

## **Premier and Cabinet Circular**

### **PC 015 – PROCEDURES FOR SUBMISSIONS TO CABINET SEEKING THE REVIEW OF PUBLIC WORKS BY THE PUBLIC WORKS COMMITTEE**



Effective from December 2021

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## Purpose

Ministers are encouraged to bring significant strategic issues, such as major investment decisions, to Cabinet and are required to bring matters to Cabinet that have not been included in a budget previously approved by Cabinet, in line with Treasurer's Instructions.

This circular deals with the referral of certain public works (that have materially departed from their approved scope and/or exceeded the approved budget) to Cabinet and/or the agency's Minister and reporting on public works to the Public Works Committee ('the PWC') following advice to Cabinet/and or the agency's Minister. It aims to assist Chief Executives in fulfilling their responsibility to ensure that complete, accurate and relevant information is provided in a timely fashion to Cabinet and/or the agency's Minister to the PWC.

Chief Executives remain responsible for ensuring that Ministers are in a position to refer public works to the PWC, in a form and with the information required by Ministers and the PWC. In particular, Chief Executives are responsible for ensuring that the necessary level of consultation has occurred (at a minimum) with the agencies as detailed in this Circular.

This circular sets out:

1. The role of Chief Executives vis-à-vis Cabinet and the PWC.
2. The definition of public works under the *Parliamentary Committees Act 1991*.
3. Initial consultation.
4. Advising Cabinet of reports to the PWC.
5. Submitting reports to the PWC.
6. Further information.

## The role of Chief Executives

Chief Executives must ensure that, in relation to the public works for which they are responsible, their agencies:

- Comply with the requirements of Cabinet Guides and Treasurer's Instructions.
- Comply with all statutory and other legal requirements, particularly the requirements of the *Parliamentary Committees Act 1991*.
- Comply with other relevant government policies and guidelines.
- Provide reports and evidence to the PWC in the format and manner it requests.

## Definition of public works under the *Parliamentary Committees Act 1991*

A 'public work' is defined under section 3 of the *Parliamentary Committees Act 1991*,

as any work that is proposed to be constructed where:

- the whole or any part of the cost of construction of the work is to be met from money provided or to be provided by Parliament or a State instrumentality
- the work is to be constructed by or on behalf of the Crown or a State instrumentality, or
- the work is to be constructed on land of the Crown or a State instrumentality.

By virtue of section 16A of the Act, public works are compulsorily referred to the PWC if the total amount of money provided by Parliament or a State instrumentality to be applied to construction of the work will exceed \$4 million (GST exclusive). In this case, no public monies may be expended on the actual construction of the public work until the PWC has presented its Final Report.

For the purposes of this circular and subsequent referral to the PWC, the definition of a 'public work' also extends to all capital works that are subject to Public Private Partnership arrangements.

## **Initial consultation**

With respect to the proposed public works, agencies should, at the earliest opportunity, seek the views of the Department of Treasury and Finance (DTF) in regards to economic and financial issues.

Advice should be sought from the Department for Environment and Water (DEW) on Ecologically Sustainable Development (ESD) considerations. Where an agency's ESD system has been endorsed by the DEW (and the endorsement is current), no separate consultation or Acquittal is required for the PWC submission. An agency's ESD system review and endorsement by the DEW is to occur at least every two years.

All agencies are to address ESD opportunities, risks and initiatives in the PWC submission (further detail is provided below).

The DTF and the DEW are encouraged to provide advice and Acquittal in a timely manner, to enable projects to progress without delay. DTF will advise the Agency as part of this process if Cabinet Notation of the PWC report is required.

If an agency has concerns as to whether a proposed public work is required to be referred to the PWC, early advice should be sought from the Crown Solicitor's Office (CSO).

While an Acquittal from the CSO is not specifically required for the PWC submission, agencies are expected to seek legal advice as appropriate from the CSO about any legal issues that might emerge throughout the course of the project, including after it has been referred to the PWC.

## Advising Cabinet of reports to the PWC

A Minister's intention to refer a proposal to the PWC must be first noted by Cabinet if the submission has materially departed from its approved scope and/or exceeded its approved budget. As part of the DTF Acquittal process, DTF will advise the agency if Cabinet Notation of the report is required prior to submission to the PWC.

The note must be submitted to Cabinet in advance of the report being sent to the PWC, and a copy of the report must be attached.

For all other public works, the Minister may refer the work directly to the PWC without notifying Cabinet. In this case, the Cabinet note is replaced with a submission to the Minister (accompanying Minute/Briefing). It is recommended that this document contain similar information to that described below for the Cabinet note. At a minimum it should contain enough information to allow advice from the Department of Treasury and Finance under Treasurer's Instruction 17, and enough information for the Minister to make an informed decision.

Where advice to Cabinet is necessary, two documents are required:

- A Cabinet note; and
- A PWC report.

### Cabinet Note

The note to Cabinet is a confidential document that enables executive government to be fully informed of the need for a public work, based on the evaluation of all options, value-for money, high-level risk management and other relevant information.

The note must comply with the general requirements for all Cabinet notes set out in the Cabinet Guide.

The body of the note must specifically draw Cabinet's attention to the following matters:

- Previous approvals in respect of the work;
- The underlying policy-based justification for the work;
- Any matters of substance relating to the work including any relevant professional advice; and
- The outcome of any consultation, including the outcome (or Acquittal) of any consultation that has occurred with:
  1. The DTF (on economic and financial issues) as part of the advice process.
  2. The CSO (on legal issues that have been identified and considered prudent to bring to Cabinet's attention).
  3. The DEW (on ESD initiatives) as part of the advice process, if required.

[The wording of this report detailing the summary of consultation outcomes should be

agreed with the agencies consulted but should not include copies of documentation between agencies and those consulted.]

- Any major or significant risks associated with undertaking the work and the strategies proposed to manage those risks; and
- Any necessary commitments or undertakings required in relation to these issues.

The note must be accompanied by a draft report to the PWC. The draft report must be attached as a complete and self-contained appendix to the note, ready to be sent to the PWC after being noted by Cabinet, and approval obtained from the agency's Minister to lodge the submission (once noted by Cabinet).

It is important to remember that the Cabinet note and the report to the PWC are separate documents written for different purposes. The two documents may therefore contain similar, but not identical information. For example, there may be risks of which Cabinet needs to be aware. The note should fully describe those risks and how they will be managed.

It is important to keep Cabinet notes relevant and succinct, and as such it is not necessary to repeat everything in the PWC submission in the Cabinet note, but rather agencies need only point to those key issues raised publicly in the PWC submission and those key non-public risks that Cabinet should also be aware of (including any departures from project scope and budget and how they are being dealt with).

### **PWC Report**

The report to the PWC is a public document, providing specific information to a bipartisan parliamentary committee on the government's planned construction of a public work, including its purpose, its design and appearance, how it will be built (including if a Public Private Partnership arrangement is proposed) and its estimated cost.

The report must contain all the information described in the following section.

In the example given above regarding the risks of the work, the PWC report should address the management of risks anticipated in delivering the proposed work itself. For example, if a building is to be demolished, there may be a risk that asbestos will be found. In this instance, the report to the PWC should indicate how this risk will be managed.

### **Timeline for Cabinet note and PWC report**

After Cabinet has noted the draft report to the PWC (for submissions required to be referred by the agency's Minister), Cabinet Office will return the agency's file and formally advise the responsible Minister of Cabinet's decision. The expected timeline

and process for review by Cabinet and the PWC should not be taken for granted.

Draft reports to the Committee should be referred to Cabinet as early as possible to avoid the possibility of delays and additional costs if Cabinet requires changes to the report.

Once the report has been noted, the responsible Minister should lodge the completed report (or the agency, but only in agreement and with approval of the agency's Minister) to the PWC.

## **Submitting reports to the PWC following advice to Cabinet**

### **Process**

All correspondence to the PWC must be forwarded to PWC only once the agency's, Minister has provided approval to do so.

This includes obtaining a separate approval (consultation) from the agency's Minister to lodge the report, once the agency file has been returned and it has been either approved by the Minister and/or noted by Cabinet.

### **Content of reports to the Public Works Committee**

All reports to the PWC should include information organised under the following headings:

#### Proposal

Brief description of the public work.

#### Background

Briefly describe the background to the public work, including any previous approvals.

#### Key aims

Succinct summary of the reasons for carrying out the public work.

#### Expected outcomes

Succinct description of what is expected to be achieved and the broad benefits of the public work.

#### Site and ownership details

This is a technical section. It should include a detailed description of the location of the public work, including certificate of title references for all affected land. Details of any Public Private Partnership arrangements should be provided here.

### Proposed solution

Detailed description of the technical solution and design proposal.

### Financial information

- Capital costs.
- Operating costs.
- Projected income.
- Impact on consolidated account.
- Public Private Partnership service payments (if applicable).

### Economic evaluation

An economic evaluation in line with Treasurer's Instructions and Guidelines on the Evaluation of Public Sector Initiatives, including:

- Consideration of the present and prospective public value of the work consistent with the provisions of Section 12C of the Parliamentary Committees Act,
- The Net Present Value of the work, assumed discount rate and estimated rate of return for the project.

### Project program

Key project milestone dates.

### Project procurement

A description of the tender and contract arrangements for consultants and contractors.

### Project management

An outline of the project management structures and processes for implementing the work. Include details of significant project risks of constructing the work (e.g., in an older building being demolished or renovated, this may be the risk of asbestos and having to deal with the costs of its removal. Or, where a work is to be fast-tracked there may be a risk of cost overruns due to the need to adopt unusual or innovative project management practices).

### Ecologically Sustainable Development (ESD)

Demonstrate how the work incorporates ESD initiatives and associated matters, for example:

- Identify the key ESD risks and opportunities, and the strategies that will be implemented to manage or realise them.



- Indicate if the agency has current DEW endorsement of their ESD system.
- For agencies without the DEW endorsement of their ESD system:
  - Summarise the advice of the DEW regarding the extent to which the design of the work appropriately addresses the key ESD risks and opportunities, and incorporates ESD initiatives. Include any recommendations made by the DEW regarding the incorporation of further ESD features.
  - Where any recommendation of the DEW has not been adopted in full, describe the reasons for variation or non-acceptance.

#### Non-Aboriginal Heritage status

State whether the works will impact upon any Non-Aboriginal Heritage listed sites or places and, if so, what measures will be implemented to mitigate this impact.

#### Native Title and Aboriginal Heritage

Identify the Native Title status of the project area and any formal notification requirements related to the proposed works.

Identify any potential impacts to Aboriginal Heritage sites, objects or ancestral remains. Identify what measures will be implemented to avoid or minimise these impacts.

#### Consultation and approvals

The degree of public and inter-agency consultation undertaken in relation to the work.

#### Cabinet approval

The final paragraph of the report to the PWC is to confirm to the PWC that proper procedures and administrative processes have been undertaken for the work. The following statement should be included in all submissions:

Following the necessary level of consultation, including with the Department of Treasury and Finance [and the Department for Environment and Water *if the agency's ESD system is not endorsed by DEW*], in accordance with DPC Circular 15, the Minister for [*insert Minister's title*] has approved the works be referred to the Public Works Committee.

Chief Executives must ensure that their agencies are in a position to provide this advice to the Committee by ensuring that they comply with all the requirements for consultation and analysis of the impacts and risks of the proposals that they send to Cabinet, in line with the Cabinet Guides.

## Appendices

Attach and list in the table of contents all documents relevant to the Committee's consideration of the work, e.g.:

- Clear and legible map/s or plan/s of the project area
- Economic evaluation;
- A list of the external consultants who will be involved in the work (if applicable); and
- Information regarding Public Private Partnership arrangements (if applicable).

[Note: This list is indicative only. What appendices are appropriate will depend on each type of work.]

## **Assistance from the Public Works Committee**

Further guidance on the Public Works Committee's requirements is available from the Committee's website.

## **Document control**

Review number:  
Review date:

Date of approval: December 2021  
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## **For more information**

Cabinet Office

E: [DPCCabinetOffice@sa.gov.au](mailto:DPCCabinetOffice@sa.gov.au)

W: [www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars](http://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars)