

# NSW Cabinet Practice Manual

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The Cabinet Office



# Contents

<b>1</b>	<b>Introduction</b> .....	<b>2</b>
<b>2</b>	<b>Cabinet and Cabinet conventions</b> .....	<b>4</b>
2.1	Cabinet.....	4
2.2	Cabinet conventions .....	4
2.3	Matters for Cabinet.....	5
2.4	Cabinet Committees and Subcommittees.....	5
2.5	Roles and Responsibilities.....	6
<b>3</b>	<b>Administration of Cabinet</b> .....	<b>9</b>
3.1	Meeting schedule .....	9
3.2	Chair .....	9
3.3	Attendance .....	9
3.4	Agendas .....	10
<b>4</b>	<b>Types of Cabinet submissions</b> .....	<b>14</b>
4.1	Policy proposals .....	14
4.2	Legislation.....	14
4.3	Private Member’s Bills.....	15
4.4	NSW participation in Intergovernmental Minister’s meetings.....	15
4.5	NSW Government submissions and responses to inquiries.....	16
4.6	Matters for noting.....	16
<b>5</b>	<b>Cabinet submission process</b> .....	<b>18</b>
5.1	Two-stage process for Cabinet consideration .....	18
5.2	Cabinet submission timeframes.....	22
5.3	Comments on Cabinet submissions.....	23
5.4	Guidance for non-standard Cabinet submissions.....	24
<b>6</b>	<b>Handling Cabinet documents</b> .....	<b>28</b>
6.1	Access to official Cabinet records.....	28
6.2	Access to Cabinet records of a former Government.....	29
<b>7</b>	<b>Appointments</b> .....	<b>31</b>
7.1	Cabinet approval of appointments .....	31
7.2	Steps for seeking approval of an appointment .....	31
<b>8</b>	<b>Executive Council</b> .....	<b>34</b>
8.1	Executive Council meetings.....	34
8.2	Executive Council minutes .....	34
8.3	Lodging an Executive Council minute.....	34
8.4	Executive Council decisions .....	35

<b>9</b>	<b>Templates and Resources.....</b>	<b>37</b>
9.1	Cabinet Submission Template and Guidelines.....	37
9.2	Appointments.....	37
9.3	Executive Council.....	37
9.4	Other Resources.....	37

# 1

## Introduction

# 1 Introduction

Cabinet is the apex decision-making body of the NSW Government. It is the forum where the Premier and Ministers discuss and decide issues of significance to the state, and set the government's policy agenda, legislative program and strategic direction. Cabinet is the central institution for executive government in a Westminster-style (English) system of government.

Cabinet is not established by legislation, and its workings are largely governed by practice and convention. The Cabinet system and its operations evolve to allow the government to consider matters that reflect its particular circumstances and issues of importance to the community.

Cabinet is underpinned by the longstanding Westminster conventions of collective Ministerial responsibility, Cabinet solidarity and confidentiality of Cabinet deliberations.

Strong Cabinet practice and procedure is essential to effective government, good-decision making and Government integrity. A well-functioning Cabinet system ensures that Government decision makers are supported by high quality submissions and advice from across the public sector.

The NSW Cabinet Practice Manual has been developed by The Cabinet Office (TCO) and provides information on:

- Cabinet's structure, purpose, and conventions
- the roles and responsibilities of Ministers, Ministerial staff, and government officials in supporting the Cabinet system
- preparing and submitting a Cabinet submission for consideration
- the process for Cabinet approval of appointments, and
- the process for approval of minutes by the Executive Council.

For further assistance, contact TCO Cabinet Team by phone on 02 9228 5858 or email at [cabinet@tco.nsw.gov.au](mailto:cabinet@tco.nsw.gov.au).

# 2

## Cabinet and Cabinet conventions

## 2 Cabinet and Cabinet conventions

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### 2.1 Cabinet

Cabinet is the principal forum where the Premier and Ministers discuss and decide issues of significance to the State, and set the Government's policy agenda, legislative program and strategic direction. Cabinet has no legal powers and is not referenced in the Constitution. It is a process of collective decision-making based on the conventions of the Westminster (English) system of responsible government.

Cabinet is chaired by the Premier. By convention in New South Wales, all Ministers of the Crown are members of the Cabinet. Ministers may bring matters to Cabinet for consideration with the Premier's approval via the Cabinet Secretary.

By convention, the Secretary of TCO is the Cabinet Secretary and advises the Premier on the administration of Cabinet business.

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### 2.2 Cabinet conventions

Successful and effective Cabinet decision-making in New South Wales is maintained by adherence to the longstanding conventions of the Westminster style Cabinet. The three key conventions of Cabinet in NSW are:

- collective Ministerial responsibility
- Cabinet solidarity
- confidentiality of Cabinet deliberations.

#### 2.2.1 Collective Ministerial responsibility

The convention of collective Ministerial responsibility underpins the Cabinet system of government and is central to its functioning. It describes the need for the decisions taken to be the result of collective agreement by the whole Cabinet. In practice, this means that Cabinet decisions are binding on each member of Cabinet. Ministers must carry out and implement the decisions of Cabinet as they relate to their portfolios.

As Chair of Cabinet, the Premier facilitates and leads discussion to achieve a collective decision.

#### 2.2.2 Cabinet solidarity

Collective Ministerial responsibility is demonstrated through Cabinet solidarity. At Cabinet, Ministers may debate and deliberate matters under consideration, however once the government has made a decision, it "speaks with one voice". The Cabinet must present a united position to the community and the Parliament. Ministers are therefore expected to accept and defend Cabinet decisions.

#### 2.2.3 Confidentiality of Cabinet deliberations

Confidentiality of Cabinet deliberations supports the convention of collective Ministerial responsibility and Cabinet solidarity. This convention enables there to be full and frank advice, discussion and deliberations on matters, while maintaining the principle of Cabinet solidarity. Cabinet confidentiality also covers Cabinet documents (especially official Cabinet records) to ensure they are kept strictly confidential and accessed on a strictly 'need-to-know' basis.

### Consultation

These conventions can only operate effectively if members of Cabinet and Committees are well informed and well advised about the decisions they are being asked to make. Consultation is a key

element of the Cabinet system in NSW. Timely and thoughtful consultation on submissions ensures good policies are developed and supports informed decision making by Ministers.

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## 2.3 Matters for Cabinet

There are no set rules about what can be considered by Cabinet. The Cabinet should however generally consider and decide on all proposals that affect the NSW Government as a whole, including, but not limited to:

- significant new policy proposals and/or significant or sensitive variations to existing policy, including those that may arise in Government issues or consultation papers, discussion papers, long term strategies, and position papers that propose new policies
- proposals that have whole of government implications or implications for multiple portfolios
- proposals that require legislation or amending legislation, significant new regulations, and statutory review reports
- significant portfolio policy announcements
- proposals affecting the government's financial position or important financial commitments
- proposed responses to recommendations in reports of Royal Commissions, Parliamentary committees, inquiries and other significant reports that establish or vary policy
- proposals to refer matters to Parliamentary committees
- intergovernmental agreements, matters likely to significantly impact intergovernmental relations, and significant issues being considered or positions being taken in national forums
- matters likely to significantly impact parts of the community
- significant Government appointments
- matters that may be contentious.

### 2.3.1 The Budget cycle

Each year, Treasury prepares the NSW Budget which outlines the government's revenue and expenses for the coming year, provides an overview of the state economy, and details the priorities the government will deliver. Where possible, government spending should be planned and agreed through the Cabinet Committee on Expenditure Review (ERC) during the annual Budget cycle. ERC plays a crucial decision-making role in ensuring the allocation of resources aligns with the government's priorities. This includes the consideration of new policy proposals from Ministers.

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## 2.4 Cabinet Committees and Subcommittees

Cabinet can be supported by Cabinet Committees and Subcommittees (of a Cabinet Committee) – these can focus on specific areas of policy or government functions. Cabinet Committees derive their powers from the Cabinet and follow Cabinet conventions. These forums assist in supporting decision making by undertaking detailed consideration of and may deliberate on matters before they proceed to Cabinet or another Cabinet Committee.

The Premier establishes and chairs Cabinet Committees, can nominate a Minister as an alternate Chair and determines the membership and terms of reference.

Each Cabinet Committee is governed by Terms of Reference, which establish the relationship between the Cabinet Committee and Cabinet. The Terms of Reference can also set out quorum requirements, reporting arrangements, interdependencies, and the specified role for alternate Chairs.

Decisions made by Cabinet Committees may not require Cabinet approval, but are usually reported back to Cabinet for noting and become binding on the entire Cabinet. Some exceptions may exist for



particularly sensitive issues, such as those relating to security, market issues or commercial interactions.

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## 2.5 Roles and Responsibilities

### 2.5.1 Premier

The Premier determines the membership of Cabinet, chairs meetings, and sets the agenda and schedule of meetings. In Cabinet meetings, the Premier facilitates discussion to achieve a collective position.

The Premier determines the membership and Terms of Reference for Cabinet Committees. The Premier is generally the Chair of all Cabinet Committees and may appoint an alternate or delegated Chair to assist with the business of the Committee.

The Premier may establish a forward agenda for Cabinet and Cabinet Committee meetings by way of a call for proposals. Ministers are invited to propose items for consideration over the coming months to support considered Cabinet decision making, planning and consultation.

### 2.5.2 Ministers

Ministers are responsible for the administration of designated portfolio areas.

Ministers, supported by their departments, are responsible for identifying items requiring Cabinet consideration. Ministers develop, coordinate, and submit items for consideration with portfolio specific and whole of Government implications and approve any proposals from within their agencies that have financial implications.

Ministers are responsible for the submissions they bring forward to Cabinet and for ensuring submissions are high quality, meet required timeframes, and reflect consultation across NSW Government and with external stakeholders where appropriate.

Under the NSW Ministerial Code of Conduct, all Ministers have a duty to make a disclosure and abstain from decision-making at Cabinet or Cabinet Committee meetings on matters in which they have a conflict of interest. A record of any interests and if a Minister abstained from decision making is recorded by the Cabinet Secretary.

Any disclosures of conflict of interest must be made in writing via TCO Cabinet Team at [cabinet@tco.nsw.gov.au](mailto:cabinet@tco.nsw.gov.au) no later than two working days prior to a Cabinet or Cabinet Committee meeting.

### 2.5.3 The Cabinet Office

#### Secretary of TCO and Deputy Secretary, General Counsel of TCO

By convention, the Secretary of TCO is the Cabinet Secretary and advises the Premier on the administration of Cabinet business. The Secretary provides continuity and impartial support to the Premier on matters relating to Cabinet coordination and operations from a central government perspective.

The Secretary of TCO and the Deputy Secretary, General Counsel of TCO attend Cabinet meetings to record the official decisions of Cabinet.

#### TCO Cabinet Team

TCO Cabinet Team is the steward of the NSW Cabinet system. The team is part of the Office of General Counsel within TCO and:

- provides advice and support to the Premier, the Ministry and the public sector on Cabinet practice, conventions, and operations

- works closely with the Premier’s Office on the effective conduct of Cabinet business, including coordination of calls for proposals or ‘sweeps’, forward agenda planning, convening meetings, and managing the distribution of Cabinet submissions, agendas and decisions
- supports any alternate Chairs of Cabinet Committees
- supports the official notetakers for Cabinet and Cabinet Committees
- manages logistics for Cabinet and Cabinet Committee meetings, including the management of secure meeting locations, and recording attendance
- maintains the Cabinet Practice Manual, the authoritative guide for the sector on NSW Cabinet conventions, practice and procedure
- acts as the custodian of Cabinet records for both former and current Governments
- ensures the security and preservation of Cabinet records in eCabinet – a secure platform for the distribution and storage of official Cabinet records
- provides training and support on the Cabinet system of government and processes
- provides all Ministers with a Cabinet iPad to assist them with the secure handling and review of Cabinet papers; and
- performs all functions set out below for Cabinet Liaison Officers.

TCO Cabinet Team can help with navigating all aspects of the Cabinet system and is a key source of Cabinet advice for Ministers, Ministerial offices, and NSW Government agencies.

Contact between TCO Cabinet Team and NSW Government agencies is usually made via the Cabinet Liaison Officers (CLOs) for each agency. The TCO Cabinet Team can be contacted by phone on 02 9228 5858 or email at [cabinet@tco.nsw.gov.au](mailto:cabinet@tco.nsw.gov.au).

## 2.5.4 Departments and other agencies

Departments support Ministers in preparing submissions for consideration and in establishing processes to brief portfolio Ministers on relevant Cabinet and Committee items.

Each department has Cabinet Liaison Officers (**CLO**) who manage the Cabinet functions of the department and related agencies.

### Cabinet Liaison Officers

CLOs are the point of contact for information and guidance on Cabinet. Their function includes:

- liaison between agencies on Cabinet matters
- coordinating the agency's Cabinet program, and working with agencies and the respective Minister’s office to develop high-quality submissions
- reviewing and analysing Cabinet documents to ensure quality, relevance and appropriateness, and that documents have been developed in accordance with relevant guidelines and templates
- coordinating comments from across their department and agencies on submissions submitted by other agencies
- providing advice on Cabinet operations within agencies, and providing Cabinet training
- managing requests for new user access and changes to existing user access to eCabinet and performing audits of users within their agencies.

# 3

## Administration of Cabinet

## 3 Administration of Cabinet

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### 3.1 Meeting schedule

The frequency of Cabinet and Cabinet Committee meetings is at the discretion of the Premier. The schedule is typically set at the start of the year but is subject to change as necessary. Meetings may only be scheduled or changed on advice of the Premier.

Once approved by the Premier, the schedule of meetings is made available on eCabinet.

Cabinet and Cabinet Committee meetings will typically be held in-person but may be held remotely in exceptional circumstances.

#### 3.1.1 Urgent meetings

An urgent Cabinet or Cabinet Committee meeting may be called at short notice to address an exceptional and unavoidable matter. Such meetings may only be scheduled on approval of the Premier.

In the event of an urgent meeting, standard Cabinet submission timeframes can be amended to facilitate the consideration of submissions and relevant materials. Timeframes will be established by the TCO Cabinet Team in consultation with the Premier's Office and will be communicated to the relevant Minister's Office and agency.

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### 3.2 Chair

Cabinet is chaired by the Premier. If the Premier is unable to attend Cabinet, the Premier may choose to delegate the role of Chair to the next most senior Minister.

The Premier is generally the Chair of all Cabinet Committees and may appoint an alternate Chair to assist with the business of the Committee. The Premier has final approval on the business of the Committee, including approval of agendas and attendance.

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### 3.3 Attendance

#### 3.3.1 In person attendance

Ministers and officials are expected to attend Cabinet and Cabinet Committee meetings in-person.

Remote attendance may be permitted in exceptional circumstances and with prior approval from the Premier. Requests for remote attendance must be made in writing to the TCO Cabinet Team with a clear rationale as to why the Minister or official is unable to attend in-person.

TCO Cabinet Team will seek confirmation of attendance prior to all meetings. The team is also responsible for recording all attendances at Cabinet and Cabinet Committee meetings.

Any absences or apologies for meetings must be made in writing to both the Premier's Office and TCO Cabinet Team no later than two working days prior to a Cabinet or Cabinet Committee meeting and should outline the reasons for the absence.

#### 3.3.2 Attendance at Cabinet meetings

To maintain confidentiality of Cabinet deliberations, Cabinet attendance is ordinarily limited to Ministers, the Secretary of TCO, and the Deputy Secretary, General Counsel of TCO. The Secretary and General Counsel of TCO attend Cabinet meetings as notetakers to record the official decisions of Cabinet. Notetakers are not present for any political discussions.

To maintain Cabinet confidentiality and ensure the focus of all Ministers during Cabinet, all electronic communication devices (such as mobile phones) should not be brought into the Cabinet room. Secure storage arrangements for devices are provided for Ministers.

Other officials and Ministerial advisers are not permitted to attend meetings of the Cabinet. In limited circumstances, the Premier may approve a government official presenting to the Cabinet on a particular matter.

There is no quorum for Cabinet meetings.

### **3.3.3 Attendance at Cabinet Committee meetings**

To maintain confidentiality of deliberations, attendance at Cabinet Committee meetings is limited to member Ministers, officials and Ministerial staff as specified in the relevant Terms of Reference. Any Ministerial staff who are permitted to attend a Cabinet Committee meeting do not have a standing and maintain an observer status.

TCO Cabinet Team will seek endorsement of attendance for a Cabinet Committee meeting from the alternate Chair, followed by approval from the Premier.

The quorum of Ministers for Cabinet Committee meetings is outlined within the respective Terms of Reference.

#### **Sponsoring Ministers**

Ministers invited to present a submission to a Cabinet Committee (who are not ordinarily a member), will be invited to attend by TCO Cabinet Team for their specific item only. The Minister may nominate one senior government official (Executive Director or above) and one Ministerial staff member to attend the meeting with them. Approval of such attendance is at the discretion of the Premier.

Presenting officials can support the Minister at the meeting by providing additional information and clarification as required. However, presenting officials should not provide support to non-presenting Ministers or participate in decision making as they do not have a formal standing at the Committee. A sponsoring Minister's staff member has observer status only.

Any requests for attendees at Cabinet Committee meetings must be made in writing to TCO Cabinet Team who will seek endorsement from the alternate Chair and/or approval from the Premier.

Senior officials and Ministerial staff who are not listed in the Committee's Terms of Reference are not permitted to attend meetings without the approval of the Premier.

### **3.3.4 Support during Cabinet and Committee meetings**

TCO Cabinet Team provides support and assistance to Ministers during meetings – this includes passing information between the Cabinet room and Ministerial staff and distributing and collecting any Cabinet documents circulated in the Cabinet room.

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## **3.4 Agendas**

Setting a forward agenda for Cabinet and Committees supports a more considered approach to decision-making. It allows Ministers (supported by their departments) to plan for and prepare considered, well consulted on and timely submissions. It also provides agencies with time to review and provide advice on these submissions and enables agencies and Ministers to resolve any issues identified during the review and consultation process before they reach Cabinet or a Cabinet Committee.

The forward agenda can be established through two mechanisms:

- formal call for proposals, or 'sweep'
- ad-hoc proposals.

### 3.4.1 Call for proposals

The Premier may establish a forward agenda by way of a call for proposals, or 'sweep' twice a year.

A call for proposals:

- ensures there is visibility of proposals across portfolios, allows synergies in policy proposals to be leveraged and the early resolution of any issues, and facilitates genuine consultation
- enables Ministers (supported by departments) to take a strategic, long-term approach to the Cabinet program, and to consider the flow of items between Cabinet and Cabinet Committees
- allows the Government to align the Cabinet agenda with its legislative agenda and the Parliamentary calendar.

Through a call for proposals, Ministers are invited to propose items for consideration by Cabinet or a Cabinet Committee in the next six to twelve months. To assist with forward planning, it is imperative that each proposal for a submission clearly sets out:

- the purpose of the proposal and any anticipated recommendations
- impacts of the proposal and proposed consultation approach
- the preferred meeting date for consideration of the item
- critical date rationale to support the scheduling of the item
- identification of any financial impacts which the proposal may have
- how the proposal aligns with the Government's priorities.

Ministers endorse proposals (departments can assist in preparing these) prior to submitting these to the Premier for consideration. Proposals should first be endorsed by the relevant Secretary and Chief Financial Officer and then by the sponsoring Minister(s).

At the conclusion of the call for proposals, TCO Cabinet Team will compile a forward agenda for the Premier's consideration. The proposed forward agenda of items will be informed by the Minister's preferred meeting date as well as feedback from TCO and NSW Treasury.

The Premier then considers the proposals and may approve items being listed on a forward agenda for Cabinet and Cabinet Committees. Endorsement of the alternate Chair may be sought in respect of the agendas for Cabinet Committees in advance of the Premier's approval.

Proposals must be approved by the sponsoring Minister(s) prior to being listed on a forward agenda by TCO Cabinet Team. All proposals should also receive the endorsement of the relevant Secretary and Chief Financial Officer.

### 3.4.2 Ad-hoc proposals

An agreed forward agenda does not eliminate the capacity of Cabinet and Cabinet Committees to consider ad-hoc proposals when the need arises. When necessary, Ministers may raise additional items throughout the year, known as ad hoc proposals. However, ad-hoc proposals should generally be reserved for exceptional, urgent or unavoidable circumstances.

Urgent ad-hoc proposals will only be added to an agenda once approved by the Premier.

Requests for ad-hoc proposals must be made in writing through the relevant CLO to TCO Cabinet Team. Requests should clearly outline the purpose of the submission, the exceptional or unavoidable circumstances requiring the ad-hoc proposal and any timing imperatives. It is also advisable for the relevant Minister's Office to contact the Premier's Office directly regarding any ad-hoc proposals.

### 3.4.3 Agenda setting

An agenda is set for each Cabinet and Cabinet Committee meeting. For Cabinet, items for the agenda are agreed by the Premier, with advice from the Cabinet Secretary.

For Cabinet Committees, TCO Cabinet Team may seek the alternate Chair's endorsement for Committee agendas. However, the Premier has final approval of all submissions listed on an agenda.

### **Draft agendas**

For both Cabinet and Cabinet Committees, TCO Cabinet Team is responsible for preparing draft agendas for the Premier's approval. TCO Cabinet Team consults with CLOs to confirm forthcoming submissions to be listed for approval by the Premier for a Cabinet or Cabinet Committee agenda.

An item's inclusion on the agenda is dependent on factors such as its priority or urgency, whether the submission has been submitted in accordance with Cabinet submission timeframes and any other matters that Cabinet needs to consider.

The confirmed agenda for a Cabinet and Committee meeting is determined by the Premier generally at least two weeks before, on advice received from the Cabinet Secretary.

### **Distribution of agendas**

TCO Cabinet Team will distribute the agenda once approved by the Premier and generally no later than five business days prior to the meeting. TCO Cabinet Team will make subsequent distributions of each agenda if items are added or removed.

Agendas are distributed via eCabinet and to Ministerial iPads. Agendas will only be distributed to relevant Ministers, Ministerial offices, government officials and CLOs. In general, departments will only receive access to submissions which are being brought forward by their Minister.

Where the agenda includes a restricted or sensitive item, the Premier's Office may direct that the item has a more limited distribution (for example Ministers only). Access to restricted submissions in eCabinet will be maintained by the TCO Cabinet Team.

### **Agenda variations**

Any changes regarding the proposed scheduling of a submission should be notified in writing by the agency CLO to TCO Cabinet Team. TCO Cabinet Team will provide a revised agenda to the Premier's Office to seek approval of any variations to the listing of items on an agenda.

Where an item has been listed on the forward agenda, Ministers can request that a submission be rescheduled through a date variation request submitted by the relevant CLO to TCO Cabinet Team. Requests should be submitted well in advance of the scheduled meeting, and ahead of when the draft submission is due to be uploaded. This request will then be considered by the Premier, with advice from the Cabinet Secretary.

# 4

## Types of Cabinet submissions



# 4 Types of Cabinet submissions

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## 4.1 Policy proposals

Policy proposals are the default type of Cabinet submission – seeking approval of a new policy, program or action.

This section outlines the other types of Cabinet submissions. These have specific requirements that differ from a standard policy proposal.

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## 4.2 Legislation

Cabinet approval is required at two stages:

1. approval by Cabinet to draft the Bill
2. approval of the Bill itself and to introduce it into Parliament.

### 4.2.1 In-principle approval to draft a Bill

At this first stage, the submission should focus on the policy rationale, objectives and intent of the proposed legislation and seek approval for the Bill to be drafted. This is known as an ‘in principle submission’.

The submission should not recommend specific wording for the Bill as this is a matter for the Parliamentary Counsel. The recommendations in the submission must be sufficiently transparent and detailed to allow Cabinet to understand the policy it is approving to be implemented in the proposed Bill, particularly any key or controversial components of the Bill.

Before an ‘in principle submission’ progresses to final submission stage in eCabinet:

- drafting instructions must be provided to the Parliamentary Counsel; and
- these instructions must be approved by the Parliamentary Counsel, to ensure the instructions are sufficient to allow the Parliamentary Counsel to prepare a first draft of the Bill.

When submitting drafting instructions to the Parliamentary Counsel, agencies must use the template: [Drafting instructions for the Parliamentary Counsel – Template](#).

The Premier’s Office may waive the above requirement where necessary, including, for example, where the particular Cabinet submission is urgent and must progress to Cabinet consideration in a truncated timeframe. This waiver will only be provided in exceptional circumstances.

Following consideration by Cabinet, the Parliamentary Counsel will draft the Bill. The Parliamentary Counsel will issue a report (known as a Parliamentary Counsel Report or ‘PC Report’) that the Bill has been drafted in line with Cabinet’s decision.

Following consultation with the Premier, the Secretary or Deputy Secretary, General Counsel of TCO may authorise the drafting of a Bill in advance of Cabinet approval. Such approval is rarely given, and only in exceptional circumstances where legislation is of the highest priority and drafting must occur urgently to meet the necessary deadlines.

### 4.2.2 Approval of the final Bill

Where a Bill has been drafted in accordance with Cabinet’s in-principle approval, Ministers can proceed to have the Bill and PC Report considered by the Cabinet Committee on Legislation (LegCo) or they can prepare a further submission (known as a ‘Bill submission’) seeking Cabinet’s approval of the Bill and its introduction into Parliament.

If there are significant changes following Cabinet’s initial ‘in-principle’ decision to draft legislation (e.g. additional provisions identified during a consultation or drafting process), this should return to Cabinet for approval, either in the form of a Bill submission or a further in-principle submission.

LegCo may approve Bills for introduction that include minor or inconsequential variations (such as minor editorial changes) from Cabinet’s in-principle decision.

LegCo may also refer certain Bills back to Cabinet for further consideration in the form of a Bill submission where the Bill marks a significant departure from Cabinet’s decision.

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## 4.3 Private Member’s Bills

Members of Parliament may introduce Private Member’s Bills. Before a vote is taken in Parliament, usually the Government will develop a position on the matters proposed in the Bill. The Government position usually requires Cabinet approval, which is sought through a Cabinet submission.

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## 4.4 NSW participation in Intergovernmental Minister’s meetings

The Cabinet must be advised of the agenda of all upcoming intergovernmental meetings of Ministers and must approve any new policy positions to be taken on behalf of the NSW Government.

Ministers representing NSW at an interjurisdictional forum must, at the earliest opportunity after priorities for that forum have been set, seek the Premier’s approval to bring forward a Cabinet submission seeking approval for the policy positions needed to ensure effective NSW participation in the forum. This submission should be principles-based, covering the key policy positions NSW would seek to pursue under the forum’s forward work program.

Following initial Cabinet consideration, Ministers are not required to return to Cabinet before every jurisdictional meeting unless:

- there is a deviation from an agreed position; and/or
- approval is required to finalise an aspect of the forum’s work program, such as executing an intergovernmental agreement; and/or
- a significant new policy position, work program or funding arrangement is proposed .

Ministers attending routine interjurisdictional meetings, sending regular interjurisdictional correspondence, or seeking minor changes to agreed positions may be authorised through an exchange of letters with the Premier.

Agencies should seek advice from TCO on the most appropriate authorisation process for NSW positions. It is also advisable that the relevant Minister’s Office consults with the Premier’s Office on the proposed approach.

Where it is unclear whether Cabinet approval is required, agencies should consult with their Department Cabinet Liaison Officer, who may consult TCO Cabinet Team and Intergovernmental Relations Team, as required.

For further information refer to:

 Premier’s Memorandum: [M2024-06 Protocols for NSW Participation in Intergovernmental Ministers’ Meetings](#)

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## 4.5 NSW Government submissions and responses to inquiries


Committees of the Legislative Council and Legislative Assembly publish reports of inquiries that may require a government response after publication. A Government response is mandatory if the report recommends an action to be taken by the Government. The Government response must be tabled in accordance with the following timeframes:

- within 6 months of a report being tabled in the Legislative Assembly
- within three months of the report being tabled in the Legislative Council.

NSW Government agencies may also make voluntary submissions to an inquiry with the Premier's approval to do so.

Government submissions and responses require Cabinet approval particularly if the response contains new policy positions, affects the Government as a whole, or has cross-portfolio implications. If not, submissions and responses can generally be provided to TCO for clearance by the Premier's Office and do not need to come to Cabinet for consideration.

For further information refer to:

 Premier's Memorandum: [M2021-08 NSW Government submissions and responses to inquiries](#)

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## 4.6 Matters for noting

Matters that are for noting only should be provided to Cabinet or a Cabinet Committee in very limited circumstances.

Submissions for noting do not seek approval from Cabinet or a Cabinet Committee. These however include information considered significant enough to bring to the attention of Cabinet or a Cabinet Committee.

For further guidance on the drafting of Cabinet submissions, including recommendations refer to the [Guidelines for Cabinet and Cabinet Committee Submissions](#). TCO Cabinet Team can also be contacted to provide guidance and advice on this matter.

# 5

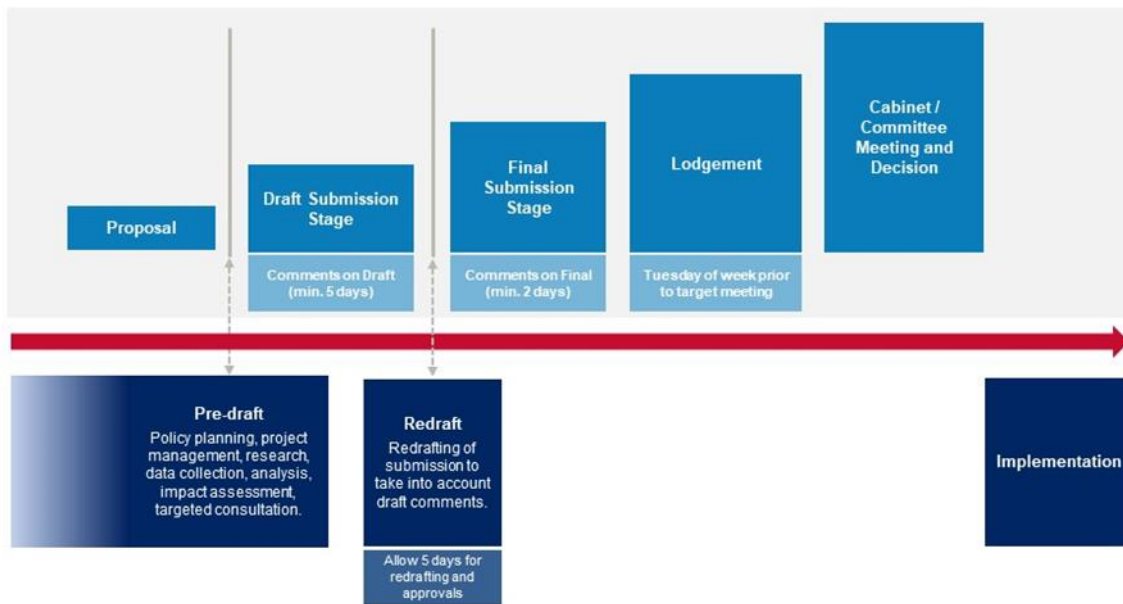
## Cabinet submission process

# 5 Cabinet submission process

## 5.1 Two-stage process for Cabinet consideration

Timely and thoughtful consultation on submissions supports informed decision making by Ministers. It ensures all Cabinet Ministers have access to the advice of all agencies on the risks and benefits of a Cabinet proposal before it is approved by Government.

Effective sector-wide consultation on Cabinet submissions is achieved through the two-stage Cabinet process:



The two-stage process promotes early identification of significant issues, risks and deficiencies in Cabinet proposals, and allows them to be addressed prior to Cabinet or Cabinet Committee consideration, facilitating robust discussion and informed decision-making at meetings.

### 5.1.1 Proposal

Ministers may nominate new proposals for Cabinet or a Cabinet Committee’s consideration using the approved form and via the eCabinet system.

Early identification of matters that require Cabinet or Cabinet Committee consideration enables the development of a forward agenda and supports appropriate consultation in the preparation of submissions.

Ministers should nominate preferred meeting date that ensures there is time for the development of a fully compliant Cabinet submission before the matter is due to be considered. Any critical deadlines should be fully explained to assist with agenda setting.

If a proposal is the result of a Cabinet or Cabinet Committee decision that requires a Minister to report back with a subsequent submission for consideration, then CLOs should raise the subsequent proposal with reference to the prior decision.

### 5.1.2 Pre-draft Development

Once a proposal has been approved, a draft submission must be prepared in line with the [Guidelines for Cabinet and Cabinet Committee Submissions](#) and the [Cabinet Submission template](#).

A drafting agency should only begin drafting a submission on the instruction of the sponsoring Minister.

When developing a draft submission, it is important agencies consult and collaborate with relevant stakeholders, and that their views are reflected accurately in the submission.

To support good Cabinet practice, agencies are required to provide copies of draft submissions to the Premier's Office and TCO Cabinet Team prior to being distributed in eCabinet. Early visibility of submissions will help ensure any key issues within submissions can be identified, robust consultation occurs on submissions prior to the two-stage Cabinet process and ensures TCO can actively support the brokering of solutions across government.

## **Consultation on Cabinet submissions**

Effective and appropriate consultation is a key element of the Cabinet process and supports informed decision making. Robust consultation ensures Cabinet and Cabinet Committees have access to sound, comprehensive and coordinated policy advice which highlights the benefits, risks, and interdependencies of a submission. Consultation allows risks and interdependencies to be identified, cross-portfolio solutions to be developed, and issues to be resolved ahead of Cabinet or Cabinet Committee consideration.

The agency preparing a Cabinet submission (on behalf of the relevant Minister) is responsible for ensuring appropriate consultation is undertaken, that other agencies are given reasonable time to review and comment, and that their views and advice are accurately reflected in the submission.

Consultation can take many forms including:

- engagement with stakeholders and the community in formulating options and priorities (where appropriate)
- public discussion papers released for comment and written requests for comments directed to specific individuals or groups
- exposure drafts (such as with legislation)
- cross agency consultation to identify interdependencies.

Consultation should occur early in the development of the proposed policy and associated submission and throughout the drafting stage. The eCabinet comment stages provide a final opportunity to check all views have been considered.

## **Consultation with NSW Government agencies**

Drafting agencies should consult with all directly affected agencies. Consultation may also include:

- TCO for all proposals to provide a whole-of-government perspective, especially those with whole-of-government impacts or matters affecting intergovernmental relations
- Treasury, and the Chief Financial Officer of the lead agency, for all proposals with financial, fiscal and/or economic impacts
- Treasury for all proposals with regulatory impacts or involving procurement systems
- the Department of Customer Service for all proposals involving significant digital and information technology issues
- the Department of Communities and Justice for all submissions proposing new or changed offences, penalties or enforcement powers, or impacts on the court system
- the Department of Planning, Housing and Infrastructure for proposals involving government property
- the NSW Public Service Commission and TCO for all proposals involving the public sector workforce or broader public sector employment, including industrial matters
- any other NSW Government agencies that have a policy or operational interest in the proposal.

Agency staff can contact their CLO for assistance in determining the relevant contacts in another agency.

## Consultation with external stakeholders

Where consultation is required outside of the NSW Government, care must be taken to ensure that sensitive Cabinet information is adequately protected and any Cabinet processes, positions or deliberations are not revealed.

Any non-government consultation should be discussed at the appropriate executive and/or Ministerial level and usually requires advance Cabinet approval.

External stakeholders may include:

- the Australian Government
- other state, territory and local governments
- industry groups and organisations
- community groups, networks and members of the public.

Ministers Offices and agencies can contact the TCO Cabinet Team for advice on managing consultation with external stakeholders.

### 5.1.3 Draft Submission

Draft submissions play an essential role in the two-stage Cabinet process – they allow agencies to provide feedback and raise any issues that might otherwise have been missed during drafting.

The draft submission provides the sponsoring Minister and drafting agency an opportunity to address any issues before the final submission is considered by Cabinet or a Cabinet Committee.

Once the relevant Secretary has endorsed a draft submission, the sponsoring Minister approves it progressing to TCO Cabinet Team for circulation and consultation.

TCO Cabinet Team reviews the draft submission to ensure it has been drafted in accordance with the previously approved proposal, [Guidelines for Cabinet and Cabinet Committee Submissions](#), and the [Cabinet Submission template](#).

Agencies are required to provide copies of draft submissions they are leading on to the Premier's Office and TCO Cabinet Team prior to being distributed in eCabinet. Early visibility of submissions ensures any key issues within submissions can be identified, robust consultation occurs on submissions prior to the two-stage Cabinet process and ensures TCO can actively support the brokering of solutions across government.

### Recommendations in submissions

To facilitate decision-making, recommendations in Cabinet submissions must be clear and concise. Recommendations should seek approval from Cabinet or a Committee, not endorsement or agreement. Recommendations for noting may be used in limited circumstances (see section 4.6).

For further guidance on the drafting of Cabinet submissions, including recommendations, refer to the Guidelines for Cabinet and Cabinet Committee Submissions. TCO Cabinet Team can also be contacted to provide guidance and advice on this matter.

### Circulation of submissions

The draft submission will be circulated in eCabinet to CLOs. CLOs will then seek the views of relevant areas within their agencies noting:

- submissions being considered by Cabinet are usually circulated to all CLOs
- submissions being considered by Cabinet Committees are circulated only to agencies that support Ministers who are members of that specific Committee and any additional agencies that have been identified with a potential policy interest in a submission, as approved in the Committee's Terms of Reference.

The consultation period for draft comments is a **minimum of five (5) business days**



## 5.1.4 Final Submission

The final submission should explain how issues raised in comments on the draft submission have been resolved, or why they have not. This provides transparency on the views of agencies, the issues they have raised, and how they have been addressed.

If major issues are raised, the sponsoring Minister may decide that more time is needed to develop the final submission and instruct the agency CLO to request a date variation to postpone a scheduled meeting date.

If the final submission is to proceed, the drafting agency:

- amends the submission to address the draft comments
- includes major issues raised in the consultation section of the final submission.

Drafting agencies can address draft comments using the [response to draft comments template](#). This attachment will be visible to Cabinet or the Cabinet Committee members.

Once the final submission has cleared relevant approvals, the sponsoring Minister supports it to progress to TCO Cabinet Team for circulation and consultation.

Once TCO Cabinet Team has reviewed the final submission, it is then circulated to agency CLOs to ensure that any key issues raised in draft comments have been adequately addressed in the final submission.

Some Cabinet Committees may have additional final requirements before a final submission is able to be circulated. For example, Treasury may be required to review a submission that involves a financial, fiscal and/or economic impact to ensure that those potential impacts have been agreed.

The consultation period for final comments is a <b>minimum of two business days</b> .
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At the end of the consultation, CLOs submit final comments approved by their Secretary (or their delegate). These should succinctly set out any significant outstanding issues.

Final comments should not be used to raise new issues, unless they were introduced in the final submission.

No further changes can be made to the final submission by the drafting agency at this stage. The final submission and final comments are now ready for consideration by the sponsoring Minister.

## 5.1.5 Lodgement

After the required consultation periods are completed, a final submission is lodged by the relevant CLO for consideration at a meeting (unless they are directed otherwise by the sponsoring Minister).

Final comments as set out above are distributed as part of an agenda for a meeting with the final submission.

## 5.1.6 Decision

In line with the Cabinet conventions of collective responsibility and confidentiality, detailed Cabinet and Cabinet Committee discussions are not recorded. The Secretary of TCO or Committee Secretary records and signs decisions following each Cabinet or Cabinet Committee meeting.

TCO Cabinet Team will formalise and distribute decisions as soon as practicable after the meeting. Decisions are distributed to Ministers, Secretaries and CLOs, subject to any circulation restrictions for any specific submissions.

Ministers and Secretaries are responsible for communicating the important elements of a decision to their agencies for implementation.



## 5.2 Cabinet submission timeframes

The standard timeframes for consideration of Cabinet submissions in line with the two-stage Cabinet process are detailed below:

	Monday	Tuesday	Wednesday	Thursday	Friday
-4			Draft submission approved in eCabinet <u>by 12pm</u> Circulated for draft comments	Draft comments (Day 1)	Draft comments (Day 2)
-3	Draft comments (Day 3)	Draft comments (Day 4)	Draft comments (Day 5)	Final submission Redrafting and approvals	Final submission Redrafting and approvals
-2	Final submission Redrafting and approvals	Final submission Redrafting and approvals	Final submission Redrafting and approvals	Final submission approved in eCabinet <u>by 12pm</u> Circulated for final comments	Final comments (Day 1)
-1	Final comments (Day 2)	Final submission lodged in eCabinet <u>by 12pm</u>	Meeting agenda distributed		
0	Cabinet or Cabinet Committee meeting	Cabinet Committee meeting			

A Cabinet timeframes calculator is published by TCO Cabinet Team on eCabinet to support Ministers and agencies in finalising approval timeframes for Cabinet submissions. Internal approval timeframes for Cabinet submissions are at the discretion of the relevant Minister and agency.

Timeframes for consideration of submissions by Cabinet Committees are outlined in the relevant Terms of Reference.

### 5.2.1 Submission deadlines

Proposals should be submitted by Ministers during a call for proposals.

If necessary, Ministers may choose to raise additional items throughout the year, known as ad hoc proposals. Urgent ad-hoc proposals should be notified to the TCO Cabinet Team as soon as practicable.

While proposals are awaiting approval, agencies may continue to draft their submissions and seek approval from their relevant Senior Executives.

Draft submissions should be uploaded into eCabinet and approved by the relevant Ministerial Office(s) by 12pm on the Wednesday, four weeks prior to the target meeting date.

Final submissions must be uploaded into eCabinet and approved by the relevant Ministerial Offices by 12pm on the Thursday, two weeks prior to the meeting.

If a submission is unable to meet the Cabinet submission timeframes, the relevant agency CLO should reach out to the TCO Cabinet Team at the earliest opportunity. TCO Cabinet Team will consider the critical rationale when deciding whether the item should remain on the agenda or be deferred to a future meeting before advice is provided to the Premier.

The sponsoring Minister’s Office must also contact the Premier’s Office, and alternate Chair’s office for Cabinet Committee meetings, to advise of the delay and the reasons for this.

### Quality Assurance of submissions

Agencies are responsible for ensuring that submissions meet the requisite quality assurance (QA) levels as outlined within the guidelines for drafting a Cabinet submission.

TCO Cabinet Team will conduct QA on all draft and final submissions. If the submission passes QA, TCO will circulate the submission for draft comments. If the submission fails QA, it will be returned to the agency for revisions. TCO Cabinet Team will work with the relevant agency CLO to ensure the submission meets the required standards.

NSW Treasury have responsibility for reviewing submissions to the Cabinet Committee on Expenditure Review and submissions with a financial, fiscal and/or economic impact.

## 5.3 Comments on Cabinet submissions

CLOs in each agency are responsible for coordinating the comments provided on a submission from their agency. Comments represent the collective views of an agency and provide policy advice for Cabinet or a Cabinet Committee to consider.

CLOs should consolidate their agencies’ comments into a single response setting out key issues, which their Secretary (or delegate) must approve. Comments submitted should contain:

- the agencies’ summary position on the submission
- detailed comments supporting the summary position, e.g. advice on the adequacy, feasibility or quality of a proposal
- a consolidated view, rather than the view of specific agencies.

Comments must include a summary of the agencies position on the submission and may include detailed supporting comments. The positions to be taken should be:

Summary position	Guidance
Supported	No further comment is required
Supported for consideration – no issues identified	No further comment is required
Supported – some issues identified Supported – with comment	Explain the issues that need to be resolved or brought to Cabinet or the Cabinet Committee’s attention
Supported – with amendment	List the specific amendments sought for the recommendations. Changes to final submissions should only be made for recommendations, which can be recorded in the decision

Summary position	Guidance
Substantial issues identified	Explain the significant issues with the policy position in the submission that must be resolved before the agency can indicate support
Not supported	If the agency does not support the submission, additional explanation should be provided in the detailed comment

CLOs should attempt to resolve conflicting views within their agencies. In exceptional circumstances it may be appropriate for the agencies' comments to separate the advice of one or more agencies, for example, those with particular independent statutory functions. Commenting agencies should discuss substantial issues raised with the drafting agency before submitting their comments.

Ministers do not formally approve comments and should be consulted on sensitive aspects before comments are submitted.

Comments on draft submissions and final comments serve different purposes and target different audiences. Draft comments are provided for the consideration of the sponsoring Minister and drafting agency to support the final submission. Final comments are provided with the submission to all Ministers for their consideration during the Cabinet or Cabinet Committee meeting. New issues should not be raised at final comment stage.

## 5.4 Guidance for non-standard Cabinet submissions

### 5.4.1 Verbal updates

A Minister may wish to provide a verbal update at a meeting in cases of urgency or confidentiality, or to update Cabinet or a Cabinet Committee on a current issue. Verbal updates will be accepted only with the Premier's approval and should be requested via the TCO Cabinet Team.

On rare occasions, the Premier may approve the lodgement of a document in support of a verbal briefing. Such documents will become an official Cabinet record.

### 5.4.2 Presentations

A Minister may make a presentation to Cabinet or a Cabinet Committee on a particular matter, or to support a verbal briefing. All presentations should include specific recommendations regarding the actions which they are seeking from the Cabinet or Cabinet Committee.

Presentations must be prepared using the [Guideline for Cabinet and Cabinet Committee Submissions](#) and the [Cabinet Presentations template](#). A standard presentation template has been created to ensure there is consistency in these types of presentations and that recommendations are captured.

### 5.4.3 Restricted submissions

In exceptional and compelling circumstances, some submissions may require a higher level of classification and confidentiality. These are known as 'restricted submissions.'

Consultation during the policy development stage for these types of submissions may be limited, and their circulation is considered 'restricted.' Restricted submissions may contain information that could:

- be associated with a high level of commercial, political, economic or organisational sensitivity
- contain National Security classified information
- involve risk to, or loss of life, if made widely available.

The Premier approves an item being assigned the status of 'restricted.' Restricted status can be requested by the sponsoring Minister, the drafting agency (with approval of the sponsoring Minister), or the Premier. Requests for an item to be marked as restricted should be made in writing by the relevant CLO to TCO Cabinet Team with a clear rationale as to why the submission should be marked restricted. TCO Cabinet Team will consult with the Premier's Office to seek approval for a submission to be restricted and to confirm the restricted distribution list for the submission.

### **Access to restricted submissions**

For restricted submissions there is a need to balance the level of consultation with the level of protection necessary for the sensitive information. Additionally, staff reviewing and managing these documents may be required to hold specific National Security clearances.

Access to restricted submissions is usually limited to Ministers and relevant Senior Executives. Where access is required, a request must be made in writing to TCO Cabinet Team with a clear rationale supporting the need for access. TCO Cabinet Team will refuse any access requests which do not meet this threshold.

### **5.4.4 Joint submissions**

A joint submission is where more than one Minister sponsors a submission for consideration by Cabinet or a Cabinet Committee. Reasons for a joint submission may include:

- cross agency/portfolio legislative or policy responsibilities are impacted by the recommendations contained within a submission
- Ministers may have informal discussions which may result in joint sponsorship.

A lead agency must be identified and agreed upon in the proposal stage. Unless otherwise negotiated, the drafting agency will usually determine the lead agency by default.

The lead agency's CLO must consult early with supporting agency CLOs to determine timeframes on reviewing the submission prior to progressing any approvals.

Enough time should be factored into the approval process to enable all sponsoring Ministers and agencies to review and approve the submission prior to it being submitted.

The lead agency's CLO must confirm with each supporting CLO that each supporting Secretary has endorsed the submission before it is progressed.

### **5.4.5 Out of Session submissions**

In exceptional circumstances, where a matter must be considered urgently, Cabinet or Cabinet Committees may consider matters out of session. Where a matter must be considered urgently, the approval of the Premier is required. Once approval has been received, the TCO Cabinet team will facilitate the out of session process.

TCO Cabinet Team can provide guidance to Minister's Offices and agencies on the process for an out of session submission.

### **5.4.6 Supplements**

In exceptional circumstances and with the approval of the Premier or the Premier's Office, a Minister may amend the recommendations of, or provide further information for, a submission that has already been lodged.

A supplement is used only if it is essential that Ministers be provided with the amended recommendations or additional information before the scheduled Cabinet or Cabinet Committee meeting, to inform their deliberations.

Alternatively, and depending on the amount of time in advance of a meeting, sponsoring Minister(s) may be briefed on issues arising following lodgement of a final submission and may then raise the issues or alternative recommendations during the Cabinet or Cabinet Committee meeting.

Requests to upload a supplement must be made in writing to TCO Cabinet Team for the Premier's consideration. Supplements must be lodged in eCabinet **no later than two (2) working days** prior to the meeting date.

Supplements must be prepared using the [Guideline for Cabinet and Cabinet Committee Submissions](#) and the [Supplement to Cabinet Submission template](#).

### **5.4.7 Amendments to submissions**

Amendments to Cabinet or Cabinet Committee submissions which have already been lodged will not be accepted (other than, in some circumstances, very minor changes such as a minor editorial change, where the change is considered necessary).

If a significant change is required, the Minister should consider whether it is appropriate to prepare a supplement or whether the matter could be spoken to in the meeting by the Minister.

### **5.4.8 Late submissions**

Submissions may be removed from agendas if they have not been submitted within the specified circulation timeframes for the Cabinet or Cabinet Committee meeting.

Any exemption to the rules and allowance of a late submission to continue to be listed on an agenda will require the approval of the Chair and/or alternate/delegated Chair's office.

### **5.4.9 Deferred submissions**

Cabinet or a Cabinet Committee may defer consideration of a submission to a later meeting, or refer to a relevant Cabinet Committee meeting, if it requires:

- further information or advice to be provided, including those requiring a supplement
- significant re-drafting, and provision of a new submission.

### **5.4.10 Tabling of submissions**

In exceptional circumstances, where it is urgent and unavoidable, Ministers may seek to table a submission at a Cabinet or Cabinet Committee meeting. These submissions should otherwise be avoided as they have not been consulted on or progressed through the two-stage process and their consideration may subsequently have unintended consequences.

Approval for these types of submissions must be sought from the Premier, via TCO Cabinet Team. Following the meeting, all hard copies of the submission must be handed in to TCO Cabinet Team, and the submission must be uploaded into the eCabinet system as an official Cabinet record within one working day of its consideration.

# 6

## Handling Cabinet documents

# 6 Handling Cabinet documents

It is a central and longstanding convention of the Westminster system of responsible Government that Cabinet documents, and especially official Cabinet records, are kept strictly confidential – they should be accessed and distributed on a strictly ‘need-to-know’ basis.

This convention supports collective Ministerial responsibility, which means that all Government decisions are considered to be made by Cabinet as a whole, with all Ministers jointly responsible for the decisions of Cabinet (including Committees), irrespective of any individual views. Cabinet confidentiality enables there to be full and frank advice, discussion and deliberations, while maintaining the principle of Cabinet solidarity.

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## 6.1 Access to official Cabinet records


Access to official Cabinet records is governed by strict protocols to ensure confidentiality and security. Access may only be granted by TCO Cabinet Team.


Where a copy of an official Cabinet record is approved, an authorised copy may be produced and issued either in hard copy or through the eCabinet system.

Cabinet records are treated as strictly confidential and belong to the state of NSW. Measures to ensure Cabinet confidentiality include:

- Cabinet documents must only be shared in line with NSW Government Information, Classification, Labelling and Handling Guidelines (e.g. labelled with ‘OFFICIAL: Sensitive - NSW Cabinet’).
- Official Cabinet records (e.g. agendas, submissions, final comments, and decisions) are managed via eCabinet, a secure platform that can only be accessed by authorised users.
- Official Cabinet records may only be printed in limited circumstances. Printed records must be hand-delivered and must not be photographed, photocopied, scanned, faxed, emailed, screen-shared, screenshot, or saved to a local device.
- eCabinet can generate an audit trail for every record viewed and printed that allows it to be traced, i.e. who created a copy of any official Cabinet record can be identified.
- Officers requiring access to printed records must acknowledge in writing that they are responsible for maintaining the confidentiality and security of those documents.
- All printed official records must be returned to the TCO Cabinet Team in-person to be securely destroyed.
- Official Cabinet records must not be downloaded to a local drive or departmental/corporate network.

For further information refer to:

 Premier’s Memorandum: [M2006-08 Maintaining Confidentiality of Cabinet Documents and Other Cabinet Conventions](#)

 Circular: [DCS-2020-07 NSW Government Information Classification, Labelling and Handling Guidelines](#)

### 6.1.1 Official Cabinet records

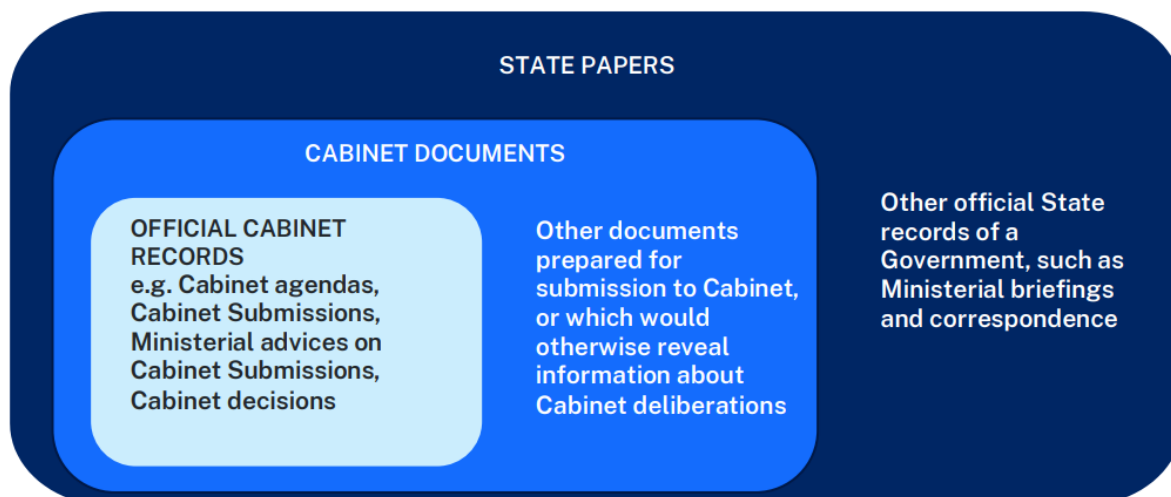
Official Cabinet records include Cabinet agendas, Cabinet Submissions, Ministerial advice on Cabinet Submissions, records of Cabinet meetings and attendances, and records of Cabinet decisions.

The custodian of official Cabinet records is the TCO Cabinet Team. Copies of official Cabinet records of the current Government are made available to Ministers and agencies on an as-needed basis, on

the condition that they are kept confidentially and securely, that they are not copied, and that they are not destroyed (they can be returned to the TCO Cabinet Team when no longer required).

## 6.1.2 Cabinet documents

Official Cabinet records are one type of Cabinet document. Other documents, including drafts of documents, that are prepared for submission to Cabinet (whether or not they have been submitted) are classified as a Cabinet document that are subject to certain conventions and practices outlined below, including in particular, the convention of Cabinet confidentiality. Other documents that contain material that would tend to reveal information about Cabinet deliberations or the position taken, or proposed to be taken, by Ministers in Cabinet will fall under this classification



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## 6.2 Access to Cabinet records of a former Government

Cabinet is the apex of Government decision-making and its processes, documents and decisions are afforded the highest levels of confidentiality. It is a long-standing convention and practice in NSW that a successive Government of a different political party does not have access to the papers of the previous Government. In extenuating circumstances where access to a previous Government's Cabinet papers are required, it may be necessary to seek approval from the Premier (or next most senior Minister) of that time.

Such requests should be made in writing to TCO Cabinet Team. Requests should clearly outline the details of the document (including ID number, submission title and meeting date), the rationale for requiring access to the document, and the approval level that has been received within the requesting agency.



# 7

## Appointments

# 7 Appointments

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## 7.1 Cabinet approval of appointments

Cabinet approval for Ministerial appointments is only required for appointments identified as significant or high-level.

Cabinet approves Ministerial appointments, and reappointments to:

- NSW government boards and committees classified as significant or high-level (Group A, Group B, and at levers 3 and above in Groups C, D and E ) by the Public Service Commission's Classification and Remuneration Framework for NSW Government Boards and Committees
- Category 1 Reserve Trusts
- An appointment that is required by law to be made by the Governor
- Any NSW Government board or committee position not in the above categories that is remunerated at greater than \$10,000 a year
- Acting positions in the above categories of 12 months or longer
- A new board or committee where the Public Service Commissioner's classification and inaugural appointments are being made, and
- Any other appointment to a NSW Government board or committee which the Premier or Minister considers would warrant Cabinet consideration, with the Premier's approval.

Ministers can directly approve all other NSW Government board and committee appointments. For appointments to NSW Government boards and Committees where Cabinet endorsement is not required, agencies should update [GOView](#) with the details of any appointments made directly by a Minister.

For further information, please refer to:

 [TCO Boards and Committees Website](#)

 [M2021-07 Appointments to NSW Government boards and committees](#)

The Appointments Team can be contacted on (02) 9228 5454 or at [boards@tco.nsw.gov.au](mailto:boards@tco.nsw.gov.au).

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## 7.2 Steps for seeking approval of an appointment

A Cabinet submission is not required to seek Cabinet's approval of appointments.

Appointment forms must be lodged on Monday two weeks before the Cabinet meeting where consideration is sought. A longer period should be allowed for new and significant appointments and/or appointments that also require Executive Council's approval.

NSW Board and Committee Appointments	Public and Statutory Office Holders and Executive Agency Heads
<p>The relevant forms (listed below) must be completed using <a href="#">GOView</a> and submitted with a current curriculum vitae:</p> <ul style="list-style-type: none"> <li>• Cabinet Appointment form</li> <li>• Appointment Process Information form</li> <li>• Board Diversity form</li> </ul>	<p>Cabinet approval is required for the appointment of most public and statutory office holders, heads of executive agencies employed by Ministers and other senior government roles. Refer to the <a href="#">Guidelines for Public and Statutory Office holders and Executive Agency Heads</a> for more information.</p> <p>For these appointments, a <a href="#">Cabinet Appointment form</a> should be completed and submitted with a current curriculum vitae.</p>
<p>Once the appointment forms are approved by the Minister’s office in eCabinet, TCO reviews appointments documents lodged in eCabinet and provides to the Premier’s Office for the Premier’s agreement to list the proposed appointment(s) on the agenda for a next available Cabinet meeting.</p>	

After Cabinet has approved an appointment, the relevant Minister is notified of the decision and can proceed to formally make the appointment. This is usually done by way of an instrument of appointment which sets out the term of the appointment, remuneration (if any) and other relevant details. A copy of the instrument of appointment is usually forwarded to the appointee.



# Executive Council

# 8 Executive Council

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## 8.1 Executive Council meetings

The Executive Council is the formal body that advises the Governor on the exercise of his or her statutory duties and powers. The Governor appoints the Premier and all other Ministers as Executive Councillors. A quorum for a meeting of the Executive Council is two Executive Councillors. The Governor presides at meetings of the Executive Council. If the Governor is temporarily absent or unavailable the Lieutenant-Governor or the Administrator presides.

The Executive Council meets regularly on Wednesday mornings throughout the year. Ministers attend the meetings according to a roster. Special Executive Council meetings are held when urgent matters arise that must be dealt with before the next scheduled meeting.

Further information about the Executive Council is available in the [Ministerial Handbook](#).

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## 8.2 Executive Council minutes

Matters are placed before the Executive Council in the form of Minutes conveying recommendations from responsible Ministers.

Each Minute is accompanied by other relevant documents including an Explanatory Note outlining the background or purpose of the Minute.

The Executive Council Minute template must be used and are available from TCO via [executivecouncil@tco.nsw.gov.au](mailto:executivecouncil@tco.nsw.gov.au).

Executive Council Minutes are not Cabinet documents.

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## 8.3 Lodging an Executive Council minute

The lodgement deadline for each meeting is **Wednesday, 5pm** one week before the meeting, by which time:

- signed hard copy documents must be delivered to TCO's Legal Branch, and
- an exact copy of the signed documents must be approved as an eCabinet submission.

Each Executive Council Minute (with all other relevant documents attached) must be lodged as a separate submission.

Ministers' offices and supporting agencies are responsible for the timely management of business and provision of documents to TCO. Exemptions to the deadline should only be sought (through TCO's Legal Branch) in exceptional circumstances. Contact TCO via [executivecouncil@tco.nsw.gov.au](mailto:executivecouncil@tco.nsw.gov.au).

Each Minute is reviewed by TCO and then the matter is listed on the Executive Council agenda by the Governor's Official Secretary. Minutes will only be put forward if the matter has received any necessary Cabinet approval and all relevant laws and policies have been complied with.

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## 8.4 Executive Council decisions

Following the meeting, TCO returns the approved hard copy Executive Council documents to the relevant Minister's office and uploads a copy of the approved documents into eCabinet. Agencies should contact the relevant Minister's office or check eCabinet to obtain confirmation of approval.

The Minister's office or relevant agency can then take any necessary action as a result of the decision, for example publication on the NSW Legislation website. Please refer to the FAQs and Templates on the [Notification-Gazette](#) page of the NSW Legislation website for more information about the process and requirements for notification and gazettal.

Matters put forward to the Executive Council must remain confidential until they have been approved. While it is convention that the Governor should only act on the advice of Ministers, the Governor may seek further information or, in exceptional circumstances, dissent from this advice.

Agencies and Ministerial offices must comply with the *State Records Act 1998* by ensuring that the approved hard copy Executive Council documents are retained. Please refer to [Functional Retention and Disposal Authority FA0388](#) for more information.

# 9

## Templates and Resources

# 9 Templates and Resources

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## 9.1 Cabinet Submission Template and Guidelines

- [Cabinet submission guidelines](#) (PDF, 103 KB)
  - [Cabinet submission template](#) (DOCX, 717 KB)
  - [Drafting instructions for the Parliamentary Counsel – Template](#) (DOCX, 71 KB)
  - [Supplement to final submission - Template](#) (DOCX, 990 KB)
  - [Ad-hoc proposal Template](#) (DOCX, 986 KB)
  - [Cabinet and Committees Presentation Template](#) (PPTX, 382KB)
  - [Response to draft comments template](#) (DOCX, 20.9 KB)
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## 9.2 Appointments

- [Guidelines for Cabinet appointments – Public and statutory office holders and executive agency head](#) (DOCX, 64 KB)
  - [NSW Government Appointment Form](#) (PDF, 75 KB)
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## 9.3 Executive Council

- [Executive Council minute guidelines – Version 1.0](#) (PDF, 1.33 MB)
  - [Executive Council minute template](#) (DOCX, 104 KB)
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## 9.4 Other Resources

- [Acknowledgement of confidential Cabinet Information Form](#) (DOCX 976 KB)
- [Printing and storage of Cabinet submissions guideline](#) (PDF, 169 KB)



Cabinet Team  
The Cabinet Office  
52 Martin Place  
Sydney NSW 2000

Office hours:  
Monday to Friday  
9.00am to 5.00pm

T: 02 9228 5858  
E: [cabinet@tco.nsw.gov.au](mailto:cabinet@tco.nsw.gov.au)  
W: [www.tco.nsw.gov.au](http://www.tco.nsw.gov.au)

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