

# **DECISION MAKING AND THE AUSTRALIAN CABINET SYSTEM**

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## **Introduction**

The key decision making processes of the Australian Government have remained and applied consistently for over one hundred years, since the formation of the Commonwealth of Australia in 1901. The centre piece of the Australian system is the Cabinet.

The Cabinet is responsible for directing government policy and making decisions on important national issues. The fact that the Cabinet exists by virtue of convention not constitution, and has remained the Government's principal decision making body, is testament to its value.

At the heart of a strong Cabinet are the principles of confidentiality and collective responsibility. Maintaining confidentiality allows the Cabinet to fully discuss issues before making decisions. To make informed decisions, the Cabinet must work in a way that is truly consultative. Wherever possible, the Cabinet should consult colleagues, the bureaucracy and the wider public.

This paper outlines the Australian Government's decision making processes, with Cabinet at its heart. It describes the various Cabinet sub-committees and discusses the key components of a working system.

The paper also explores the decision making process more generally, as well as outlining current and emerging challenges, as well as the changing nature of the processes and the need for constant adaptation.

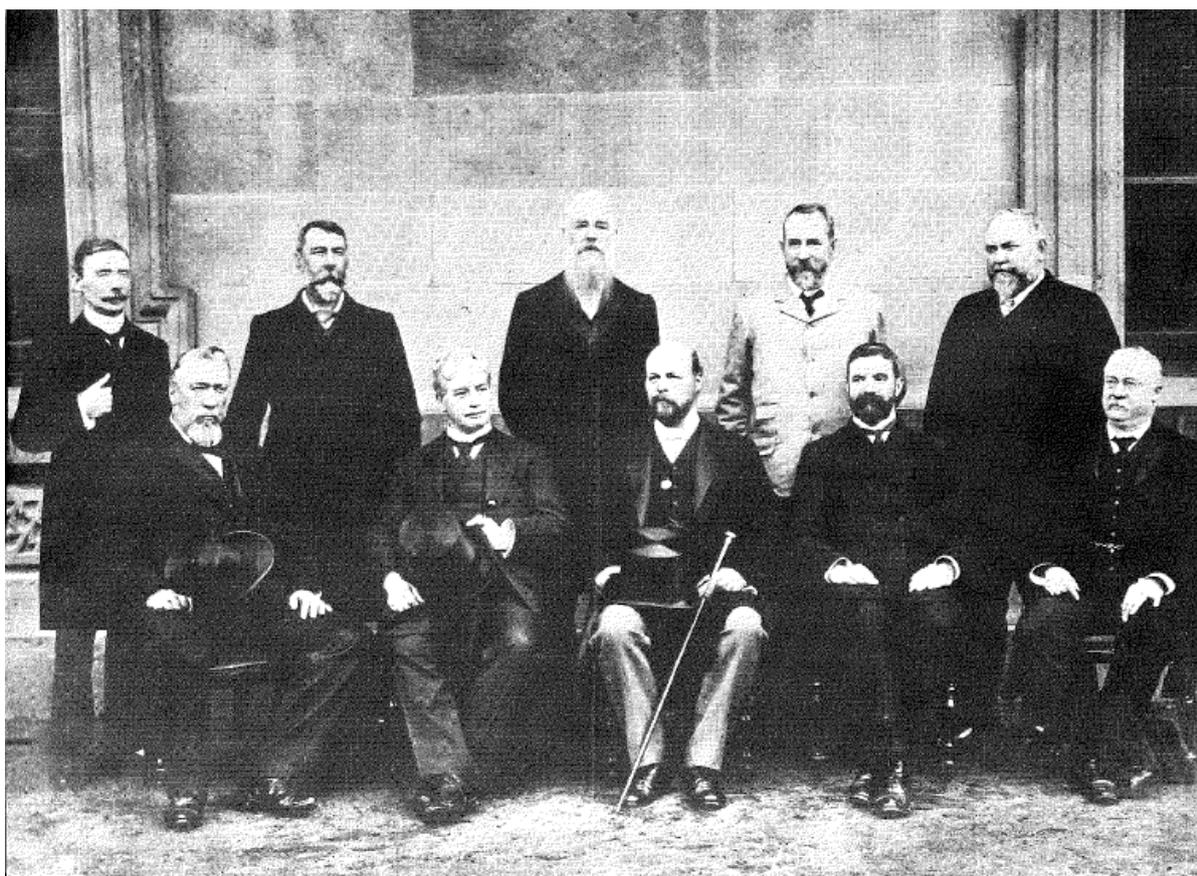
## **The Cabinet**

The Cabinet is the council of senior ministers who are empowered by the Government to take binding decisions on its behalf.

The Cabinet is a product of convention and practice. There is no reference to the Cabinet in the Commonwealth 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.

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.



Australia's First Federal Cabinet: Prime Minister Barton and his Ministers with the Governor-General, Lord Tennyson

## **The Australian Prime Minister**

The Prime Minister of Australia, the Hon Malcom Turnbull MP, is responsible for the membership of the Cabinet and Cabinet committees, determines and regulates all Cabinet arrangements for the Government and is the final arbiter of Cabinet procedures.

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.

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.

## The Ministry

The Ministry is comprised of the Ministers of State including Cabinet ministers and assistant Ministers. Together they form the Federal Executive Council - the body which formally advises the Governor-General on the administration of the Commonwealth of Australia.

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



Prime Minister Turnbull's Full Ministry - 2016

## The Cabinet Secretary

The Prime Minister may appoint a Cabinet Secretary to manage the day-to-day procedural and operational matters of the Cabinet and any Cabinet committees. The current Cabinet Secretary is Senator the Hon. Arthur Sinodinos AO.

The Cabinet Secretary or the Assistant Cabinet Secretary attend all meetings of the Cabinet and Cabinet committees and are responsible for the smooth running of meetings and for authorising the record of decisions ('the Cabinet minutes').

Through delegations from the Prime Minister, the Cabinet Secretary has the power to:

- (a) provide authority to ministers to bring items forward for consideration by the Cabinet or a Cabinet Committee;
- (b) finalise the Cabinet and the Cabinet committee business lists;
- (c) maintain and enforce the integrity of Cabinet rules and processes, including working with the Department of the Prime Minister and Cabinet (PM&C) to ensure Cabinet submissions are of high quality;

- (d) authorise Cabinet minutes;
- (e) approve absences of Cabinet ministers; and
- (f) deal with practical issues regarding the co-option of non-Cabinet ministers and assistant ministers, and the attendance of officials.

## **What are the Cabinet Committees?**

Cabinet committees are usually established either around a subject area, such as national security, or around a general function of government, such as expenditure. Temporary or ad-hoc Cabinet committees may also be established by the Prime Minister to carry out particular tasks.

Cabinet committees derive their powers from the Cabinet. Generally, Cabinet committee decisions are brought forward to the Cabinet for endorsement, so the Cabinet retains the ultimate power of decision. While some committees may 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.

### **The National Security Committee of Cabinet**

The National Security Committee 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 operation and activities of the Australian Intelligence Community.

### **The Expenditure Review Committee of Cabinet**

The Expenditure Review Committee considers matters of detail regarding expenditure and revenue for the Budget.

### **The Digital Transformation Committee of Cabinet**

This committee oversees the Digital Transformation Agenda, and is responsible for:

- strategic priorities for whole-of-government common service delivery platforms and better aligning deliverables with broader Government policies such as smaller government and contestability;
- the prioritisation of service transformation investments put forward through the Budget process; and
- other high-level policy and service delivery issues, for example if agreement cannot be made at the agency level.

### **The Governance Committee of Cabinet**

The Governance Committee provides advice and oversight of governance and integrity issues, which include, but are not limited to, the Statement of Ministerial Standards and issues arising from the Lobbyist Code.

### **The Indigenous Policy Committee of Cabinet**

The Indigenous Policy Committee ensures a whole-of-government approach to Indigenous policy decision-making and program implementation.

### **The Innovation and Science Committee of Cabinet**

The Innovation and Science Committee provides advice on science, research and innovation matters, including but not limited to:

- Implementing the National Innovation and Science Agenda;
- developing and considering new policies and ideas;
- a Statement of Expectations for Innovation and Science Australia; and
- a long-term National Innovation and Science Plan.

### **The National Infrastructure Committee of Cabinet**

The National Infrastructure Committee provides advice on the Government's infrastructure agenda to support the nation's productivity including, but not limited to:

- progress on major projects;
- working with the States, Territories and private sector on infrastructure investment and delivery; and
- policies to better meet infrastructure needs.

### **The Parliamentary Business Committee of Cabinet**

The Parliamentary Business Committee considers priorities for the Australian Government's legislation program and requests to the Prime Minister for the presentation of ministerial statements.

### **The Service Delivery and Coordination Committee of Cabinet**

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

## **The Federal Executive Council**

The Governor-General exercises the executive power of the Commonwealth under section 61 of the Constitution of the Commonwealth of Australia. This power extends to the execution and maintenance of the Constitution and laws of the Commonwealth. Section 62 of the Constitution establishes the Federal Executive Council to 'advise the Governor-General in the government of the Commonwealth'.

Members of the Executive Council are chosen, summoned and sworn in by the Governor-General and hold office at the Governor-General's pleasure. While the Governor-General presides over meetings of the Executive Council, he or she is not a member of the Council. The powers exercised by the Governor-General on the advice of the Executive Council are referred to as those of the 'Governor-General in Council'. Some of the decisions of the Cabinet and Government must be agreed in Council, prior to any announcement.

Powers exercisable by the Governor-General in Council under the Constitution or, more commonly under Acts of Parliament, include:

- the making of regulations and ordinances (under delegated authority under an Act);
- the making and terminating of appointments to statutory offices, boards, commissions, courts and tribunals and diplomatic posts;
- changes to the Administrative Arrangements Order, including the creation and abolition of government departments;
- the issuing of writs for the election of members of the House of Representatives, and senators for the Territories;
- the approval of compulsory land acquisitions;
- the authorisation of Australia's entry into international treaties;
- the commissioning of officers in the Australian Defence Force; and
- the authorisation of government borrowings overseas.

## **Cabinet Conventions and Principles**

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 and underpin the formulation of consistent policy advice.

### **Collective Responsibility**

Collective responsibility is a long standing and integral part of the Cabinet system. It requires that whatever the range of private views put by ministers in Cabinet, once decisions are arrived at and

announced they are supported by all ministers. It ensures that the Government is accountable and responsible, as a collective whole, to the Parliament and, through the Parliament, to the people of Australia.

In practice, a decision of the Cabinet is binding on all members of the Government regardless of whether they were present when the decision was taken. Issues may, and should, be debated vigorously within the confidential setting of 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.

### **Cabinet Solidarity**

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.

### **Ministerial Responsibility**

In upholding the principles of collective responsibility and Cabinet solidarity, ministers must:

- not talk publicly about matters that they propose to bring to the Cabinet nor announce a major new policy without previous Cabinet approval;
- 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;
- understand that absolute confidentiality of Cabinet discussions is essential;
- adopt a strict need to know approach to any briefing they give to their staff and departmental officers on the outcome of Cabinet decisions;
- enforce the strictest discipline in their offices and departments to avoid Cabinet agenda items or decisions being either knowingly or unknowingly disclosed; and
- ensure that 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.

The proper implementation of collective responsibility and Cabinet solidarity is entirely dependent on a commitment to three important operational values: consultation, confidentiality and respect for the primacy of Cabinet decisions.

## **Consultation**

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.

Ministers bringing forward submissions are responsible for ensuring comprehensive consultation across Government. A key purpose of early consultation in the development of proposals is to ensure that 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**

The principle of collective responsibility requires the strict confidentiality of all Cabinet proceedings and documentation.

All attendees are responsible for ensuring that what is considered by the Cabinet, when and how it does so, and the decision Cabinet reaches on particular matters remains 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 expressed at the meeting itself.

Obviously general information about what has been decided by the Cabinet is, on occasions, released into the public domain by persons authorised to do so. But this does not detract from the importance of allowing the Prime Minister or the Cabinet itself to decide what is disclosed publicly about any decision they have reached.

Effective Cabinet confidentiality requires the protection of Cabinet deliberations not only at the time an issue was current but also in the future. Ministers in successive governments have relied on the convention that their views, either written or spoken will remain confidential well into the future. It is only with the confidence in this convention that ministers can enjoy freedom to explore all policy options without the need to temper their comments or views.

Ministers and assistant ministers and their staff should not seek from departments the Cabinet documents of the previous Government, or the advice provided to it. The disclosure of such documents would encroach upon the principle of Cabinet confidentiality and involve the disclosure of options, conversations, and other materials expressed or undertaken uninhibitedly in the expectation of their continuing confidentiality.

## **Primacy of the Cabinet**

Ministers must carry out Cabinet-determined policies with respect to their own portfolios, whether or not they agree with such policies. Ministers must act on Cabinet decisions as recorded in Cabinet minutes.

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.

## **Cabinet Minutes**

The Cabinet Division within PM&C produces minutes of decisions as soon as possible after each Cabinet meeting. The Cabinet minutes record the decisions of the Cabinet in a form that enables the necessary action to be taken, they do not record the detail of discussions at the meeting.

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.

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

## **Matters for Cabinet Consideration**

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. It is ultimately for the Prime Minister, on the advice of the Cabinet Secretary, to decide what matters require Cabinet consideration. However, only in emergencies will significant decisions not go to the Cabinet.

The following is an indication of the kind of issues that would normally require consideration by the Cabinet:

- proposals relating to the delivery of the Government's priorities;
- significant or controversial policy issues;
- proposals affecting the Government's financial position, or important financial commitments;
- significant matters affecting state and territory government relations;
- the most significant international business, including international treaties and agreements;
- national emergencies, including any decision to take military action;
- proposals that affect Australia's constitutional arrangements;
- proposals requiring significant new or amendments to legislation or regulations;
- any significant or controversial exercise of a minister's statutory power; and
- significant Government appointments.

## **Authority for Matters to Come Forward**

Only matters with authority can be considered by the Cabinet. Ministers should write to the Prime Minister to seek authority to have matters raised in the Cabinet. The minister's letter should clearly

outline the purpose and scope of the proposal and indicate how the proposal relates to the delivery of the Government's priorities. If there are any financial implications, they should be identified. If there is a critical date by which a decision is required, this should also be identified and supported by explanation.

The Prime Minister, or Cabinet Secretary on his behalf, will respond in writing advising whether authority has been granted for the matter to be brought forward to the Cabinet, 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 or a significant delay in the timing for consideration, ministers must write again to the Prime Minister seeking additional or varied authority.

Matters which the Cabinet has requested come forward do not require any further authority, provided the request is recorded in a Cabinet minute. Similarly, the Prime Minister may write to a minister requesting an item be brought forward for Cabinet consideration. If bringing the matter to the Cabinet is no longer appropriate, 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.

### **The Business List**

The Cabinet Secretary, in consultation with the Prime Minister, approves the business list for each Cabinet or Cabinet committee meeting. The Cabinet Division (PM&C) issues to ministers, at least one week in advance the business list for each meeting. The business list advises the matters to be considered, the minister responsible for each item and notification of any co-opting arrangements.

The Cabinet Division (PM&C) does not circulate business lists to departments but does notify the relevant Cabinet Liaison Officer if their minister has an item on a business list. Ministers' offices are also responsible for advising their departments and seeking any required briefing.

As meeting times and business lists are subject to change and new meetings may be called from time to time, revised business lists may 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.

## **Forms of Cabinet Business**

### **Cabinet Submissions**

The Cabinet submission process is the key mechanism for enabling well-considered and co-ordinated policymaking in the Cabinet and ensuring sound, readable Cabinet documents and timely Cabinet processes.

Any documents conveying substantive material to the Cabinet must be covered by a Cabinet submission. Cabinet submissions are subject to a number of rules and procedures, including strict timeframes, page limits, consultation requirements, the agreement of costs, the inclusion of Regulation Impact Statements and implementation arrangements and compliance with the guidance provided by the Cabinet Division (PM&C).

The Cabinet Division (PM&C) can provide advice and guidance to assist ministers and their departments to draft concise documents which support good decision making, including a clear

recommended course of action and concise arguments that clearly establish the rationale for the recommended option.

Submissions coming before the Cabinet must be sponsored by the Cabinet minister with portfolio responsibility. 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. 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.

Ministers are expected to take full responsibility for the content, quality and accuracy of advice provided to the Cabinet under their name. 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.

### **Matters without Submission**

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, unforeseen and unavoidable; and of a procedural nature; or a straightforward, low risk policy proposal.

Ministers should write to the Prime Minister at least six working days before the meeting at which discussion and a 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.

If the Prime Minister agrees to the matter being raised, the Cabinet Division (PM&C) will circulate copies of the letter and any attachments to all Cabinet ministers. Should the Prime Minister not agree to the matter being raised, the Cabinet Secretary will advise the minister concerned.

### **Oral Items**

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 meeting. Oral items for the Cabinet will be accepted only with the prior approval of the Prime Minister.

### **Handling Cabinet Documents**

The preparation, handling and storage of Cabinet documents is subject to detailed security requirements. The requirements apply equally to ministerial offices and their staff as to public servants.

Cabinet documents must not be copied, and this rule includes transcribing or copying of text of Cabinet documents (particularly minutes) into departmental IT systems.

The production and circulation of Cabinet minutes are strictly controlled and, if extra copies of these are required, a request must be submitted to the Cabinet Division (PM&C) including information on why access is being sought.

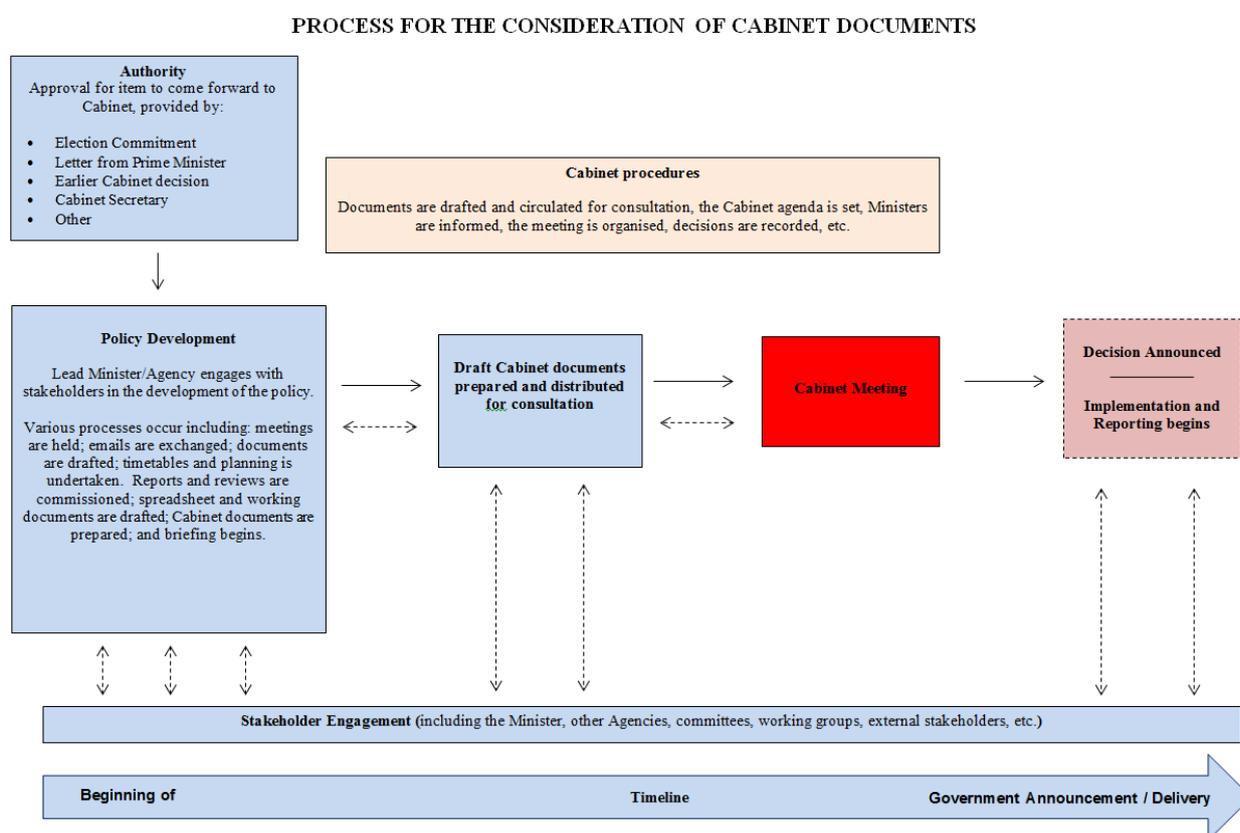
Cabinet documents must be held separately from other working documents of Government administration within suitably classified storage. To ensure they are circulated securely and that

copies of documents can be accounted for, they must only be circulated in a secure manner. It is therefore important that Cabinet documents are not circulated by any other means.

Departments and ministers' offices are required to maintain a record of who has had access to each Cabinet document. The unauthorised disclosure of Cabinet documents 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 prior to the Cabinet making its decision.

## The Cabinet Process – the key stages

To date, the focus of this paper has been on the rules and fundamental components of the Cabinet process. These components are fundamental to a successful operating Cabinet system. I now turn my focus to the various steps of the Cabinet process which if successfully implemented, will invariably lead to more beneficial policy outcomes.



### Authority

The paper has already touched upon the need for authority of the Prime Minister or Cabinet Secretary for an item to come to the Cabinet. Often there is implied authority, where an earlier decision of the government has requested that a particular policy matter come back to the Cabinet for further deliberation. Sometimes the policy in question originates from an election commitment of the Government which requires the consideration of the Cabinet prior to it being fully developed and implemented. Where this is the case, the authority must still be sought but a compelling case is more easily made.

### Development of a Cabinet product and policy

It is important that a policy coming to the Cabinet has been properly developed and the necessary consultations have been undertaken. This generally requires the relevant Minister and Department to consult with all relevant stakeholders ahead of a Cabinet debate. The Cabinet product should ultimately reflect the differing views and put forward arguments for the positions outlined in the documents.

Often the best products coming to Cabinet are those in which all stakeholder views have been considered and if not taken on board, have at least been reflected in the Cabinet documents. This consultation is often facilitated by the distribution of a consultation paper to gauge the views of stakeholders. This way the Cabinet can have a complete and well informed discussion, knowing likely reactions of certain stakeholders. Indeed, such information aids in facilitating the implementation and communication strategy.

### **Engage with other Ministers and Departments**

It is particularly important that Ministers bringing matters to the Cabinet have consulted with their Ministerial colleagues, particularly where their colleagues have shared policy responsibilities or have previously expressed strong views.

The Departments supporting Ministers also have a key role to play in the development of the submission. Not only do they assist in the drafting of the Cabinet product, but they often lead the stakeholder engagement process, and need to work closely with their Minister to ensure they are informed of all concerns, and have any remedies in place.

### **Taskforces and working groups**

The Government will often establish a taskforce or set up a working group to help drive a particular policy matter. This is done to ensure the policy has a clear focus and leadership, and often brings together individuals with the necessary expertise, sometimes from across a range of different agencies and jurisdictions.

For example, the National Ice Taskforce was established in April 2015 to advise the Government of the impacts of the drug ice in Australia and drive the development of a national strategy. This taskforce presented its interim findings to the Council of Australian Governments, which consist of the Federal, State and Territory Government, in July 2015, and delivered its final report to the Prime Minister in October 2015.

This taskforce engaged extensively with people around Australia to develop this report, having spoken with over 100 experts on research, education, prevention, treatment, law enforcement and support for users, families and Indigenous people. This taskforce also visited nine treatment and support services, and received around 100 submissions from organisations, clinics, research bodies and academics. This taskforce also received more than 1200 submissions from the public.

### **The Cabinet Product(s)**

While Cabinet submissions are generally the most common type of product considered by the Cabinet. There are other products that can be delivered to the Cabinet, subject to the agreement of the Cabinet Secretary, but very much depend upon the policy matter being considered. For

example, a presentation to the Cabinet might be useful where the policy in question is complex and would benefit from a set of slides.

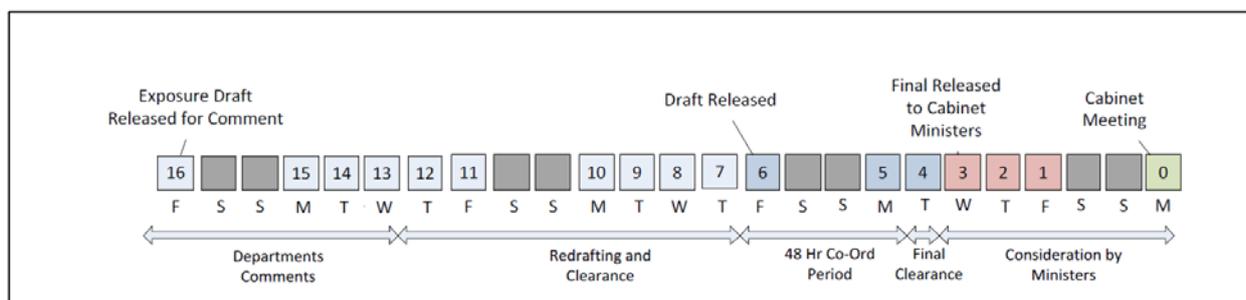
### **Prime Minister/Cabinet Secretary sets the agenda**

I have described the important role the Prime Minister and Cabinet Secretary play in the development and setting of an agenda. It is worth reiterating the crucial nature of this stage of the process and the importance of setting a clear and early agenda.

### **Circulation of Cabinet product to Departments**

There are key dates and timing of when the Cabinet products must be distributed to Ministers and Departments, see diagram below.

It is a requirement that draft Cabinet products are circulated ahead of the meeting for comment to ensure that proper consultation has taken place. The diagram illustrates that sixteen working days ahead of a meeting the exposure draft should be distributed, which is an early version of the product. Any comments received at this stage should be inputted into the Cabinet product. The penultimate version of the Cabinet product is distributed six working days ahead of the meeting, with the final product distributed to Ministers three working days ahead of the Cabinet meeting.



### **The Cabinet meets**

When the Cabinet meets, all Ministers have a copy of the agenda and Cabinet documents, and all Ministers should have reviewed the documents ahead of the meeting.

### **Decision(s) of the Cabinet**

There are note takers in the room, of which I am one, who record all the decisions of the Cabinet (and Committees). These decisions are written up and once agreed with the Cabinet Secretary, are distributed to relevant Ministers and Departments for implementation.

### **Program/policy implemented and reviewed**

There is often a perception that once the Cabinet has made a decision and there has been some kind of communication of this decision, that the policy has finished and the Government should move onto the next policy. This is not the case. There is an important stage relating to implementation of the policy and tracking the outcomes. While I won't go into detail in this paper, it is fair to say that the implementation of policies in Australia is often complex and difficult and requires careful management.

A recent report by Professor Peter Shergold AC titled, *‘Learning from Failure, Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved’*, provides useful insights into some of the flaws of a recent Australian Government program. It is fair to say that more rigorous attention needs to be focussed on the implementation and delivery side of policy development.

## **Current and emerging challenges**

There are a range of different challenges faced in delivering a successful Cabinet process. Some of these challenges are easily managed, some are more difficult and require ongoing assessment and focus. Below are just a few of the challenges faced in the Australian cabinet system:

- Scheduling of the actual meetings – this requires the alignment of many diaries including the Prime Minister and his Ministerial colleagues. This is more easily done where meetings are scheduled well in advance. Where there are urgent meetings called, in response to immediate issues, the coordination of diaries can be difficult. This said, Cabinet Ministers know how important the Cabinet is and therefore are always present.
- Delivering the documents – the processes described in this paper largely outline a smooth running Cabinet process. Sometimes papers do not arrive for a particular meeting or are delayed. Where this is the case, there is often ‘juggling’ of agendas and items to ensure the Cabinet has the best material available to consider an issue.
- Quality of documents – the quality of documents is a constant focus. The Prime Minister and Ministers are busy and therefore need accurate and concise documents. Cabinet Division (PM&C) spend much of its time endeavouring to improve the quality of Cabinet material. This includes running training and information sessions.
- Need for consultation – while I have already described processes whereby complete consultation takes place. This is not always the case, due to a range of reasons. Where consultation is not fulsome, the Cabinet products often suffer.
- Changing technology and security – we are living in an environment in which technology is constantly changing and the need for security is high. We work closely with a range of stakeholders to ensure our systems are up to date and as secure as possible.

## **Transparency in the Australian system**

The Australian system has a range of ‘checks and balances’ to monitor and provide commentary of the Government and its policies. They include, but are not limited to, Parliamentary Committees, the Australian National Audit Office, the Freedom of Information legislation, the courts, etc. Below is a description of some of the key institutions.

### **Parliamentary committees**

Parliamentary committees are an important part of the work of the Parliament. They investigate issues and bills (proposed laws) in detail, so that the Parliament can be well-informed before making decisions of national significance.

There are several types of committees:

- Standing committees operate continuously and concentrate on examining bills and issues relating to particular subjects. For example, the House of Representatives Standing Committee on Education and Employment examines bills and issues relating to these two areas.
- Select committees are set up by the Parliament to examine specific issues. A minister may establish a select committee to investigate a policy issue. After a report is presented to Parliament, the committee disbands. For example, in 2009 the Senate Select Committee on Agricultural and Related Industries inquired into the impact of bushfires in Australia.
- Estimates committees usually meet three times a year to scrutinise how the government has spent Budget funds. The only witnesses who appear before an estimates committee are ministers and senior public servants in government departments (see Senate Estimates).

### **The Australian National Audit Office (ANAO)**

The Auditor-General for Australia is an independent officer of the Parliament, appointed by the Governor-General on the recommendation of the Joint Committee of Public Accounts and Audit and the Prime Minister.

The Auditor-General is responsible, under the *Auditor-General Act 1997*, for providing auditing services to the Parliament and public sector entities. The ANAO supports the Auditor-General, who is an independent officer of the Parliament.

The ANAO's primary client is the Australian Parliament. Its purpose is to provide the Parliament with an independent assessment of selected areas of public administration, and assurance about public sector financial reporting, administration, and accountability. The ANAO seeks to identify and promulgate, for the benefit of the public sector generally, broad messages and lessons identified through our audit activities. The ANAO's Better Practice Guides disseminate lessons on specific aspects of administration.

The ANAO has extensive powers of access to Commonwealth documents and information, and its work is governed by its auditing standards, which adopt the standards applied by the auditing profession in Australia.

### **Office of the Australian Information Commissioner**

The *Freedom of Information Act 1982* (FOI Act) provides a right of access to documents held by Australian Government ministers and most agencies. Most freedom of information requests involve people seeking access to documents containing their personal information. Individuals can also request access to documents containing other information, such as information about government policies, programs and decision-making processes.

### **The Role of the Cabinet Division in PM&C**

The Cabinet Division (PM&C) is a part of the Australian Public service that provides continuity and impartial support for operations at the centre of government. It operates within the PM&C and is staffed and managed by officers of PM&C. The Division 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.

It is also responsible for the management of the records of successive Cabinets. It maintains the collection of Cabinet documents for the current Government and preserves the Cabinet records of previous Governments.

Matters coming forward to the Cabinet need to comply with the Cabinet rules and procedures of the submission process. These are outlined in this Handbook and Cabinet Circulars issued by Cabinet Division (PM&C) and include strict page limits and deadlines for circulation, the agreement of costs, and the inclusion of regulation impact statements.

### **Statistics**

The Cabinet Division (PM&C) provides secretariat and support services for the Cabinet, its nine committees and the Federal Executive Council. In 2015–16 the department provided direct support to 162 Cabinet and Committee meetings. Work involved programming Cabinet business, reviewing and providing advice on Cabinet submissions, facilitating meetings, preparing minutes, and coordinating the consideration of appointments by the Cabinet.

In doing this, the department recorded 926 Cabinet minutes (including appointments) and lodged 493 Cabinet documents. Reports to the Prime Minister and the Cabinet on the progress of key decisions of the Government were also provided.

The Cabinet Division (PM&C) also supported the Cabinet in updating its templates and streamlining processes, including publication of a revised Cabinet Handbook in March 2016. In addition, the department improved the timeliness of the release of minutes for the Cabinet and most of its committees, supported the delivery of high quality and timely departmental briefs to the Prime Minister ahead of Cabinet meetings, and continued to explore options to improve the quality of Cabinet submissions.

The Cabinet Division (PM&C) provided timely administrative support to the Governor-General through 26 meetings of the Federal Executive Council at which 500 papers were considered. Further, the department assisted the National Archives of Australia in preparing the release of Cabinet documents up to 1991. We also provided advice on applications made to public service departments and agencies under the Freedom of Information Act 1982 which captured Cabinet-related documentation.

## References

The following references were used or referred to in the development of this paper. Please note, the Cabinet Handbook (9<sup>th</sup> Edition and earlier editions) was extensively used and significantly drawn upon in the construction and development of this paper.

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The Development of Cabinet Procedures in Australia, Extract from the Department of the Prime Minister and Cabinet Annual Report 1983-84, Geoffrey Yeend

Parliamentary Committees – Fact Sheet

<http://www.peo.gov.au/learning/fact-sheets/parliamentary-committees.html>

Office of the Australian Information Commissioner

Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982 - <https://www.oaic.gov.au/freedom-of-information/foi-act>

The Australian National Audit Office

<https://www.anao.gov.au/about/auditor-general-and-office>