



Australian Government

Department of the Prime Minister and Cabinet

CABINET HANDBOOK

7th Edition

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Cabinet Handbook
7th Edition

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FOREWORD

Set in a mosaic in the entrance hall of the Victorian Parliament, where the Federal Parliament sat until 1927, is a verse from Proverbs 11: “where no counsel is, the people fall: but in the multitude of counsellors there is safety”. This ancient idea that collective decision-making produces better decisions is intended as a reference to parliamentary government, but it equally underlies Cabinet systems.

All Australian governments since Federation have used a Cabinet system, even though Cabinet is not referred to in the Constitution. Most members of the first federal Cabinet were experienced administrators who had served in colonial governments. They brought with them the conventions inherited from the British Cabinet system.

The Commonwealth Government’s Cabinet processes have evolved over time, with some procedures formalised and passed on to successive governments, while others have been discarded. In 1927, Prime Minister Bruce appointed a minister as Secretary to the Cabinet and formalised the first set of rules to guide the operation of Cabinet, limiting circulation to his ministers and permanent heads of government departments. The Cabinet Handbook was first made publicly available by Prime Minister Hawke and the practice of publishing the Handbook has continued.

Over time there has been increased involvement of officials in the Cabinet system. In the first decade after Federation the Prime Minister maintained his own record of Cabinet meetings. The door to Cabinet was not opened to officials until World War II, when the Secretary of the Department of Defence became Secretary to the War Cabinet. Formal arrangements have developed for the attendance of official note takers to Cabinet and other officials and ministerial advisers as observers to committees of Cabinet.

The 7th Edition of the Cabinet Handbook reflects the discretion the Prime Minister has to organise the management of the Cabinet. The Handbook outlines the underlying principles of Cabinet government and general expectations for Cabinet business and meetings, with detailed arrangements included in Annexes. The Handbook should be used as a resource for all ministers, ministerial staff and public officials involved in the development and progression of Cabinet business.

A well-functioning Cabinet system requires high-quality Cabinet documents, their timely circulation and appropriate levels of security. We ask that ministers and officials take particular care with the quality of submissions and memorandums brought forward to the Cabinet and its committees. We also ask that the agreed timelines for the lodgement of Cabinet documents are met. Effective Cabinet confidentiality requires strict observance of the security requirements for Cabinet documents.

The Handbook and its companion Drafter's Guide to the Preparation of Cabinet Submissions and Memorandums will be updated as necessary. The Cabinet Secretariat in the Department of the Prime Minister and Cabinet is available to advise and assist. Cabinet liaison officers in each department are also able to advise on procedures.

Original signed

Original signed

The Hon Julia Gillard MP
Prime Minister

The Hon Mark Dreyfus QC MP
Cabinet Secretary

CABINET GOVERNMENT IN AUSTRALIA

The Cabinet

1. The Cabinet is the council of senior ministers who are empowered by the Australian Government ('the Government') to take binding decisions on its behalf.
2. As a forum, the Cabinet seeks through discussion and consultation to resolve disputes and build consensus around often difficult and controversial issues. The decisions of the Cabinet are understood to be collective, not of individual ministers, and Cabinet solidarity requires all ministers to take responsibility for them and support them.
3. The Cabinet is a product of convention and practice. There is no reference to the Cabinet in the Australian Constitution and its establishment and procedures are not the subject of any legislation. Provided the guiding principles of a Cabinet system are met—collective responsibility and solidarity—it is for the Prime Minister of the day to determine the shape, structure and operation of the Cabinet.
4. As the Cabinet does not have specific terms of reference or powers laid down in statute, the outcomes of its deliberations may require action by the Governor-General, individual ministers whose executive power is derived from Chapter II of the Constitution, holders of statutory office, or by the Parliament to be put into effect.

The Prime Minister

5. There is no statutory provision that establishes the office of Prime Minister or defines the role. The Prime Minister is understood to be the 'first among equals' with responsibility for the strategic policy and organisational direction of the Government. Much of the Prime Minister's actual power as Head of Government—to lead policy and political direction—is achieved through his or her position as the Chair of the Cabinet.
6. The Prime Minister is responsible for the membership of the Cabinet, determines and regulates all Cabinet arrangements for the Government and is the final arbiter of Cabinet procedures.
7. As chair of the Cabinet, the Prime Minister sets the Cabinet's agenda and determines when and where meetings take place. The Prime Minister leads and guides discussion to achieve a collective response and ensures the clarity of decisions. In exceptional circumstances where a collective decision is not possible the Prime Minister's view is authoritative.
8. The Prime Minister is also responsible for the establishment of Cabinet committees, including their terms of reference and membership.
9. The Prime Minister is supported by the Cabinet Secretary, to whom may be delegated responsibility for the day-to-day procedural and operational matters of the Cabinet and Cabinet committees.
10. The Prime Minister advises the Governor-General on the appointment of ministers (including the title and scope of each minister's portfolio) and determines which ministers will form the Cabinet.

11. Ministers of State including Cabinet members, other ministers and parliamentary secretaries ('the Ministry') form the Federal Executive Council—the body which formally advises the Governor-General on the administration of the Commonwealth of Australia.

Principles of Cabinet Government

Guiding principles

12. A Westminster-style Cabinet is defined by adherence to the principles of collective responsibility and Cabinet solidarity. These principles are the binding devices that ensure the unity of purpose of the Government. They underpin the formulation of consistent policy advice and the exercise of collective accountability.

Collective decision-making and responsibility

13. The Cabinet system of government is founded on the principle of collective responsibility. It reflects democratic principle: the Parliament expresses its confidence in the collective whole-of-government rather than in individual ministers. Similarly, the Governor-General, in acting on ministerial advice, needs to be confident that individual ministers represent official government policy. In all areas of their work, therefore, ministers represent and implement government policy—policy which has often been considered and set by the Cabinet process.

14. In practice this means that a decision of the Cabinet is binding on all members of the Government, regardless of whether they were present when the decision was taken or their personal views. Issues may, and should, be debated vigorously within the confidential setting of the Cabinet meetings. The aim is to reach some form of consensus so that the Prime Minister, as Chair of the Cabinet, can summarise what the collective decision is for recording in the Cabinet minute.

15. All members of the Ministry are understood to have participated in the decision-making process which underpins government policy, and therefore share responsibility for those policies.

Cabinet solidarity

16. Cabinet collective responsibility is most obviously expressed in the principle of Cabinet solidarity. In governments using the Westminster system, members of the Cabinet must publicly support all government decisions made in Cabinet, even if they do not agree with them. Cabinet ministers cannot dissociate themselves from, or repudiate the decisions of their Cabinet colleagues unless they resign from the Cabinet. It is the Prime Minister's role as Chair of the Cabinet, where necessary, to enforce Cabinet solidarity.

Operational principles

17. The proper implementation of these two guiding principles is entirely dependent on a commitment to three important operational values: consultation, confidentiality and respect for Cabinet authority.

Consultation

18. The principle of collective responsibility can only operate effectively if all members of the Cabinet are well informed and well advised (including by their departmental officials) about the decisions they are being asked to make. Timely and thoughtful consultation is the only way to ensure that there are no surprises and each minister has the opportunity to inform the discussion, bringing to the table his or her portfolio knowledge and political judgement. Good policy requires informed decisions.

19. Ministers bringing forward submissions are responsible for ensuring that the consultation necessary to enable a fully informed discussion occurs at both ministerial and official levels. One objective of consultation in the development of proposals is to ensure that, as far as possible, differences between ministers are resolved in advance of the Cabinet's consideration or, if resolution is not possible, differences are identified and set out in such a way as to facilitate informed decision-making.

Confidentiality

20. The principle of collective responsibility requires that ministers should be able to express their views frankly in Cabinet meetings in the expectation that they can argue freely in private while maintaining a united front in public when decisions have been reached. This in turn requires that opinions expressed in the Cabinet and Cabinet committees, including in documents and any correspondence, are treated as confidential.

21. All attendees are responsible for ensuring that discussions at Cabinet and Cabinet committee meetings remain confidential. Ministers and officials should not disclose proposals likely to be considered at forthcoming meetings outside Cabinet-approved consultation procedures. Nor should they disclose the nature or content of the discussions or the views of individual ministers or officials expressed at the meeting itself. The detail of discussion at Cabinet and Cabinet committee meetings is not recorded in the Cabinet minutes (see Annex G – Decisions of the Cabinet).

22. The vital importance of confidentiality in relation to the deliberations of Cabinet is recognised in legislation and under the common law. The *Freedom of Information Act 1982*, for example, recognises the special nature of Cabinet deliberations in the exemption it provides for certain Cabinet documents from disclosure under of the Act (subject to limited exceptions). Cabinet confidentiality is also a well-established ground for not producing documents or information on a public interest immunity basis to courts, royal commissions or legislatures. For more information on the operation of the Cabinet exemption under the *Freedom of Information Act 1982*, see the guidelines of the Australian Information Commissioner at <<http://www.oaic.gov.au/publications/guidelines.html>> and FOI Guidance Notes at <http://www.dpmc.gov.au/foi/guidance_notes.cfm>.

23. Where a document is being prepared for Cabinet's consideration, care should be taken to expressly state in the body of the document that it is intended that it be considered by Cabinet. This will remove any possible doubt as to the purpose of the document. It is not sufficient to simply mark the document as 'Cabinet-in-Confidence', although this practice should be followed for all Cabinet and Cabinet-related documents.

Cabinet authority

24. Ministers must carry out Cabinet-determined policies with respect to their own ministries, whether or not they agree with such policies. Ministers (and portfolio agencies) must act on Cabinet decisions as recorded in Cabinet minutes.

25. Where a policy has been considered by the Cabinet, ministers must not announce that new policy or changes to a policy without the Cabinet's approval (for guidance on approval of minor policy changes see Annex B – Managing the Cabinet business).

Ministerial responsibility

26. The key responsibilities of ministers in the Cabinet relate to upholding the principles of collective responsibility and Cabinet solidarity.

27. Ministers must:

- (a) not only refrain from publicly criticising Cabinet decisions, but also defend them publicly, or else resign;
- (b) not announce a major new policy without previous Cabinet approval;
- (c) not express private views on government policies nor speak about or otherwise become involved in a ministerial colleague's portfolio without first consulting that colleague and possibly the Prime Minister; and
- (d) understand that government advice to the Governor-General is assumed to be unanimous.

28. The Cabinet principles and conventions also apply to the whole Ministry, not simply those ministers in Cabinet.

Individual ministerial responsibility

29. Some ministerial posts have responsibility for certain statutory functions that are exercised by the individual minister and not through Cabinet (see Annex B – Managing the Cabinet business).

30. Ministers should, however, inform the Cabinet of any exercise of an individual statutory power that merits Cabinet-level attention. Informing the Cabinet of the intended decision and the basis for that decision enables the minister's colleagues to defend that decision publicly and collectively.

31. If ministers are unsure about whether to bring an issue concerning the exercise of a statutory power or function to the Cabinet, they should seek guidance from the Prime Minister or the Cabinet Secretary.

The Cabinet Secretary

32. The Prime Minister may appoint a Cabinet Secretary to manage the flow of business to the Cabinet and determine the forward Cabinet and Cabinet committee program.

33. The Cabinet Secretary generally attends all meetings of the Cabinet and the Cabinet committees (other than the Parliamentary Business Committee of Cabinet) and is responsible for the smooth running of meetings and for authorising the record of decisions (the Cabinet minutes). This includes responsibility for advising the Prime Minister on all questions connected with the appointment and organisation of Cabinet committees, including membership and terms of reference.

Cabinet Secretariat

34. The Cabinet Secretariat is a part of the government that provides continuity and impartial support for operations at the centre of government. It operates within the Department of the Prime Minister and Cabinet (PM&C) and is staffed and managed by officers of PM&C. The Cabinet Secretariat exists to support the Prime Minister, the Cabinet Secretary and the chairs of Cabinet committees in ensuring that government business is conducted in an effective and timely way and that proper collective consideration takes place.

Cabinet committees

35. Cabinet committees provide the forum for detailed consideration and discussion of issues before full Cabinet consideration, with officials available to assist ministers if the Cabinet committee wishes. Annex H sets out further information on Cabinet committees and their membership.

36. The Prime Minister determines the membership, chair, deputy chair, and terms of reference of each Cabinet committee, taking into account practical and political considerations.

37. Cabinet committees are usually established either around a subject area, such as national security, or around a general function of government, such as expenditure.

38. Temporary Cabinet committees may also be established by the Prime Minister to carry out a particular task, usually over a limited timeframe.

39. Cabinet committees derive their powers from the Cabinet. Generally, Cabinet committee decisions are brought forward to the Cabinet for endorsement, and the Cabinet retains the ultimate power of decision. While some committees make final decisions for security or practical reasons, most Cabinet committee decisions may not be acted on until they have been endorsed by the Cabinet. The Cabinet may alter a Cabinet committee decision or ask a Cabinet committee to consider a matter further.

40. Occasionally, the Cabinet will authorise a Cabinet committee or specified minister to have power to act (that is, power to take a final decision) on a clearly defined item. Where a Cabinet committee or specified minister takes a decision under power to act that decision can be acted on immediately, and these decisions are reported to the Cabinet in the usual way. When authorising decisions to be taken by a specified minister or group of ministers under power to act, the Cabinet may request that the minister report back to the Cabinet.

CABINET BUSINESS

Guidance on matters for collective agreement

41. Collective agreement can be sought at a Cabinet meeting or through ministerial correspondence.

42. As a general rule, ministers should put before their colleagues the sorts of issues on which they themselves would wish to be consulted—matters of public interest, importance, or controversy. The need to advise the Cabinet on these matters must be balanced against the demands that Cabinet meetings make on ministers' time.

43. Ministers should give serious consideration as to whether a matter could be dealt with by correspondence, for example where all interested ministers are in agreement (see Annex B – Managing the Cabinet business).

44. Where there is uncertainty about the level and type of consideration needed, ministers should seek advice from the Cabinet Secretary. Similarly, government departments should seek advice from the office of the portfolio minister, or from the Cabinet Secretariat.

Issues for the Cabinet

45. There are no hard and fast rules about the issues that should be considered by the Cabinet and it is ultimately for the Prime Minister to decide the agenda, on the advice of the Cabinet Secretary. Generally, however, matters brought before the Cabinet should require a decision and not be simply for noting.

46. The following is an indication of the kind of issues that would normally require consideration by the Cabinet (including by reference to the relevant Cabinet committee):

- (a) proposals relating to the delivery of the Government's formally agreed strategic priorities;
- (b) controversial proposals, which are likely to lead to significant public comment;
- (c) proposals affecting the Government's financial position, or important financial commitments;
- (d) issues that impact on every member of the Cabinet, or on the portfolio interests of a number of ministers (particularly where agreement cannot be reached);
- (e) the most significant domestic policy issues;
- (f) significant matters affecting state and territory relations;
- (g) the most significant international business, including international treaties and agreements;
- (h) national emergencies, including any decision to take military action;
- (i) proposals that affect Australia's constitutional arrangements;
- (j) proposed responses to recommendations made in parliamentary committee reports;
- (k) proposals involving significant new legislation or regulations [note: all legislative proposals require clearance from the Cabinet committee responsible for considering legislation – the Parliamentary Business Committee of Cabinet (PBC), in addition to clearance through the relevant Cabinet committee (see Annex H for further information on the PBC); and
- (l) significant Government appointments.

47. Consideration of significant policy issues may be taken by the Cabinet at an early stage to inform the development of detailed policy by the relevant portfolio minister(s), or as a final step prior to announcement.

48. An issue brought to the Cabinet for a final decision will generally have been discussed previously by the relevant Cabinet committee.

The Budget process

49. The annual Budget process begins in November or December when the Expenditure Review Committee of Cabinet (ERC) considers portfolio ministers' new proposals and expected major pressures, and establishes the Budget's priorities. From February to April the ERC develops the Budget against the background of the Government's political, social and economic priorities.

Ministerial responsibility for proposals

50. Submissions coming before the Cabinet and Cabinet committees must have a sponsoring minister, usually the Cabinet minister with portfolio responsibility. Ministers are expected to take full responsibility for the proposals they bring forward, even where detailed development or drafting may have been done on their behalf by officials.

51. Non-Cabinet ministers can bring forward submissions in their areas of responsibility with the agreement of the senior portfolio minister.

52. Proposals may be sponsored by more than one minister, provided the ministers are from different portfolios. Major and sensitive proposals which have a significant service delivery component must be brought forward jointly with the minister or ministers responsible for the delivery of the proposal (see Annex D – Preparing a submission to the Cabinet).

53. Where many ministers have an interest, it is generally preferable for responsibility to be allocated to one or two key ministers and for the other ministers to be thoroughly consulted during the preparation of the submission.

Cabinet minutes

54. The Cabinet Secretariat produces minutes of decisions as soon as possible after each Cabinet or Cabinet committee meeting, recording the decision in a form that enables the necessary action to be taken. The Cabinet minutes do not record the detail of discussions at the meeting. The Cabinet minutes are issued to ministers and relevant departments and agencies once they have been approved by the Cabinet Secretary or Committee Secretary.

55. Cabinet and Cabinet committee minutes are circulated to all Cabinet ministers and any non-Cabinet ministers co-opted for a meeting or having a portfolio interest in the matter.

56. Some Cabinet committee minutes will be given a limited circulation. The ERC minutes recording Budget decisions are circulated to ERC ministers and the relevant portfolio minister only, but are circulated to the Cabinet ministers in the Cabinet room prior to Budget Cabinet.

57. Cabinet committee minutes that require endorsement by the Cabinet are marked accordingly. When they have been endorsed by the Cabinet, a superseding minute is issued.

58. If ministers have concerns about the accuracy of minutes as circulated, they should draw their concerns to the Cabinet Secretary's attention in writing, as soon as possible.

59. If ministers consider that any minutes are essential for their department's operations, they may make a request to make the minutes available to their departmental secretary for information and any necessary action.

60. If a Cabinet minute requires action in several portfolios, and if the Cabinet does not direct otherwise, it is for the minister who raised the matter in Cabinet to initiate follow-up procedures (usually by letter to other ministers involved in implementing the decision).

61. Where the Federal Executive Council's approval is required, action on Cabinet minutes must be held over until that approval has been obtained.

62. Procedures for following up Cabinet minutes that require legislation are set out in the Legislation Handbook (see <<http://www.pmc.gov.au/guidelines/index.cfm>>).

Comebacks

63. Ministers may be requested to return to the Cabinet with further information. Where a 'comeback' is no longer warranted, the relevant minister should write to the Prime Minister explaining why Cabinet attention is no longer required and seek agreement to directly conclude the matter.

Implementation

64. In the Westminster system, portfolio ministers are ultimately responsible for ensuring that their policy proposals can be implemented. Nevertheless, delivery failure and success has implications for all the Cabinet ministers and collectively they have an interest in ensuring that policy design and implementation planning, for major initiatives in particular, is robust.

65. The planning, processes and advice leading up to Cabinet decisions are critical in setting the path for effective program implementation.

66. To ensure that their Cabinet colleagues are fully informed when making decisions, sponsoring ministers must ensure that their Cabinet submissions provide enough detail on risk and implementation challenges to ensure the Cabinet can make an informed decision on the efficacy of the proposal.

CABINET MEETINGS

Meeting timetable

67. Cabinet meets in the Cabinet room at Parliament House, Canberra, in most weeks of the year. Special Cabinet meetings may be held at other times and other places, as necessary.

68. Cabinet committees meet at least once a month or more frequently if their business requires.

69. The Parliamentary Business Committee (PBC) meets weekly during each Parliamentary sitting period and at other times, as necessary.

70. The Cabinet Secretariat provides information about the Cabinet and Cabinet committee meeting times to ministers' offices and the public service (see Annex A – Roles and responsibilities).

71. The Cabinet Secretary is responsible to the Prime Minister for determining the times and business lists for all meetings.

Meeting chairs

72. Where the Prime Minister is unable to attend the Cabinet, the next most senior minister takes the chair. The same principle is adopted for Cabinet committees, if the chair and deputy chair are absent.

Ministerial attendance

73. For the effective operation of the principle of collective responsibility, Cabinet and Cabinet committee meetings must take precedence over all other ministerial business with the exception of attendance at the Federal Executive Council.

74. Ministers must seek to ensure that the routine business of Parliament does not interrupt their Cabinet attendance. Ministers are responsible for making appropriate ‘pairing’ arrangements and for organising their routine chamber duty to be performed by other ministers where there is a conflict with Cabinet or Cabinet committee meetings. It may not, however, be possible for ministers to attend Cabinet if the meeting coincides with their responsibilities for taking legislation through the House of Representatives or the Senate.

75. Ministers should ensure that neither they nor their offices commit to engagements that might conflict with scheduled Cabinet and Cabinet committee meetings.

76. The Cabinet Secretary must be advised in writing of any planned absence from Cabinet or Cabinet committee meetings.

77. Ministers cannot delegate Cabinet or Cabinet committee attendance to another minister.

78. When ministers are overseas or on leave, the Prime Minister will nominate another minister to exercise their full authority. Where the nominated minister is a Cabinet minister, this authority extends to matters under Cabinet consideration. Ministers not in Cabinet, who are acting portfolio ministers, do not represent the portfolio in the Cabinet or Cabinet committees, unless expressly invited to do so by the Prime Minister or the Cabinet Secretary.

79. Cabinet ministers may seek the Cabinet Secretary’s agreement for another minister to represent them for portfolio-specific items (see Annex C – Conduct of Cabinet and Cabinet committee meetings).

Co-opting ministers who are not members of the Cabinet

80. When Cabinet (or a Cabinet committee) is scheduled to discuss a matter within the portfolio responsibility of a minister who is not a member of the Cabinet, that minister will be sent the relevant papers and the Cabinet Secretary will co-opt the relevant minister to attend the meeting for discussion of the item(s) concerned.

81. Ministers not in the Cabinet (including Parliamentary Secretaries) with a portfolio interest in an item listed for Cabinet (or Cabinet committee) consideration, who have not been co-opted, may seek to be co-opted for that item by having the relevant portfolio Cabinet minister make a request to the Cabinet Secretary.

82. Co-opted ministers withdraw once their item has been dealt with in the Cabinet room.

Quorum

83. There is no quorum for Cabinet or Cabinet committees.

84. The decision to proceed with a Cabinet or Cabinet committee meeting is made by the chair taking into account:

- (a) the importance of the items under consideration;
- (b) the presence of relevant ministers; and
- (c) the advisability of taking decisions if few ministers are present.

85. Chairs may seek the advice of the Cabinet Secretary.

Declarations of interest

86. Any matter which may give rise to a conflict between duty and interest must be declared (see the Guide on Key Elements of Ministerial Responsibility).

87. Ministers (including Parliamentary Secretaries) attending Cabinet or Cabinet committee meetings must, in relation to the matters under discussion, declare any private interests which give rise to, or are likely to give rise to, a conflict with their public duties. Generally, declarations should be made in all cases where an interest exists which could not be said to be shared with the rest of the community.

88. Ministers must adopt a broad interpretation of the requirement and take into account pecuniary and non-pecuniary interests, the interests of family members and all interests of their own when considering whether there is a conflict (or potential conflict) which should be declared.

89. Ministers need not automatically absent themselves from the discussion; the Chair must decide whether to exclude the minister or explicitly agree to them taking part in discussions and the decision (see Annex C – Conduct of Cabinet and Cabinet committee meetings).

Officials attending the Cabinet and Cabinet committee meetings

90. Attendance of officials (other than from the Cabinet Secretariat) at Cabinet committee meetings is kept to a minimum in order to ensure the proper emphasis on the role of ministers in the peak decision-making forum of the Government.

91. PM&C provides the official note takers and attendants to both Cabinet and Cabinet committees (see Annex C – Conduct of Cabinet and Cabinet committee meetings). No-one attending Cabinet or Cabinet committees, other than official note takers and the Cabinet Secretary, should take personal notes of the discussion.

Cabinet

92. With the exception of official note takers, officials and ministerial advisers do not attend meetings of the Cabinet. The Prime Minister or Cabinet Secretary may agree to the attendance of an individual to present an overview of a report, review or inquiry that they were commissioned to undertake, or to explain a highly technical proposal. The presenter withdraws before ministers begin their deliberations.

93. Note takers are not present for political discussions. Ministers may request that a comment or discussion, not relevant to policy consideration, not be recorded (see Annex C – Conduct of Cabinet and Cabinet committee meetings).

Cabinet committees

94. As Cabinet committees are a forum for considering and developing outcomes for Cabinet consideration or for considering specialised issues, officials and ministerial staff may attend Cabinet committee meetings. Ministers' private office staff cannot attend as their minister's representative.

95. Attendance is, however, limited to the most senior levels of the public service (secretaries and agency heads) and ministerial staff (chiefs of staff). A minister may be accompanied by one such senior official from his or her office and one from the department/agency. Requests for attendance by other

advisers and officials require the specific agreement of the Cabinet Secretary and will only be considered in exceptional cases, for example when particular technical expertise is required.

96. Officials attending Cabinet committee meetings should familiarise themselves with the Australian Public Service Code of Conduct, in particular the need to maintain appropriate confidentiality about dealings that the employee has with any minister or minister's member of staff.

97. Ministerial staff should also be aware of the Code of Conduct for Ministerial Staff, particularly the requirement to acknowledge the role of ministers and public servants in making executive decisions, and of maintaining appropriate confidentiality of their dealings with ministers.

98. Visiting dignitaries and subject matter experts may occasionally be invited to meet with members of the Cabinet in the Cabinet room. Such invitations should not be issued until the Prime Minister's approval has been obtained and arrangements made with the Cabinet Secretariat.

ANNEX A – ROLES AND RESPONSIBILITIES

The Cabinet Secretary

1. The Cabinet Secretary has the authority to:
 - (a) in consultation with the Prime Minister, settle the forward schedule of the Cabinet and the Cabinet committee meeting dates;
 - (b) on delegation from the Prime Minister, respond to ministers' requests for authority to bring items forward for consideration by the Cabinet;
 - (c) authorise the Cabinet and the Cabinet committee business lists;
 - (d) determine the appropriate format for Cabinet documentation;
 - (e) consider variations to Cabinet minutes requested by ministers; and
 - (f) deal with practical issues regarding the co-option of ministers not in the Cabinet and parliamentary secretaries, and attendance of officials.

Cabinet Secretariat

2. The Cabinet Secretariat is directly responsible to the Prime Minister and the Cabinet Secretary for the impartial recording of Cabinet decisions and for the administration and development of Cabinet processes. It is also responsible to the Cabinet as a collective for ensuring the confidentiality of Cabinet proceedings and the impartial and effective operation of the Cabinet system.
3. The Cabinet Secretariat also supports the chairs of the Cabinet committees by preparing agendas, providing chairs with advice and support, and providing the administrative support to ensure an accurate record of meeting decisions and preparing and distributing the minutes.
4. The Cabinet Secretariat provides support on all aspects of the Cabinet processes and is the principal source of advice for ministers, ministerial offices, departments and agencies on Cabinet matters. Cabinet Secretariat staff are in regular contact with ministers' offices, providing assistance and advice concerning Cabinet meetings, documents and procedures. Contact between the Cabinet Secretariat and departments (and agencies) is usually made through each department's Cabinet Liaison Officer (CLO).
5. The Cabinet Secretariat is also responsible for the management of the records of successive Cabinets. It maintains the registry of Cabinet documents for the current Government and preserves the Cabinet records of previous governments (see Annex I – Cabinet documentation for details of these arrangements).
6. The Cabinet Secretariat manages and maintains three similar but separate databases, which contain documents for the Cabinet and the Cabinet committees, the National Security Committee of Cabinet and the Secretaries' Committee on National Security. The databases are stored on the secure CABNET network. Drafters gain access to the CABNET network through departmental or agency CLO and NSC CLOs.

ANNEX B – MANAGING THE CABINET BUSINESS

Putting an item on the business list

1. The Prime Minister's control of the business list is central to the operation of the Cabinet. Ministers seeking to put an item on the Cabinet (or Cabinet committee) business list should write to the Cabinet Secretary seeking authority. The Cabinet Secretary will, on delegation from the Prime Minister, respond to ministers' requests (see Annex A – Roles and responsibilities). Ministers should ensure that there is time for the development of a fully compliant submission (see Annex D – Preparing a submission to the Cabinet) before seeking to list an item for a specific meeting.
2. The Cabinet Secretariat will not propose an item for a business list unless it has authority to come forward and a fully compliant submission has been lodged.
3. Only in exceptional circumstances will the Prime Minister consider whether an item may come forward without a submission.

The Cabinet forward program

4. The Cabinet Secretariat consults with departments and ministers' offices to maintain a forecast of business expected to be brought forward or business which is required to come back to the Cabinet (or Cabinet committees). The Cabinet Secretariat, in consultation with the Prime Minister and the Cabinet Secretary, relies on the forecast to develop the Cabinet forward program, which notes the business expected to be brought forward for Cabinet (and Cabinet committee) consideration and the estimated timings.

The business list

5. Once the program is agreed, the Cabinet Secretary approves and circulates to relevant ministers the business list for each programmed meeting one week in advance. The business list advises the business to be considered, the minister responsible for each item and notification of any co-opting arrangements.
6. The Cabinet Secretariat does not circulate business lists to departments. Ministers' offices are responsible for advising their departments and seeking any required briefing.
7. As meeting times and business lists are subject to change and new meetings may be called, it is common for revised lists to be issued. While the Cabinet Secretariat will always endeavour to keep ministers advised, ministers' staff and departments must be alert for any late changes and should check that they have obtained the relevant information via the CABNET network.

Settling matters by correspondence

8. Before initiating possible business for the Cabinet, ministers should carefully consider whether Cabinet consideration is essential or whether consultation and agreement with interested colleagues would suffice, particularly if it is likely all interested ministers are in agreement.
9. Following any necessary consultations by officials, initiating ministers should write to all interested ministers, outlining the purpose and scope of the proposals and seeking their written agreement to the proposals.

10. Once agreement has been provided, the initiating minister should write to the Prime Minister advising the outcome of consultations and seeking approval for the proposed course of action.

Minor policy proposals involving legislation

11. If a minister believes that a proposal involving legislation does not warrant consideration by the Cabinet, he or she should write seeking the Prime Minister's approval of the proposal.

12. The minister should also write to the Prime Minister if it is proposed to vary the implementation of a Cabinet minute in a manner which does not warrant reconsideration of the matter by Cabinet.

13. If not previously sought, minor policy approval should be sought at the time the minister submits a bid to have the legislation included on the program or as soon as possible after that. If it becomes apparent during the drafting of a bill that further approval is required for minor policy matters, the minister should write to the Prime Minister as soon as possible. Replies to requests for minor policy approval are signed by the Prime Minister, or the Parliamentary Secretary to the Prime Minister on behalf of the Prime Minister.

14. For further details on approval of minor policy proposals see the Legislation Handbook at <<http://www.pmc.gov.au/guidelines/index.cfm>>.

Authority to bring forward a submission

15. Ministers seeking to have matters raised in the Cabinet must seek the Prime Minister's authority.

16. The minister's letter should clearly outline the purpose and scope of the proposal, identify any financial implications and indicate if the proposal relates to the delivery of the Government's strategic priorities.

17. If there is a critical date by which a decision is required, this should also be identified and supported by explanation.

18. If there are any financial implications, the letter must be copied to the Treasurer and the Minister for Finance and Deregulation.

19. Matters involving revenue measures may only be brought forward with the agreement of the Treasurer (agreement may involve a joint submission with the Treasurer).

20. The Cabinet Secretary, following consultation with the Prime Minister, will respond in writing advising whether authority has been granted for the matter to be brought forward to the Cabinet or Cabinet committee, the agreed scope of the proposal and any other conditions. If, after authority has been provided, there is a change in circumstances which requires alteration to the scope of the proposal, ministers must write again to the Cabinet Secretary seeking additional or varied authority.

21. Matters which the Cabinet (or Cabinet committee) request to come forward for consideration do not require any further authority, provided that request is recorded in a Cabinet minute.

22. The Cabinet Secretariat will not release a submission or memorandum to ministers without the required authorities outlined above.

Cabinet submissions

23. The Cabinet submission process is the key mechanism for enabling informed decision-making in the Cabinet and therefore adherence to the process is critical to the proper exercise of the principle of collective decision-making.

24. Any documents conveying substantive material to the Cabinet, including audio-visual presentations, must be covered by a Cabinet submission and are subject to the rules and procedures of the submission process.

25. The Cabinet Secretary is responsible for setting standards for the form and content of submissions and accompanying presentations. The Cabinet Secretariat plays both a gate keeping and advisory role to ensure that those standards are met.

26. The Cabinet submission process provides guidance and templates to assist ministers and their departments to draft concise documents which:

- (a) set out the benefits, disadvantages and risks associated with the proposed policy;
- (b) explain any linkages to the delivery of the Government's strategic priorities;
- (c) explain the implementation challenges, the level of risk and a high level response to these; and
- (d) highlight any public expenditure implications.

27. Of equal importance are the circulation and lodgement requirements (many of which are built into the development of the submission) that ensure appropriate consultation occurs prior to the item coming before the Cabinet.

28. Ministers are responsible for the submissions they submit to the Cabinet and are expected to be fully conversant with them. Ministers bringing forward submissions are also responsible for ensuring that the consultation necessary to enable a fully informed decision to be taken occurs at both ministerial and officials levels. It is particularly important that there is agreement on factual matters, including costs.

Ministerial statutory decisions

29. Special considerations apply to protect the integrity of the relevant statutory decision-making process when a minister brings an item to the Cabinet on a statutory decision or action he or she intends to make. The Cabinet cannot make, or appear to make, a decision that the statute requires a minister (officer or agency) to make. Accordingly, the submission should be drafted on the basis that, consistent with the law, it is seeking to have a policy view taken into account by the independent decision-maker; it should not be drafted as an instruction.

Cabinet memorandums

30. Cabinet memorandums are papers which are submitted by departments rather than ministers, generally in response to requests by the Cabinet (or a Cabinet committee) for supplementary information or the development of options. Authority is required before a memorandum can be brought forward, in the same way as for submissions. Departments cannot initiate a memorandum without authority being in place.

31. Memorandums are to contain the same information as submissions and require the same circulation and consultation.

Deadlines and late submissions

32. Deadlines for the lodgement of Cabinet documents (that is, submissions and memorandums as well as coordination comments) ensure that ministers have sufficient time to read and seek advice on papers and to discuss them with colleagues if required. The standard submission process allows five working days between distribution of the final submission by the Cabinet Secretariat and consideration by the Cabinet or a Cabinet committee (for information on circulation and lodgement deadlines see Annex D – Preparing a submission to the Cabinet). Breaching this five day rule requires the approval of the Cabinet Secretary, which will only be given where the need for earlier consideration is urgent and unavoidable.

Amending and withdrawing submissions

33. Amendments to Cabinet or Cabinet committee submissions and memorandums already lodged with the Cabinet Secretariat will not be accepted unless the change is of a minor editorial nature. If a minister wishes to make substantive amendments to a paper he or she has already submitted, the usual practice is to withdraw the original paper and submit a corrigendum to that submission.

34. The Cabinet Secretariat will not accept changes suggested by one minister to another minister's submission or memorandum before a meeting. That minister should first consult with the Cabinet Secretary and then suggest any proposed changes at the meeting at which the submission or memorandum is to be considered.

35. If a sponsoring minister wishes to withdraw his or her submission from consideration after the Cabinet Secretariat has issued a business list, that minister should provide notice of withdrawal, including a reason for the withdrawal, to the Cabinet Secretary as soon as practicable.

Authority to bring forward matters without submission

36. When ministers bring matters before their Cabinet colleagues that have not been subject to the full submission process, it increases the risk that the Cabinet's decision will result in unforeseen and unintended consequences. It weakens the ability of the Cabinet to apply scrutiny from a whole-of-government perspective and ultimately undermines the Cabinet system itself.

37. To bring a matter before the Cabinet without the opportunity for consultation and advice which the Cabinet submission process provides, requires the Prime Minister's written agreement.

38. Ministers should only seek the Prime Minister's authority to bring forward a matter for their colleagues' consideration without a Cabinet submission where the matter is urgent and this urgency could not reasonably have been foreseen. Matters may be:

- (a) urgent matters of a procedural rather than a policy nature; and
- (b) urgent policy matters where the parameters of the decision(s) are straightforward and the risks associated with the decision(s) are low.

39. Ministers should write to the Prime Minister at least five working days before the meeting at which discussion and decision is sought. The letter seeking exemption from standard Cabinet processes

must demonstrate why the matter warrants urgent consideration which will not allow their colleagues full notice of the proposal or consultation with the relevant departments.

40. The letter must be marked 'Cabinet-in-Confidence' and attach a concise summary of the matter (no longer than five pages), which has clear recommendations for the Cabinet's consideration and supporting argument, including an analysis of the associated risks.

41. In writing to the Prime Minister, ministers should specify those colleagues with a portfolio interest in the matter, identify any co-optees and ensure that each of those ministers receives a copy of his/her request and the paper summarising the matter.

42. If the Prime Minister agrees to the matter being raised, the Cabinet Secretariat will circulate copies of the letter and paper to all Cabinet or Cabinet committee ministers. Should the Prime Minister not agree to the matter being raised, the Cabinet Secretary will advise the minister(s) concerned.

Oral items

43. In cases of particular urgency or confidentiality, or to test preliminary support for a proposal, a minister may wish to raise an oral item at a Cabinet or Cabinet committee meeting. Oral items for the Cabinet will be accepted only with the prior approval of the Prime Minister or Cabinet Secretary. The Cabinet Secretary will liaise with the Chair of the Cabinet committee.

Proposals with financial implications

44. Where a proposal involves any financial implications, the Department of Finance and Deregulation (Finance) must be consulted. The Cabinet Secretariat is authorised to reject any submission or matter without submission that is not accompanied by expense and non-taxation revenue costings agreed by Finance. The Cabinet Secretariat is similarly authorised to reject a submission with taxation revenue or taxation expenditure implications that have not been agreed with the Department of the Treasury.

ANNEX C – CONDUCT OF CABINET AND CABINET COMMITTEE MEETINGS

Notification of business lists

1. The Cabinet Secretariat submits to the Cabinet Secretary recommendations on the business lists for meetings to be held in the following two weeks. These proposals take into account the readiness of compliant submissions for consideration, minutes available for consideration and endorsement, ministers' written requests and the relative urgency of items.
2. Once the forward program is approved by the Cabinet Secretary, the Cabinet Secretariat issues to ministers at least one week in advance:
 - (a) a business list for each meeting, showing the business to be considered, the ministers responsible for the items and any ministers or parliamentary secretaries to be co-opted; and
 - (b) any draft minutes for endorsement based on matters previously considered by a Cabinet committee.

Notification of non-attendance – delay or absence

3. If a minister does not expect to be available to attend a meeting of the Cabinet or a Cabinet committee, that minister should advise the Cabinet Secretary in writing prior to the meeting outlining the reasons for the absence.

Co-option

4. The Cabinet Secretariat provides advice to the Cabinet Secretary on co-option arrangements for each meeting.
5. Ministers shown on business lists as being co-opted for an item of business attend the Cabinet or Cabinet committee meeting for the discussion of that item. Those ministers participate fully in the discussion of that item.
6. Non-Cabinet ministers with a portfolio interest in an item listed for a Cabinet or Cabinet committee meeting (and who have not been co-opted on the business list) may seek to be co-opted for the discussion by having the relevant senior portfolio Cabinet minister make a request in writing to the Cabinet Secretary.
7. Cabinet Secretariat staff (usually the Cabinet Attendant) will inform co-opted ministers when the meeting is likely to reach their item(s) and call them when required.

Declaring interests

8. Ministers and parliamentary secretaries attending Cabinet or Cabinet committee meetings must, in relation to the matters under discussion, declare any private interests, pecuniary or non-pecuniary, held by them, or by members of their immediate family of which they are aware, which give rise to, or are likely to give rise to, a conflict with their public duties.
9. It is then open to the Chair of the meeting to excuse a minister from the discussion or to agree expressly to his or her taking part.
10. Any such declarations will be recorded by the Cabinet note takers.

11. Once a minister has made the Cabinet aware of a particular private interest, it will not normally be necessary to repeat that declaration in subsequent Cabinet discussions.

12. If a significant time has elapsed since a declaration and the interest is one that might not be well known to colleagues, the minister might declare the interest again when the relevant matter is under discussion.

Declaration during discussions on appointments

13. A minister would withdraw from discussion of any proposal to appoint a person to an Australian Government body who is a relative of that minister (for further information on the appointments process see Annex J – Appointments process).

Audio-visual presentations to the Cabinet

14. Ministers must seek the Cabinet Secretary's agreement to make an audio-visual presentation to the Cabinet or a Cabinet committee.

15. Presentations would usually be made where there is a need to:

- (a) provide supporting explanation to a submission that has been lodged and contains complex proposals which would benefit from a short presentation; or
- (b) outline complex issues to the Cabinet in order to seek the Cabinet's guidance.

16. In seeking approval to make a presentation ministers should:

- (a) where possible, attach a copy of the proposed slide presentation (of not more than 10 slides), which must be clearly marked 'Cabinet-in-Confidence'; and
- (b) indicate the purpose of the presentation.

17. A hard copy of the presentation becomes part of the formal Cabinet record.

18. Where material from presentations, or presentations as a whole, were not explicitly created for the purpose of informing or advising the Cabinet, they may be used for other audiences—but there must be no reference to the material ever having been before the Cabinet.

Cabinet room attendants

19. The Cabinet Attendant provides assistance and services to ministers during meetings of the Cabinet (and Cabinet committees). Duties include passing messages between the Cabinet room and ministerial staff and the custody and distribution of documents circulated in the Cabinet room.

Official note takers

20. Generally there are three official note takers in the room during Cabinet discussions. These officers are from the Department of the Prime Minister and Cabinet (PM&C) and together they are responsible for drafting the Cabinet minute for the Cabinet Secretary's approval. Each note taker has distinct responsibilities in support of the meeting and the preparation of the minutes, as detailed in the Guide for Note Takers.

21. Note Taker 1 is the Secretary of PM&C or a delegate. Note Taker 2 is generally the First Assistant Secretary of PM&C's Cabinet Division or the Assistant Secretary Cabinet Secretariat. Note Taker 3 is a senior officer of PM&C who has subject matter expertise on the item under discussion. Number 3 note takers will change throughout the meeting according to the item under discussion.

22. The notes taken are intended purely as an aide-memoire for drafting the formal Cabinet decision (the Cabinet minute, see Annex G – Decisions of the Cabinet) after the meeting.

23. Note takers must use the Cabinet notebooks issued by the Cabinet Secretariat and must not make any other record of the discussion. Note takers use their discretion in judging what to record in their notes, but they are required to take a full record of any conflict of interest declared by a minister.

24. Note takers do not take a verbatim record but their notes may from time to time record the individual views of ministers and as such these notebooks are highly sensitive documents.

25. The notebooks remain the property of the Secretary of PM&C and are protected from early public release under the *Archives Act 1983* and cannot be sought under the *Freedom of Information Act 1982*. Cabinet notebooks are publicly released once they enter the open access period (currently after 30 years).

ANNEX D – PREPARING A SUBMISSION TO THE CABINET

Cabinet submissions

1. A Cabinet submission is the documentation by which a minister puts a proposal to the Cabinet or a Cabinet committee. The rules and procedures below apply to Cabinet committees as well as the full Cabinet.
2. Given the volume of Cabinet documentation that ministers need to consider, the Prime Minister, in consultation with the Cabinet Secretary, establishes strict guidelines on the format of submissions so that:
 - (a) the proposal and the problem it seeks to address are expressed clearly and concisely;
 - (b) there is a focus on what action the Government could take;
 - (c) the impact on the Government’s priority policy areas can be easily discerned; and
 - (d) implementation risks are clearly identified.
3. For more detailed information on formatting requirements, risk assessment and implementation planning see the Drafter’s Guide.
4. In addition to a prescribed format, the Cabinet also requires that, during the development of a submission, there is consultation between ministers (and departments) so that:
 - (a) there is agreement on the facts, including costs, being presented in the submission;
 - (b) all relevant factors, from a whole-of-government perspective, are taken into account;
 - (c) departments and agencies with responsibility for, and/or knowledge of, implementation in the policy area can provide input; and
 - (d) as far as possible, differences between ministers are resolved in advance of Cabinet consideration or are identified and set out in a way that will facilitate discussion and decision-making.
5. The submission process, therefore, includes a number of mandatory basic consultation procedures.
6. As ministers take collective responsibility for the decisions of the Cabinet and are bound by the principle of Cabinet solidarity to support and advocate Cabinet outcomes, it is imperative that they have sufficient time to consider submissions in advance of any Cabinet discussion.
7. The Cabinet Secretary, therefore, takes responsibility for ensuring there has been sufficient time for ministers to consider submissions by mandating the timeframes between exposure draft, coordination comments, lodgement, listing as a business list item, and Cabinet consideration. Understanding the timeframes is particularly important when proposals are time critical.
8. The Cabinet’s requirements in relation to submission format, consultation and timeframe requirements seek to support collective decision-making. Exemption from any aspect of these requirements should only be sought in exceptional circumstances and will require the agreement of the Cabinet Secretary.

9. Cabinet documents, including submissions, are subject to a strict confidentiality regime to:
- (a) support collective decision-making and responsibility – ministers must be able to express their views and concerns frankly during discussions without compromising the collective stance taken after a decision is made;
 - (b) ensure that decisions are not pre-empted by early disclosure; and
 - (c) identify that, unlike other material generated and handled by the public service, the Cabinet documents belong to the government of the day and cannot be distributed, accessed or handled like other working documents of government administration.
10. The CABNET network, managed by the Cabinet Secretariat, supports the confidential preparation, circulation and lodgement of Cabinet documents, including submissions.

Joint submissions

11. The Prime Minister or the Cabinet may decide that submissions dealing with some subjects should always be prepared by a particular minister or jointly. For example, all matters involving taxation are required to be brought forward by the Treasurer or, where another portfolio minister has a significant interest, by the Treasurer and that minister.
12. Joint submissions require the sponsoring ministers to agree the text of the submission. It is highly desirable that they agree the recommendations, but where this is not possible ministers should indicate those recommendations on which they agree and should specify their divergent recommendations.
13. In addition, joint submissions will also be required for major and sensitive proposals with significant service delivery components delivered by another agency. At a minimum, all major and sensitive initiatives which have significant service delivery components will require joint submissions where responsibility for policy and implementation rests with different departments or agencies.
14. Although joint submissions are the joint responsibility of the ministers concerned, as a matter of practical administration there needs to be a clear understanding of who has the lead role in ensuring the work is undertaken and, in particular, which department will have responsibility for undertaking the mandatory consultation processes and lodging the submission with the Cabinet Secretariat.

Submissions prepared by one minister in consultation with others

15. Where the Prime Minister, the Cabinet or the Cabinet Secretary has asked a minister to prepare a submission in consultation with others, where a submission recommends action by ministers not signatories to it, or where matters directly affecting other ministers' portfolio responsibilities are raised, the sponsoring minister must provide the other ministers concerned a sufficient opportunity to contribute to the development of the submission. Consultation does not necessarily require agreement, but ministers should be consulted sufficiently early in the drafting process to enable their views to be taken into account and should be given sufficient time to enable them to make a considered input into the description of the problem and possible solutions.

Memorandums

16. Departments may from time to time be requested to provide information and options on a certain matter for the Cabinet's consideration. Such documentation is referred to as a memorandum. While there are a number of differences in style and format between a submission and a memorandum,

the requirements in terms of brevity, analysis, consultation and confidentiality are the same (see the Drafter's Guide for details on preparing Cabinet memorandums).

Implementation analysis and planning

17. The Cabinet has instituted processes to ensure that implementation issues have been adequately addressed in submissions and memorandums, emphasising the importance of sound policy delivery.

18. To enforce this process the Cabinet Secretary is authorised to reject submissions or memorandums where the relevant secretary or agency head has not confirmed that the submission contains all the information that the Cabinet will require to assess the implementation challenges of a proposal.

19. The Cabinet is responsible not only for making decisions but as a collective forum for reviewing the Government's strategic priorities and ensuring the delivery of key initiatives.

20. At a minimum, all submissions should:

- (a) include rigorous analysis that justifies the proposed measures (including, as appropriate, business cases, feasibility studies and cost-benefit analyses);
- (b) identify how, when and by whom the recommendations of a submission will be implemented;
- (c) identify key risks and mitigation strategies; and
- (d) invite specific and focused comment on proposed approaches to implementation through the exposure draft and draft for co-ordination comment processes.

21. To ensure this occurs, the Cabinet has requested that the authoring department's secretary or agency head confirms, for each submission that their minister sponsors, that:

- (a) the submission contains all the key information that the Cabinet will require to assess the implementation challenges of the proposal; and
- (b) their department (or agency) has, or will, put in place the necessary capabilities to effectively manage implementation.

22. This confirmation is provided in the Due Diligence Checklist.

23. Where appropriate, submissions must detail how the recommendations they make can be implemented, if they are agreed by the Cabinet.

24. As the level of risk of a proposal increases, so too does the level of implementation planning required by ministers, and central agencies. To establish what additional planning is required, departments or agencies must complete a formal risk assessment during the policy development process in consultation with central agencies. All submissions bringing forward proposals which have 'significant implementation risks or challenges' are required to submit robust implementation plans as an attachment to the submission (see the Drafter's Guide).

Submission/memorandum format

25. Cabinet submissions are made up of the following elements:

- (a) cover sheet providing summary of key points or 'executive summary' and financial implications;
- (b) recommendations (or conclusions for memorandums);
- (c) supporting analysis;

- (d) coordination comments;
- (e) due diligence checklist; and
- (f) titles of any attachments.

26. Each of these elements has prescribed information requirements and strict limitations on length. These rules seek to ensure that the material put before the Cabinet is concise, substantiated by facts, realistic about risks and argued within the framework of the Government's strategic policy agenda.

27. The Cabinet template is available via CABNET and the Drafter's Guide provides direction and assistance on how to structure the submission.

28. If necessary, other essential supporting factual information (including New Policy Proposals, impact statements, presentations and draft media releases) can be attached to a submission.

29. Implementation plans must be attached to Cabinet submissions if there are significant implementation challenges associated with the proposal.

30. Attachments form part of the main submission pack, however if the size or nature of any attachment precludes electronic distribution over CABNET, the attachments are hand delivered to ministers. These materials are Cabinet documents and must be handled accordingly (see Annex I – Cabinet documentation).

Submission consultation processes

31. Good policy outcomes require informed decisions by ministers. Informed decisions require agreement on facts and an understanding of the opinions of those who have expertise in the subject matter. During the development of submissions ministers and departments will need to balance the benefits of broad consultation with adherence to the need-to-know principle, so that the confidentiality of the Cabinet's considerations is protected.

32. The mandatory consultation processes for submissions outlined below relate to the consultation that occurs between ministers (and their departments) prior to Cabinet consideration.

33. Ministers are responsible for ensuring that these consultation processes are adhered to by their departments and offices.

34. The first step is for the authoring department(s) to identify ministers, departments (and agencies) with an interest in the policy area(s) under discussion in the submission.

35. As far as possible, consultation with these interested ministers and departments should ensure that differences between ministers on a proposed approach are resolved in advance of the Cabinet's consideration or, if this is not possible, differences are identified and set out in a way that will facilitate informed decision-making.

36. It is particularly important that there is agreement regarding factual matters (that is, matters that are not open to interpretation or differences of opinion), including costs, which will form the basis of Cabinet discussions. The Cabinet Secretary will not authorise distribution of submissions or memorandums to ministers where there is a disagreement about facts. Departments must consult Finance on whether there are any financial implications, and any costings must be explicitly agreed by Finance.

37. The two mandatory consultation processes during the development of the submission are:

- (a) exposure draft; and
- (b) draft for coordination comments.

Exposure drafts

38. An exposure draft is a working draft which invites comment and suggested changes and additions to all aspects of the policy proposal under discussion. It should be circulated prior to approval by the sponsoring minister(s). It greatly assists in refining the final submission and thereby focusing the resultant Cabinet consideration.

39. While it is essentially a working document, because an exposure draft is formatted using the Cabinet submission template and is therefore a Cabinet document, it must be handled accordingly (see Annex I – Cabinet documentation).

40. Departments must circulate at least one exposure draft but, provided there is sufficient time, complex or contentious proposals may benefit from circulation of several exposure drafts during the development of the submission.

41. Consulted departments should use the exposure draft as an opportunity to highlight any errors of fact and areas of concern or disagreement and identify implementation challenges and risks. Authoring departments should address as many concerns and comments raised at the exposure draft stage as possible. This will reduce any areas of contention raised in formal coordination comments at the draft stage (see Coordination comments on draft submissions below).

42. In the preparation of the exposure draft the authoring department should ensure the necessary impact statements have been drafted and agreed with the relevant departments/agencies.

43. The exposure draft is also an opportunity to ensure that implementation risks and challenges associated with proposals are identified and thoroughly analysed from a whole-of-government perspective. Authoring departments should seek feedback on the adequacy and quality of their implementation planning, particularly from the central agencies and departments or agencies with relevant expertise.

44. An implementation focus during the exposure draft process ensures that authoring departments resolve issues such as resourcing, governance and oversight prior to Cabinet consideration, as well as ensuring that unresolved issues are identified and brought to the Cabinet's attention.

45. The Cabinet Secretariat uses the exposure draft to provide guidance to the authoring department on the submission's structure, format and compliance with core requirements. Particular attention is given to ensuring that the recommendations are action and decision oriented and supported by the submission's analysis.

Coordination comments on draft submissions

46. Interested departments and agencies must be given the opportunity to provide a formal comment on the submission after it has been approved by the sponsoring minister.

47. These coordination comments form part of the final submission and provide a means for the Cabinet to receive the views of departments and agencies on proposals and the existence and depth of disagreement between departments. This is an important forum for departments to bring issues about adequacy and quality of implementation planning to the attention of the Cabinet.

48. Coordination comments are the impartial advice of Australian Public Service agencies to the Cabinet as a whole. They are not cleared by ministers or ministerial advisers. Any variation to these arrangements would compromise the independence of coordination comments.

49. Coordination comments should be no longer than half a page. They must only raise matters requiring consideration and agreement of ministers. This includes comments about the adequacy and quality of implementation planning. Disagreements between departments over procedural or technical matters that do not have a substantial bearing on the proposal should be handled between departments prior to the submission being considered by the Cabinet (generally, such issues should be resolved during circulation of the exposure drafts).

50. Coordination comments also provide an indication of the adequacy of the consultation undertaken during the development of the submission.

51. The Cabinet Secretariat will not release submissions to ministers until coordination comments have been received from all of the relevant departments. Submissions therefore need to be circulated with adequate time for departments to provide coordination comments, that is, 48 hours before the submission is to be released to Ministers. Prompt provision of coordination comments by departments is also critical to ensuring that ministers receive submissions in a timely fashion.

Submission circulation and lodgement deadlines

52. The Cabinet Secretary advises the Prime Minister on the business list items for meetings of the Cabinet and Cabinet committees using forward programs maintained by the Cabinet Secretariat (see Annex B – Managing the Cabinet business). Each department’s Cabinet Liaison Officer (CLO) holds copies of the Cabinet forward program schedule and associated lodgement deadlines.

53. The Cabinet submission deadlines are determined by the need to provide time for both ministers and departments to consider proposals. Understanding these timeframes is particularly important if a Cabinet decision is required by a specific date or within a set timeframe.

54. Deadlines for submissions which would be processed via the ‘10 Day Rule’ (see Annex F – Ten day rule procedures and processes) require 10 working days to have elapsed between lodgement and possible endorsement by the Cabinet.

Late submissions

55. In cases where it is absolutely necessary to do so and for matters which are genuinely urgent, unforeseen and unavoidable, ministers may seek the Cabinet Secretary’s agreement to waiving the five day requirement between lodgement and consideration. Requests to the Cabinet Secretary for items to breach the five day rule will not be agreed other than in the most urgent cases where the need for earlier consideration is clear and inescapable. The urgency should not result from delays and inadequate planning in ministers’ departments or offices.

56. Authoring departments are responsible for ensuring the deadlines for exposure drafts and coordination drafts are met.

57. Even where all deadlines are met, submissions may not be listed for consideration. It is for the Prime Minister, in consultation with the Cabinet Secretary, to determine what business will be dealt with at particular meetings of the Cabinet and Cabinet committees. Considerations such as availability of particular ministers and pressure of other Cabinet business (for example, during the Budget process) may affect the timing of Cabinet or Cabinet committee consideration of particular submissions. CLOs can seek advice from the Cabinet Secretariat on the scheduling of matters relevant to their portfolio.

Proposals involving administrative law

58. Administrative law is the body of law regulating government decision-making. It is an accountability mechanism that generally applies to government decision-making about individual matters, rather than broad policy decisions. The administrative law system includes primary decision-making by ministers and public servants, merits review of primary decisions, review and investigation by the Commonwealth Ombudsman and judicial review by federal courts. The Attorney-General has responsibility for all of these matters with the exception of the Commonwealth Ombudsman. Administrative law principles in relation to review of decisions and the accountability of the executive government should apply consistently across all government decision-making schemes. More information about administrative law policy can be found in the Administrative Law Policy Guide at <<http://www.ag.gov.au/Administrativelaw/Pages/default.aspx>>.

59. In order to ensure that administrative law considerations are taken into account in the development of all relevant government programs and policies, agencies drafting Cabinet submissions relating to decision-making and regulation should consult the Attorney-General's Department (AGD). In particular, agencies should consult with the AGD in relation to all proposals:

- (a) involving decision-making by ministers or public servants;
- (b) to confer jurisdiction on the Administrative Appeals Tribunal;
- (c) to establish a new tribunal or merits review body;
- (d) to set up a new regulatory body; and
- (e) involving national regulatory schemes.

Submissions containing legislation proposals

60. Procedures for the preparation and handling of legislation proposals in submissions are detailed in the Legislation handbook available at <<http://www.pmc.gov.au/guidelines/index.cfm>>. Some additional information on legislation proposals is contained in the Drafter's Guide.

ANNEX E – PROPOSALS REQUIRING A ‘TWO PASS’ SUBMISSION PROCESS

1. Certain higher risk proposals may require a two-pass submission process.
2. Major infrastructure projects, including Information Communication Technology (ICT) and Defence-related proposals, require a submission seeking in-principle agreement to establish the Government’s preferred approach to the project. This submission will focus on options, costings, timing (schedule) and risks. A second submission is also required, providing a business case for the project, which includes detailed cost assessments and risk mitigation strategies. Proposals for the acquisition of new and enhanced defence capabilities are generally considered by the National Security Committee of Cabinet (NSC) rather than the full Cabinet. Defence Capability Plans, facilities and ICT projects in the Defence portfolio, assessed by NSC under the two-pass approval process are excluded from the requirement for a Gateway Risk Assessment (GRA), which determines whether a project is high risk.
3. The Budget Process Operational Rules issued by the Cabinet each year provide further detailed guidance on two-pass review and approval processes.
4. See the Drafter’s Guide for further details on the two-pass submission process.

Additional assurance processes

5. Proposals which are assessed as having medium or high levels of residual risk must have their risk assessments provided to the Department of Finance and Deregulation (Finance) and the Department of the Prime Minister and Cabinet (PM&C). These will be used as one of the bases for identifying when additional assurance processes, such as Implementation Readiness Assessments (IRAs) and Gateway Review Processes (Gateway) may be needed.
6. IRAs are commissioned by the Expenditure Review Committee of Cabinet (ERC) or by the Minister for Finance and Deregulation at the same time a come-forward decision on a proposal is made, on the basis of the risks of the proposal and advice from Finance. IRAs will give additional assurance for a small number of high-risk proposals that are not covered by existing mechanisms. The IRAs support departments and agencies and provide additional assurance to the Cabinet, the responsible minister and the departmental secretary or agency chief executive on the programs selected.
7. The IRAs are undertaken by independent reviewers with experience in the relevant policy area, such as former departmental secretaries, over the period of a week. Reports are made available to the relevant minister, portfolio secretary and/or agency head, senior responsible officer, Finance, PM&C and the Department of the Treasury. Finance will also refer to the outcome of the IRA in its Green brief to ERC. Reports will be classified ‘Cabinet-in-Confidence’ as they will be an input to the Cabinet’s deliberative processes and would not be made public.
8. Gateway examines programs and projects at key decision points. Gateway provides independent and timely advice to sponsoring agencies, through their senior responsible officials, as the person responsible for delivering program outcomes.
9. The Cabinet will decide to apply Gateway to high-risk programs and projects where risk and cost thresholds have been exceeded. Gateway costs should be included in the new policy proposals being brought forward.

ANNEX F – TEN DAY RULE PROCEDURES AND PROCESSES

1. Less controversial submissions can be settled by circulation to Cabinet ministers.
2. The circulation period is ten days after lodgement—hence the process is termed the ‘ten day rule’.
3. Under this arrangement, the Department of the Prime Minister and Cabinet (PM&C) is responsible for identifying those submissions with a high level of agreement, which are unlikely to generate discussion in the Cabinet, but still require the authority of the Cabinet to proceed.
4. Such submissions are usually identified by the Cabinet Secretariat in consultation with the relevant policy area of PM&C during the exposure draft phase of the submission process.
5. The Cabinet Secretariat then makes a recommendation to the Cabinet Secretary that these submissions be handled under the ‘ten day rule’.
6. If the Cabinet Secretary agrees to the application of the ten day rule, the Cabinet Secretariat circulates submissions to Cabinet ministers who have ten days to raise with the Cabinet Secretary any matters that may require discussion by the Cabinet.
7. If no issues are raised during the ten day period, the Cabinet Secretariat will draft a minute based on the recommendations of the submission and include the item on the next possible Cabinet business list. As the business list is issued five days prior to the Cabinet meeting, the minimum period for the completion of the ten day rule process is 15 days.
8. If ministers have concerns about the submission during the circulation period, they must write to the Cabinet Secretary outlining their issues (such correspondence should be marked ‘Cabinet-in-Confidence’). The Cabinet Secretary will seek to resolve concerns by facilitating discussions directly between the relevant ministers and if necessary their departments.
9. Once the concerns are resolved (ideally within the ten day period) the Cabinet Secretariat prepares a draft minute based on the recommendations and ministerial discussions. The minute is then scheduled for consideration and endorsement by the Cabinet. If concerns cannot be resolved in that period, the Cabinet Secretary may then list the submission for discussion rather than endorsement.

ANNEX G – DECISIONS OF THE CABINET

1. Although the recorded outcomes of Cabinet discussions are often referred to as Cabinet ‘decisions’, they are formally known as Cabinet minutes. As the Cabinet has no legal or statutory status, the decision-maker from a legal perspective is normally the Parliament, the Federal Executive Council, the relevant minister or an official with designated statutory powers.
2. It is important that the Cabinet minutes reflect this position and not pre-empt the carrying out of due process or the proper exercise of any discretion (whether under statute or prerogative) by the responsible minister. Cabinet may ‘note’ rather than ‘agree’ matters in these circumstances.
3. The note takers, with the assistance of the Cabinet Secretariat, are responsible for preparation of the minutes for the Cabinet Secretary’s approval. Note Taker 3 (see Annex C – Conduct of Cabinet and Cabinet committee meetings) commences preparation of the draft minute as soon as possible after the discussion of the submission (or matter) has finished. The Cabinet Secretariat aims to have the draft Cabinet minutes to the Cabinet Secretary for approval within 24 hours of completion of the Cabinet or Cabinet committee meeting.
4. Note Taker 3 uses the submission’s recommendations as the starting point for drafting the Cabinet minute (see Note Taker’s Guide), hence the emphasis placed on the drafting of clear, concise and self contained recommendations during the drafting of the submission (see the Drafter’s Guide). Recommendations should focus on actions and capture every aspect of the submission that requires the Cabinet’s authority.
5. Note Takers 1 and 2 ensure that the draft Cabinet minute properly reflects the Cabinet’s decision and provides ministers with clear direction and authority to implement the decision.

Circulation

6. Once the Cabinet Secretary has approved and signed the Cabinet minutes, the Cabinet Secretariat is responsible for circulation.
7. Cabinet minutes are Cabinet documents and are marked ‘Cabinet-in-Confidence’. For detailed information see Annex I – Cabinet documentation.
8. The Cabinet and Cabinet committee minutes are normally circulated to all Cabinet ministers, any non-Cabinet ministers coopted to a meeting or having a direct portfolio interest in the matter, and to relevant departments. Cabinet minutes are circulated to departments which are specifically required to take action or which have a need to know and to no others.
9. Expenditure Review Committee of Cabinet (ERC) minutes recording Budget decisions are circulated to ERC ministers and the relevant portfolio ministers only, but are provided in the Cabinet room to other Cabinet ministers just prior to the Cabinet meeting dealing with the Budget.
10. Departmental secretaries are expected to have procedures in place to ensure that Cabinet minutes are circulated internally with the strict application of the ‘need-to-know’ principle and that a proper record is kept of anyone who has access to a Cabinet minute.
11. Officers in a department which does not receive a copy of a Cabinet minute in its initial circulation may consider, on advice from their minister’s office or from other departments, that they require access

to the Cabinet minute. In that case, a request may be made in writing (usually via CABNET email) to the Cabinet Secretariat, indicating the reasons for the request.

12. Except for those agencies with major executive functions relating to the day-to-day business of government (such as the Office of Parliamentary Counsel and the Australian Taxation Office), agencies other than departments do not normally receive copies of Cabinet minutes. Rather, in the event of minutes affecting such bodies, it is for ministers with responsibility for them to arrange that they be informed of what is required and by when. Ministers will often look to their secretaries to discharge this responsibility on their behalf. Where an agency has been directly involved in the preparation of a matter for the Cabinet or directly affected by the outcome of the Cabinet's deliberations, the relevant Cabinet minute may be issued to the chief executive officer of that agency.

13. Departments with coordinating responsibilities in an area affected by a Cabinet minute should, as appropriate, convey the effect of that Cabinet minute to other departments and authorities.

Amendments

14. A minister may disagree with the wording of a Cabinet minute and request that it be amended. Such a request is made in writing to the Prime Minister or the Cabinet Secretary. If it is agreed that the Cabinet minute does not accurately reflect the Cabinet outcome, an amended Cabinet minute may be issued. If there is a more fundamental dispute over the content of the Cabinet minute, the matter may need to be brought forward to the Cabinet for consideration.

Announcements

15. Sponsoring ministers should specifically consider if, when and how an agreed policy proposal should be made public and what factual material and analysis embodied in the submission might be made available to the public. Some government decisions are not made public.

16. Ministerial intentions regarding public release must be indicated in the recommendations of the submission, with a draft media release included as an attachment noting that any such announcement would refer to the decision of the Government, not of the Cabinet or one of the Cabinet committees.

17. Where possible, any information on the proposed handling strategy for the media release should be incorporated in the submission. This might include the indicative timing of the release, whether it is expected to be issued jointly, involve a media event, or form part of a broader community engagement strategy or information campaign.

18. Generally, significant policy developments are announced first in the Parliament, if this is practicable. Likewise, and where possible, policy information papers announcing government policy (white papers) or public policy discussion papers (green papers) are first tabled in the Parliament.

19. No publicity is to be given to matters where Federal Executive Council's approval is required before the council's action is complete, unless the Governor-General's prior approval of an announcement has been obtained (see Federal Executive Council Handbook at <<http://www.pmc.gov.au/guidelines/index.cfm>>).

20. Where premiers and chief ministers have to be informed, or other preliminary action arising from a Cabinet minute has to be taken, it is the responsibility of the portfolio minister to see that this has been finalised before an announcement is made.

Information campaigns

21. Submissions which propose Government funded information campaigns must provide adequate information to enable the Cabinet to consider the cost-effectiveness of proposed campaigns when considering the initial approval of new policy proposals, including justification for the proposed campaign, costs, target audiences, method and media, independent advice from the master media agency and any whole-of-government aspects.

ANNEX H – CABINET COMMITTEES

1. In settling Cabinet arrangements, it is open to the Prime Minister of the day to adopt the organisation and system he or she wishes, subject only to the provisions of the *Ministers of State Act 1952*. The Ministry, the Cabinet and Cabinet committees are all elements of the Cabinet system.
2. In general, submissions are considered first by the relevant Cabinet committee before being brought forward to the Cabinet, particularly those submissions and memorandums that are of a highly sensitive or technical nature. The resulting Cabinet committee minutes and their supporting submissions are then usually listed for endorsement by the Cabinet. (Examples of exceptions include minutes of a procedural kind such as requests by the Expenditure Review Committee of Cabinet (ERC) for further submissions.)
3. Generally, the procedures and processes, including the submission and consultation processes required by Cabinet committees mirror those of the Cabinet. The key difference is that, with the exception of the Parliamentary Business Committee of Cabinet (PBC) and the National Security Committee of Cabinet (NSC), Cabinet committee decisions are not final and must be endorsed or considered by the Cabinet before they become operative. The PBC and NSC may, however, decide that a particular matter within their authority should be referred to the Cabinet for endorsement.
4. Officials and advisers may attend Cabinet committee meetings, although the numbers and seniority of attendees are restricted.
5. Where the Prime Minister does not chair a Cabinet committee, chairs and deputy chairs are supported by the Department of the Prime Minister and Cabinet.

Endorsement of Cabinet committee minutes

6. The Cabinet committee system is designed to ensure that outcomes are reached after thorough discussion and on the basis of consensus. The Cabinet's endorsement of Cabinet committee minutes is a formal process not usually involving the re-opening of discussion. Cabinet committee chairs will advise the Cabinet Secretary where Cabinet committee minutes require discussion so that they can be identified for discussion on the Cabinet business list. Other ministers may also advise the Cabinet Secretary that they wish to discuss a Cabinet committee minute in the Cabinet (noting that if the request is made by a non-Cabinet minister then that minister would be co-opted to the Cabinet's discussion, subject to agreement by the Cabinet Secretary). The matter may then be raised for discussion when the Cabinet committee minute is brought forward to the Cabinet for endorsement.
7. Changes of substance are not normally made in endorsing a Cabinet committee minute unless the minister responsible seeks an amendment.
8. If a matter of substance is raised, the Cabinet may refer the matter back to the Cabinet committee for further consideration. Similarly, if there is a Cabinet request for an additional submission, or for a corrigendum to a document already before it, the matter may be returned to the appropriate Cabinet committee for consideration before being considered by the Cabinet again.

Current Cabinet committees

9. There are two coordinating Cabinet committees and five functional policy Cabinet committees. Additional Cabinet committees may be set up by the Prime Minister from time to time for particular purposes.

10. The two coordinating Cabinet committees are the ERC and PBC.

Expenditure Review Committee of Cabinet (ERC)

11. The ERC examines expenditure proposals in the light of overall fiscal strategy, advises the Cabinet on expenditure priorities during and between Budgets and initiates reviews of expenditure under individual programs.

12. ERC decisions are brought forward to the Cabinet for endorsement or further consideration.

Service Delivery and Coordination Sub-Committee of ERC

13. This sub-committee considers the implementation of the Government's key priorities, including joined up service delivery and communications.

Parliamentary Business Committee (PBC)

14. The PBC considers priorities for the Government's legislation program. It determines the program for each sitting. This is usually considered at the end of each sitting period for the next sitting period. The legislation program establishes the priority order for the drafting of legislation and, to a lesser extent, debating priority.

15. Each sitting week, the PBC also:

- (a) considers and endorses the draft weekly program of legislation for introduction and debate in each House; and
- (b) considers ministers' requests for significant variations to the legislation program such as upgrading the status of a bill, adding a new bill to the program or adding measures to a bill already on the program.

16. The PBC has the authority to take decisions in relation to the legislative program and does not require the Cabinet's endorsement.

National Security Committee of Cabinet (NSC)

17. The NSC focuses on major international security issues of strategic importance to Australia, border protection policy, national responses to developing situations (either domestic or international) and classified matters relating to aspects of operations and activities of the Australian Intelligence Community.

Social Policy and Social Inclusion Committee of Cabinet (SPSIC)

18. The SPSIC provides strategic direction and coordination of the development of policy and delivery of programs across the following broad areas: Indigenous affairs; social inclusion agenda; health; ageing; education and life skills; early childhood and youth; employment participation; and social housing and homelessness.

Regional Australia and Regional Development Committee of Cabinet (RARDC)

19. The RARDC provides strategic direction and advice on the identification of local and community priorities, the consultation and decision-making structures needed to enable regional development and regional delivery of services, development of policies that enable regional economic development, investment in physical and social infrastructure and the delivery of services to ensure the Government adequately meets the needs of Australia's regions, both in urban areas and regional Australia.

Climate Change Committee of Cabinet (CCC)

20. The CCC provides strategic direction and coordination of the development of policy and delivery of programs across the climate change policy area.

Productivity Committee of Cabinet (PC)

21. The PC provides strategic direction on the Government's microeconomic reform and productivity agenda and coordination of the development of policy and delivery of programs across the following broad areas: sectoral issues including interactions between the resources sector and other industry sectors; productivity; innovation policy; workforce skills development; trade; industrial relations; agriculture/rural industry policy; tourism; and infrastructure.

Australia in the Asian Century Committee of Cabinet (AACC)

22. The AACC will provide strategic direction to the work of the Australia in the Asian Century Taskforce, led by Dr Ken Henry AC. It will develop the White Paper which will be finalised by the Cabinet. In carrying out its functions the AACC will consider: the current and likely future course of economic, political and strategic change in Asia, encompassing China, India, the key ASEAN countries as well as Japan and the Republic of Korea; the domestic economic and social opportunities and challenges of the Asian Century for Australia; opportunities for a significant deepening of our engagement with Asia across the board, including in the economy, science and technology collaboration, clean energy, education, business-to-business and people-to-people links and culture; the political and strategic implications of the Asian Century for Australia; the role of effective economic and political regional and global cooperation; and a high-level strategy to enhance Australia's navigation of the Asian Century, including appropriate policy settings. The focus will be on opportunities to increase the economic and other net benefits to Australia from the global economic and strategic shift to Asia in the short, medium and long term, early directions for action which are able to be developed and taken within five years of the submission of the review, and further policy initiatives which may be developed over the medium- to longer-term, out to 2025.

Disaster Response and Recovery Committee of Cabinet (DRRC)

23. The DRRC is responsible for coordinating the Government's response to disasters within Australia, and for coordinating Government assistance to the recovery of the disaster-affected areas, including transition to the reconstruction phase.

Problem Gambling Committee of Cabinet (PGC)

24. The PGC assists in the coordination of policies that impact on problem gambling across the following broad areas: national response to the Productivity Commission's report into gambling; inquiries from the Parliamentary Joint Select Committee on Gambling; mandatory pre-commitment for electronic gaming machines; dynamic warnings and cost of play displays; ATM withdrawal limits; review of the *Interactive Gambling Act 2001*; and advertising of gambling services, including the reduction of live odds promotion in sports coverage.

ANNEX I – CABINET DOCUMENTATION

Special nature of Cabinet documents

1. Cabinet documentation is any material departments and agencies prepare that is:
 - (a) intended for submission to the Cabinet (generally Cabinet submissions and attached material, including audio visual presentations); and
 - (b) documents dealing with Cabinet meetings (business lists, Cabinet minutes and notes taken by Cabinet note takers).
2. Cabinet documents are considered to be the property of the government of the day. They are not departmental records. As such they must be held separately from other working documents of government administration.
3. The unauthorised and premature disclosure of Cabinet documents, including draft Cabinet documents (such as draft Cabinet minutes), undermines collective ministerial responsibility. It also undermines the convention of Cabinet confidentiality. It is essential that the confidentiality of Cabinet documents, including draft Cabinet documents, is maintained to enable full and frank discussions to be had prior to the Cabinet making its decision.
4. It is inappropriate to provide copies of, or access to, final or draft Cabinet documents to sources external to Government. It may, however, sometimes be necessary to consult with external sources in relation to matters which are the subject of proposed or current Cabinet consideration to ensure that Cabinet is fully apprised of the relevant information required for it to make an informed decision. A minister's actual or proposed position should never be disclosed, and high-level judgement needs to be exercised in deciding what information, if any, to disclose. Guidance should be obtained from the Cabinet Secretariat.
5. Department and agency work in preparing, handling and securely storing Cabinet documents is subject to detailed security requirements determined by the Cabinet Secretariat. The requirements apply equally to ministerial offices and their staff as to public servants.

Secure handling of Cabinet documents

6. Cabinet documents, including pre-exposure drafts, exposure drafts, drafts for coordination comments, final submissions, and drafting comments (including coordination comments), must only be circulated via the CABNET network to ensure that they are circulated securely and that copies of the documents can be accounted for. It is important, therefore, that exposure drafts, drafts or finals (either in the template or in a document which looks like a Cabinet submission) are not circulated by any other means.
7. Similarly, substantive comments on submissions should only be transmitted via the CABNET network.
8. Only in the very limited circumstance of drafting a joint submission may submissions be transmitted as an attachment to a CABNET email. Co-authoring departments may circulate early drafts between themselves via CABNET email to enable the inclusion of relevant material from each of those departments. Alternatively, one department could assume drafting control and make all the changes to the submission in close consultation with the co-authoring department. Submissions may be emailed on

CABNET by an authoring department to the minister sponsoring the submission. In no other circumstances are submissions to be circulated unless they are locked down and distributed via the CABNET network.

9. The CABNET network is security rated to the Secret level and provides a means of circulating classified documents and messages between departments and agencies. Only officers with Secret or Top Secret security clearances are permitted to access the CABNET database. As well as access restrictions (including biometric identification of users), there are additional document security measures.

10. Cabinet documents, including drafts, must be circulated strictly in accordance with the 'need-to-know' principle. The circulation of documents must be no wider than is required for the proper and efficient conduct of the business at hand. It must be restricted to those officials who have a role in contributing to the issues in the document and who hold an appropriate security clearance. Departmental officials are not entitled to access merely because it would be convenient for them to know or by virtue of their status or level of authorised access.

11. Information and details on the handling of Cabinet documents is also provided in the Protective Security Policy Framework (PSPF) and further information on security matters can be sought from departmental security advisers.

12. If you become aware of the circulation of a submission by any means other than as a locked down version on the CABNET network, the Cabinet Secretariat should be notified as soon as possible. The Cabinet Secretariat will identify any possible breach of Cabinet document protocols and contact the relevant department's security adviser.

Hardcopy attachments to Cabinet submissions

13. In the event that an attachment to a submission has been prepared in a format that is incompatible with CABNET and cannot be locked down, the authoring department must provide a hardcopy of the attachment to each department preparing exposure draft comments and coordination comments. Drafters are asked to limit use of hardcopy attachments to instances when they are absolutely necessary.

14. Hardcopy attachments are to be prepared and handled as follows:

- (a) submission number and attachment reference clearly identified on the front page;
- (b) all pages to be classified appropriately;
- (c) the attachment should be bound or stapled, and numbered so that each copy of the attachment has a unique number; and
- (d) the hardcopies are to be delivered by safe-hand delivery with a record of distribution (that is, to whom each copy number was assigned).

15. It is the responsibility of the sponsoring department to deliver hardcopy attachments to relevant departments at the exposure draft and draft stages of the submission. At the draft stage of the submission the sponsoring department is also required to deliver 50 copies of the attachment to the Cabinet Secretariat. The Cabinet Secretariat will deliver these copies to ministers' offices to accompany the final version of the submission.

Custody of Cabinet documents

16. A new series of Cabinet records is established for each government.
17. Cabinet records (files) are held on behalf of the Government in the care and control of the Secretary of the Department of the Prime Minister and Cabinet (PM&C) and are issued to ministers and departments on a need-to-know basis. Once a minister or department no longer has any immediate need for them, and, in any event, when the minister vacates office or a change of government occurs, any copies of Cabinet documents must be returned to the Cabinet Secretariat or destroyed.
18. The convention is that Cabinet documents are confidential to the government which created them and not the property of the sponsoring minister or department. Access to them by succeeding governments is not granted without the approval of the current parliamentary leader of the appropriate political party.
19. Cabinet records and Cabinet notebooks are accessible to the public through the National Archives of Australia after the expiration of the statutory closed period. The closed period, which for Cabinet documents currently varies between 20 to 30 years seeks to provide the best balance between the competing priorities of, on the one hand, the need to safeguard privacy, security and confidentiality of the Cabinet, and to use available resources to best effect and, on the other hand, maximising public access to records.
20. The Secretary of PM&C may authorise requests for refreshment of memory access by former prime ministers, former ministers, former secretaries and some other specified government office holders who seek access to Cabinet documents with which they dealt personally while in office. Access will not be granted without the approval of the current parliamentary leader of the political party in government at the time the requested record was created.

Recording access to Cabinet documents

21. Departments and ministers' offices are required to maintain a record of who has had access to each Cabinet document. Cabinet documents printed from the CABNET network have an automatically generated movement record sheet as a front page. This coversheet provides a clear and easy means to track and maintain a record of who has had access to each document within the minister's office.

No copying of Cabinet documents

22. Cabinet documents must not be copied, and this rule includes transcribing or copying of text of Cabinet documents (particularly minutes) into departmental IT systems.
23. The production and circulation of Cabinet minutes are strictly controlled by the Cabinet Secretariat and, if extra copies of these are required, a request must be submitted to the Cabinet Secretariat including information on why access is being sought. This information will assist the Cabinet Secretariat in making an assessment of whether the department has a 'need-to-know' the contents of the Cabinet minute.

Destruction of Cabinet documents

24. Classified documents for the National Security Committee of Cabinet (NSC) circulated in hard copy are to be returned, following meetings, to the NSC Secretariat (part of the Cabinet Secretariat). When other Cabinet documents are no longer required by ministers or departments they must be destroyed

according to the procedures set out in the PSPF. They also must be destroyed when a minister vacates office or a change of government occurs. In the case of submissions, memorandums, corrigendums and minutes, CABNET network users must certify that destruction has occurred by activating the 'Hardcopy destroyed' function. If a user destroys documents that pre-date the CABNET network they should destroy the items in accordance with the PSPF and notify the Cabinet Secretariat, in writing, of the destruction. Where documents have been destroyed the former holder can obtain a replacement copy from the Cabinet Secretariat should the need arise (requests are normally sent by Cabinet Liaison Officers via the CABNET network and must include a reason for obtaining the document). The Cabinet Secretariat retains full sets of all Cabinet documents for eventual public release in accordance with the *Archives Act 1983*.

ANNEX J – APPOINTMENTS PROCESS

1. Where a significant government appointment is proposed, the responsible minister must write to the Prime Minister seeking approval of the appointment before any appointment action is finalised. While most significant appointments will require Cabinet approval, the Prime Minister may determine that Cabinet consideration is not required and authorise the appointment.

2. In preparing appointment proposals for the Prime Minister's consideration, ministers must ensure that proposals reach the Prime Minister's office at least 15 working days before the Cabinet meeting at which the appointment may be raised for consideration. As a general rule, proposals should be submitted for consideration well in advance of the time the position is to be filled, but usually no more than three months in advance. For appointments that require Federal Executive Council consideration, calculation of the lead time must take into account the cut-off dates for submission of Federal Executive Council agenda items.

3. The appointments to be brought to the Prime Minister's attention include:

- (a) significant full-time or part-time appointments (including interim appointments) to boards, commissions or statutory offices;
- (b) full-time chief executive officer (CEO) positions in such agencies (where the board selects the CEO, the Australian Government ('the Government') should be consulted and the minister should not signify agreement without the approval of the Prime Minister);
- (c) acting appointments in the above categories where the appointment is for more than three months (an initial acting appointment for up to three months may be made without seeking the Prime Minister's approval, but any extension would require the Prime Minister's agreement);
- (d) appointments to significant non-statutory tribunals, advisory bodies and commissions of inquiry; and
- (e) appointments as heads of mission other than Austrade managed posts.

4. For other proposed appointments, it is for ministers, in consultation with the Prime Minister if appropriate, to judge whether the proposal should be brought to the Prime Minister's or the Cabinet's attention.

5. As a general rule, if appointments to a particular body have been submitted for approval by the Prime Minister or the Cabinet in the past, they should continue to be submitted for approval unless the Prime Minister agrees otherwise. The Cabinet Secretariat can assist with advice on past practice.

6. To avoid pre-empting any decisions, potential appointees are to be approached initially only to ascertain:

- (a) a willingness for their name to be put forward for consideration along with other candidates; and
- (b) whether, if selected, there would be any conflict of interest, in accordance with the Government's requirements.

Proposals for appointments

7. In submitting proposals to the Prime Minister, ministers must ensure that an account is given of the selection process, including whether the position has been advertised and, if not, the reason for that decision. Where the minister recommends re-appointment, particular justification for doing so is to be

included. Any urgency or sensitivity relating to the position or the proposed appointment must be explained.

8. If the position is subject to the New Arrangements for Merit and Transparency in Senior Public Service Appointments (announced in February 2008), the minister's letter should outline how that process was applied.

9. In proposing appointments to a Government Business Enterprise ministers are to follow the procedures set out in the Department of Finance and Deregulation guidelines: Governance Arrangements for Commonwealth Government Business Enterprises – June 1997.

10. The Minister's proposal should also confirm that:

- (a) the person being proposed is appropriately qualified and has experience relevant to the vacancy;
- (b) the appointment would conform with any applicable legislation;
- (c) due regard has been paid to gender balance in appointments;
- (d) attention has been paid to the need to have an appropriate geographical balance in appointments; and
- (e) any necessary consultation with other ministerial colleagues or state or territory counterparts has occurred (nominating ministers should consult relevant ministerial colleagues when proposing to appoint officers employed in another portfolio to an advisory committee in their own portfolio; where a state or territory public servant is being considered for appointment to a part-time position, the relevant premier, chief minister or state or territory minister should also be consulted).

11. Every appointment proposal to the Prime Minister must be accompanied by the following attachments (templates are available from the Cabinet Secretariat):

- (a) an Appointment for Cabinet form, whether or not the particular appointment is a candidate for Cabinet consideration. All questions on the form, including accurate remuneration details, must be answered;
- (b) an up-to-date curriculum vitae (one to two pages);
- (c) a completed and signed Private Interests Declaration; and
- (d) a current membership list of the relevant organisation, including the proposed appointments and the resulting gender and geographical balance.

Circulation and announcement

12. Circulation of appointment minutes is limited on the understanding that no information concerning an appointment is to be divulged until all necessary processes have been completed (for example, the Governor-General has made the appointment) and an announcement made by the minister.

13. No public announcement is to be made prior to approval of the appointment by the Governor-General, the Prime Minister or the Cabinet (as relevant).

14. In exceptional circumstances, where the appointment is to be made by the Governor-General following the Prime Minister's consideration, it may be possible to obtain approval from the Governor-General for the early announcement of a proposed appointment before the processes have been

completed. The Federal Executive Council Secretariat (located in the Cabinet Secretariat) will assist with advice and make any necessary arrangements in such cases.

Re-appointments

15. The procedures to be followed for re-appointments are the same as those for appointments.

Appointments of close relatives

16. Additional procedures apply to appointments concerning close relatives of ministers, members of Parliament, ministerial staff or departmental secretaries and agency heads. Any such relationship should be noted in appointment proposals.

17. To avoid the appearance of conflict of interest, those involved in the appointments process should have no family relationship with the person under consideration and any ministers concerned should absent themselves from all discussion on that matter.

ANNEX K – CARETAKER CONVENTIONS AND CABINET

1. By convention, the Government ensures that important decisions are not taken in the caretaker period that would bind an incoming government and limit its freedom of action. The basic caretaker conventions require Government to avoid implementing major policy initiatives, making appointments of significance or entering major contracts or undertakings during the caretaker period and to avoid involving departmental officers in election activities.
2. The caretaker conventions operate from the dissolution of the House of Representatives until the election result is clear or, in the event of a change of government, until the new government is appointed. However, it is also accepted that some care should be exercised in the period between the announcement of the election and the dissolution. There is no caretaker period for separate half Senate elections.
3. The Ministry, the Cabinet or the Cabinet committees may meet in the caretaker period if this is necessary for the continuance of the normal business of Government, but the range of matters that may be considered is constrained by the conventions. Normally, efforts are made to clear necessary business prior to the caretaker period, thereby avoiding the necessity for meetings during the caretaker period.
4. In relation to appointments, only those which it is essential to fill are considered, and preferably on an acting or short-term basis unless a minimum or fixed term is prescribed. There is often consultation with the relevant Opposition spokesperson, particularly where longer-term appointments are necessary.
5. The basic conventions are directed to the taking of decisions, and not to their announcement. Accordingly, the conventions are not infringed where decisions taken before the caretaker period are announced during the caretaker period. However, it is desirable, if the decisions concern significant initiatives, that they be announced in advance of the caretaker period in order to avoid controversy.
6. The caretaker conventions do not apply to new policy promises which a government may announce as part of its election campaign.
7. For full details on the Caretaker Conventions and their operation see http://www.dpmc.gov.au/guidelines/docs/caretaker_conventions.pdf.