

# ACT CABINET HANDBOOK



**ACT**  
Government

MARCH 2018

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# PART A - CABINET IN THE ACT

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## ACT MACHINERY OF GOVERNMENT SERIES

Available [here](#)

The *ACT Machinery of Government* series is a compilation of guidance material outlining key governance conventions, procedures, and standards. The series comprises:

- Ministerial Code of Conduct
- Cabinet Handbook (this document)
- Cabinet Paper Drafting Guide
- Triple Bottom Line Assessment Framework
- Governance Principles – Appointments, Boards and Committees Handbook
- Legislation Handbook
- Guidance on ACT Caretaker Conventions.

## THE CABINET HANDBOOK

The Cabinet Handbook (the Handbook) outlines the procedures and conventions for the operation of the Cabinet and its support processes.

These procedures and conventions encompass the entire Cabinet process through preparation, lodgement and consideration of Cabinet business, as well as ongoing administrative aspects of the maintenance of Cabinet records.

## THE EXECUTIVE

The Executive comprises the Chief Minister and ministers appointed by the Chief Minister. The Chief Minister allocates portfolio responsibilities to ministers and directorates through the [Administrative Arrangements](#).

The powers of the Executive are set out in section 37 of *the Australian Capital Territory (Self Government) Act 1988* (Cwlth) and include:

- a) governing the Territory with respect to matters specified in Schedule 4 (of the Act);
- b) executing and maintaining enactments and subordinate laws;
- c) exercising such other powers as are vested in the Executive by or under a law in force in the Territory or an agreement or arrangement between the Territory and the Commonwealth, a State or another Territory; and
- d) exercising prerogatives of the Crown so far as they relate to the Executive's responsibility mentioned in paragraph (a), (b) or (c).

## MATTERS THAT COME TO CABINET

Ministers should not make public announcements that raise community expectations of a future course of action by the government unless the action has been previously approved by Cabinet.

Ministers must presume that all government policies, positions and plans are to be brought to Cabinet for consideration before

implementation or public announcement unless express approval is given by the Chief Minister. This presumption extends to discussion papers and draft policies for public consultation.

Other issues that come to Cabinet include:

- the ACT Budget, and proposals to vary Budget allocations;
- legislative proposals;
- cross portfolio issues;
- appointments needing ministerial approval or endorsement;
- government submissions and responses;
- ministerial statements;
- intergovernmental agreements; and
- direct land sales.

Directorates should contact Cabinet Office (in the Chief Minister, Treasury and Economic Development Directorate (CMTEDD)) for clarification on whether an item must be brought to Cabinet if the issue/initiative does not fit into one of the above categories.

Cabinet committees and subcommittees are meetings dedicated to specific high priority issues and are attended by relevant senior officials. Committees are attended by all ministers; subcommittees are attended by those ministers with relevant portfolio responsibilities.

Cabinet is not established by legislation, but operates by convention. The Chief Minister is chair of Cabinet and sets the meeting times and agenda.

## CABINET CONVENTIONS

Cabinet operates through collective, consensus-based decision making. The convention of collective ministerial responsibility for decisions is central to a Cabinet led system of government. Cabinet decisions are binding on ministers as government policy, and ministers are expected to give their support in public debate to the decisions of government.

Ministers should not announce initiatives or expenditure commitments without Cabinet authority. In exceptional cases where prior Cabinet consideration is not possible, the Chief Minister's agreement should be obtained in writing to any such announcement.

## MINISTERIAL CONDUCT

Link to [Ministerial Code of Conduct](#)

Ministers should not make public statements about items on the Cabinet agenda that might pre-empt Cabinet's deliberations. It is similarly inappropriate for ministers to comment publicly on matters outside their portfolio without prior agreement of the relevant minister and Chief Minister, other than allowed for in a Parliamentary Agreement between parties.

Government officials should be cognisant of these requirements when briefing or preparing documents for ministers.

The convention of collective responsibility is underpinned by strict confidentiality surrounding Cabinet papers and discussions in Cabinet. Absolute confidentiality allows ministers to discuss proposals frankly while developing a collective position. This confidentiality extends to Cabinet committee and subcommittee meetings.

## CONFIDENTIALITY

See Part E for document security procedures

ACT government officials present during meetings have privileged access to discussions conducted by ministers. The nature and content of those discussions must not be disclosed. Notes of Cabinet's decisions are recorded by the Secretary to Cabinet and the Cabinet Note-taker. Notes of Cabinet deliberations must not be made by other officials. The Cabinet notebook is a working document for the purpose of drafting formal Cabinet decisions and does not record the views of individual ministers.

Ministers and official attendees are responsible for ensuring they do not compromise the confidentiality of Cabinet deliberations. Electronic equipment such as phones and government issued iPads and laptops may be brought into the Cabinet Room to allow Ministers and official attendees to access Cabinet materials. During highly sensitive, commercial in confidence or classified discussions, the Chair may direct that all electronic devices be removed and stored outside of the Cabinet room for the duration of the discussions.

Cabinet documents are strictly confidential and are the property of the ACT. Confidentiality is protected in the following ways:

- Cabinet records are managed by the eCabinet system (secure electronic document and record management system).
- Cabinet documents are delivered to ministers and chiefs of staff through a secure drive on their government-issued iPads.
- Cabinet documents (including drafts) should contain the Dissemination Limiting Marker (Sensitive: Cabinet).
- Directors-General are ultimately responsible for maintaining document security of Cabinet material and associated documents within their directorate, and may delegate the tasks of managing these materials to the directorate Cabinet Liaison Officers (CLOs).
- Cabinet documents and decisions are distributed on a need to know basis and copies are destroyed or deleted once they are no longer required. An individual's employment as an ACT government official does not, of itself, warrant access to Cabinet documents.

## PARLIAMENTARY AGREEMENTS

Parliamentary Agreement for the 9<sup>th</sup> Legislative Assembly

Where political parties enter into a parliamentary agreement that results in a ministerial appointment of a member from a minority party the Parliamentary Agreement will detail any exceptions to conventions outlined in this handbook.

The Cabinet Office maintains a record of current Parliamentary Agreements and can provide advice on specific procedures.

The current Parliamentary Agreement between the Chief Minister (Mr Andrew Barr MLA (ACT Labor)) and Mr Shane Rattenbury MLA (ACT Greens) was affirmed on 30 October 2016. Mr Barr has appointed Mr Rattenbury to be a Minister (“Greens Minister”). Mr Rattenbury is a member of Cabinet.

The Greens Minister has been appointed in the same manner and will have and enjoy, except as specified below, all the rights, entitlements and responsibilities of any other Minister.

The Greens Minister will be provided with the same Cabinet papers at the same time as every other Minister.

Cabinet documents are only to be provided to Ministerial staff in accordance with the Cabinet Handbook. The Handbook is to be adhered to at all times by all Ministerial staff.

#### Process to waive the Greens Minister from Cabinet confidentiality

The Greens Minister is subject to Cabinet confidentiality provisions unless where the Chief Minister has expressly agreed to waive these provisions for the purposes of consultation with Ms Le Couteur MLA (the ‘Greens MLA’). Where the Greens Minister wishes to consult with the Greens MLA they must seek agreement from the Chief Minister in writing.

The Greens Minister will remain solely responsible at all times for maintaining Cabinet confidentiality when consultation with the Greens MLA occurs.

#### Process to exempt the Greens Minister from Cabinet solidarity

The Greens Minister is bound by Cabinet solidarity unless they expressly reserve their position through the process outlined in this section.

Should Cabinet papers raise a matter of serious concern to the Greens Minister, the concern must be raised with the Chief Minister and discussed when the matter is scheduled for Cabinet discussion.

If Cabinet documents containing matters which raise serious concerns for the Greens Minister are not delivered within timeframes stipulated in the Cabinet Handbook, Cabinet’s consideration of the matter will be deferred.

Following Cabinet discussion of any matter of serious concern, the Greens Minister will either:

- a) agree to support the proposal;

- b) agree to support the proposal in principle but reserve the right to move amendments or advocate a different position during the debate on the matter in the Assembly; or
- c) vote against the proposal (other than for the ordinary annual services of the government).

#### CARETAKER PERIOD

Link to [Guidance on ACT Caretaker Conventions](#)

Once the Greens Minister advises that he reserves the right to move amendments, advocate a different position or vote against a proposal, he shall excuse himself from further Cabinet discussion on the proposal. The Greens Minister is entitled to explain his position publicly.

#### SECRETARY TO CABINET

By accepted convention, special arrangements apply to the operation of the government in the period immediately before and after an election. Decisions that bind the incoming government are not normally made during this period. Cabinet does not normally meet during the caretaker period.

*Guidance on ACT Caretaker Conventions* provides detailed directives on the operation of government and the interaction between ministers and the public service during this period.

#### CABINET NOTE-TAKER

The Head of Service is Secretary to Cabinet. The Secretary to Cabinet attends all Cabinet and Committee meetings, signs Cabinet decisions and advises the Chief Minister on Cabinet procedures. The Deputy Director-General, Policy and Cabinet (CMTEDD) is Deputy Secretary to Cabinet. When required, the Head of Service may appoint an acting Deputy Secretary to Cabinet.

#### POLICY & CABINET DIVISION

The Cabinet Note-taker attends all Cabinet, Cabinet committee and Cabinet subcommittee meetings, and takes notes necessary to support the preparation of Cabinet Decisions. The Director, Cabinet (CMTEDD) is the regular Cabinet Note-taker – however, the Secretary to Cabinet may delegate to an alternative where deemed necessary.

CMTEDD's Policy and Cabinet Division (the Division) supports the Chief Minister and Cabinet through the provision of coordinated policy advice and secretariat support. The functions of the Division include:

- consulting with directorates on the policy content and across-government implications of proposed Submissions;
- providing advice to the Chief Minister on each Submission considered by Cabinet;
- monitoring and providing advice on the implementation of government policies and initiatives; and
- providing advice on the government's forward policy agenda.

#### CABINET OFFICE

For assistance contact [CabinetOffice@act.gov.au](mailto:CabinetOffice@act.gov.au)

Directorates should consult the Division as early as possible in the development of major policies and programs. The Division can

## CABINET LIAISON OFFICERS

provide advice on timing, priority and process steps for bringing information and submissions for consideration to Cabinet.

The Division is also able to advise on whole of government policy development requirements, including regulatory reform policies, triple bottom line analysis and the process for assessing regulatory impact.

Cabinet Office is a unit within the Division. It:

- provides administrative support to the Chief Minister and Cabinet;
- assists the Chief Minister and the Secretary to Cabinet to manage Cabinet's forward agenda;
- provides advice and training to officials on Cabinet processes;
- monitors and enforces compliance with the Cabinet Handbook and the Cabinet Paper Drafting Guide;
- manages the eCabinet system;
- coordinates the Cabinet Liaison Officer (CLO) Network;
- maintains the archive of Cabinet papers; and
- manages the release of Executive Documents under the *Territory Records Act 2002*.

Directors-General nominate officers to serve as their directorate's CLOs who:

- provide a central contact point between the directorate, the Cabinet Office and other directorates on Cabinet business;
- coordinate Cabinet business for their agency;
- provide the Cabinet Office with forecasts of Cabinet business for their directorate;
- ensure procedures set out in the Cabinet Handbook and the Cabinet Paper Drafting Guide are followed in their directorate;
- monitor the timely implementation of Cabinet decisions in their directorate; and
- under the direction of Directors-General, are accountable for managing and recording appropriate access to, and storage of, Cabinet papers for their directorate.

# PART B - CABINET, COMMITTEES AND SUBCOMMITTEES

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## CHAIR

Meetings of Cabinet are chaired by the Chief Minister (or, if the Chief Minister is absent, the next most senior minister present). The Chief Minister appoints a designated chair for Cabinet committees and subcommittees (in their absence, the most senior minister present will chair the meeting).

## ATTENDANCE

Cabinet meetings are attended by all ministers, the Secretary to Cabinet, the Chief Minister's ministerial staff and the Cabinet Notetaker. The chair of the meeting may agree to additional attendees to support decision making.

Cabinet committees are attended by all ministers and relevant senior officials. Subcommittees are attended by those ministers with portfolios relevant to the meeting topic and relevant Directors-General.

The Director, Cabinet may authorise attendance at Cabinet committees and subcommittees of other relevant senior officials or subject matter experts (subject to consultation with the Chief Minister's Office). To seek authorisation please contact Cabinet Office prior to a committee or subcommittee meeting.

## QUORUM

There is no formal quorum for Cabinet meetings. The quorum is decided by the chair of the meeting, taking into account the importance of the items under consideration, and the presence of appropriate ministers and the Secretary to Cabinet.

## SETTING THE CABINET AGENDA

The Chief Minister settles the agenda for each Cabinet, committee and subcommittee meeting on advice from CMTEDD. Any items not lodged on time for a particular meeting will not be considered for listing unless by prior agreement from the Chief Minister.

The Cabinet Office manages requests to add items to the agenda for Cabinet consideration. Requests by directorates to add an item should have a firm target date for consideration by Cabinet, and a plan for consultation and preparation of advice. Part C of this handbook contains further details about what information will be required before an item can be proposed for inclusion on a future agenda.

Cabinet's deliberations focus on significant issues that are the collective responsibility of the government, many of which involve whole of government coordination. Cabinet should not deal with routine matters that can properly be handled by individual ministers within portfolio responsibilities, or that might be addressed by correspondence between ministers.

## SPONSORING MINISTER

Matters for consideration by Cabinet are brought forward in papers sponsored by ministers or the Secretary to Cabinet. Ministers are responsible for the proposals they bring forward, notwithstanding that drafting may have been undertaken largely by officials. Verbal briefings or presentations may also accompany papers to enhance comprehension of the issues at hand.

## ACTING ARRANGEMENTS

Where a sponsoring minister is unable to attend a Cabinet meeting, a paper may be sponsored by an alternate minister. Normally, when formal acting arrangements are in place, the minister acting would sponsor the paper. If no acting arrangements are in place, the Chief Minister would normally sponsor the item.

It is the responsibility of the drafting directorate to provide briefings and support to ensure that the sponsoring minister has all details necessary to present the item to Cabinet. Directorates are responsible for monitoring scheduled ministerial absences to ensure that acting ministers are adequately briefed.

## CONFLICTS OF INTEREST

Ministers must declare any private pecuniary or other interests held by themselves or members of their immediate families in matters under discussion in Cabinet, committee or subcommittee meetings.

Officials and ministerial staff attending Cabinet, committee and subcommittee meetings must make similar declarations.

When considering whether there is a potential or apparent conflict of interest that should be declared, ministers and officials should adopt a broad interpretation. Declarations should be made in all cases where an interest exists that could not be said to be shared with the rest of the community.

Any such declarations will be recorded by the Cabinet Note-taker in the Cabinet Notebook. Cabinet may excuse a minister or official from the discussion or agree explicitly to their taking part.

## MEETING NOTES

The Cabinet Note-taker takes notes of Cabinet's deliberations during discussions in a Cabinet Notebook. These notes are not a verbatim record of discussions and are used solely for the purpose of supporting the preparation of Cabinet Decisions and identifying items where Cabinet request additional information.

## DECISIONS

The Secretary to Cabinet signs Cabinet decisions, which are circulated to ministers and directorates following the Cabinet meeting. Decisions classified as restricted will only be circulated to directorates with an identified need to know the outcome, with these decisions to be handled in accordance with the [ACT Protective Security Policy Framework](#).

If a minister or official is concerned about the accuracy of a Cabinet Decision, this should be drawn to the attention of the Chief Minister or

the Secretary to Cabinet as soon as possible. Any amendments agreed by the Chief Minister are brought to the attention of Cabinet in an Amended Cabinet Decision.

## ANNOUNCEMENTS

Link to [Open Access Release of Cabinet Decisions](#)

Section 23 of the *Freedom of Information Act 2016* requires the Chief Minister to make publicly available information about each Cabinet or Cabinet committee decision made after commencement of the Act, including:

- a) a summary of the decision;
- b) the decision reference number;
- c) the date the decision was made; and
- d) the triple bottom line assessment for the decision.

The FOI Act also allows information to be exempted from release if the Chief Minister (as decision maker) is of the view that it is not in the public interest to release the information. A Practice Guide to Open Access Information for Cabinet Decision is available [here](#).

## CABINET COMMITTEES

A Cabinet Committee is a meeting of the full Cabinet, with all associated decision-making powers. The same requirements for conduct of meetings, preparation of advice and security of information apply to Cabinet and Cabinet committees. Decisions of Cabinet committees do not require further endorsement by Cabinet.

## SUBCOMMITTEES

Subcommittees are intended to be a less formal meeting between ministers and officials to facilitate informed development of proposals, track the progression of government initiatives and act as a clearing house for some Cabinet items. The Chief Minister creates subcommittees, determines membership, and the scope of the subcommittee.

## DECISION MAKING POWERS OF SUBCOMMITTEES

Subcommittees do not hold the same decision making powers as Cabinet and Cabinet committees as they are intended solely as a forum to discuss issues and debate potential policy responses. The subcommittee process is designed to provide greater flexibility for papers to be brought forward in conceptual form and without the same stringent formal circulation requirements as Cabinet submissions. Further details on developing items for subcommittees are outlined in Part C.

## BUDGET COMMITTEE

The Budget Committee considers expenditure, revenue, capital, savings and investment proposals. The Committee meets frequently during the annual Budget process. It also meets regularly throughout the year to review directorates' performance (including the delivery of capital programs) and considers possible future Budget initiatives.

The Committee also considers issues on improving the efficiency and effectiveness of ACT Government services (Expenditure Reviews).

The Budget Committee comprises all ministers. Noting that the Head of Service and the Under Treasurer attend to provide advice to Ministers.

## SECURITY & EMERGENCY MANAGEMENT COMMITTEE

The Under Treasurer is routinely accompanied by directorate officials as required to support the Committee in its deliberations.

The Security and Emergency Management Committee (SEMC) provides strategic direction to the ACT Government's preparations for emergencies under an all-hazards planning framework. SEMC meets on an 'as required' basis, with security briefings to be provided to Cabinet at least twice a year.

SEMC comprises all ministers and Directors-General. Subject to a relevant item of business being on the SEMC agenda, the following senior officials are normally also in attendance:

- the Chief Police Officer, ACT Policing;
- the Commissioner, the Emergency Services Agency;
- the Chief Health Officer; and
- senior officials.

Papers for consideration by SEMC are generally progressed through the Security and Emergency Management Senior Officials Group (SEMSOG), which is chaired by the Director-General of JACS.

In the event of an emergency, SEMC is supported by SEMSOG

Papers for consideration at SEMC that are for noting only may be signed off at Director-General level of the responsible directorate.

By agreement from the Director, Cabinet, consideration of issues by SEMSOG may replace the Exposure Draft comments stage in the circulation of Cabinet papers for SEMC.

In addition to the usual *Sensitive: Cabinet* Dissemination Limiting Marker (DLM), papers for consideration by SEMC may be classified PROTECTED and must be marked and handled accordingly. Papers for SEMC may, on occasion, carry higher national security classifications. The Director, Cabinet must be informed that an item with a national security classification is on the SEMC agenda prior to the lodgement of the paper and meeting.

All officials present at SEMC and SEMSOG meetings must hold a national security clearance at a minimum to the level of the material being discussed. The Director, Cabinet will notify attendees if the meeting is scheduled to discuss matters that require a national security clearance.

Cabinet will provide strategic leadership to the ACT Government's response to a major incident requiring whole-of-government coordination. In this role, it would be supported by advice from SEMSOG and the Emergency Controller (if one has been appointed under the *Emergencies Act 2004*).

## CURRENT SUBCOMMITTEES

Cabinet subcommittees may be formed on a case by case basis in response to arising issues, or to focus on strategic government priorities. These may be long-running or time limited. A list of current

subcommittees and their terms of reference is available through the Cabinet Office.

# PART C - PREPARATION OF CABINET ITEMS

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## IDENTIFICATION OF MATTERS

The first stage of the Cabinet process is the identification of items for the Cabinet forward agenda. Directorates should request an item be placed on the forward agenda once they have agreement from their minister to bring an item to Cabinet (or their Director-General for subcommittee items).

### Cabinet number request form

The directorate CLO requests an item be placed on the Cabinet forecast by submitting a Cabinet number request form to the Cabinet Office. The form requires a summary of the issue for consideration by Cabinet and details of the key stakeholder directorates. The officer drafting the Cabinet paper will provide these details to the CLO. Incomplete or partially complete forms are not accepted.

At the Cabinet number request stage, a contact officer in Policy & Cabinet Division will be assigned to provide whole of government advice on priorities and policy development. The name of the contact officer will be provided to the CLO of the directorate drafting the item.

Items that are listed on the Cabinet forecast are not automatically placed on the agenda, which is determined on the basis of priority and minister's availability. The agenda is set by the Chief Minister on recommendation from the Director, Cabinet. Where an agenda is oversubscribed, the following criteria are applied in making recommendations to the Chief Minister.

- What are the hard deadlines for an item (e.g. fixed assembly timelines, publicly announced deadline or arising priority issue)?
- Is the item a government priority?
- Has the item undertaken the prescribed circulation?
- Has the item been lodged by the deadline?
- Are there outstanding issues that require further consultation?

## TIMING

Ministers should be provided opportunity to consider items well in advance of a critical date to allow modifications to a recommendation or clarifications. Cabinet Office should be alerted if a decision of Cabinet is required by a particular date (such as an intergovernmental agreement or scheduled introduction of a Bill).

Legislative Bills seeking Cabinet approval must be provided to a Cabinet meeting at minimum one week prior to the scheduled date of introduction in the Legislative Assembly. See Part D for further details about the Cabinet process for legislation.

## TYPES OF BUSINESS

Cabinet items may be presented in four different categories of papers, each of which have differing circulation requirements as summarised in table 1.

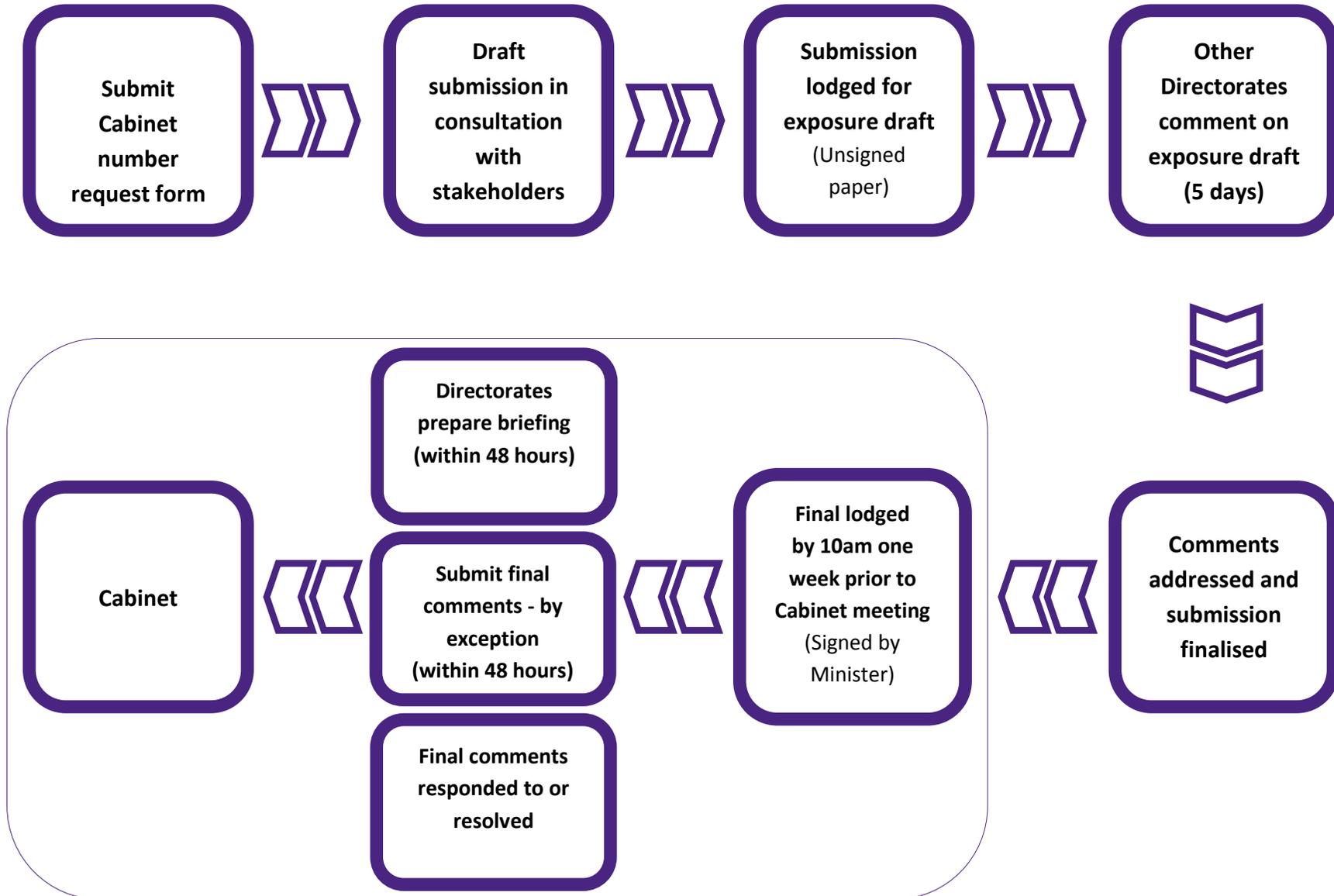
**Table 1: Cabinet paper types**

Cabinet item	Purpose	Timeframe	Endorsement	Forum
<b>Cabinet submission</b> From ministers or Secretary to Cabinet	<ul style="list-style-type: none"> <li>• Agree on a course of action</li> <li>• Setting policy</li> <li>• First pass approval for legislation</li> <li>• Negotiating positions for, and agreement to, Intergovernmental Agreements (IGAs) (A Better Practice Guide for responding to significant matters affecting Commonwealth, state and territory relations and relations with external bodies is available <a href="#">here</a>)</li> <li>• Government position on a Private Members Bill</li> <li>• Government submissions/responses</li> <li>• Seek approval to undertake public consultation on draft policy/plans</li> <li>• To provide information updates for noting</li> </ul>	Exposure draft circulated for five working days  then  Final lodged by 10 am one week prior to Cabinet meeting*  If necessary, final comments due within 48 hours of lodgement	Exposure draft endorsed by Deputy-Director General (at minimum)  Final lodged signed by minister or Secretary to Cabinet  Final comments endorsed by Director or above	Cabinet & Cabinet committees
<b>Assembly business</b> From ministers	<ul style="list-style-type: none"> <li>• Second pass approval for legislation</li> <li>• Approve Ministerial Statements</li> </ul>	No exposure draft required  Final lodged by 10 am one week prior to Cabinet meeting*	Final lodged signed by minister	Government Business Subcommittee
<b>Appointment</b> From ministers	<ul style="list-style-type: none"> <li>• Endorse appointments to statutory offices, boards or committees</li> </ul>	No exposure draft required  Final lodged by 10 am one week prior to Cabinet meeting*	Final lodged signed by minister	Cabinet
<b>Discussion paper</b>	<ul style="list-style-type: none"> <li>• Provide discussion points only</li> </ul>	No exposure draft required.	Final lodged signed by	Subcommittees

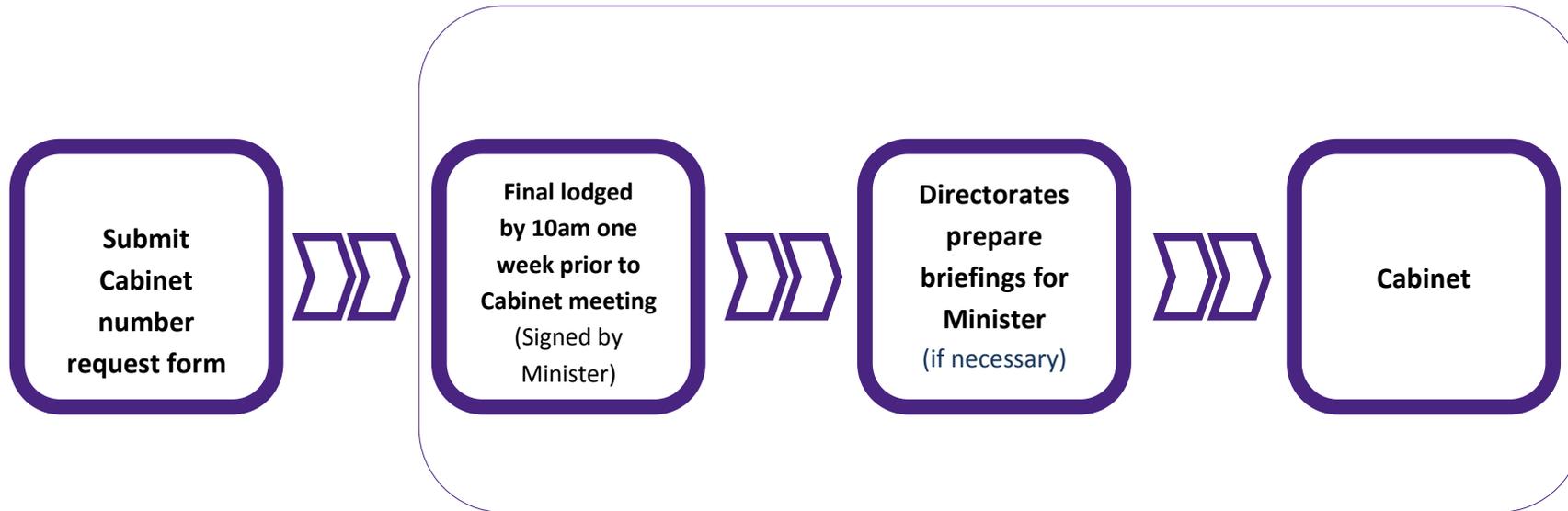
<b>From ministers</b> or <b>Directors-General</b>	<ul style="list-style-type: none"> <li>• Seek direction on policy development</li> </ul>	Final lodged by 10 am one week prior to Subcommittee meeting*	minister or Director-General	
<b>Brief to Cabinet</b> <b>From Cabinet Office</b>	For use in exceptional circumstances to provide additional or clarifying information received at a late stage or advice on Cabinet processes	No minimum timeframe	Signed by a Senior Executive from Policy and Cabinet Division, CMTEDD	Cabinet, Cabinet committees & subcommittees

\*For example, papers for a Cabinet meeting scheduled on Tuesday, 8 February must be lodged by 10am Tuesday, 1 February.

Flowchart 1 Cabinet Submissions



**Flowchart 2 Appointment and Assembly Business Papers**



**Flowchart 3 Discussion Papers**



## DRAFTING CABINET PAPERS

Link to the [Cabinet Paper Drafting Guide](#)

Information being considered by Cabinet must be of the highest standard to aid decision-making. The contents of a Cabinet submission should:

- be concise and factually correct;
- clearly outline the policy options and recommended approach; and
- highlight essential matters relevant to the decision including views of stakeholders.

Cabinet papers require supporting information and analysis depending on the purpose, this is summarised in table 2.

**Table 2: Documentation requirements by paper type**

Cabinet item	Documentation Requirements	Financial	Implementation and evaluation
<b>Cabinet submission</b>	<ul style="list-style-type: none"> <li>• Triple Bottom Line (TBL) summary or detailed analysis*</li> <li>• Communications plan</li> </ul> <p>*See TBL Assessment Framework for criteria and exemptions</p>	<p>All submissions require agreement by Treasury to the financial implications including:</p> <ul style="list-style-type: none"> <li>• new expenditure</li> <li>• reprioritised expenditure</li> <li>• nil financial impact</li> </ul>	<p><u>Implementation milestones</u> All proposals should include key implementation tasks</p> <p><u>Evaluation</u> All proposals that require a TBL must outline how the policy proposal will be evaluated against its objectives</p>
<b>Assembly business</b>	<p><u>For legislation 'second pass'</u></p> <ul style="list-style-type: none"> <li>• Final Bill (Cabinet copy)</li> <li>• PCO Memorandum</li> <li>• Explanatory Statement</li> <li>• Human Rights Memorandum of Compatibility</li> </ul> <p><u>For Ministerial Statements</u></p> <ul style="list-style-type: none"> <li>• The speech, or</li> <li>• Key points that will be included in the speech.</li> </ul>	<p>N/A</p> <p>Ministerial Statements should not commit the government to policies or expenditure that has not been approved by Cabinet</p>	<p><u>Evaluation</u> Legislation that will impose additional cost on the community must outline a proposed date for post-implementation evaluation</p>
<b>Appointment</b>	<ul style="list-style-type: none"> <li>• Refer to <i>Governance Principles – Appointments, Boards and Committees Handbook</i> for full details</li> </ul>	<p>Remuneration information must be included in Cabinet paper</p>	<p>N/A</p>
<b>Discussion paper &amp; Brief to Cabinet</b>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>

**POLICY PROPOSALS**

Link to the [Triple Bottom Line Assessment Framework](#)

Separate requirements apply to the tabling of a Regulatory Impact Statement in the Legislative Assembly. See [Part D](#) for more details.

The *Triple Bottom Line (TBL) Assessment Framework* outlines the steps involved in developing policy proposals and good policy making principles that can assist drafters. It also outlines the requirements to include accompanying analysis with certain Cabinet submissions. The framework aims to ensure Cabinet is provided with sufficient analysis, in a standardised format, with which to make their decisions. The *Freedom of Information Act 2016* requires the publication of the Triple Bottom Line Assessment, subject to the public interest disclosure test.

The framework has a set of escalating requirements that are proportionate to the significance of a proposal. Directorates may seek an exemption from undertaking a *Detailed TBL* or *TBL Summary* by contacting the Cabinet Office. Policy and Cabinet Division will certify in advance of the lodgement of documents for Exposure Draft whether a proposal is exempt from providing a *Detailed TBL* or *TBL Summary* to Cabinet. A summary of the criteria is outlined below - more details are provided in the Guide to the Policy Assessment Framework available at <http://www.cmd.act.gov.au/policystrategic/sustainability> .

NOTE: the TBL Assessment Framework and Regulatory Impact Statement requirements are expected to be reviewed in 2018.

**Table 3: Summary of the Triple Bottom Line Assessment Framework**

Triple Bottom Line Assessment Framework	Exempt	Requires TBL Summary	Requires Detailed TBL
	<ul style="list-style-type: none"> <li>• Items for noting</li> <li>• Items for agreement where the proposal is minor or technical and is assessed as having no material impact on any TBL categories</li> </ul> <p>Policy and Cabinet Division will certify that no TBL is required prior to lodgement of documents for exposure draft</p>	<p>Proposals that have a material impact on one or more TBL categories:</p> <ul style="list-style-type: none"> <li>• social</li> <li>• economic</li> <li>• environmental</li> </ul> <p>An assessment of climate change impact must also be undertaken on legislative proposals where an Environmental Impact Statement is required or the value of a capital project is in excess of \$15 million</p>	<p>A detailed TBL is required for any submission to Cabinet that includes a proposal to create an instrument (either new legislation, an amendment to existing legislation or a regulation) which would either:</p> <ul style="list-style-type: none"> <li>• impose mandatory requirements upon business and the community, or</li> <li>• seek to change behaviour</li> </ul> <p>The <i>Triple Bottom Line Assessment Framework</i> outlines exemptions in limited circumstances</p>

## FINANCIAL CONSIDERATIONS

Submissions must clearly state the Budget impact of the recommendations for the current financial year and each of the subsequent four financial years. Treasury's (CMTEDD) agreement to the costings (both expenditure and, if applicable, forecast revenues) or nil financial impact of proposals must be obtained before a submission can be lodged with Cabinet Office for exposure draft circulation. This agreement assures Cabinet the stated Budget impact of a proposal has been verified. It does not include agreement to the policy itself.

Submissions that seek agreement to release draft policies/strategies for public consultation will be accepted without detailed costings so long as the material for public release does not bind the government to future expenditure or create unrealistic community expectations.

Any publicly released consultation material should contain sufficient caveats to this effect. Directorates should seek agreement from Treasury prior to lodgement with regards to the wording of such caveats and general presentation of material for public consultation.

Proposals in the below categories should not be brought forward outside the Budget context unless there is an urgent and compelling case for earlier consideration. In such circumstances, the responsible minister must seek the prior agreement of the Chief Minister, in writing, to the matter coming forward. These include proposals that:

- involve a commitment of additional funding outside the Budget process; or
- do not identify a source of funding, but state that funding will be sought through a future Budget proposal.

## COMMUNICATIONS

The successful implementation of Cabinet decisions in many cases is reliant on effective communication of that decision to the community.

The Communications plan is intended to provide guidance on planning current and future communications efforts for a particular project or campaign in order to provide top line information for Cabinet. Further guidance on what parts need to be prepared can be found in the template.

In the early stages of preparing Cabinet submissions and Assembly Business Papers, it is recommended the relevant communication team in your directorate is consulted to ensure best practice communications advice is provided. Cabinet submissions typically require the inclusion of communications plans. The following are exempt:

- Cabinet submissions that are for noting only;
- Budget Committee submissions; and
- Government responses or submissions.

## IMPLEMENTATION

Ministers are responsible for ensuring that action is taken on Cabinet Decisions affecting their portfolios. If a Cabinet Decision requires action in several portfolios and Cabinet does not direct otherwise, the minister who raised the matter in Cabinet is responsible for initiating follow-up procedures (usually by letter to other ministers involved).

CMTEDD monitors progress on the implementation of key Cabinet decisions. Reports may be provided to Strategic Board or Cabinet, as necessary, for information and action. All Cabinet submissions must complete the key implementation milestones section of the Cabinet submission template to provide Cabinet with details on the intended implementation steps and timeframes.

## EVALUATION

Significant policy proposals that would impose a cost on the community should be regularly reviewed to ensure that they achieve their intended objectives and minimise unnecessary red tape. All policy proposals that require a TBL must also nominate a proposed date for post implementation evaluation.

## WHOLE OF GOVERNMENT CONSULTATION

Cabinet relies on the ACT Public Service to:

- provide facts that assist in decision making; and
- clearly outline the options and the rationale for recommended approach.

Policy submissions to Cabinet must be factually accurate and directorates must ensure that all facts put to Cabinet to support decision making is agreed. Ministers should not be placed in a position where they are provided with contradicting or inaccurate factual information.

Thorough and genuine consultation is crucial to the successful development of high quality Cabinet papers. Consultation also ensures differences are resolved in advance of Cabinet consideration, or are clearly identified and set out in a way that assists sound decision-making.

Cabinet Office checks to ensure adequate circulation to directorates subject to any special considerations or confidentiality. At any point in the development of an item the Director, Cabinet may request a directorate undertake additional consultation or provide a clarification of facts to ensure that Cabinet is provided with sound advice with which to make decisions.

Initial consultation between directorates should be proportionate to the significance of a proposal. Notwithstanding, it is recommended that officers drafting Cabinet items should make early contact with Policy and Cabinet Division to provide details of all forthcoming submissions.

## EXPOSURE DRAFTS

All directorates with an interest in a proposal being prepared for Cabinet must be given ample opportunity to contribute to its development. All exposure drafts of submissions must be circulated to all directorates for a minimum of five days. Cabinet Office and CLOs manage the circulation of documents.

At a minimum, exposure drafts should be endorsed by a Deputy Director-General before circulation. However, ministers should set their individual expectations with their directorates if they have a preference to endorse documents before exposure draft circulation.

## EXPOSURE DRAFT COMMENTS TABLE

Directorates provide comments on exposure drafts through their CLOs. The CLO for the drafting directorate formalises this feedback into an exposure draft matrix, which lists all comments and provides a column for a response. The drafting directorate should update the final submission to incorporate the comments if valid or provide a reason as to why a comment has not been incorporated. The purpose of the exposure draft matrix is to provide a reference for directorates on how the comments have been incorporated and provide reference to where the changes have been made. The exposure draft matrix is not provided to Cabinet.

All comments must be addressed through the comments table in one of three ways:

- agreed, with paragraph reference to changes;
- agreed but not incorporated, noting a rationale for not making a change; or
- not agreed, with rationale for why the comment is not valid.

## FINAL LODGED

Cabinet Office will not accept submissions for lodgement that do not have a correctly completed exposure draft matrix.

Cabinet Office provides ministers with Cabinet papers four working days before each meeting to allow ministers to consider the papers and receive briefing from their offices and directorates before taking decisions.

Final Cabinet papers must be lodged with Cabinet Office no later than 10am on the day one week prior to a Cabinet meeting (for example, if a Cabinet meeting is on Tuesday, 8 February, then all papers must be lodged by 10am on Tuesday, 1 February).

Papers must be signed by a minister and include all relevant documentation. Papers not received by the cut-off date or not in compliance with documentation requirements will be automatically rescheduled to a future meeting.

## FINAL AGENCY COMMENTS AND BRIEFINGS

Once papers are lodged they are distributed to directorates for final review and briefing purposes. If a directorate does not believe that a final submission has adequately addressed their comments at exposure draft, or more generally does not support a submission they:

- may submit final agency comments to Cabinet Office within 48 hours of final lodgement; and
- should brief their minister to this effect.

Final agency comments will be provided back to the directorate responsible for the paper for consideration and response. The final agency comment together with the response will be provided to ministers by Cabinet Office. Final comments should be restricted to only material issues affecting the recommendations.

## VARIATIONS TO CABINET PROCESSES

### Skip or shorten exposure draft circulation

Circulation timelines have been set to ensure that directorates have sufficient time to review papers before they are finalised.

The approval of the Director, Cabinet can be sought by the drafting agency to skip the Exposure Draft stage where the paper responds to a rapidly emerging issue or emergency situation. The presumption is that approval will not be granted unless such a situation can be demonstrated.

### Late Lodgement

The Director, Cabinet can agree to shorten the Exposure Draft stage to three days where an item has previously been considered by a Cabinet subcommittee.

Late lodgement of Cabinet papers reduces the time ministers have to consider issues before them and creates a risk of poor decision-making. Late lodgement of final papers can occur only in exceptional circumstances or emergency situations and with the prior written agreement of the Chief Minister.

Ministers seeking to lodge late papers must write to the Chief Minister, seeking their approval to the change, prior to the final lodgement deadline. If it is apparent an item required for consideration at a particular meeting is likely to be lodged late, early contact should be made with the Director, Cabinet to discuss the proposed timeline.

Similarly, the tabling of papers 'under the line' or as 'walk-in' items in the Cabinet Room by ministers must be agreed in writing, in advance, by the Chief Minister, with letters copied to the Director, Cabinet. Approval to table papers will only be given for the most urgent and unavoidable matters.

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# PART D - CABINET APPROVAL OF LEGISLATION

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## TWO PASS PROCESS

Detailed guidance on preparing legislation is set out [here](#)

Where a bill will affect the operations of another directorate or legislation administered by another directorate, the lead directorate should ensure that appropriate consultation occurs before and during the drafting of the bill. The Parliamentary Counsel's Office (PCO) should also be engaged as early as possible.

## FIRST PASS

Policy approval and agreement to drafting

Proposals for government legislation are considered in two stages:

- in a submission seeking agreement to a policy position and the drafting of legislation (the first pass); and
- in an Assembly business paper seeking agreement to the presentation of a Bill (the second pass).

All new policy proposals are presented to Cabinet through a submission. The submission should clearly outline all aspects of the proposal, and be accompanied by the necessary supporting documentation outlined in [Part C](#) (e.g. TBL, Communications Plan, etc.). Ideally, drafting instructions are attached to the submission – however, submissions may be accepted if policy proposals are sufficiently developed and include a statement that PCO has been consulted and agreed that the proposal is sufficiently developed for drafting to begin.

## SECOND PASS

Bill for presentation

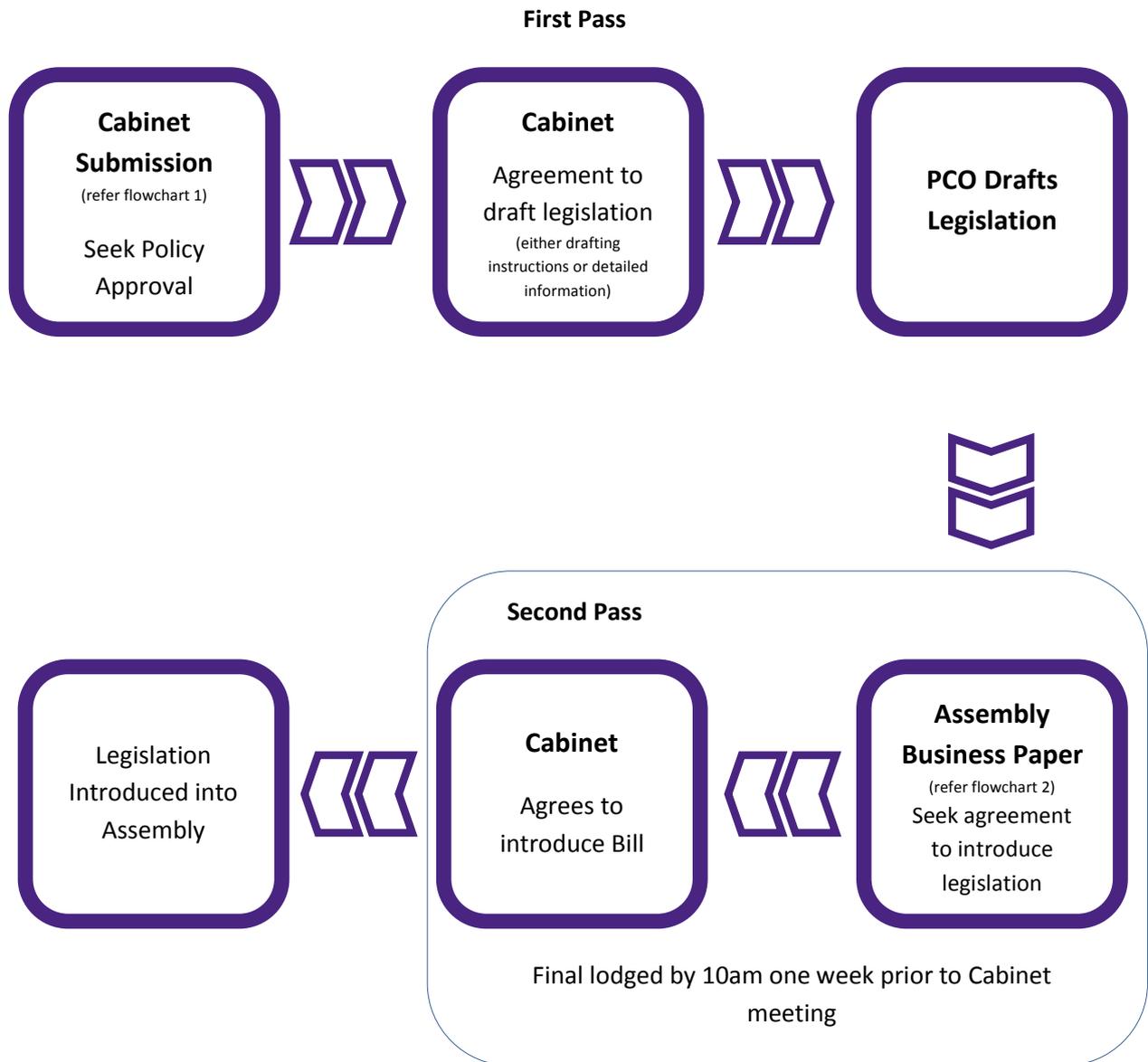
Once a bill has been drafted, its presentation in the Legislative Assembly is considered by Cabinet in an Assembly business paper. In most cases, the recommendation will simply be that the bill be presented. Bills for presentation should be brought to a Cabinet meeting at least one week prior to the forecast introduction date. If for any reason a Bill cannot be prepared or finalised for Cabinet consideration until the meeting immediately prior to a sitting period, directorates should contact the Director, Cabinet for assistance.

The Assembly business paper presents the Cabinet copy of the Bill to Cabinet. The Cabinet copy should only be requested from Parliamentary Counsel's Office once the sponsoring minister has agreed to the final text.

Supporting documentation that must also be attached to an Assembly business paper proposing the presentation of a bill:

- the Cabinet copy of the Bill;
- the Explanatory Statement;
- a memorandum from PCO setting out whether the bill gives effect to the policy approval; and
- a memorandum from JACS setting out whether the Bill is compatible with the Human Rights Act.

Flowchart 4 Approval of Legislation



## SEEKING SUBSEQUENT POLICY APPROVAL

A PCO memorandum is to be provided stating whether the bill gives effect to the previous Cabinet approval.

Where there are significant matters not covered by the earlier approval, the memorandum will point this out. When further policy approval is required, the Assembly business paper should outline these in explicit recommendations.

If there is a policy change (rather than one which is technical in nature), a submission at the second pass stage will be warranted. This could include where there has been a change in particular circumstances that may have been influential in Cabinet's initial agreement to the policy, or where the minister feels that a particular handling strategy is required in the Legislative Assembly.

## EXCEPTIONS TO THE NORMAL BILLS PROCESS

### Combined pass

In exceptional circumstances (usually involving matters of urgency) and following a written request from the relevant minister, drafting of legislation may be authorised by the Chief Minister in a combined pass process. In this case, the 'policy approval' and 'agreement to introduce' stages are undertaken concurrently through a single Cabinet submission outlining the proposal and including the draft bill as part of the submission. The normal exposure and final circulation requirements that apply to Cabinet submissions (as outlined in [flowchart 1](#)) continue to apply.

### Technical Amendments Program

The technical amendments program allows for legislative changes of a minor or technical nature to be dealt with on a regular basis, either through inclusion in a Statute Law Amendment Bill (SLAB) or, where appropriate, in schedules of technical amendments in other bills.

Amendments that meet the criteria for inclusion in the technical amendments program do not require first pass approval from Cabinet. Advice in this regard should be sought from either the PCO or the Cabinet Secretariat.

Amendments proposed under Schedule 1 and/or 4 of a SLAB require the Chief Minister's approval, but agencies should seek approval in writing through their minister to the Chief Minister. Schedule 1 deals with minor policy changes proposed by government agencies. Schedule 4 deals with repeals of obsolete or unnecessary legislation proposed by government agencies or PCO. Schedules 2 and 3 are technical amendments proposed by the PCO and have standing Cabinet in-principle approval. SLABs are approved by Cabinet in a one pass process in a submission from the Attorney-General.

### Legislation Amendment Bills

Legislation Amendment Bills that relate to minor and uncontroversial amendments may be approved by Cabinet in a combined pass process. A normal two pass process ([flowchart 4](#)) must be undertaken where the Legislation Amendment Bill seeks to make a change in government policy.

## PUBLIC EXPOSURE DRAFT BILLS

In normal circumstances, a bill is first made public when it is presented in the Legislative Assembly. In some cases, however, it may be desirable for the community or interest groups to be given an opportunity to comment on a formal exposure draft of the bill.

In such cases, the responsible minister should seek Cabinet's agreement to release an exposure draft of the bill as part of the first pass approval.

## PRIVATE MEMBERS BILLS AND EXECUTIVE MEMBERS BILLS

Cabinet agreement is required for government positions on Private Members' Bills or Executive Members' Bills. A submission should be prepared as soon as possible and, in any event, within three months of a Private Member's Bill/Executive Members Bill being presented in the Legislative Assembly.

## HUMAN RIGHTS ACT 2004

Guidelines prepared by the ACT Parliamentary Counsel's Office available [here](#) also outline the requirement for a bill's explanatory statement to detail any possible impact to human rights

The Human Rights Act affects the operation of all legislation in the ACT by:

- imposing on officials a statutory obligation to take account of human rights principles when interpreting all ACT primary and subordinate legislation; and
- institutionalising consideration of fundamental civil and political rights during the development of law and policy.

Under the Human Rights Act, the Attorney-General has a statutory obligation to provide a compatibility statement in writing to the Legislative Assembly for each government bill, stating that the bill is consistent with the Human Rights Act, or how it is not consistent with rights protected under that Act.

All submissions seeking first pass approval should indicate any possible impact on human rights. Advice should be sought from the [Legislation, Policy and Programs](#) unit in the Justice and Community Safety Directorate (JACS) as part of the policy development process to ensure early identification of potential compatibility issues.

All Assembly business papers proposing presentation of a bill, must address compatibility with the Human Rights Act.

## ASSEMBLY RIS REQUIREMENTS

Assembly RIS requirements are different to Cabinet TBL requirements

Chapter 5 of the [Legislation Act 2001](#) outlines the requirements for the submission of Regulatory Impact Statements (RIS) for subordinate laws and disallowable instruments. These are separate requirements to the TBL Assessment Framework outlined in [Table 3](#). A RIS must be presented to the Legislative Assembly if a proposed subordinate law or disallowable instrument is likely to impose appreciable costs on the community, or a part of the community. The Act outlines a process and criteria for exempting a subordinate law or disallowable instrument from a RIS.

A detailed analysis TBL may be used to satisfy some elements of the Assembly RIS requirements. The full listing of requirements is set out in section 35 of the [Legislation Act 2001](#).

## PART E - DOCUMENT MANAGEMENT

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### E-CABINET

Cabinet papers are circulated through an electronic records management system maintained by the Cabinet Office. The Whole of Government Records Manager (WHoGRM) database has been enabled to securely manage Cabinet documents for circulation and access by directorates. CLOs are the primary users of the electronic system managed by the Cabinet & Coordination Office. All documents to be circulated for comment, or provided to Cabinet ministers, must be provided through the secure WHoGRM system.

The Cabinet Office and CLO network are responsible for the circulation, exchange and access to documents on the WHoGRM system. CLOs are responsible for internal requests for access to Cabinet information and management of documents within their directorates using internal systems.

Ministers and Senior Executives are able to access Cabinet papers through a remote access drive using their iPads. The remote access drive is maintained by Cabinet. All use of iPads to remotely view Cabinet papers must comply with Cabinet Office guidelines.

### SECURITY AND HANDLING OF CABINET PAPERS

The security and handling procedures in this guideline are intended to protect the confidentiality of the Cabinet process. Access to Cabinet papers is granted on a strict need-to-know basis. The security and handling procedures for Cabinet papers equally apply to papers for Cabinet committees and subcommittees.

Directors-General or their nominated representatives (usually the CLO) should identify officers within their directorates to whom access to particular Cabinet papers will be limited.

Cabinet papers will primarily be maintained on the WHoGRM secure database and by CLOs. Access will be provided by CLOs on a need-to-know basis within each directorate. Where possible, printing of Cabinet papers or the placing of Cabinet papers in electronic systems that cannot be audited for access should be avoided.

Directorates should only maintain Cabinet records as needed to facilitate their core business, for limited time periods. Comprehensive records of Cabinet papers are maintained by Cabinet & Coordination Office, and these can be made available at a later point in time if required by a directorate.

Each directorate must maintain a register of Cabinet documents it possesses at any point in time. All Cabinet documents (including drafts and associated briefing materials) that are within directorate internal circulation systems or held by staff must be deleted once they are no longer required.

CLOs within each directorate are responsible for ensuring that access to Cabinet information is provided on a need-to-know basis. A record must be kept of all access to each Cabinet paper and provided to Cabinet Office on request. Copies of Cabinet decisions made by CLOs for internal distribution must be appropriately watermarked.

CLOs have standing permission to copy or print Cabinet papers from the secure WHOGRM system maintained by Cabinet & Coordination Office (or copy documents delivered to them in hard copy) for the purposes of facilitating consultation, preparing exposure draft comments and drafting ministerial briefings.

If it is identified that a breach of Cabinet confidentiality has occurred, the directorate Security Adviser must be notified. The Secretary to Cabinet must also be notified immediately that a breach has occurred so that steps can be taken, including advising the Chief Minister of the incident. It is the responsibility of the Secretary to Cabinet, in consultation with the Chief Minister, to decide whether the incident is of sufficient seriousness to warrant further investigation by the Australian Federal Police.

## MANDATORY SECURITY MARKINGS

Dissemination Limiting Markers (DLMs) are used to identify information that may have protections under legislative secrecy provisions. The purpose of this is to facilitate information sharing between agencies.

Documents used by Cabinet (including Cabinet committees and subcommittees) to formulate policy and make decisions require special protective measures. This is because Cabinet documents, unlike other official information, belong to the particular governments that create them. They are integral to the process by which governments make decisions and they constitute the record of those decisions.

Any unauthorised disclosure damages the openness and frankness of discussions in the Cabinet Room and potentially impedes the process of good government.

The DLM *Sensitive: Cabinet* must, at a minimum, be applied to any document including (but not limited to) business lists, minutes, submissions, memoranda and matters without submission that is or has been:

- submitted or proposed to be submitted to Cabinet;
- official records of Cabinet; or
- any other information that would reveal the deliberations or decisions of Cabinet.

Cabinet documents can require a higher level of protection depending on whether their subject matter can utilise additional DLMs such as For Official Use Only. An additional national security classification protective marker may also accompany Cabinet documents where necessary by agreement of the Director, Cabinet.

## ACCESS DURING THE CARETAKER PERIOD

Before the date of an election, Directors-General and heads of agencies must ensure that all Cabinet documents are accounted for and securely stored. Access to Cabinet papers outside the statutory schemes outlined below will not normally be granted during the caretaker period except in exceptional circumstances with the approval of the Secretary to Cabinet.

## MANAGING DOCUMENTS AFTER A CHANGE OF GOVERNMENT

In the event of a change of government, all copies of Cabinet documents (physical and electronic) held by directorates must be either:

- returned promptly to Cabinet Office for destruction
- destroyed securely by the CLO.

After a change of government, Cabinet Office retains the single official record of all Cabinet documents. These may be accessed by directorates on request to ensure continuity of administration, which may require reference to Cabinet papers of former governments.

After a change of government, directorates may only provide new ministers with summaries of facts and operative decisions necessary for an understanding of current issues.

## DESTRUCTION OF COPIES OF CABINET DOCUMENTS

Documents that form the official Cabinet record may not be destroyed; however, copies of Cabinet documents (such as those provided to directorates) must be destroyed due to a change of government or if they are no longer required to inform immediate work. Only officers working in the Cabinet Office and CLOs are authorised to destroy copies of Cabinet documents.

To destroy physical copies of Cabinet documents, the documents must be confirmed to be a copy and be destroyed using a B Class shredder as determined by the Australian Government's Security Construction and Equipment Committee (SCEC). It is up to directorates to satisfy themselves that the Handbook's requirements in relation to destruction are met. Cabinet Office does not endorse any particular use of bin or third party contractual arrangements that directorates may enter into.

Documents with national security ratings carry special storage and destruction requirements. Please contact the [Security and Emergency Management Branch](#) for further advice on dealing with these files.

To destroy electronic copies of Cabinet documents, the documents must be confirmed to be a copy and be permanently deleted from the electronic system so that it is no longer accessible or retrievable.

## PUBLIC ACCESS UNDER LEGISLATION

There are two ACT laws that create rights of access to Cabinet papers: the *Freedom of Information Act 2016* and the *Territory Records Act 2002*. Information Officers in each directorate can provide further information on access procedures and requirements under the Freedom of Information Act.

## ACCESS BY AUDITOR-GENERAL

The Director, Cabinet should be consulted on all FOI requests involving Cabinet papers or other documents that would disclose the deliberations of Cabinet. The *Territory Records Act 2002* provides for the public release of Cabinet papers ten years after they have been considered by Cabinet. The list of accessible Executive Documents required by the Act is produced by Cabinet Office and updated on Canberra Day each year at the following website:

<http://www.cmd.act.gov.au/functions/publications>.

Requests for access to Cabinet papers under the Territory Records Act are coordinated by Cabinet Office.

Under the *Auditor-General Act 1996*, the Auditor-General is entitled to access Cabinet papers for the purposes of investigating a particular term of reference. All requests for such access should be directed to the Secretary to Cabinet.

Any copies of Cabinet papers provided to the Auditor-General will be prepared by Cabinet Office, and must not be copied further. Such copies must be returned to Cabinet Office for destruction on completion of the investigation.

## ACCESS BY COURTS, INVESTIGATORY BODIES, AND POLICE

Requests for access to Cabinet papers by a court or a Board of Inquiry under the *Inquiries Act 1991*, the Australian Federal Police, the ACT Civil and Administrative Tribunal, or any other investigatory body must be referred to the Director, Cabinet.

## CLAIMS OF IMMUNITY FOR CABINET PAPERS

Where it is decided that a request for access should be granted, this will be facilitated by Cabinet Office. Access by the Australian Federal Police to Cabinet papers of relevance to ACT Policing is at the discretion of the Secretary to Cabinet.

The Secretary to Cabinet must be consulted if consideration is being given to claiming public interest immunity in respect of Cabinet papers before a court, tribunal or the Assembly. Claims of immunity in respect of Cabinet papers should be made only by a minister (normally sponsoring minister) in consultation with the Chief Minister, or by the Secretary to Cabinet in cases involving Cabinet papers of former governments.

## ACCESS TO CABINET PAPERS OF PREVIOUS GOVERNMENTS

Cabinet papers are, by convention, confidential to the government that creates them. This convention is, however, overridden by statutory rights of access outlined above. Requests for access to the Cabinet papers of a previous government outside those statutory schemes must be referred to the Director, Cabinet.

## ACCESS BY FORMER MINISTERS

By convention former ministers are entitled to special access to refresh their memories of Cabinet and related documents with which they dealt personally while in office. Former ministers should approach the Secretary to Cabinet if they wish to seek special access to documents under this convention. Records to which access may be granted are:

- all Cabinet material which the former minister had personally dealt with or seen or could reasonably be presumed to have personally dealt with or seen in the course of their official duties;
- correspondence sent to or received from the former minister which was personally dealt with or seen by the former minister, or which could reasonably be presumed to have been personally dealt with or seen by the former minister in the course of his or her official duties; and
- briefs and other deliberative documents which the former minister had personally dealt with or had seen or which could reasonably be presumed to have been personally dealt with or seen by the former minister in the course of his or her official duties.



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