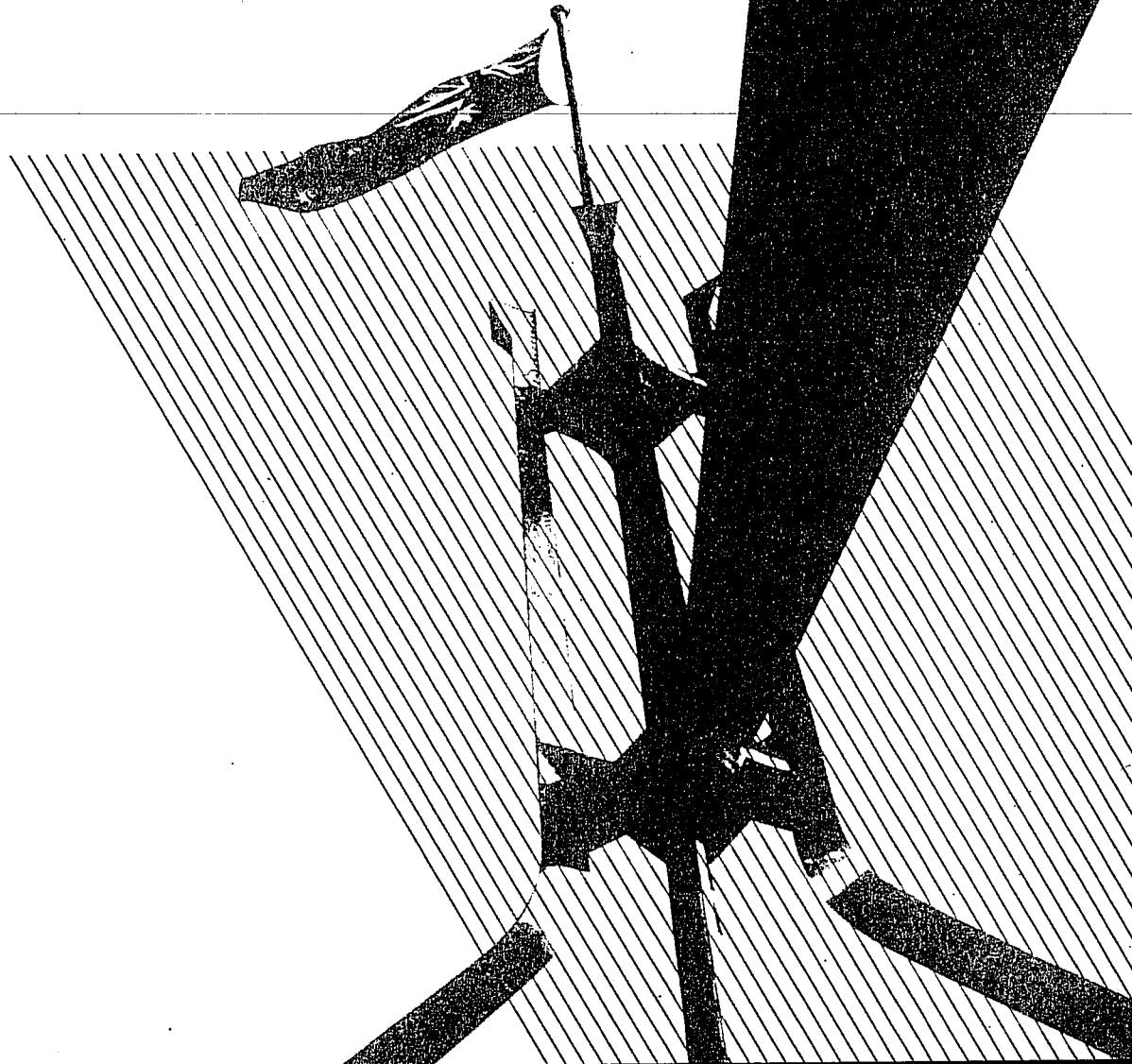




Australian Government

Department of the Prime Minister and Cabinet



WHAT ARE THE KEY GOVERNMENT PROCESSES TO ESTABLISH?

BRIEF TO THE PRIME MINISTER, THE HONOURABLE JULIA GILLARD MP

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1. WHAT DETAILS NEED TO BE FINALISED TO ESTABLISH YOUR CABINET?

a. Proposed committee structure

It has been longstanding practice for the Prime Minister to determine the structure and membership of the Cabinet committees. Based on PM&C's observations of Cabinet processes, we recommend three features for your future Cabinet.

c. Dealing with strategic priorities

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d. Cabinet process improvements

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2. WHAT IS REQUIRED TO ESTABLISH THE EXECUTIVE COUNCIL?



The Governor-General exercises the executive power of the Commonwealth under section 61 of the Constitution of the Commonwealth of Australia. This power extends to the execution and maintenance of the Constitution and laws of the Commonwealth.

Section 62 of the Constitution establishes the Federal Executive Council to 'advise the Governor-General in the government of the Commonwealth'.

In accordance with section 64 of the Constitution, all ministers of state (ministers and parliamentary secretaries) must be members of the Federal Executive Council. The title 'The Honourable' may be used by all members for the duration of their appointment, which is usually for life. Only those executive councillors who are members of the current ministry are requested to advise the Governor-General at meetings of the Council.

The Federal Executive Council generally meets every two weeks, with meetings usually held at Government House, Canberra. It can meet more frequently if necessary.

The express permission of the Governor-General is required for all meetings of the Federal Executive Council regardless of whether the Governor-General will be in attendance. The Vice President may preside as Chair when the Governor-General cannot attend. The Federal Executive Council Secretariat in PM&C liaises with the Official Secretary to the Governor-General to seek the necessary approval.

The forward program of meetings for the remainder of 2010 previously agreed with Government House is below at Table 1.

Table 1: Federal Executive Council meetings agreed for 2010

Tuesday	31 August 2010	9.30 am
Tuesday	14 September 2010	9.30 am
Wednesday	29 September 2010	9.30 am
Thursday	14 October 2010	9.30 am
Wednesday	27 October 2010	9.30 am
Tuesday	16 November 2010	9.30 am
Wednesday	24 November 2010	9.30 am
Wednesday	8 December 2010	9.30 am



**3. WHAT ACTIONS ARE
REQUIRED TO ESTABLISH
THE 43RD PARLIAMENT?**

a. Recall of Parliament and pattern of sitting for 2010

The recall of the parliament is contingent on the return of the writs.

The earliest possible date is estimated to be Tuesday 28 September, as long as the eight state and territory House of Representatives writs and the writs for the election of territory senators have been returned. The Australian Electoral Commission (AEC) has advised that the inclusion of an extra 100,000 provisional votes as a result of the High Court's decision on 6 August (*Rowe v Australian Electoral Commissioner*) may cause some delays. We estimate that the earliest the Parliament could safely resume would be 5 October 2010 (45 days after polling day) as set out in Option 1 below.

The latest possible date is Friday 26 November 2010, 30 days after the day appointed for the return of the writs (which is 27 October 2010), as set out in section 5 of the Constitution.

Options for sittings in 2010 are at Figure 1. The options:

- provide sufficient preparation time for the opening of parliament, in particular the Governor-General's speech
- ensure adequate parliamentary time to deal with any urgent legislation requiring passage before the end of 2010, and

Option 1 provides for the House to sit for five weeks and the Senate for four weeks with one week for Supplementary Budget Estimates (SBE). Prorogation had the effect of cancelling the SBE hearings originally scheduled from 18 to 21 October 2010. In 1987, Estimates hearings were held in October after an election in the July of that year. SBE hearings were not held in 1998 or 2004, although the timing of the elections arguably left insufficient time for hearings to be held before the end of the year.

Option 2 provides for both Houses to sit for four weeks, with no time nominated by the Government for SBE hearings. If the Opposition were to move a motion in the Senate after the Parliament resumes to convene SBE hearings this year, there would be the capacity to add a fifth week of sittings at the beginning of December, well before the Christmas break.

Figure 1: 2010 Spring sitting period

OPTION 1

		16	17	18	19	20	21 election /22	School holidays
S	September	23	24	25	26	27	28/29	
		30	31	1	2	3	4/5	
		6	7	8	9	10	11/12	TAS
		13	14	15	16	17	18/19	TAS
		20	21	22 UNGA	23 UNGA	24 UNGA	25/26 UNGA	VIC, QLD
P	October	27 ACT Family Day	28	29	30	1	2/3	All except TAS
		4 Labour Day	5	6	7	8	9/10	NSW, SA, WA, ACT
		11	12	13	14	15	16/17	
R	November	18	19	20	21	22	23/24	
		25 EAS/SBE	26 W/SBE	27 R/SBE	28 W/SBE	29 EAS	30 EAS/31	
I	December	5	6	7	8	9	10	11/12
		15	16	17	18	19	20/21	
		22	23	24	25	26	27/28	
		29	30	1	2	3	4/5	
N	November	8	9	10	11 G20	12 G20	13/14 APEC	
		15	16	17	18	19	20/21	
		22	23	24	25	26	27/28	
G	December	29	30	1	2	3	4/5	
		6	7	8	9	10	11/12	
		13	14	15	16	17	18/19	QLD, SA, NT

Both Houses House of Representatives only X = date of Senate 2/3 cut-off SBE = Supplementary Budget Estimates

OPTION 2

		16	17	18	19	20	21 election /22	School holiday
S	September	23	24	25	26	27	28/29	
		30	31	1	2	3	4/5	
		6	7	8	9	10	11/12	TAS
		13	14	15	16	17	18/19	TAS
		20	21	22 UNGA	23 UNGA	24 UNGA	25/26 UNGA	VIC, QLD
P	October	27 ACT Family Day	28	29	30	1	2/3	All except TAS
		4 Labour Day	5	6	7	8	9/10	NSW, SA, WA, ACT
		11	12	13	14	15	16/17	
R	November	18	19	20	21	22	23/24	
		25 EAS/SBE	26 W/SBE	27 R/SBE	28 W/SBE	29 EAS	30 EAS/31	
I	December	1	2	3	4	5	6/7	
		8	9	10	11 G20	12 G20	13/14 APEC	
		15	16	17	18	19	20/21	
		22	23	24	25	26	27/28	
N	November	29	30	1	2	3	4/5	
		6	7	8	9	10	11/12	
		13	14	15	16	17	18/19	QLD, SA, NT

Both Houses House of Representatives only X = date of Senate 2/3 cut-off SBE = Supplementary Budget Estimates

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b. Opening of the 43rd Parliament

We will provide details of the opening day program later. The day is usually taken up with formal matters such as the Governor-General's speech, the election of Speaker, Deputy Speaker and Second Deputy Speaker in the House of Representatives, and the introduction of any urgent legislation. In the Senate, standing orders provide for Senator the Hon John Hogg to continue as President of the Senate until the next sittings after 30 June 2011. Revised House of Representatives Standing Orders adopted on 23 June 2010 are to come into effect on the first sitting day of the 43rd Parliament and provide for local Indigenous people to be invited to conduct a ceremony of welcome.

i. Governor-General's speech

The Governor-General's speech allows you to outline the Government's political and legislative agenda. The speech usually involves contributions by ministers.

In order to allow preparation time, ministers' contributions to the speech will be required by 13 September 2010 (for a 12 October resumption of parliament) or by 20 September 2010 (for a 19 October resumption of parliament). We will foreshadow these requirements to departments ahead of the first ministry meeting.

Following the prorogation of parliament, all legislation before the previous Parliament lapsed. The Government needs to establish a legislation program for the 2010 Spring sitting period as quickly as possible.

ii. 2010 Spring Legislation Program

The program will necessarily include any lapsed legislation from the previous Parliament that is time critical, in addition to legislative measures identified in Labor policy documents as requiring urgent introduction and passage, particularly those with a commencement date in early 2011 (see below at chapter 3 section (c) ii).

Introduction of the additional estimates appropriation bills is also desirable, but timing will depend to some extent upon the release of the Mid Year Economic and Fiscal Outlook. Any changes to portfolio structures and election commitments which will not be included in special appropriations.

Time critical legislation from previous parliament

If the Government wishes to proceed with these bills, either in their current form or with amendments, we will provide more detailed briefs for your consideration.

iii. *Election commitments*

We have identified the need for separate legislation to implement commitments with a commencement date of 1 January 2011:

In addition, there are a number of other commitments which may require legislation to be introduced in the first half of 2011:

c. Parliamentary sittings 2011

The Parliamentary sittings pattern for each calendar year is normally released in September or October of the preceding year. We have prepared two options for the 2011 Parliamentary sittings at Figure 2. The options:

- avoid sitting, as far as possible, in school holidays
- take into account, as far as possible, the preference for a two-weeks-on, two-weeks-off pattern (House Standing Order 29)
- avoid sitting the week before and after the Commonwealth Heads of Government Meeting (CHOGM) in Perth in October, and

Both options include three sitting periods and a Budget date of 10 May. This date would need to be confirmed with the Treasurer. In both options there are seven non-sitting weeks in the lead up to the Budget which is greater than the six week period previously advised by the Treasury as being desirable for Budget preparation.

The Budget sittings in both options would finish on 23 June, allowing sufficient time for bills, with measures commencing on 1 July, to be given Royal Assent.

As noted above, neither option proposes sittings in the week before, or after, CHOGM. The Leaders' meeting from 28-30 October will be preceded by the Foreign Ministers' meeting from 25-27 October. It is also traditional for the host Prime Minister to open the Forum and host a dinner on the first evening, which on this occasion will be Tuesday 25 October 2011.

In addition, four weeks are set aside for Senate Estimates hearings. A comparison with recent non-election years is set out below.

Table 2: Comparison of Senate Estimate hearing days

Year (non-election years)	start	finish	House of Representatives		Senate	
			weeks	days	weeks	days
2008	12 Feb	4 Dec	18	70	14	52
2009	3 Feb	30 Nov	18	68	14	53
2011 Option 1	1 Feb	1 Dec	19	71	15	56
2011 Option 2	8 Feb	8 Dec	19	72	15	57

Option 1 begins on 1 February and finishes on 1 December 2011. The Autumn sittings period is similar to this year's, and the equivalent periods in 2009 and 2007.

Option 2 starts and finishes a week later, on 8 February and 8 December respectively. The Autumn sittings period is one week shorter and is similar to 2008 (following the 2007 election). The two-week-on, two-week-off pattern is maintained overall, with the exception of the Winter sittings. Under this option the Winter recess is seven weeks, one week longer than Option 1 above.

Further options are possible and could include different combinations of the two options shown. For example, a pattern might be developed comprising the Autumn sittings from Option 1 and the Spring sittings from Option 2, or vice versa.

You may wish to consult the Treasurer on Budget timing, and the Leader of the House and the Leader of the Government in the Senate on the overall sitting pattern.

i. *2011 Autumn legislation program*

Ministers will also need to submit legislation bids for the 2011 Autumn sittings, taking into account legislation arising from election commitments. Ideally, the deadline for bids should be early October 2010 to enable PBC to consider the legislation program for the 2011 Autumn sittings before parliament rises for the year.

d. Parliamentary Business Committee

Under the previous Labor and Coalition governments, a Parliamentary Business Committee (PBC) has managed, from a whole-of-government perspective, the legislation and weekly debate programs. Under the previous government, PBC was chaired by the Leader of the Government in the House, and broadly:

- determined the legislation program for each sitting
- endorsed the draft weekly program of legislation for introduction and debate in each house, and
- considered ministers' requests for variations to the legislation program such as upgrading the status of a bill or adding a new bill to the program.

PBC members under the previous government were as follows: the Leader of the Government in the House (Chair); the Leader of the Government in the Senate; the Manager of Government Business in the Senate; the Attorney-General; the Parliamentary Secretary to the Prime Minister; and the Minister for Foreign Affairs, as Deputy Leader. The Chief Government Whip, while not a member, would often attend.

If you decide to have a PBC or an equivalent, an early meeting of that committee will be necessary before parliament resumes to determine the legislation program for the 2010 Spring sittings, so that priority legislation may be drafted in time for introduction.

Recommendations relating to the structure of Cabinet committees, including the establishment, membership and Chair of PBC are at Attachment A

If you decide against having a PBC we shall provide you with separate briefing.

Figure 2: 2011 sitting calendar (Option 1)

	MONTH							School Holidays	
		Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun		
A U T U M N	February	24	25	26 Australia Day	2	28	29/30	All except QLD, NT	
		31				4	5/6	TAS, ACT	
		7	8	9	10	11	12/13	TAS	
						18	19/20		
						25	26/27		
	March	28	1	2	3	4	5/6		
						11	12/13		
		14 Canberra Day				18	19/20		
						25	26/27		
	April	21	22	23	24	25	26/27		
		28	29	30	31	1	2/3		
		4	5	6	7	8	9/10	NT	
		11	12	13	14	15	16/17	NSW, VIC	
		18	19	20	21	22 Good Friday	23/24	All except TAS, NT	
	W I N T E R	May	25 Easter Monday	26 ANZAC Day holiday	27	28	29	30/1	WA, SA, TAS, ACT
2			3	4	5	6	7/8		
June		9				13	14/15		
		16	17	18	19	20	21/22		
						27	28/29		
						3	4/5		
		6	7	8	9	10	11/12	TAS	
		13 Queen's Birthday				17	18/19	TAS	
July						24	25/26		
		27	28	29	30	1	2/3	QLD, NT	
		4	5	6	7	8	9/10	NSW, VIC, QLD, NT	
		11	12	13	14	15	16/17	All except QLD, TAS	
		18	19	20	21	22	23/24	WA, SA, ACT, NT	
S P R I N G		August	25	26	27	28	29	30/31	
			1	2	3	4	5	6/7	
			8	9	10	11	12	13/14	
	September					19	20/21		
						26	27/28		
		29	30	31	1	2	3/4		
		5	6	7	8	9	10/11	TAS	
						16	17/18	TAS	
	October					23	24/25	QLD	
		26	27	28	29	30	1/2	NSW, VIC, QLD	
		3 Labour Day	4	5	6	7	8/9	All except QLD, TAS	
		10 ACT Family Day				14	15/16	WA, SA, ACT	
	November					21	22/23		
		24	25	26	27	28	29/30 CHOGM		
		31	1	2	3	4	5/6		
						11	12/13		
14		15	16	17	18	19/20			
					25	26/27			
December					2	3/4			
	5	6	7	8	9	10/11			
	12	13	14	15	16	17/18	QLD		

AE = Additional Estimates

BE = Budget Estimates

SBE = Supplementary Budget Estimates

⊗ = date of Senate 2/3 cut-off

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Figure 2: 2011 sitting calendar (Option 2)

MONTH	Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun	School Holidays
	A	24	25	26 <i>Australia Day</i>	27	28	29/30
U	31	1	2	3	4	5/6	TAS, ACT
T	7				11	12/13	TAS
U	14	15	16	17	18	19/20	
M	21	22	23	24	25	26/27	
N	28	1	2	3	4	5/6	
					11	12/13	
	14 <i>Canberra Day</i>				18	19/20	
	21	22	23	24	25	26/27	
	28	29	30	31	1	2/3	
	4	5	6	7	8	9/10	NT
	11	12	13	14	15	16/17	NSW, VIC
	18	19	20	21	22 <i>Good Friday</i>	23/24	All except TAS, NT
	25 <i>Easter Monday</i>	26 <i>ANZAC Day holiday</i>	27	28	29	30/1	WA, SA, TAS, ACT
	2	3	4	5	6	7/8	
	9				13	14/15	
W	16	17	18	19	20	21/22	
I					27	28/29	
N					3	4/5	
T	6	7	8	9	10	11/12	TAS
E	13 <i>Queen's Birthday</i>				17	18/19	TAS
R					24	25/26	
	27	28	29	30	1	2/3	QLD, NT
	4	5	6	7	8	9/10	NSW, VIC, QLD, NT
	11	12	13	14	15	16/17	All except QLD, TAS
	18	19	20	21	22	23/24	WA, SA, ACT, NT
	25	26	27	28	29	30/31	
S	1	2	3	4	5	6/7	
P	8	9	10	11	12	13/14	
R					19	20/21	
I					26	27/28	
N	29	30	31	1	2	3/4	
G	5	6	7	8	9	10/11	TAS
					16	17/18	TAS
					23	24/25	QLD
	26	27	28	29	30	1/2	NSW, VIC, QLD
	3 <i>Labour Day</i>	4	5	6	7	8/9	All except QLD, TAS
	10 <i>ACT Family Day</i>				14	15/16	WA, SA, ACT
					21	22/23	
	24	25 <i>CHOGM</i>	26	27	28	29/30	
	31	1	2	3	4	5/6	
					11	12/13	
					18	19/20	
	21	22	23	24	25	26/27	
					2	3/4	
					9	10/11	
	12	13	14	15	16	17/18	QLD

AE = Additional Estimates BE = Budget Estimates SBE = Supplementary Budget Estimates X = date of Senate 2/3 cut-off

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e. Legislation approval procedures

i. *Approval of legislation for introduction into Parliament*

It will be necessary to establish procedures for the approval of legislation for introduction into parliament.

Under the previous government, this department, in consultation with the Office of Parliamentary Counsel, would check draft legislation for appropriate policy approvals and consistency with other government policies, ensuring that sufficient cross-portfolio consultation had taken place. The Parliamentary Secretary to the Prime Minister was authorised by the Prime Minister to deal with the department's recommendations relating to the approval of legislation for introduction. This process was also adopted by the former Howard Government, although the function was at that time undertaken by the Parliamentary Secretary to Cabinet or the Minister Assisting the Prime Minister.

ii. *Approval of minor policy*

f. Possible improvements to existing Community Cabinet arrangements

i. *Background*

Community Cabinet commenced in January 2008 and, to date, 24 Community Cabinet meetings have been held around the country, attended by more than 10,000 people with over 1,400 one-on-one meetings with ministers.

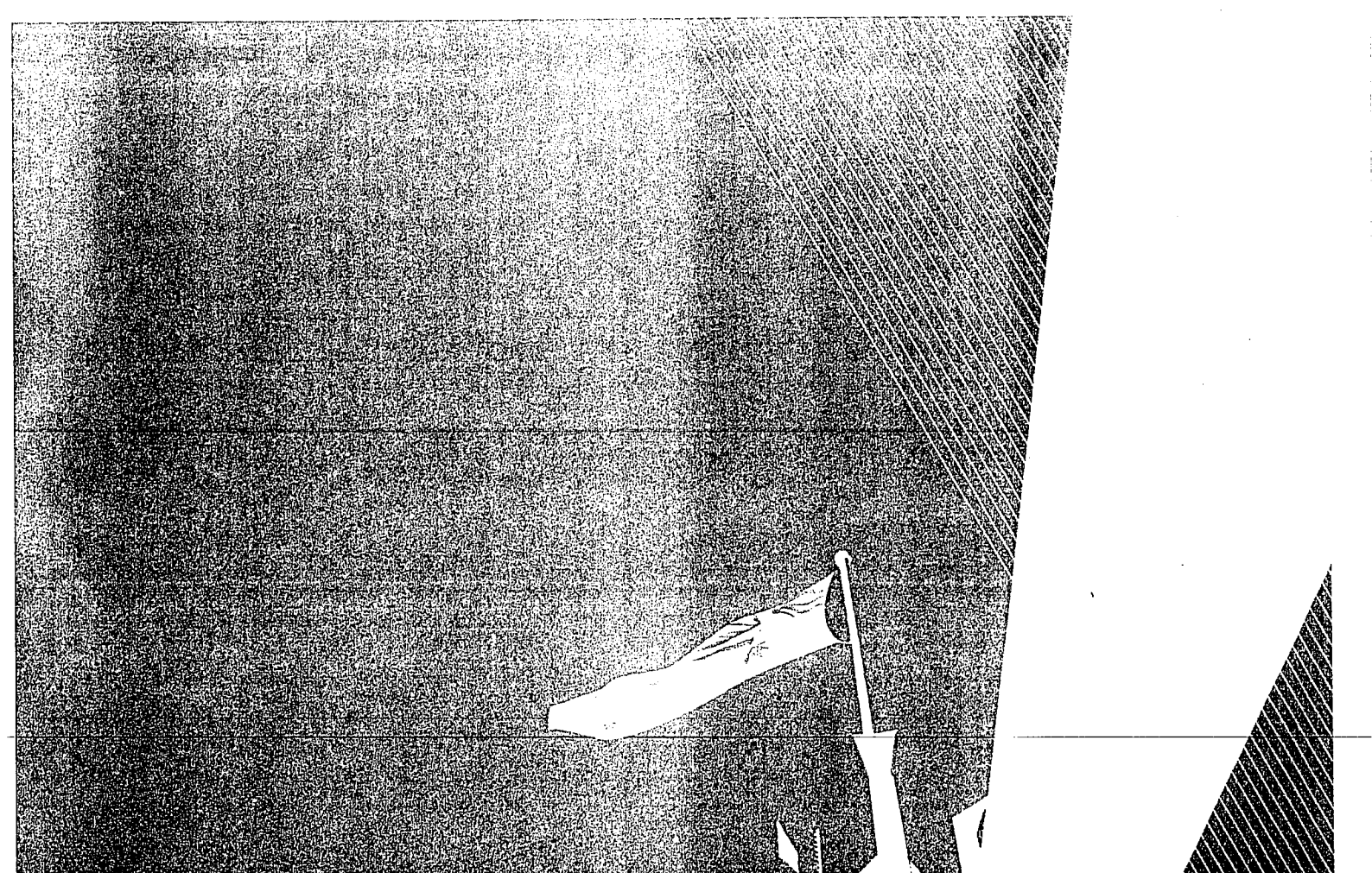
ii. *Possible improvements*

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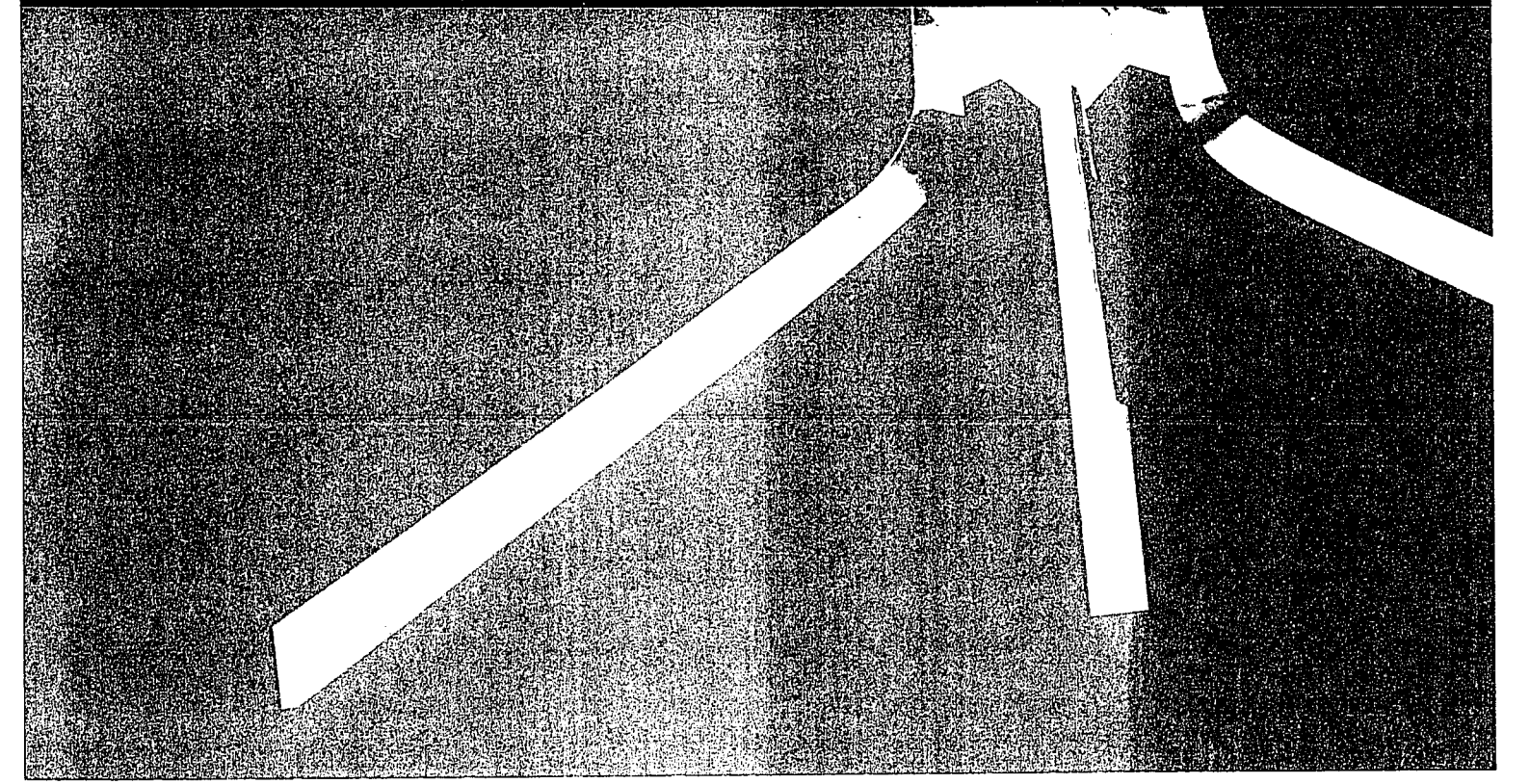
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iii. *Further development*

Community Cabinet is administered by PM&C with annual funding of around \$3.4 million.



4. ATTACHMENTS



Attachment A: Proposed Cabinet committees

Outlined below are the proposed Cabinet committees:

Cabinet	Members	Terms of Reference
Cabinet	Cabinet Ministers	To consider all major policies of the Government.

Cabinet Committee	Membership	Terms of Reference
Cabinet	Cabinet Ministers	To consider all major policies of the Government.
National Security Committee of Cabinet (NSC)		The NSC focuses on major international security issues of strategic importance to Australia, national responses to developing situations (either domestic or international) and classified matters relating to aspects of operations and activities of the Australian Intelligence Community.

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Cabinet Committee	Membership	Terms of Reference
Expenditure Review Committee (ERC)		The ERC considers matters of detail regarding expenditure and revenue during and between Budget cycles

Cabinet Committee	Membership	Terms of Reference
Parliamentary Business Committee (PBC)		

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Attachment B: Anticipatory minute to establish effective Cabinet arrangements

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