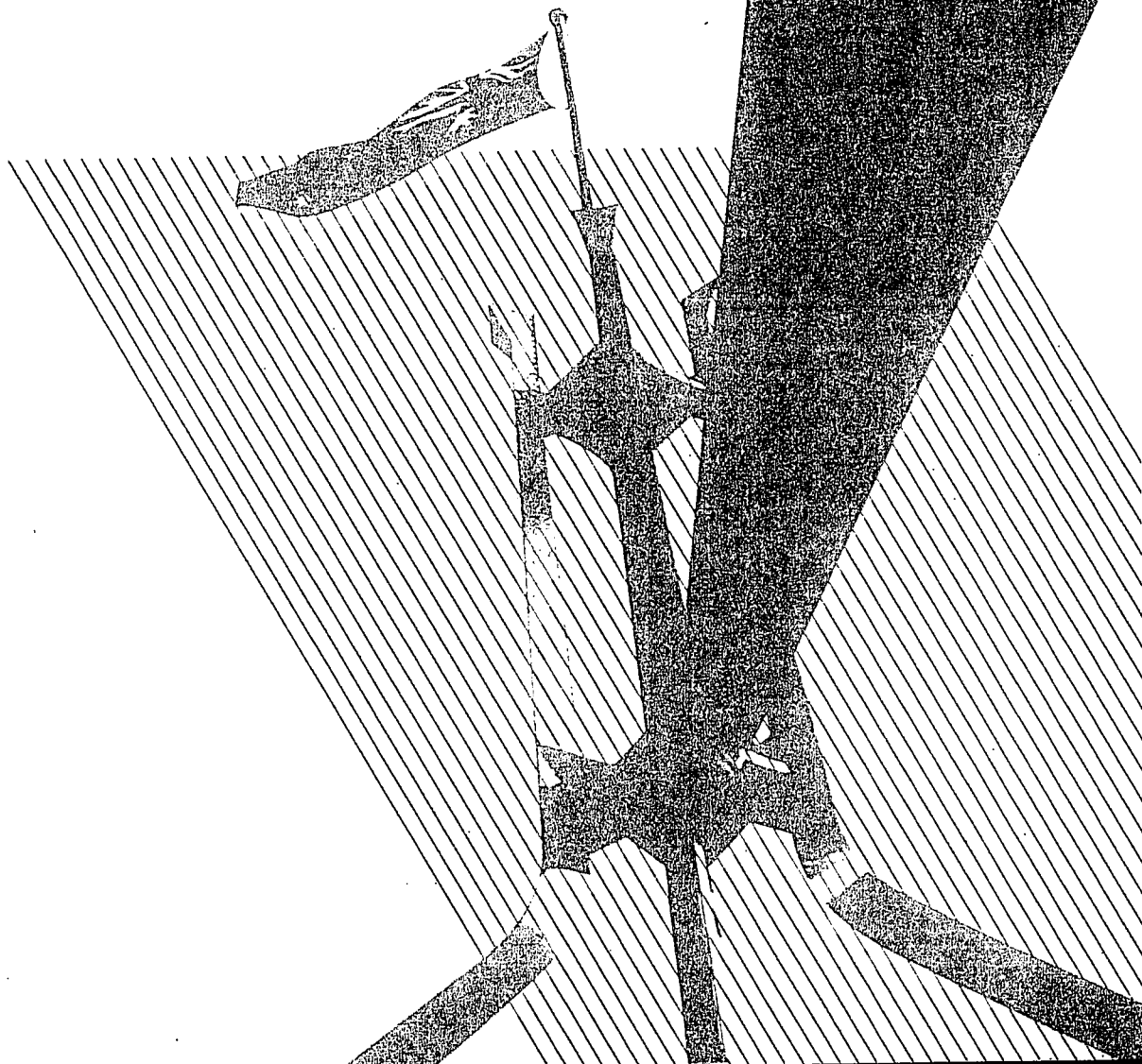




Australian Government

Department of the Prime Minister and Cabinet

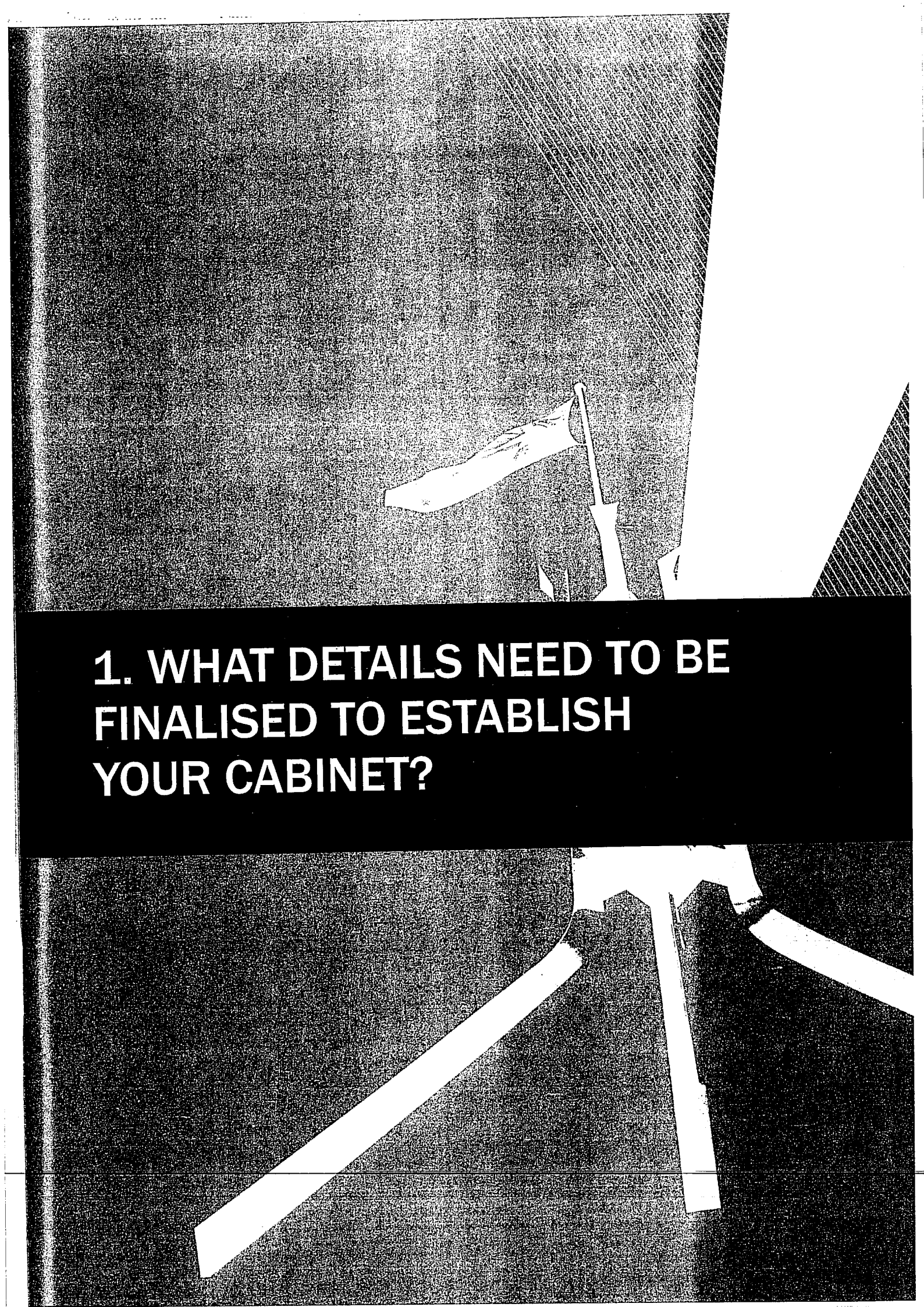


# WHAT ARE THE KEY GOVERNMENT PROCESSES TO ESTABLISH?

BRIEF TO THE PRIME MINISTER, THE HONOURABLE TONY ABBOTT MP

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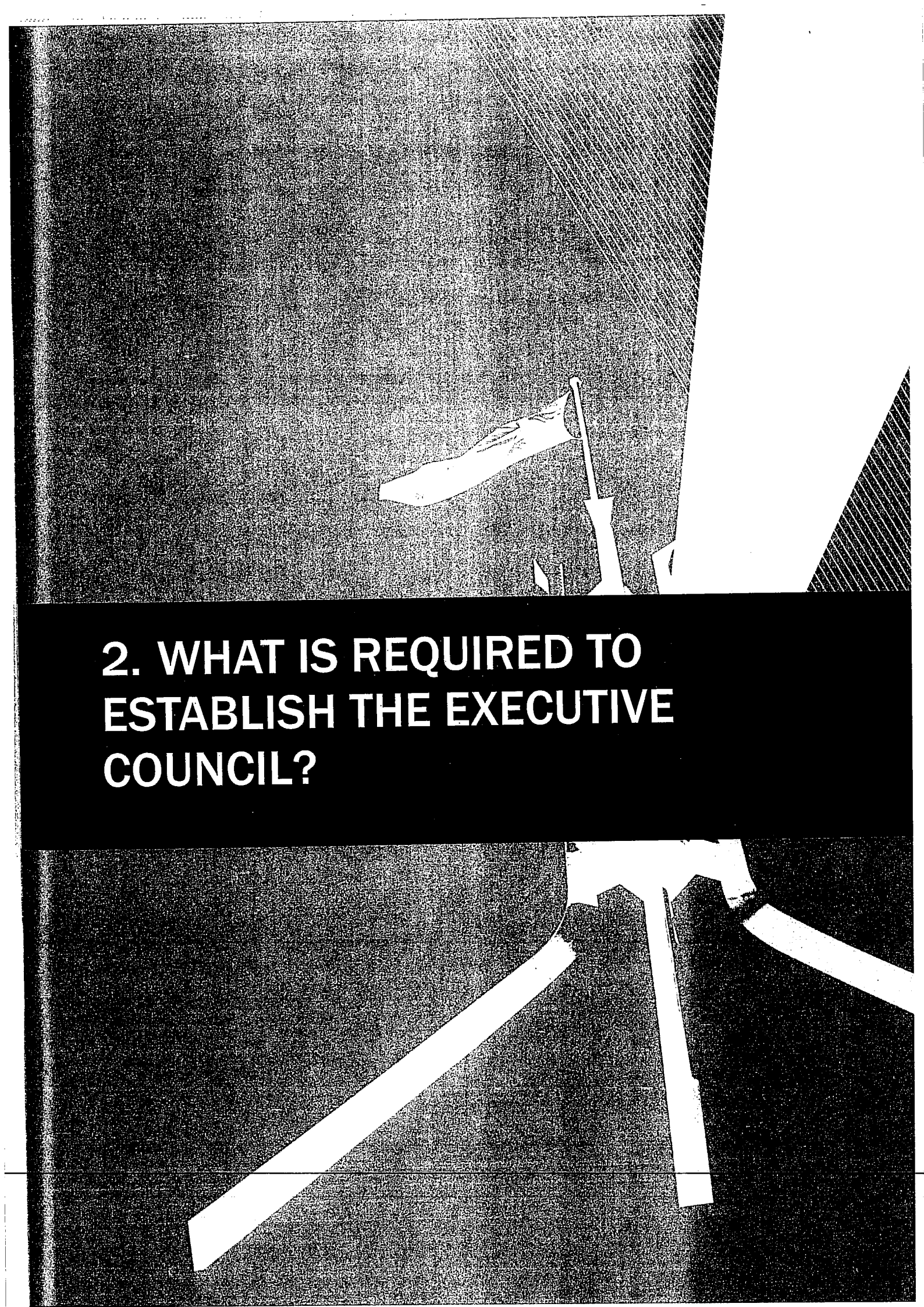
**1. WHAT DETAILS NEED TO BE  
FINALISED TO ESTABLISH  
YOUR CABINET?**

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, there are two features of Cabinet that we recommend to you.

b. Dealing with strategic priorities

c. Cabinet process improvements



## **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'.

Members of the Executive Council are chosen, summoned and sworn in by the Governor General and hold office at the Governor-General's pleasure. As with most powers of the Governor-General under the Constitution, the power to appoint and dismiss executive councillors is exercised on ministerial advice, in this case the advice of the Prime Minister.

In accordance with section 64 of the Constitution, all ministers of state (ministers and parliamentary secretaries) may be members of the 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 Executive Council generally meets every two weeks, more frequently if necessary, with meetings usually held at Government House, Canberra.

The express permission of the Governor-General is required for all meetings of the Council regardless of whether the Governor-General will be in attendance. The Vice President may preside 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 this approval.

The secretariat provides departments with advance notice of scheduled meetings (which are usually settled by the start of each calendar year), including the cut-off dates for draft and final documents. This advice is distributed through the Executive Council Liaison Officer network. The secretariat also liaises with ministers' offices in drawing up a ministerial attendance roster at the beginning of each year.

Once you have settled your Ministry, we will work with your office and with Government House to finalise the forward program of meetings for 2010.



**3. WHAT ACTIONS ARE  
REQUIRED TO ESTABLISH  
THE 43<sup>RD</sup> PARLIAMENT?**



a. Recall of Parliament and pattern of sitting for 2010

You have announced that you want the Parliament to sit within one month of the election. The recall of the Parliament is contingent on the return of the writs (see below). You also indicated that as soon as the Parliament can be recalled, legislation would be introduced to toughen people smuggling penalties and introduce temporary protection visas. As discussed in detail below, we suggest that a legislation program be determined as soon as possible to ensure that priority legislation is drafted.

**Earliest possible date:** For the last four elections, it has taken between 27 and 33 days for the eight state and territory House of Representatives writs and the writs for the election of territory senators to be returned, with Parliament resuming 38 days at the earliest after polling day. However, the Australian Electoral Commission 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 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.

**Latest possible date:** 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 five weeks of sittings, commencing on 5 October 2010, which as noted above is the earliest time the Parliament could safely resume, finishing on 2 December 2010. We note the first week of sittings under this option coincides with school holidays in New South Wales, South Australia, Western Australia and the Australian Capital Territory.

**Option 2** commences two weeks later on 19 October 2010 and provides for four weeks of sittings, finishing on 25 November 2010.

A decision to sit for a longer period could be taken either now or after the sittings were underway when progress with legislation could be judged.

Prorogation had the effect of cancelling the supplementary Budget estimates (SBE) hearings originally scheduled from 18 to 21 October 2010. In 1987, after an election in July, estimates hearings were held in October that year. SBE hearings were not held in 1998 or 2004, although the timing of the elections arguably left insufficient time for estimates hearings to be held before the end of the year.

b. Opening of the 43<sup>rd</sup> 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, election of the Speaker, Deputy Speaker and Second Deputy Speaker in the House of Representatives, as well as 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. Should Senator Hogg choose to resign as President, it will be necessary for the Senate to elect a new President on opening day. Although the Senate could vote to remove Senator Hogg as President, that would not be in accordance with the most recent precedent when, in 2007, Senator the Hon Alan Ferguson remained as President until 25 August 2008 following the election held in November 2007.

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 and usually involves contributions by ministers.

The Governor-General's speech should be, ideally, 30 minutes or less.

In order to allow preparation time, ministers' contributions to the speech will be required by 6 September 2010 (for a 5 October resumption of Parliament) or by 17 September 2010 (for a 19 October resumption of Parliament). We will have foreshadowed these requirements to departments ahead of the first ministry meeting.

c. Legislation program of 2010

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.

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.

- ii. *Election commitments requiring legislation action in 2010*

d. **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.

Figure 2: Parliamentary Sitting Pattern for 2011 (Option 1)

MONTH	OPTION 1	Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun	School Holidays
	A U T U M N							
February	24	25	26 Australia Day	27	28	29/30	All except QLD, NT	
	31				4	5/6	TAS, ACT	
	7	8	9	10	11	12/13	TAS	
	14 H/AE	15 H/AE	16 H/AE	17 H/AE	18	19/20		
	21	22	23	24	25	26/27		
	28	1	2	3	4	5/6		
	7	8	9	10	11	12/13		
	14 Canberra Day	15	16	17	18	19/20		
	21	22	23	24	25	26/27		
	28	29	30	31	1	2/3		
April	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	
	25	26	27	28	29	30/1	WA, SA, TAS, ACT	
May	2	3	4	5	6	7/8		
	9	10 Budget	11	12	13	14/15		
	16	17	18	19	20	21/22		
	23 H/BE	24 H/BE	25 H/BE	26 H/BE	27	28/29		
	30 H/BE	31 H/BE	1 H/BE	2 H/BE	3	4/5		
	6	7	8	9	10	11/12	TAS	
	13 Queen's Birthday	14	15	16	17	18/19	TAS	
	20	21	22	23	24	25/26		
	27	28	29	30	1	2/3	QLD, NT	
	4	5	6	7	8	9/10	NSW, VIC, QLD, NT	
June	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		
	1	2	3	4	5	6/7		
	8	9	10	11	12	13/14		
	15	16	17	18	19	20/21		
	22	23	24	25	26	27/28		
	29	30	31	1	2	3/4		
	5	6	7	8	9	10/11	TAS	
	12	13	14	15	16	17/18	TAS	
September	19	20	21	22	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	11 H/SBE	12 H/SBE	13 H/SE	14	15/16	WA, SA, ACT	
	17	18	19	20	21	22/23		
	24	25	26	27	28	29/30 CHOGM		
	31	1	2	3	4	5/6		
	7	8	9	10	11	12/13		
	14	15	16	17	18	19/20		
	21	22	23	24	25	26/27		
October	28	29	30	1	2	3/4		
	5	6	7	8	9	10/11		
	12	13	14	15	16	17/18		
	19	20	21	22	23	24/25		
November	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	11 H/SBE	12 H/SBE	13 H/SE	14	15/16	WA, SA, ACT	
	17	18	19	20	21	22/23		
	24	25	26	27	28	29/30 CHOGM		
	31	1	2	3	4	5/6		
	7	8	9	10	11	12/13		
	14	15	16	17	18	19/20		
	21	22	23	24	25	26/27		
	28	29	30	1	2	3/4		
December	5	6	7	8	9	10/11		
	12	13	14	15	16	17/18	QLD	

Both houses  
AE = Additional Estimates

H = House of Representatives only  
BE = Budget Estimates

✕ = date of Senate 2/3 cut-off  
SBE = Supplementary Budget Estimates

VOLUME C: WHAT ARE THE KEY GOVERNMENT PROCESSES TO ESTABLISH?

Figure 2: Parliamentary Sitting Pattern for 2011 (Option 2)

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

Both houses

H = House of Representatives only

AE = Additional Estimates

BE = Budget Estimates

< = date of Senate 2/3 cut-off

SBE = Supplementary Budget Estimates

VOLUME C: WHAT ARE THE KEY GOVERNMENT PROCESSES TO ESTABLISH?

i. *2011 Autumn Legislation Program*

Ministers will also need to submit legislation proposals 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.

e. *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. As the Deputy Chair of PBC under the last Coalition Government, you will recall that PBC broadly:

- determined the legislation program for each sitting
- endorsed the draft weekly program of legislation for introduction and debate in each house
- considered requests from ministers to the Prime Minister for the presentation of ministerial statements, 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 membership under the previous Coalition Government was as follows: Leader of the Government in the Senate (Chair), Leader of the House (Deputy Chair), Attorney-General, Deputy Leader of the Government in the Senate, Deputy Leader of the House, Manager of Government Business in the Senate and Parliamentary Secretary to the Prime Minister.

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.

f. Parliamentary reform

Your article in *The Spectator* of September 2009 *Our parliamentary process is under threat* canvassed the introduction of a time limit on questions and answers in the House of Representatives. On 1 August 2010, the Hon Christopher Pyne MP, in his capacity as Manager of Opposition Business, announced reforms to Question Time that would:

- provide time limits on questions and answers
- strengthen the definition of 'relevant' in the Standing Orders, and
- ensure Matter of Public Importance debates follow Question Time.

g. Legislation approval procedures

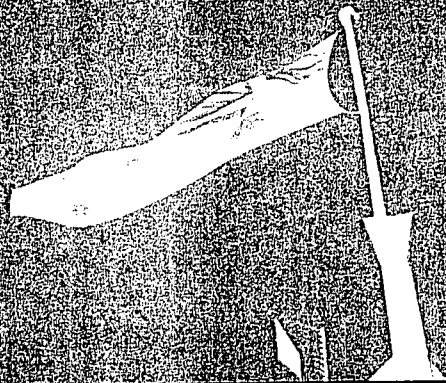
i. *Approval of legislation for introduction into Parliament*

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

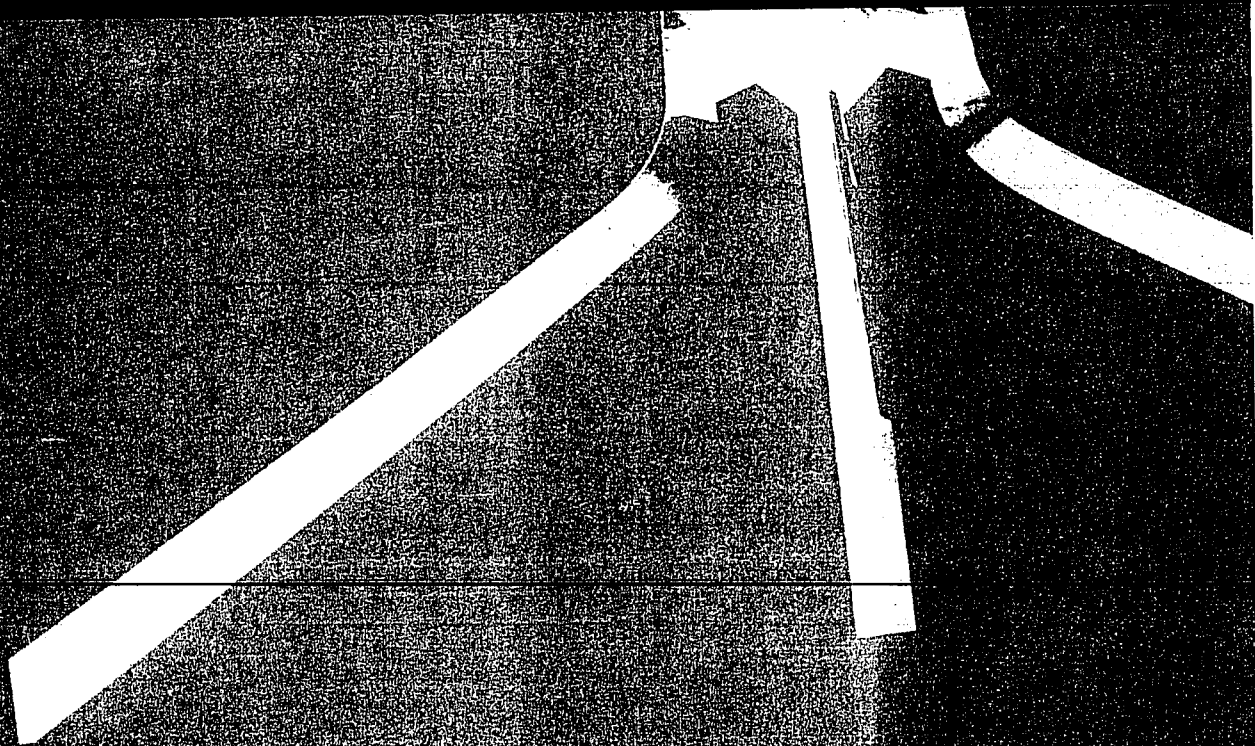
Under the Howard and Rudd Governments, this department, in consultation with the Office of Parliamentary Counsel, would check draft legislation for appropriate policy approvals and consistency with other government policies, ensuring that sufficient cross-portfolio consultation had taken place. The arrangements for dealing with this department's recommendations relating to the approval of legislation for introduction into parliament has varied, although it has always been the responsibility of a minister or parliamentary secretary in the Prime Minister's portfolio.

ii. *Approval of minor policy items*



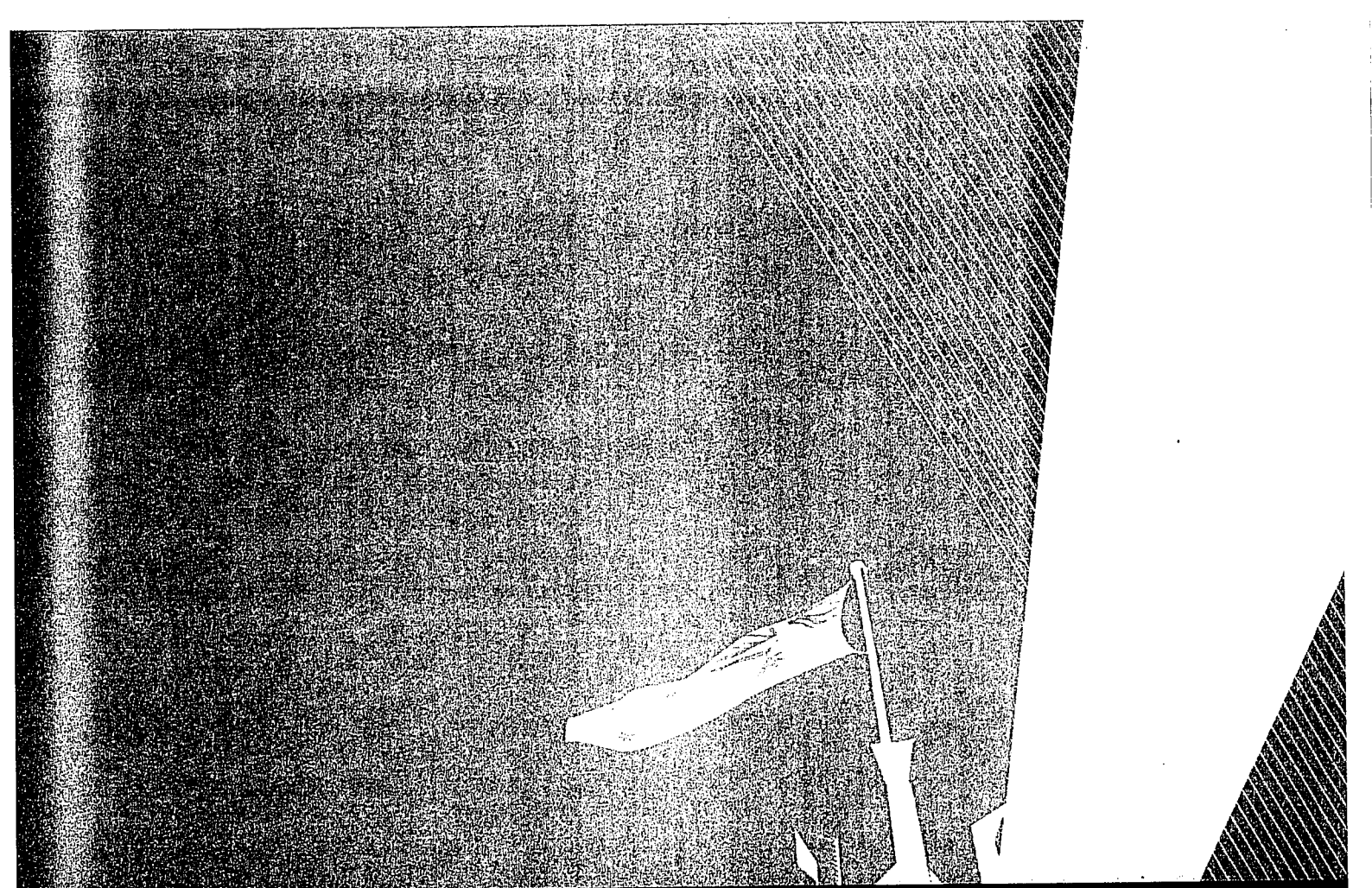


## **4. WHAT IMPROVEMENTS CAN BE MADE TO COMMUNITY ENGAGEMENT ARRANGEMENTS?**

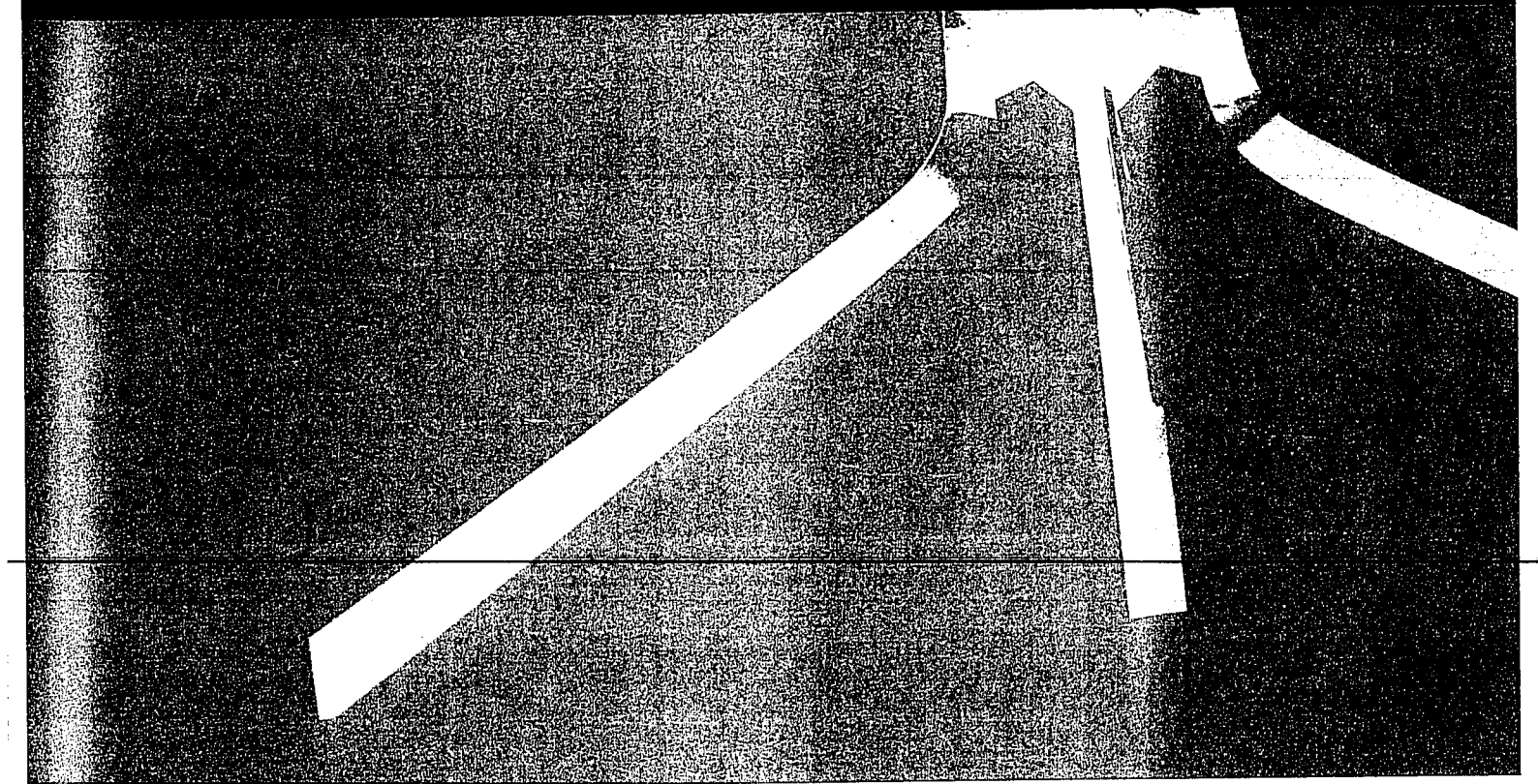


The Government has decided to discontinue the Community Cabinet program.

VOLUME C: WHAT ARE THE KEY GOVERNMENT PROCESSES TO ESTABLISH?



## 5. ATTACHMENTS



Attachment A: Proposed Cabinet committees

Outlined below are the proposed Cabinet committees, namely

This attachment seeks your agreement against each committee on the structure, membership and characteristics.

Attachment B: Anticipatory minute to establish effective Cabinet arrangements

VOLUME C: WHAT ARE THE KEY GOVERNMENT PROCESSES TO ESTABLISH?