3. This is RTAG's response to the Directions of the President. The response is provided by the Chair of the RTAG on behalf of the RTAG members appointed by the Minister for Employment and Workplace Relations (the Minister) under s. 40F of the Act.

### The RTAG's advice on prioritisation of the Commission's work

4. The RTAG discussed the President's Directions at meetings conducted on 25 October 2024 and 22 November 2024. Meeting Records of discussions and outcomes are published on the [RTAG page](#) on the Commission's website. In relation to prioritisation, while the RTAG considers that each

application is of significance, and that consultation should commence on all applications as soon as possible, the RTAG is cognisant that its functions include advising about the prioritisation by the Commission of matters relating to the road transport industry (s. 40E(2)). The RTAG also understands that, by virtue of s. 40E(4), there is a requirement that the President consult and have regard to the views of the RTAG in determining the priorities for the work of the Commission in relation to such matters.

5. Accordingly, members of the RTAG have formed a *provisional* view in relation to the prioritisation of the five applications which are the subject of the Directions as follows:
  - 1) MS2024/3 – application for an employee-like minimum standards order in relation to delivery of food and beverages.
  - 2) MS2024/4 – application for road transport industry contractual chain order.
  - 3) MS2024/1 and MS2024/2 – applications for an employee-like minimum standards order and a road transport minimum standards order respectively (last mile package delivery) which should be dealt with together (at least in the preliminary stages of consultation).
  - 4) AM2021/72 – application by Menulog Pty Ltd for an award to cover the on-demand delivery service industry.
6. Notwithstanding its provisional view in relation to prioritisation of the Commission's work, the RTAG proposes a consultation process (outlined below) which involves all the applications for orders in relation to regulated road transport contractors and employee-like workers, moving together through that process. In addition to ensuring that consultation on any of the applications is not delayed by other applications, the RTAG's view is that this approach will maximise opportunities to identify any synergies, common interests and best practice initiatives relevant to each of the applications, and will create opportunities to streamline the consultation process and outcomes for the benefit of all affected persons and organisations.
7. As part of its proposed consultation process, the RTAG intends to consult affected persons and organisations about its provisional view in relation to prioritisation of the applications for orders, and to seek their views on this subject. The RTAG may alter its view about the prioritisation identified above, depending on the views of the affected persons and organisations, and developments during its consultation process. The RTAG also proposes to engage with the parties to the application by Menulog Pty Ltd for an award to cover the on-demand- delivery service industry to seek their views in relation to consultation on that matter, in the context of consultation processes concerning the four applications for orders.
8. The RTAG will confirm its provisional view in relation to prioritisation of applications after consultation on the applications has commenced or advise the President if that view changes as a result of the views of interested persons and organisations expressed during consultation.

**Proposed process for the RTAG to provide advice on priority matters**The RTAG will establish subcommittees

9. The RTAG is committed to engaging in extensive consultation with a broad and representative cross-section of the road transport industry in relation to each application, as well as other matters affecting the industry, relevant to the role of the RTAG and to the matters it identifies as priorities.
10. It is intended that the principal mechanism by which consultation will be undertaken by the RTAG is through subcommittees.
11. The RTAG has decided to establish a subcommittee for each application for orders (MS2024/1 – MS2024/4). At the outset, a single subcommittee will be formed to deal with the ‘last mile’ applications (MS2024/1 and MS2024/2), which may be split into two subcommittees depending on the views of members of that subcommittee and persons and organisations affected by those applications. The RTAG will also consult with the parties to the Menulog award application to determine their views in relation to ongoing consultation.
12. The RTAG agreed that it would implement the following initial process for establishing subcommittees and commencing the consultation process required by the Act in relation to the four minimum standards applications:
  - Step 1** – Mr Richard Olsen and Mr Peter Anderson, in their capacity as members of the RTAG appointed by the Minister under s. 40F of the Act, will identify organisations and persons who will likely be affected by one or more of the orders sought by the TWU and may have an interest in participating on one or more subcommittees.
  - Step 2** – the Chair of the RTAG will send a letter to persons nominated in step 1 to ascertain their interest in participating as a member of a subcommittee.
  - Step 3** – Details of the organisations and individuals nominated in step 1 will be posted on the [RTAG page](#) on the Commission’s website once all those invited to participate have confirmed their participation and agreement to that information being posted on the RTAG page.
  - Step 4** - Subcommittee participants will be asked to identify additional persons and organisations who may be interested in joining the subcommittee to ensure that it is broadly representative.
13. The RTAG members may continue to nominate additional persons or organisations to join a subcommittee as relevant issues are identified over time, including in any consultation processes or proceedings conducted by the Commission. Subcommittee participants will also be informed that they may nominate other persons and organisations who may have an interest in a particular application, to participate on a subcommittee. Further, the RTAG will encourage additional persons or organisations to express interest in participating in a subcommittee to ensure that broad representation is maintained during consultation.
14. Steps 1 and 2 have been completed. Mr Anderson and Mr Olsen have created an initial list of persons and organisations to approach seeking their interest in joining a subcommittee of the

RTAG. The Chair of the RTAG has written to each of those persons or organisations inviting them to join one or more nominated subcommittees and most invitees have responded, with those who have responded agreeing to participate.

15. It is expected that the initial membership of subcommittees will be established in the near future and details of persons and organisations who have agreed to participate will be published on the [RTAG page](#) of the Commission's website.
16. In accordance with the requirement in s. 40G(3) of the Act, the RTAG will also establish a subcommittee where the majority of members are owner drivers. Members of that subcommittee may also be involved with other subcommittees.
17. The RTAG requests the President of the Commission to provide Commission Members who are Members of the Expert Panel constituted for the purpose of consulting about The applications subject of the Directions to the RTAG, (Consultation Expert Panel), to facilitate all meetings of each of its subcommittees. Further details of how the RTAG proposes that Consultation Expert Panel Members will facilitate subcommittee meetings, and how subcommittees will operate, are set out below.
18. RTAG, through subcommittees, may also facilitate the establishment of working groups to examine issues as required. Membership of working groups will not be limited to subcommittee members and may include subject matter experts nominated by affected parties and organisations regardless of whether those persons or organisations are on a subcommittee. The RTAG will not require members of working groups to also be members of subcommittees. This process is intended to provide a broader opportunity for interested persons and organisations to engage in the consultative process in a targeted way and will ensure that RTAG receives advice from persons and organisations that is both practical and relevant to the businesses and work the applications seek to regulate. Issues examined by working groups may be common to more than one application and involve persons or organisations with interests in a number of applications.
19. Subcommittees will begin consulting a broad range of stakeholders as soon as possible after formation, by mid-December 2024 or early January 2025, subject to availability of subcommittee participants. The RTAG proposes that a period of 6 months be allowed for consultation at the subcommittee level. During this time, the RTAG will monitor the progress of consultation, and will conduct a review of the effectiveness of consultation and the likelihood of consensus being reached in relation to applications and issues, at the end of the initial six-month period.
20. RTAG members will also participate in consultation processes undertaken by the Commission in relation to the applications.

#### Request to the President of the Commission

21. RTAG members are appointed by the Minister under s. 40F(1) of the Act and are members of, or nominated by, an organisation entitled to represent the interests of road transport contractors, and an organisation entitled to represent the interests of road transport businesses.
22. The Chair of the RTAG was appointed by the President of the Commission under s. 40F(6) of the Act and is a Member of the Commission and of the Consultation Expert Panel.

23. RTAG members understand that some organisations and persons who may be affected by the applications are concerned about RTAG members chairing subcommittee meetings, given RTAG members are from organisations that represent some, but not all, of the affected contractors and businesses in the road transport industry. RTAG is also aware that some businesses who will be affected by applications the President has decided relate to the road transport industry, are also concerned about RTAG members chairing subcommittee meetings.
24. To address these concerns, and in the interests of maximising the potential for consultation to be successful in achieving consensus, the RTAG requests that the President of the Commission make Members of the Commission who are also Members of the Consultation Expert Panel available to facilitate each subcommittee meeting.
25. Under this proposal, RTAG members chairing subcommittees will be subject to requests made by the Member of the Commission who is facilitating meetings, with respect to procedural matters. For example, if a particular group or groups of subcommittee participants wish to caucus with the facilitator in the absence of the Chair, and the facilitator requests the Chair to leave the meeting for that purpose, the Chair will comply with that request.
26. The RTAG intends that involvement of a Member of the Commission in subcommittee processes will ensure that a person who is seen by all subcommittee participants as independent, and as having an understanding about how to conduct consultative processes fairly and with appropriate confidentiality, is facilitating subcommittee meetings, notwithstanding that RTAG members would also be capable of conducting meetings in this way.
27. This process will also ensure that Members of the Commission and the Consultation Expert Panel will be aware of the views of interested persons and organisations about the applications. This will assist those Members of the Commission in their involvement in consultative processes that may be undertaken by the Commission via the Consultation Expert Panel. As Members of both the Commission and the Consultation Expert Panel, facilitators will understand when there is a need to keep certain deliberations confidential to a subcommittee – for example, because consensus has not been reached by the subcommittee and its discussions are without prejudice and would be adversely impacted by discussion outside the subcommittee at particular points.

#### The RTAG establish Guiding Principles for subcommittees

28. Through subcommittees, the RTAG will engage widely with persons, organisations, businesses and associations affected by the applications.
29. The RTAG has revised its Terms of Reference, initially posted on the RTAG page of the Commission's website on 30 September 2024, having regard to the President's Directions and the responses of affected persons and organisations to Statements made by the President. Draft Guiding Principles for subcommittees have been appended to the revised Terms of Reference. These will be published by the RTAG, on the basis that the initial members of subcommittees will be requested to consider and endorse the draft Guiding Principles and these may be amended as proposed by subcommittee members.
30. The revised Terms of Reference, including the draft Guiding Principles, are appended to this Response.

31. The draft Guiding Principles include the following statements:

- The purpose of subcommittees is to consult broadly with persons and organisations affected by applications for orders covering businesses and workers in, or related to, the road transport industry, for the purpose of advising the President of the Commission about those applications, including their prioritisation for the purposes or organising the work of Commission.
- Subcommittees will not make decisions about substantive matters but will consider each application and attempt to identify areas where consensus may be reached.
- As required by the Act, each subcommittee will be chaired by a member of the RTAG appointed by the Minister under s. 40F of the Act.
- A Member of the Commission who is on the Consultation Expert Panel will attend each subcommittee meeting and will act in the role of facilitator.
- RTAG members chairing subcommittees will comply with all requests by the facilitator of a subcommittee meeting including absenting themselves from meetings at the request of the facilitator during discussions between the facilitator and participants who have requested that such discussions be conducted in the absence of other parties or the Chair.
- Records of matters discussed by RTAG subcommittees and the outcomes of those discussions, will be posted on the [RTAG page](#) on the Commission's website.
- All discussions of subcommittees will be on a 'without prejudice' basis and participants have the right to reserve their position on various matters discussed, subject to agreement on other matters or on an overall package. Where a consensus position is reached, subcommittee participants may agree to publish that position and, where applicable, to indicate that it is subject to reaching agreement in relation to additional matters or an overall package.
- Subcommittees will provide advice to the RTAG in writing and that the advice will:
  - Clearly set out the subcommittee's views and the underlying reasoning, including any research or evidence relied upon, and
  - If subcommittee participants could not reach consensus on the advice, the report will clearly present competing views.

Whether any additional entities should be served with the application

32. In the RTAG's view, it is not necessary that applications for orders are served, in a traditional sense, on individual persons and organisations potentially affected. The Commission has established a Regulated Workers User Group and subscriber service to provide information about applications to any interested person or organisation.

33. Copies of applications and all related correspondence, orders and decisions are available on dedicated pages of the Commission's website. Alerts are sent to interested persons and organisations when new material is posted onto website pages. There are links to the relevant pages on the RTAG page and links from the dedicated pages to the RTAG page have been



established at the suggestion of persons and organisations who have responded to information already posted.

34. It is the RTAG's view that notification of applications through the Commission's website and subscriber service is sufficient notice of applications to interested parties. Absent advice from interested persons or parties to the contrary, RTAG proposes that this practice should continue.

### **Conduct of the RTAG generally**

35. As previously stated, the RTAG published [Terms of Reference](#) on the [RTAG page](#) on the Commission's website on 30 September 2024. No comments were received about the terms of reference.

36. The RTAG was of the view that the original Terms of Reference dealt adequately with any issues in relation to impartiality of its members. In this regard, the original Terms of Reference as published on 30 September 2024 included:

- The RTAG will use its best endeavours to present a consensus position when providing advice to the Commission (paragraph 11).
- Unless the Commission seeks advice from a defined sector or group of the road transport industry, the RTAG will consult with a broad and representative cross-section of the road transport industry before providing advice to the Commission. This includes consulting subcommittees (paragraph 12).
- Advice from the RTAG to the Commission will (paragraph 14):
  - Clearly set out the views of the RTAG and the underlying reasoning, including any research or evidence relied upon and how any advice from subcommittee(s) has been incorporated.
  - Unless otherwise stated, consider and reflect the views of a broad and representative cross-section of the road transport industry, including owner drivers where relevant. Where it only represents the views of a particular sector or group of the road transport industry, the advice will clearly identify the relevant sector or group.
  - Clearly and accurately present the differing viewpoints where RTAG subcommittee participants cannot reach consensus.
  - Note any absences of an RTAG member who has been unable to fulfil their role for any reason during the preparation of the advice.
  - Where relevant, note if it is submitted without the endorsement or agreement of a member of the RTAG.
- Any advice provided by a subcommittee to the RTAG is to be in writing, clearly set out the views, reasoning and evidence relied upon, and clearly present competing views where consensus could not be reached (paragraph 21(j) of the interim Terms of Reference, which is now captured by paragraphs 13(a) and (b) of the draft Guiding Principles set out in Attachment A to the revised Terms of Reference).

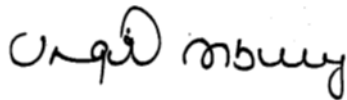
37. As previously stated, the RTAG subsequently revised the Terms of Reference in light of the President's Direction. As part of this process, the RTAG also considered submissions lodged by the

parties in response to Statements issued by the President and concerns about the operation of the RTAG set out in those submissions and has addressed those concerns by revising its Terms of Reference and including in those Terms of Reference draft Guiding Principles which may be further amended by subcommittees (see Appendix to this Response).

38. The RTAG advises and undertakes that, subject to any further Directions from the President of the Commission, it will conduct itself in accordance with its Terms of Reference and will ensure that its subcommittees operate in accordance with the Guiding Principles, as amended by subcommittees.

## **Conclusion**

39. The RTAG would be happy to elaborate on this response to the Directions issued by the President if required.



**Ingrid Asbury**

**Vice President**

**Fair Work Commission**

**Chair, Road Transport Advisory Group**

# Road Transport Advisory Group and its subcommittees

Terms of Reference

December 2024

**Change/update history**

Date	Record of changes/updates to document
26 September 2024	Creation of Terms of Reference
6 December 2024	Revision 1, including insertion of Guiding Principles in Attachment A

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## Operational context

1. From 26 August 2024, the Fair Work Commission (**Commission**) has power to set minimum standards and make guidelines in the road transport industry.
2. The Road Transport Advisory Group (**RTAG**) is established under s.40E of the Fair Work Act 2009 (**the Act**). It supports the Commission in carrying out its functions relating to the road transport industry by advising the Commission about the interests of road transport businesses and regulated road transport contractors.
3. The RTAG consists of such members as the Minister for Employment and Workplace Relations appoints from time to time under s.40F of the Act.
4. The President of the Commission may, under s.40F(6) of the Act, appoint a Member of the Commission's Expert Panel for the road transport industry (who is also a Member of the Commission) to chair the RTAG.
5. The RTAG is not part of the Commission. Members of the RTAG appointed by the Minister under s. 40F of the Act, and members of its subcommittees, are not Commission Members under s.626 of the Act.

## Role of the RTAG

6. Under s.40E(2) of the Act, the RTAG is to advise the Commission about matters relating to the road transport industry, including:
  - a. making and varying of modern awards that relate to the road transport industry
  - b. making and varying of road transport minimum standards orders (**RTMSOs**) and road transport guidelines
  - c. making and varying of road transport contractual chain orders (**RTCCOs**) and road transport contractual chain guidelines
  - d. prioritisation by the Commission of matters relating to the road transport industry, and
  - e. such other matters as prescribed by regulation.
7. The RTAG and any subcommittees it forms are not decision-making bodies.

## Participation of RTAG members

8. RTAG members will make themselves available to attend meetings of the RTAG and any subcommittees of which they are the chair.
9. A member of the RTAG who cannot fulfil their role for any reason (such as temporary illness or absence) must notify the RTAG chair of their absence as soon as possible.
10. The RTAG can continue to meet, prepare written advice, and submit advice to the Commission in the absence of a member of the RTAG.

## RTAG advice to the Commission

11. The RTAG will use its best endeavours to present a consensus position when providing advice to the Commission.
12. Unless the President of the Commission directs the RTAG to consult with and provide advice in relation to a defined sector or group of the road transport industry, the RTAG will consult with a broad and representative cross-section of the road transport industry before providing advice to the Commission. This includes consultation through subcommittees (see paragraph 17).
13. The RTAG will submit its advice to the Commission within any timeframes specified by the Commission in its requests for advice.
14. Advice from the RTAG to the Commission will:
  - a. Clearly set out the views of the RTAG and the underlying reasoning, including any research or evidence relied upon and how advice from subcommittee(s) has been incorporated.
  - b. Unless otherwise stated, consider and reflect the views of a broad and representative cross-section- of the road transport industry, including owner drivers where relevant. Where it only represents the views of a particular sector or group of the road transport industry, the advice will clearly identify the relevant sector or group.
  - c. Clearly and accurately present the differing viewpoints where RTAG members cannot reach consensus.
  - d. Note any absences of an RTAG member who has been unable to fulfil their role for any reason during the preparation of the advice (see paragraphs 8 to 10).
  - e. Where relevant, note if the advice is submitted without the endorsement or agreement of a member of the RTAG.

## Subcommittees

15. Section 40G of the Act provides a high-level- framework for the operation of RTAG subcommittees.
16. The RTAG will consult broadly, including by establishing subcommittees to advise it in relation to matters relevant to the performance of its functions. Subcommittee members can be industry participants who are not RTAG members.
17. The RTAG must consult any relevant subcommittee(s) before advising the Commission about a matter.
18. Any subcommittee formed by the RTAG must be chaired by a member of the RTAG who is appointed by the Minister under s. 40F of the Act.
19. The RTAG must form a subcommittee of which a majority of members are owner drivers or representatives of owner drivers (**owner driver subcommittee**) if:
  - a. a proposed RTMSO or RTCCO will cover owner drivers, or

- b. the Commission proposes to perform a function or exercise a power in relation to a RTMSO or RTCCO that has, or may have, an effect upon owner drivers that is more than minor or technical.

#### **Creation and operation of subcommittees**

20. The RTAG has broad discretion about the operation of its subcommittees. This includes the number of subcommittees formed from time to time, how many persons or organisations are invited to participate in a subcommittee, who is appointed to a subcommittee, the scope of matters to be considered by a subcommittee, and whether the subcommittee is ongoing (**standing**) or only established to provide advice about a discrete matter or issue.
21. Members of the RTAG will exercise their discretion with respect to the creation of subcommittees to ensure that an inclusive and broadly representative approach is taken to determining the membership of any subcommittee.
22. RTAG's subcommittees will operate in accordance with Guiding Principles directed to ensuring transparency, accountability, and opportunity for affected entities to be consulted about, and have input to, any advice provided by the RTAG to the President of the Commission. The role of the RTAG member chairing a subcommittee includes ensuring that the subcommittee operates in accordance with the Guiding Principles. The Guiding Principles are set out at **Attachment A**.
23. Meetings and discussions of each subcommittee will be facilitated by a Member of the Fair Work Commission who is also a member of the Consultation Expert Panel established by the President of the Commission.
24. Apart from the owner driver subcommittee formed as required by s. 40G(3) of the Act, the RTAG will decide when it forms a subcommittee, and for what purpose. The RTAG may create a subcommittee:
  - a. For a specified purpose, such as to provide advice about a particular matter or matters before the Commission or a specified issue. Once the specified purpose is met, the subcommittee will dissolve unless the RTAG advises otherwise.
  - b. As a standing subcommittee. The RTAG will advise a subcommittee if it is a standing subcommittee. A standing subcommittee continues to exist until dissolved by the RTAG.
25. The RTAG will ensure that subcommittees are comprised of representatives of regulated road transport contractors and road transport businesses or where the President of the Commission directs that the matter relates to the road transport industry, relevant stakeholders including representatives of affected entities.
26. The subcommittee chair will convene a meeting as soon as reasonably practicable after a subcommittee is formed.
27. When it first seeks advice from a subcommittee, the RTAG (usually through the subcommittee chair) will provide a written scope for the advice it is seeking in relation to the performance of RTAG's functions, and the timeframe for providing such advice. The RTAG can revise the scope of the advice it is seeking and timeframes for its provision.

28. The RTAG will provide a reasonable period for a subcommittee to consult, conduct research, and prepare written advice.
29. The subcommittee chair will ensure that a subcommittee assists the RTAG in performing its functions under the Act, including by convening and chairing subcommittee meetings as necessary to support and provide advice to the RTAG.
30. The RTAG Chair will coordinate the preparation and provision of advice from subcommittees to the RTAG and take such other steps as are necessary to support the RTAG as requested.
31. A subcommittee will provide its advice to the RTAG in writing within the timeframes specified by the RTAG:
  - a. The advice will clearly set out the subcommittee's views and the underlying reasoning, including any research or evidence relied upon.
  - b. If subcommittee members could not reach consensus on the advice, the report will clearly present differing views.

### **Role of the RTAG chair**

32. The RTAG chair will:
  - a. Convene RTAG meetings.
  - b. Chair RTAG meetings, with the aim of ensuring each member has an opportunity to be heard.
  - c. Where necessary, request an extension of time from the Commission for the provision of advice by the RTAG.
  - d. Ensure that any advice that the members of the RTAG consider appropriate to provide to the Commission, after consultation with any relevant subcommittees, is provided to the President of the Commission in writing.
  - e. Coordinate the preparation and provision of advice from subcommittees to RTAG in a form where it can be provided to the President of the Commission and/or posted on the RTAG's page on the Commission's website.
  - f. Where the RTAG provides advice to the Commission, coordinate preparation of the advice and submit the final advice to the Commission.
  - g. Take other steps as needed to facilitate the timely and effective functioning of the RTAG and its subcommittees.

### **RTAG meetings**

33. The RTAG will meet as necessary to carry out its functions under the Act. A member of the RTAG can request a meeting by writing to the chair.
34. RTAG meetings will usually be held online.



35. The RTAG chair will send meeting invitations (usually through MS Teams), preferably at least one week before the meeting. The invitation will generally include a meeting agenda.
36. Commission staff will attend RTAG meetings to create a meeting record, under the direction of the RTAG chair.

### **Publication of information on the Commission website**

37. The Commission has created a [dedicated RTAG page](#) on its website for publication of information about the RTAG and its subcommittees. The Chair of the RTAG will ensure that information is provided to the Commission to enable publication of:
  - a. information about members of the RTAG and any subcommittees that exist from time to time
  - b. records of each RTAG meeting
  - c. records of issues deliberated by subcommittees and outcomes of deliberations whether consensus positions or indications of the views of subcommittee members where consensus is not achieved, and
  - d. other relevant matters.

### **Communications**

38. RTAG members will subscribe to the Commission's Regulated Worker updates through the [Commission website](http://fwc.gov.au/subscriptions) (fwc.gov.au/subscriptions) to receive timely and comprehensive updates from the Commission in relation to matters relevant to the RTAG.
39. RTAG members and subcommittee members may contact the RTAG chair in the first instance if they have any requests or require any information about operation of the RTAG. The chair can be contacted at [chambers.asbury.vp@fwc.gov.au](mailto:chambers.asbury.vp@fwc.gov.au).

## Attachment A

### Guiding Principles for Subcommittees

1. The Road Transport Advisory Group (RTAG) has established subcommittees under s. 40G of the Fair Work Act 2009 (the Act). Their purpose is to assist the RTAG in consulting broadly and providing advice to the President of the Fair Work Commission (Commission) about applications for orders covering regulated workers or businesses in, or relating to, the road transport industry, or other matters in or related to the road transport industry, and about priorities for the work of the Commission concerning those applications.
2. Generally, the RTAG will form a subcommittee to examine each application referred to it, although on some occasions a single subcommittee may consider two or more separate but related applications, or applications where there are common issues for deliberation.
3. The RTAG intends that the membership of its subcommittees will be inclusive and broadly representative of the persons and organisations which may be affected by the orders being sought.
4. Subcommittees of the RTAG may also establish working groups to examine particular issues relevant to one application or which are common across a number of applications. Subcommittee participants may invite subject matter experts from their own or other organisations to participate in working groups. Members of working groups are not required to be subcommittee participants.
5. Subcommittees enable the RTAG to consult with affected persons and organisations so that they provide informed and relevant advice to the Commission about those applications, consistent with the views of affected persons and organisations.
6. Subcommittees will not make decisions about substantive matters but will consider each application and attempt to identify areas where consensus may be reached.
7. As required by the Act, each subcommittee will be chaired by an RTAG member appointed by the Minister for Employment and Workplace Relations under s. 40F of the Act.
8. A Member of the Fair Work Commission who is on the Expert Panel for Consultation constituted by the President of the Commission in relation to applications, will attend each subcommittee meeting and will act in the role of facilitator.
9. RTAG members who chair subcommittees will comply with all requests by the facilitator of a subcommittee meeting, including absencing themselves from meetings at the request of the facilitator during discussions between the facilitator and participants who have requested that such discussions be conducted in the absence of other parties or the Chair.
10. Records of matters discussed by subcommittees and the outcomes of those discussions, where applicable, will be maintained and will be posted on the [RTAG page](#) of the Commission's website.
11. Where consensus cannot be reached, the subcommittee Chair, with the assistance of the facilitator, will ensure that the views of all subcommittee participants are reflected in subcommittee records.
12. All discussions of subcommittees will be on a 'without prejudice' basis. Participants have the right to reserve their position on various matters discussed, subject to agreement on an overall package

on particular matters. Where a consensus position is reached on a particular matter, subcommittee participants may agree to publish that position.

13. Subcommittees will provide advice to the RTAG in writing and the advice will:
  - a. Clearly set out the subcommittee's views and the underlying reasoning, including any research or evidence relied upon, and
  - b. If subcommittee participants could not reach consensus on the advice, clearly present competing views.
14. Subcommittee deliberations may be conducted during the same period as other consultative processes undertaken by the Commission.

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