

Cabinet processes

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AUTHORISED BY Deputy Secretary Finance Strategy & Operations

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Policy Statement

To ensure that Industry Cluster Cabinet Submissions and comments adhere to cluster, ministerial and Department of Premier and Cabinet (DPC) requirements. This upholds the principles of:

1. *Collective responsibility of Cabinet where the confidentiality of Cabinet processes, discussions and decisions is maintained*
2. *That Cabinet, as the decision-maker of the executive arm of Government, is provided with access to sufficient and timely advice and commentary, which has been approved by those with the appropriate authority, to inform their decision making*
3. *Respect for the process of Cabinet within NSW, with submissions and comments being consistently compliant with known expectations for Cabinet documents.*

The Cluster will apply five key requirements to meet these objectives:

1. *Confidentiality*
2. *Engagement*
3. *Approval*
4. *Timeliness*
5. *Quality and compliance.*

Scope

This policy applies to all employees in the NSW Industry, Skills and Regional Development cluster ('Industry Cluster') who lead or contribute to the drafting of Cabinet Submissions for any minister in the Cluster. This policy also applies to employees involved in the consultation processes for any Cabinet Submission on which comment is being sought.

Requirements

Each cluster has one Cabinet Liaison Officer (CLO). For the Industry Cluster, this function is performed by the Ministerial Liaison Office.

1. *Maintaining the confidentiality of Cabinet*
 - a. eCabinet is the electronic documents and records management system for Cabinet and all official Cabinet records should be kept in eCabinet
 - i) Copies of Cabinet documents may, on occasion, need to be kept outside of eCabinet:
 - (1) The CLO determines if there is a need for Cabinet records or documents to be also be stored in RM8 and access to any Cabinet folders in RM8
 - (2) Each RM8 folder will be restricted using security and access settings to only those employees who must see its contents

- (3) Cabinet folders in RM8 must always be accessible to:
 - (a) The CLO
 - (b) The Cabinet and Policy Coordination Team in the Ministerial Liaison Office (MLO)
 - (c) The Secretary of the NSW Department of Industry, and their office.
 - (4) The CLO can approve access for any individual or business unit as required to fulfil the consultation requirements of the Cabinet process
 - (5) Where requested, only employees or business units that can demonstrate a business need to participate in the Cabinet process shall have access to a related Cabinet folder.
- ii) The CLO is also responsible for administering the cluster's eCabinet users:
- (1) The CLO will request access for employees that require it from DPC
 - (2) Agency users will be granted either primary or secondary access:
 - (a) Primary access allows users to receive items for action from the CLO, and to forward items that have been sent to them on to other users, under appropriate authority. Primary users can also submit comments and items back to the CLO
 - (b) Secondary user access generally only allows users to view or read items in eCabinet. Secondary users will only view documents or take action in eCabinet when requested by a primary user or executive in their business area, the CLO or the Secretary.
 - (3) The CLO, in consultation with key personnel within the division or business area, will determine whether users should be given primary or secondary access
- b. Handling documents in eCabinet
- i) For non-Industry Cluster submissions, the CLO will decide to whom within the cluster a submission received in eCabinet should be circulated for advice or comment
 - ii) For Industry Cluster submissions, the CLO is responsible for progressing Secretary-approved submissions into eCabinet for the Minister to lodge
 - iii) Printing of Cabinet documents
 - (1) It is a DPC requirement that Cabinet documents will always be accessed by the authorised person/s in electronic format via eCabinet only
 - (2) Only the CLO and the Secretary can print hardcopy versions of documents
 - (3) The CLO has the authority to provide hardcopies only in exceptional circumstances, for example where a copy would otherwise not be available to someone who needs to see it
 - (4) Anyone in receipt of a printed copy of a document from eCabinet must sign a declaration of receipt at the time of receiving the document from the CLO
 - (5) All printed hardcopies must be kept securely at all times and immediately returned to the CLO once no longer required. They must never be copied
 - (6) The CLO is responsible for ensuring hardcopies are returned to DPC Cabinet Secretariat for destruction and acquittal on the eCabinet audit trail.
 - iv) Distribution of final Cabinet decisions
 - (1) The final decisions of the Cabinet will be published in eCabinet and accessible only by the CLO and Secretary
 - (2) The CLO will communicate decisions impacting upon the cluster to relevant parties
 - (3) Decisions will not be forwarded or otherwise provided to any employee except where they have a direct need to know and the decision has a specific and direct instruction from the Cabinet or Cabinet Committee that requires action:
 - (a) The determination of who needs to see a decision will be made by the CLO with consideration given to implementation requirements

- (b) Without the express written permission of the CLO or Secretary, users in receipt of a final decision in eCabinet must not forward decisions onto others
 - (c) Alternative methods of communicating decisions to individuals with a need to know, for example verbally, are preferred
 - (d) Correspondence with other agencies or ministerial offices can cite the metadata concerning a decision (such as the document number C201Y-xxxx or SCxxxx-201Y and decision date). Ministerial offices and other clusters have access to decisions through eCabinet and the processes that apply in their cluster.
- c. Handling of Cabinet content
- i) All records created in relation to Cabinet matters should be marked clearly with the Dissemination Limiting Marker (DLM) 'Sensitive: NSW Cabinet'
 - ii) Do not forward, email or discuss the content of Cabinet Submissions or other Cabinet materials with non-essential employees.

2. Engagement

- a. Initiating submissions within the cluster
- i) Branch executives should ensure that submissions are developed only for significant matters requiring the approval of the Cabinet and affecting the whole of government, for example:
 - (1) New and significant policy proposals, variations and announcements
 - (2) All legislation proposals requiring a Bill to be prepared
 - (3) Proposed responses to reports and recommendations from Parliamentary committees and inquiries.
 - ii) Branch executives are responsible for advising the CLO of:
 - (1) Upcoming submissions within their division or branch that need to be registered on the twice-yearly forward agenda request from the Premier or DPC
 - (2) Submissions which the Minister or their office has asked them to draft outside of the six-monthly call
 - (3) Upcoming submissions of which they become aware through interagency consultation processes that are expected to have an impact on the cluster
 - iii) The Executive is responsible for ensuring the forward agenda is populated in consultation with cluster executives according to cluster and government priorities, goals and objectives
 - iv) To be included on the Cabinet agenda, all proposals must:
 - (1) be submitted to the relevant sponsoring Minister
 - (2) have the approval of the Cluster Minister
 - (3) be approved by the Premier, or where referred to a Cabinet Committee by the Premier, the chair of that Cabinet Committee
 - v) Only a proposal approved by the Premier or the Cabinet Committee Chair can proceed to the drafting stage
 - vi) Where a proposal arises outside of DPC's six-monthly call for the forward agenda, the Minister must be consulted and a letter drafted from the Minister to the Premier outlining the reasons why the proposal must be considered urgently by the Cabinet
 - vii) Where requested by a Minister or their office to draft a submission, the branch employee should notify the CLO of the request.
- b. Consultation during the pre-drafting stage
- i) Intradepartmental consultation:
 - (1) Drafting officers must consult the Secretary prior to the development of a Cabinet Submission:

- (a) To obtain agreed recommendations and objectives of the submission prior to its drafting
 - (b) Recommendations should demonstrate consistency with cluster and government policy and goals
- (2) Drafting officers must consult the Chief Financial Officer on submissions with a financial impact
- (3) Drafting officers should consult with divisions/branches across the cluster regarding Cabinet Submissions with whole-of-cluster or whole-of-government implications throughout the drafting process.
- (4) Branch employees should also consult with the Minister and their advisers during drafting of a submission
- ii) Inter-cluster targeted consultation:
 - (1) Branches should consult with other departments and agencies directly affected by the submission during the drafting process
 - (a) The branch is responsible for consulting with DPC on all submissions
 - (b) The branch is responsible for consulting with NSW Treasury, including on submissions with any financial, economic or industrial relations implications
 - (c) The branch should consult with the Department of Justice if the submission involves legal policy issues, offences, penalties or enforcement powers
 - (d) The branch should consult with the Public Service Commission if the submission involves a significant workforce impact.
 - (2) When a branch receives an advance version of a submission from another cluster for comment which should be distributed to other parts of the Industry Cluster, the branch should contact the originating cluster and ask them to either:
 - (a) Give the branch permission to distribute to the other part/s of the cluster, or
 - (b) Consult with the other required part/s of the cluster directly.
- c. Consultation on submissions
 - i) The CLO is responsible for monitoring the forward agenda to ensure that the relevant parts of the cluster are aware of items on which they may need to comment
 - ii) Comments on other cluster's submissions:
 - (1) All branches are responsible for the provision of timely, accurate and considered comments covering their areas of expertise
 - (2) Consulting branches/divisions within the cluster:
 - (a) The CLO will determine which parts of the cluster are required to provide advice or commentary on any submission received in eCabinet
 - (b) The CLO will be responsible for preparing the cluster's position for approval by the Secretary using advice received from all divisions and branches. The CLO will ensure visibility of the coordinated comments to the branches/divisions that provided input
 - (c) The CLO will be responsible for:
 - (i) Determining if consultation with the relevant ministerial offices on proposed comments is required
 - (ii) Consulting with relevant ministerial offices on proposed comments where required
 - (iii) Consulting with ministerial offices after the Secretary has approved the comments. The CLO may test comments concurrently with both the Secretary and ministerial offices with the prior agreement of the Office of the Secretary.
 - (d) Where the cluster has an interest in a submission, the CLO is responsible for monitoring its progress through the two-stage process, and for notifying branches

of any additional items lodged for a submission such as letters of comment from ministers

- (e) The CLO will also consult with relevant branches regarding verbal items appearing on the agenda as appropriate.
- (3) Substantial issues with a submission should be raised with the originating agency by the CLO before comments are submitted
- (4) Where a branch or division makes a comment on a particular submission, the appropriate branch employee/s must be available to the CLO up until the point of lodgement of the cluster's position in eCabinet. This will be advised to the branch by the CLO
- (5) Consulting with Local Land Services (LLS):
 - (a) For the purposes of Cabinet Submissions, LLS will be considered as a branch of the Department of Primary Industries (DPI), and DPI will be responsible for incorporating commentary from LLS into its advice on Cabinet Submissions
 - (b) LLS will only be consulted separately from the rest of the DPI and their advice received directly by the CLO where:
 - (i) Specifically requested by the Minister, and/or
 - (ii) The LLS Chair of Chairs identifies that the independence of LLS is required in order to provide the advice.
- (6) Consulting parts of the Industry Cluster that are not part of the principal department:
 - (a) TAFE NSW:
 - (i) Where requested by the Minister's office, TAFE will be provided with a Cabinet Submission in eCabinet by the CLO
 - (ii) Where the CLO identifies that the advice of TAFE may be required for the cluster's comments on a Cabinet Submission, TAFE will be consulted and provide advice directly to the CLO
 - (iii) Where the CLO is unsure whether the input and advice of TAFE is required for the cluster's comments on a Cabinet Submission, the CLO will ask that the Industry and Skills Division consider the matter and advise whether:
 - 1. The CLO should distribute the submission to TAFE directly, or
 - 2. The division will seek the input of TAFE on the submission and incorporate its comments into its own advice
 - (iv) In the event the CLO has not requested the input of TAFE on a particular submission but the Industry and Skills Division believes that TAFE's input should be sought, it is up to the Division to directly consult with TAFE and incorporate their comments into the Division's advice
 - (b) State Owned Corporations (Forestry Corporation, Water NSW, Sydney Water, Hunter Water):
 - (i) Cabinet Submissions are not distributed to State Owned Corporations (SOCs), except where (being satisfied that there will be no competitive advantage) the Minister's office requests that a SOC be provided with a Cabinet Submission, in which event the CLO will forward the submission directly to the SOC in eCabinet
 - (ii) Where the CLO or DPI identifies that the advice of a SOC may be required for the cluster's comments on a submission, DPI will coordinate the provision of a summary of relevant facts to the SOC, and will return the advice to the CLO
 - (iii) Where a submission is distributed to a SOC, the SOC shall provide advice direct to the CLO, except when independence is required from the cluster, in which case the SOC will provide advice directly to the Minister's office.
- (7) Arrangements for consultation with other entities will be considered as required, consistent with the measures for similar organisations under this policy.

- (8) When providing final submissions to the Secretary via the CLO, Branches must provide a summary of how comments from other Departments received in e-Cabinet have been addressed.

3. *Approvals*

- a. The Secretary is to be the final internal approval for all Cabinet Submissions from the principal department/cluster.
- b. The CLO must endorse all Cabinet Submissions, directly before the Secretary's approval in order to ensure compliance with DPC and related requirements applicable to Submissions
- c. The Chief Financial Officer or Deputy Secretary, Finance Strategy & Operations must approve all submissions with budgetary or significant financial implications, including all submissions for the Cabinet Standing Committee on Expenditure Review (ERC)
- d. The sponsoring Minister is responsible for:
 - i) The actual lodgement of their own Cabinet Submissions with DPC via eCabinet, following the completion of required consultation (comments) processes
 - ii) Endorsing proposals that will be submitted for the Premier's consideration or referral to a Committee Chair in order for a Cabinet Submission to be brought forward, and instructing the cluster on their drafting accordingly
 - iii) Ensuring that the Secretary is consulted if the ministerial office makes material changes to the submission that would substantially impact on implementation, including for timing and funding reasons. This may occur through the drafting officer
 - iv) Consulting the Cluster Minister on all submissions.
- e. The Cluster Minister must be consulted on all submissions:
 - i) The Cluster Minister's support and/or comments must always be incorporated into all of the cluster's submissions
 - ii) The Cluster Minister may co-sponsor any submission
 - iii) The Cluster Minister must co-sponsor all ERC Submissions.

4. *Timeframes*

- a. DPC-set timeframes:
 - i) The consultation period for Draft Submissions is a minimum of five working days
 - ii) Time should be allowed for revisions to Draft Submissions after consultation to incorporate feedback received and make required changes, as well as for the submission to proceed through the required endorsement or approvals processes by ministerial offices and DPC
 - iii) Final Submissions are made available for a minimum of two working days for further consultation
 - iv) After all consultation and accompanying comments, Final Submissions must be lodged by the sponsoring Minister for progression to Cabinet no later than five full working days before the preferred Cabinet date.
- b. Internal timeframes:
 - i) On the basis that the Secretary provides early approval for all recommendations and objectives before submissions are drafted, Draft Submissions must be forwarded to the Secretary via the CLO for approval a minimum of 24 hours before the required upload time in eCabinet
 - ii) The branch should provide the Secretary with a summary of changes present in any Final Submission and seek agreement to them before upload. This process may happen concurrently with the CLO's compliance checks
 - iii) The CLO must be provided with adequate and reasonable time in which to complete their reviews of submissions and coordinated cluster comments prior to upload in eCabinet:

- (1) Adequate time means a minimum of 24 hours, with time sufficient for reviewing compliance of a submission with consideration given to its length and complexity; branches are encouraged to communicate with the CLO in advance of deadlines about how long the CLO may require to review a submission
 - (2) 'Reasonable time' is inside the MLO's core business hours of 9:00 am to 5:30 pm, Monday to Friday. Any times outside of these hours are by direct negotiation with and agreement from the CLO
- iv) The deadlines provided for the submission comments in eCabinet are strict and are for the CLO only. These deadlines are not to be used by branches as a final deadline for the provision of advice. Branches should adhere to the deadlines provided to them by the CLO and ensure availability of key employees for follow-up right up to the CLO's deadline.

5. *Quality and compliance*

- a. The CLO provides the key Cabinet compliance function in the cluster, and can advise on:
 - i) Premier's, Ministerial, Cabinet, Cabinet Standing Committee and DPC requirements
 - ii) When internal legal and financial review of submissions may be required
 - iii) Intra and interdepartmental consultation, including consultation with DPC, NSW Treasury, the Department of Justice and the Public Service Commission as required.
- b. Industry Cluster submissions:
 - i) Drafting officers should note that the primary role of Cabinet is to approve changes in significant policy, and recommendations should reflect that the Cabinet 'approves' rather than 'notes' or acknowledges a course of action
 - ii) Branches should check with the CLO before drafting a submission to ensure compliance with the relevant template, eCabinet requirements and Cabinet standards. The CLO may also provide advice on the quality of a submission during drafting
 - iii) Branches should test versions of Draft Submissions with the Office of the Secretary and the CLO if required to ensure compliance and congruence with agreed recommendations and objectives.
- c. Comments on non-Industry submissions:
 - i) Both the branch executive and the CLO are responsible for ensuring that comments provided on Cabinet Submissions are:
 - (1) Focussed on the implications for the achievement of the Industry Cluster's priorities and objectives
 - (2) The persistent voice of how the proposal/s outlined in the submission might impact on business confidence in NSW
 - (3) Technically accurate
 - (4) Short, sharp and punchy
 - (5) Where possible, supportive in tone
 - (6) Comments on Final Submissions should not raise any new issues, except where there are new issues because of changes to the submission. In that event, the CLO will compile Coordinated Comments outlining the cluster's position, which must be approved by the Secretary.

Procedures

- Supporting documents currently under development

Roles and responsibilities

- Branch:
 - Coordinates their own divisional Cabinet program

- Conducts pre-draft consultation
 - Seeks Secretary and ministerial approval to draft a submission
 - Consults the CLO and the Secretary or the Secretary's Office before and during drafting of a submission
 - Consults across the cluster during submission development
 - Consults with other government departments as required during submission development
 - Drafts submissions using correct templates and following stated guidelines
 - Monitors the progress of their own submissions and keeps the Executive informed of their progress
 - Ensures timeliness and quality for all submissions and comments for their branch
 - Develops and provides required associated documents for Ministers, including complementary briefs and Cabinet speaking points
 - Implements the decisions of Cabinet as required
- CLO:
 - Coordinates the cluster's Cabinet program
 - Provides advice on quality, relevance and appropriateness of submissions where required
 - Provides advice on Cabinet processes within the cluster
 - Reviews and analyses submissions to ensure compliance before they proceed to the Secretary
 - Progresses cluster submissions in eCabinet to the relevant ministerial office/s
 - Coordinates cluster comments on submissions and loads them into eCabinet
 - Provides training on cluster Cabinet procedures
 - Liaises with Cabinet Secretariat regarding eCabinet access
- CFO/Deputy Secretary FSO:
 - Reviews and approves all Cabinet Submissions with a budgetary or significant financial implication before the Secretary
- Secretary:
 - Reviews and approves all Cabinet Submissions before they are loaded for the relevant Minister via eCabinet
 - Approves all substantive comments before they are loaded in eCabinet

Delegations

- The CFO or Deputy Secretary FSO must approve all submissions with budgetary or significant financial implications
- The CLO must be satisfied that all submissions are of sufficient quality and are compliant with required standards
- The Secretary must be the final internal approval on all Cabinet Submissions
- It is at the Secretary's discretion to delegate certain approvals to the CLO.

Definitions

- CFO: Chief Financial Officer
- CLO: Cabinet Liaison Officer
- DPC: Department of Premier and Cabinet
- DPI: Department of Primary Industries
- Employee: Any person working in the NSW Department of Industry or any agency in the Industry Cluster
- ERC: Cabinet Standing Committee on Expenditure Review
- FSO: Finance Strategy & Operations Division
- LLS: Local Land Services
- MLO: Ministerial Liaison Office

Legislation

- Nil

Related policies

- TI-A-154 - Classified Information Policy
- IND-1-177 - Records Management Policy

Other related documents

- Premier's Memorandum M2015-03: Changes to the NSW Government Cabinet Process (5 May 2015)
- Premier's Memorandum M2006-08: Maintaining Confidentiality of Cabinet Documents and Other Cabinet Conventions (7 June 2006)
- NSW Cabinet Manual Version 1.0 (April 2015)
- The Cabinet process in NSW - DPC website
- Cabinet Conventions: NSW Practice - Anne Twomey and Roger Wilkins
- NSW Department of Industry intranet: Cabinet items
- NSW Department of Industry Corporate Plan 2015-19
- NSW Making It Happen - The State Priorities (September 2015)

Superseded documents

This policy replaces:

- TI-G-162 - Cabinet minute drafting and submission

Revision history

Version	Date issued	Notes	By
1.14	2/7/2016	Updated to include Cabinet changes implemented after Premier's Memorandum M2015-03 and the introduction of eCabinet	Director Ministerial Liaison Office

Review date

1/1/2018

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