



CABINET GUIDE NUMBER 4

CABINET BUSINESS:
WHAT SHOULD GO TO CABINET



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Government of South Australia
Department of the Premier
and Cabinet

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INTRODUCTION

Cabinet is the central decision-making body of the state and is the forum where the Premier and ministers meet to discuss and decide issues of importance to South Australia. Cabinet collectively decides the government's policy and strategic direction, especially in regard to legislation passed by the Parliament.

This guide provides advice on the matters that need to be considered by Cabinet. It also provides advice on the specific requirements for certain types of Cabinet business.

Confidentiality

Confidentiality is an essential principle of Cabinet's operation, and all documents and deliberations of Cabinet should be treated in strict confidence. Cabinet documents, both in draft and final form, must be shared only with those with the authority and the need to view them. Physical and electronic Cabinet documents must be stored in secure locations and should not be emailed outside the government email network. Cabinet documents should be classified with the correct information asset classification.

Cabinet document templates

All documents for Cabinet, Cabinet Subcommittee, and Cabinet committees and taskforces must be prepared using the correct templates, available from [Cabinet Coordination Online](#). Further guidance on how to prepare a Cabinet submission can be found in Cabinet Guide 5.

Further information

For further information, please contact the Manager, Cabinet Coordination, on 8429 5107 or at michael.brougham@sa.gov.au.



CABINET SUBMISSIONS

Cabinet submissions are used where Cabinet is being asked to approve a proposal or where a Cabinet committee or taskforce is being asked to approve a proposal on Cabinet's behalf.

What must go to Cabinet?

An element of judgement must be applied when considering whether a proposal needs Cabinet's approval. Discussions with Cabinet Office, your minister's office, and the Premier's office can assist in this regard. As a rule, however, matters meeting the criteria below must be referred to Cabinet for approval.

Strategic policy

- Significant or sensitive policy decisions, whether they are new policy issues or changes to existing policies
- Significant or sensitive issues requiring extensive consultation within the public sector or with non-government organisations
- Recommended negotiating positions on significant industrial relations issues
- Significant policy announcements or politically sensitive Ministerial statements to Parliament

Legislation

- Drafting legislation or making regulations (specific requirements for regulations are dealt with in more detail in Cabinet Guide 7)
- Approval of the terms of reference and methodology of legislative reviews
- Release of the outcome of legislative reviews
- Approval of the government's response to legislative reviews
- The proposed government position on Private Members' Bills put forward by non-government members in either House of Parliament

Financial matters

- Public sector initiatives with an estimated cost of \$15 million or more per annum (inc. GST) on completion, with all stages included
- Office accommodation projects where the estimated cost exceeds \$6 million (inc. GST)
- Purchase of land where the expenditure exceeds \$6 million (inc. GST)
- All public works proposals subject to review by the Public Works Committee of Parliament with an estimated cost of \$15 million or more (inc. GST)
- Projects (including public works) estimated to cost more than \$6 million (inc. GST) or more than 1% of an agency's total annual outlays and which have not been included in a budget previously approved by Cabinet

Note that, for proposals of less than \$10 million per annum (ex. GST), the Budget and Performance Cabinet Committee can exercise Cabinet's authority; see page 8.

Intergovernmental matters

- Most forms of intergovernmental agreement; for example, national agreements and national partnership agreements
- Applications for Commonwealth grant funding by State Government agencies that:
 - include a component of State Government funding not being met within existing resources
 - is likely to be greater than per capita share, or
 - is for over \$11 million (inc. GST),

including all grants within the scope of the Commonwealth Grants Commission calculation for GST relativities

- Proposals with a possible effect on relations with other governments (Commonwealth, state or local) or their agencies
- The government's negotiating position on significant agenda items for ministerial meetings, and its position on the outcomes of these meetings
- Submissions to state or national inquiries and reviews (specific requirements for submissions to inquiries and reviews are dealt with on page 12)
- The government's position in relation to proposals for Australia to enter into international treaties

Administrative matters

- Machinery of government changes
- Offers of rewards
- Other matters requiring Executive Council approval

CABINET SUBCOMMITTEE SUBMISSIONS

Cabinet Subcommittee considers matters that require Cabinet's approval but which are not significant enough to warrant discussion at a full Cabinet meeting. Cabinet Subcommittee consists of the Attorney-General and the most junior minister on the order of precedence, and meets before each Cabinet meeting.

What can be considered by Cabinet Subcommittee?

As with Cabinet submissions, judgement must be exercised in deciding what can be considered by Cabinet Subcommittee; please contact Cabinet Office if there is any doubt. As a rule, however, the following matters are considered by Subcommittee.

Matters lodged for full Cabinet will sometimes be moved by Cabinet Office to Cabinet Subcommittee. Matters lodged for Subcommittee may also be elevated to full Cabinet.

Appointments

- Board and committee appointments that are required to be made by the Governor (specific requirements for appointments are dealt with on page 12)
- Routine appointments that are required to be made by the Governor
- Judicial appointments that have been the subject of Cabinet notes
- Appointment of parliamentary support staff and other parliamentary housekeeping matters requiring formal approval by the Executive Council
- Appointments to interim vacancies for short periods
- Ministerial travel and the appointment of acting ministers (specific requirements for ministerial leave and travel are dealt with in [Premier's Guideline: Air Travel by Ministers and Their Staff](#))
- Appointment of justices of the peace.

Working arrangements and remuneration

- Acceptance/noting of judges' resignations
- Minor or routine changes to the remuneration of board or committee members.

Bills, regulations, proclamations and declarations

- Approval to introduce Bills that have been drafted in accordance with instructions previously approved by Cabinet
- Making regulations involving purely technical or routine matters (specific requirements for regulations are dealt with in more detail in Cabinet Guide 7)
- Issuing uncontentious proclamations and declarations

Other matters

- Reference of hospital or university by-laws to the Governor for approval
- Minor matters where consultation has occurred and recommendations are in line with overall policy or previous in-principle decisions by Cabinet



CABINET NOTES

Cabinet notes – sometimes referred to as pinks – are used to provide information to Cabinet or to a Cabinet committee or taskforce (but never to Cabinet Subcommittee). They are for information only and cannot be used where Cabinet approval is required, such as for a change in policy or reallocation of funding. Often a Cabinet note is required to advise Cabinet of appointments that will then be the subject of a Subcommittee submission.

What must be noted by Cabinet?

Again, whether a matter requires noting by Cabinet is a matter of judgement, and you should consider whether a matter is really worth Cabinet's time and attention before drafting a Cabinet note. As a rule, however, the matters listed below must be noted by Cabinet.

General

- The public release of significant reports
- Minutes of Cabinet committees and taskforces, including decisions they have made on behalf of Cabinet
- The appointment of chief executives, including the terms of their contracts
- Significant statutory appointments, including members of the judiciary
- The outcome of travel by ministers
- Minutes and decisions of Cabinet committees
- The progress of significant strategies or projects of importance to Cabinet

Board and committee appointments

- Proposed board and committee appointments (whether they can be made by the minister or will require subsequent approval by Cabinet Subcommittee and the Governor) must be noted by Cabinet where:
 - The board is a public corporation (or the governing body of a public corporation)
 - The board is a major advisory board
 - The board is a significant statutory authority (or the governing body of a significant statutory authority), or
 - Members receive annual remuneration.
- Board appointments not within the criteria above do not need to be noted by Cabinet, but a minister may choose to bring sensitive appointments to Cabinet if broader ministerial consideration of the matter would be prudent.

CABINET COMMITTEES AND TASKFORCES

Cabinet committees and taskforces support Cabinet by providing a forum for considering strategic policy direction on significant areas of government business. Committees and taskforces have also been delegated the authority to approve matters within their terms of reference on behalf of Cabinet. More information on the structure and powers of Cabinet committees and taskforces is available in Cabinet Guide 8.

What is dealt with by committees and taskforces?

Committees and taskforces have a dual role – they both endorse matters before referring them to full Cabinet and also decide matters on behalf of Cabinet under the delegation Cabinet has given them. When presenting business to a committee or taskforce, it must be made clear in which role the committee or taskforce is expected to act.

Whether a matter may be decided by a committee or a taskforce, rather than by full Cabinet, is ascertained through consultation between the authoring minister, the chair of the committee and taskforce, and the Premier's office. Cabinet Office can provide advice on this subject through the Cabinet Office comment process.

Committees and taskforces cannot make decisions of Cabinet in relation to matters that must be referred to the Governor.

General

- Matters within the terms of reference of the committee or taskforce (whether for endorsement for Cabinet consideration or for decision)
- Submissions to state and federal inquiries (see page 12)

Budget and Performance Cabinet Committee

- Proposals are referred to BPCC by DTF through the costing comment process and include:
 - Proposals that require additional funding or which redirect existing funding
 - Proposals of up to \$11 million per annum (inc. GST) may be approved by BPCC on behalf of Cabinet
 - Proposals of \$11 million per annum (inc. GST) require full Cabinet approval
 - Proposals for changes to fees, charges and levies

REQUIREMENTS FOR PARTICULAR TYPES OF CABINET SUBMISSIONS

The Cabinet submission template and Cabinet Guide 5 set out certain requirements relevant to all Cabinet submissions, such as the Cabinet Office comment and the DTF costing comment. Certain types of Cabinet business, however, have additional requirements; these are set out in the sections below.

Approval to draft Bills

Submissions seeking approval to draft new legislation or to amend existing legislation must include drafting instructions for Parliamentary Counsel, as well as any other documentation Parliamentary Counsel might need to draft the Bill.

Approval to introduce Bills to Parliament

Where a Bill has been drafted in accordance with Cabinet's instructions, Cabinet Subcommittee can approve its introduction to Parliament. These submissions must be accompanied by:

- A copy of the Bill settled by Parliamentary Counsel, and
- The second reading speech, including the report and the explanation of clauses.

Where a Bill departs substantially from Cabinet's instructions, it must be presented to Cabinet, and the submission must include an explanation of the changes.

Private Members' Bills and motions

Submissions dealing with Private Members' Bills and motions must include:

- Advice about the consequences of the proposed Bill or motion, and
- A clear government position, including whether a matter is to be considered as a conscience vote.

Public sector initiatives costing \$15 million or more

All proposals for public sector initiatives costing \$15 million or more (inc. GST) must be approved by Cabinet. Treasurer's Instruction 8 sets out the requirements of agencies when purchasing services and works or land and other assets.

Submissions seeking approval of public sector initiatives must include:

- A statement of the aims of the project, including details of the underlying assumptions and measurable objectives
- A description of the project, and
- A justification of the proposal, including:

- An economic analysis to determine whether the project will deliver a net economic benefit
- An assessment of the wider impact of the proposal on the community
- Estimated commencement and completion dates, and
- The proposed procurement method and tender process.

Approval to enter into contracts

When entering into contracts, agencies must ensure that the requirements of [Treasurer's Instruction 8](#) (or, where relevant, the agency's enabling legislation) are complied with.

Public works

Under the *Parliamentary Committees Act 1991*, all public works valued at \$4 million or more (ex. GST) must be considered by the Public Works Committee of Parliament before work can commence. Submissions to the committee must be approved by Cabinet. [Department of the Premier and Cabinet Circular PC015](#) provides guidelines on preparing submissions to the committee.

Government office accommodation

Proposals relating to government office accommodation must comply with the requirements set out in [Department of the Premier and Cabinet Circular PC018](#).

Fees and charges

The timetable for the annual adjustment of fees and charges is approved by the Budget and Performance Cabinet Committee early in the year, usually in February. The timetable, along with a guide to the form and content of submissions to vary fees and charges, is the disseminated through guidelines published by the Department of Treasury and Finance.

Establishment of subsidiary corporations under the *Public Corporations Act 1993*

Cabinet submissions that propose the establishment of a new subsidiary corporation under the *Public Corporations Act 1993* must:

- Discuss the merits of establishing a new corporation and why it is the most appropriate structure
- Comply with model regulations developed for the Act, and
- Be referred to the Treasurer as the Minister responsible for the Act.

Establishment of boards and committees

Cabinet approval is required to establish a new government board or committee. Guidance on when to establish a board or committee and a template for seeking Cabinet's approval can be found in [Department of the Premier and Cabinet Circular PC022](#). Requirements in relation to remuneration of government boards can be found in [Department of the Premier and Cabinet Circular PC016](#).

Intergovernmental relations

The government's negotiating position on significant matters for discussion at COAG and CAF and its position on the outcomes of these meetings must be approved by Cabinet. These submissions must consider:

- The context of the government's overall approach to relations with local, Commonwealth, and other state and territory governments, and
- The relationship between proposed intergovernmental matters and South Australian Government policy.

As a general rule, all intergovernmental agreements require the preapproval of Cabinet prior to being signed by the Premier or the responsible minister. However, there are some exceptions to this, as set out below.

- For national partnerships that anticipate the need for implementation plans, and where the financial impact of these is already known and clearly stated, Cabinet can be asked to approve the responsible minister agreeing to the implementation plans without the need for further Cabinet approval.
- For project agreements and implementation plans requiring additional expenditure authority, that authority can be granted by the Executive Director, Budget Analysis and Performance, DTF, as long as the Executive Director and the responsible chief executive are satisfied that:
 - For agencies with more than \$100 million in total income (as per the agency's income statement): the value of the new agreement is less than \$1 million annually and \$10 million of the life of the agreement
 - For agencies with less than \$100 million in total income (as per the agency's income statement): the value of the agreement is less than 1% of the agency's total income annually and less than 10% of the agency's total income over the life of the agreement
 - The revenue provided in the agreement equals the expense within the forward estimates period
 - The agreement relates to the core business of the agency
 - The agreement does not require the agency to take on additional permanent staff
 - The agreement does not establish an ongoing program or service to third parties with time-limited funding
 - The agreement does not extend or change the state's policy settings

- The total national funding pool is known and the South Australian share of revenue is equal to or less than our population share (noting that Cabinet needs to be aware of any possible impact on GST revenue; agencies should seek the advice of DTF on this issue).

Submissions to state or national inquiries or reviews

Submissions must only be made where there is a clear strategic value or benefit to the state. This value or benefit should be explained to Cabinet when seeking approval. It is recommended that agencies obtain their minister's approval before commencing work on the submission.

Agencies may prepare submissions to inquiries without prior Cabinet approval, but must seek formal Cabinet approval before making the submission. This applies to calls for submissions to a government inquiry or review by any state or territory or by the Commonwealth, or on any opportunity to comment on other jurisdictions' draft legislation or plans or reviews of policies, programs, or operations. This also extends beyond formal inquiries to include submissions to things like issues papers, green papers, and departmental reviews.

Submissions should be prepared as if they are public documents (unless an exemption from publication has been granted). Cabinet should be advised of the manner and timing of the submission's publication.

These requirements do not apply to responses to issues papers of the Royal Commission into Institutional Responses to Child Sexual Abuse. Provided the response to an issues paper is confined to factual information about current government policy or practices, only a Cabinet note is required. Similarly, agency-level technical commentary does not need Cabinet approval before being submitted.

Appointments to boards and committees

Significant appointments meeting the criteria on page 7 must be referred to Cabinet to note, and all board appointments made by the Governor must be referred to Cabinet Subcommittee. Cabinet Coordination can provide further advice on which board appointments must be considered by Cabinet.

The recommendations of submissions or notes proposing board appointments must include:

- The full names of the proposed appointee, including any middle names, and without nicknames or abbreviations
- The full title of the position
- The correct name of the board or committee
- The appointment and expiry dates of the term
- For statutory appointments, the Act under which the appointment will be made
- Appropriate reference to any separate documents (such as terms and conditions of appointment)
- For appointments to be made by the Governor, reference to His Excellency the Governor in Executive Council.

The body of the submission or note should summarise this information, and must also include:

- An outline of the functions of the board or committee
- The existing membership of the board or committee
- The permitted number of members
- The criteria for filling the position
- The basis for selecting the proposed appointees, including their qualifications for the role and a concise statement of relevant experience
- Who the appointee is replacing, if relevant
- The gender balance of the board, the effect of the appointment on that gender balance, and strategies to address any imbalance (including an indication of whether the Premier's Women's Directory has been consulted)
- Details of any remuneration and conditions
- Whether there may be a real or perceived conflict of interest and how this will be dealt with, and
- Details of any intended publicity, such as a press release.

The following must also be attached to submissions and notes dealing with appointments:

- For Subcommittees submissions only, the curricula vitae of the appointees (these should not be attached to notes), and
- Where a member has resigned, copies of the resignation letter (noting that for many statutory boards, this letter must be addressed to the minister to be legally effective).