



MEDIA TALKING POINTS

Subject	National Archives of Australia Annual Cabinet Document Release
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Email	media@pmc.gov.au

Key messages

- The Department of the Prime Minister and Cabinet (PM&C) recently became aware that the 2020 transfer of a small number of 2003 Cabinet records did not take place as it should have due to apparent administrative oversights by PM&C, the National Archives of Australia (the Archives) and security agencies.
- These oversights were likely as a result of COVID-19 disruptions at the time.
- The additional records were located by PM&C on 19 December 2023.
- PM&C and the Archives jointly inspected the records on 22 December 2023, and they have now been transferred to the Archives.
- The Archives will review the additional records in consultation with relevant agencies, including security agencies, to ensure content released is compliant with exemptions in the *Archives Act 1983*.
- The Secretary of the Department has appointed Mr Dennis Richardson to undertake an independent review of the 2020 transfer process and confirm that all relevant records have been transferred to the Archives. Mr Richardson will complete his review by the end of January 2024.
- The Archives decide which documents are released and to whom – agencies and ministers do not have a role in this decision. For example, this year NSC records that were not also considered by Cabinet were not included in the public release.
- The identified records do not exclusively relate to the Iraq War.
- The department transferred the majority (334) of the 2003 Cabinet records in accordance with the usual process.
- The documents selected by the NAA for public release include 33 National Security Committee submissions that went to Cabinet.
 - A number of records relating to the Iraq War will be released on 1 January.
- Access to records not made available in the 2003 public release, can be requested from the Archives from 1 January 2024, when they come into the open access period.



- On receipt of the application, the National Archives will examine the records to determine whether they can be fully or partially released, or contain exempt information.

Background

- The Archives proactively release a selection of Cabinet documents within the open access period on 1 January each year.
- PM&C transfers all relevant Cabinet documents to the Archives on an annual basis. In accordance with the *Archives Act 1983*, documents may be transferred if they are 15 years or older.
- This is the normal process and allows time for appropriate consultation with relevant agencies to ensure content released is compliant with exemptions in the *Archives Act 1983*.

Q&A's

If asked: about the number of documents, types or files or contents

- The final transfer included a small number of files. These records were associated with a number of Cabinet Committees.
- The Archives is currently reviewing the records and will then commence their usual consultation and exemption process.
- Further details, including the types of files or their contents is a matter for the Archives.

If asked: Why were these documents transferred late? How did these documents get missed? What other details can you provide about why this occurred?

- These records were inadvertently missed in the usual transfer and this was likely as a result of COVID-19 disruptions at the time.
- The Secretary of the Department has appointed Mr Dennis Richardson to undertake an independent review of the 2020 transfer process and to confirm that all relevant records have been transferred to the Archives
- Mr Richardson is working through these questions as part of his review.

If asked: What are the steps that PM&C follows to transfer the documents?

- PM&C transfers all relevant Cabinet documents to the Archives on an annual basis.
- The *Archives Act 1983* allows for the transfer of Cabinet records that are at least 15 years old. Cabinet records may be considered for public release once they reach 20 years. The archive determines which records will be publicly released.



If asked: Is the Government actively trying to suppress this information?

- No. Upon realising the administrative oversight, PM&C immediately worked to transfer the relevant records to the National Archives.
- The Archives will review the additional records in consultation with relevant agencies, including security agencies, to ensure content released is compliant with exemptions in the *Archives Act 1983*.
- The Government has appointed Mr Richardson to oversee a review of the process and to ensure all records have been transferred in accordance with the *Archives Act 1983*, demonstrating a commitment to transparency.

If asked: Hasn't this failure corrupted the Archives release?

- No. The work of the Archives to release Cabinet documents is iterative – and every year the Archives makes new Cabinet documents available – and these routinely include documents older than 20 years.
- The Archives do not include all transferred documents in their annual release. Of the 334 2003 records previously transferred, 260 Howard Cabinet records, were selected for inclusion in the 2003 Cabinet records proactive release.
- Under the Archives Act, access may be requested to 2003 Cabinet records when they come into the open access period, from 1 January 2024.
 - Once the Archives receive an application, the record will undergo an examination to determine whether it can be released fully, partially or exempted in full.
 - Applicants will be notified of the outcome, and If a record is released in full or partially released, it becomes available for anyone.

If asked: Will Mr Richardson's review be released publicly?

- After Mr Richardson has completed the Review, the PM&C Secretary and Director General of the Archives will work with Mr Richardson on a public statement.

If asked: When will all the documents be publicly released?

- The Archives will review the additional records in consultation with relevant agencies, including security agencies, to ensure content released is compliant with exemptions in the *Archives Act 1983*.
- While the *Archives Act* exempts certain information for release, the Archives decides which exemptions are applied.
- Neither the Department, nor any minister, has any role in this decision.
- The Act exempts certain information from public release. These exemptions provide that access may be refused where release would:



- damage Australia's security, defence or international relations – s33(1)(a)
- reveal confidential information provided to the Australian Government by a foreign government or an international organisation — 33(1)(b)
- negatively affect Australia's financial or property interests, where releasing the information would not be in the public interest – 33(1)(c)
- be a breach of confidence – 33(1)(d)
- interfere with the law – 33(1)(e)(i)
- provide details about a person who has provided confidential information to the Australian Government or a witness under the Witness Protection Act 1994 – 33(1)(e)(ii) and 33(1A)
- endanger the life or safety of any person – 33(1)(e)(iii)
- prejudice the fair trial of a person – 33(1)(f)(i)
- disclose law-enforcement methods – 3(1)(f)(ii)
- threaten public safety – 33(1)(f)(iii)
- unreasonably disclose information about someone's personal affairs – 33(1)(g)
- threaten the commercial value of trade secrets or other information – 33(1)(h)
- damage a person's lawful business or professional affairs 33(1)(j)
- breach legal professional privilege and disclosure would not be in the public interest – 33(2)
- release information which cannot be disclosed under a Commonwealth, state or territory taxation law – 33(3).

If asked: Will all National Security Committee records be released?

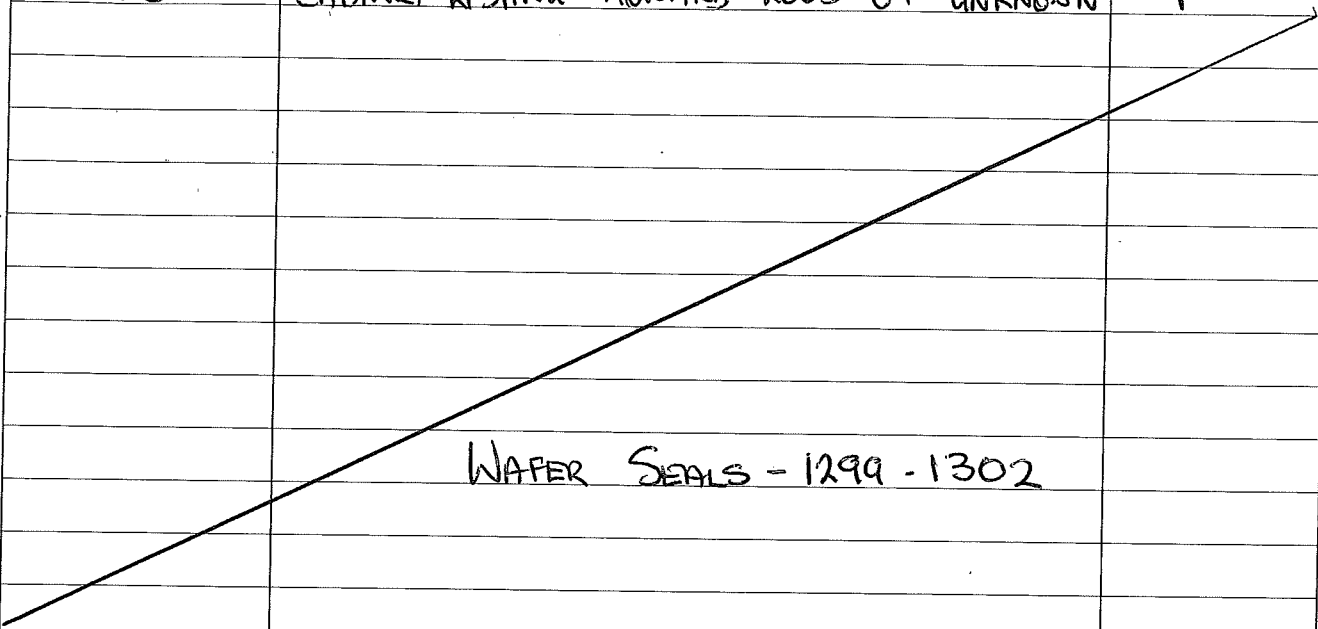
- The Archives decide which documents are included in their annual release – agencies and ministers do not have a role in this decision.
- The Archives advised that for the 2003 Cabinet release only National Security Committee submissions that have also been to Cabinet have been included.

Department of the Prime Minister and Cabinet - Records and Information Management

Despatch Advice for Classified Material

3056

TO: RETURNS OFFICER
 NATIONAL ARCHIVES OF AUSTRALIA
 30 VICARS ST MITCHELL ACT 2911 - s 22(1)(a)(ii)

Box/File Number	File Title / File Number or other Description of Contents	Number of items
CD	CABINET LISTING- HOWARD 2003-04-CLASSIFIED	1
CD	CABINET LISTING- HOWARD 2003-04-UNKNOWN	1
		
WATER SEALS - 1299 - 1302		
Signature s 22(1)(a)(ii)	Printed Name s 22(1)(a)(ii)	Date/Time 6.11.2020

Department of the Prime Minister and Cabinet - Records and Information Management

Receipt Acknowledgement

3056

Despatch and Return to Sender Immediately

Return to: DEPARTMENT OF THE PRIME MINISTER AND CABINET
 RECORDS AND INFORMATION MANAGEMENT
 PO BOX 6500
 CANBERRA ACT 2600

I acknowledge receipt to the material listed above

Recipient

Signature	Printed Name	Date
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2003 Cabinet release talking points

About the annual Cabinet release event

What is the purpose/value of the embargoed Cabinet release?

- National Archives of Australia conducts an annual embargoed release of Cabinet records to accredited members of the media.
- This event allows media time to analyse the material and prepare content for broadcast and publication from 1 January 2024, when the 2003 Cabinet records reach the open access period under the *Archives Act 1983*.

What is being released from 2003?

- A selection of key documents considered by the Howard Cabinets in 2003 is available under embargo today.
- Early this year, the media had embargoed access to a complete listing of titles of 2003 Howard Cabinet records and from that identified documents of interest for examination.
- There were 334 listed 2003 Howard Cabinet records and of these, 260 Cabinet records were selected to be part of the 2003 Cabinet records proactive release.

Are all the records selected for examination available today?

- No. We are yet to conclude examination of 14 records. National Archives is awaiting advice from other agencies on these records and aims to have decisions made from 1 January 2024.
- Agencies to provide advice are ASIO and AFP.
- Of the 260 Cabinet records selected:
 - 228 records are open in full
 - 18 records are open with exemption
 - 0 records are closed in full
 - 14 records are withheld pending agency advice

How do I access the remaining Cabinet records not made available on 1 January?

- Under section 40 of the Archives Act, anyone can request access to 2003 cabinet records when they come into the open access period (from 1 January 2023).
- On receipt of the application, the records will undergo examination to determine whether they can be fully or partially released or contain exempt information.
- We will notify the applicant of the outcome.

What is exempt from public access in the 2003 Cabinet records?

- National Archives examines records to determine whether they can be fully or partially released, or contain exempt information.
- The exemptions applied to the 2003 Cabinet records are detailed in the Statement of Reasons within the record.
- Some exemptions are very minor and involve the deletion of a few words or sentences. Others are more substantive.

- Information that has been exempted from public release falls into the following categories:
 - Information relating to Defence strategy, plans and capabilities
 - Information that could affect Commonwealth relations with the current government of a foreign country
 - Information provided by a *legal practitioner* relating to matters which could still be considered confidential
 - Information which could subject a third party to legal proceedings.
 - Information which could prejudice the legal position of the Commonwealth in the event of future legal proceedings

How does the number of exemptions this year compare with previous years?

- The number of Cabinet records with exemptions this year (18) is slightly more than the number applied to the 2002 Cabinet records last year (16). However, no records are closed in full.

Who makes the decision to withhold records from public access?

- In accordance with the provisions of the Archives Act 1983, National Archives decides what is released for public access and what is exempt information.
- In some cases, we seek advice from agencies on sensitivities which our access examiners consider when assessing records for public release.

Have agencies applied pressure on National Archives to withhold information from public access?

- No. We have well established procedures for obtaining advice from agencies.
- Advice must be consistent with the provisions of the Archives Act. National Archives takes this advice into account when making an access decision.
- If there is an appeal against the exemption of material, National Archives is the respondent and is required to defend the exemption before the Administrative Appeals Tribunal.

How do I seek review of any of the exemptions?

- To request a review, anyone can submit an application for access on or after 1 January 2024. The review and application processes are the same.
- If we confirm the decision to withhold information from public access as a result of the application, the applicant is entitled to seek internal reconsideration of our decision.
- If a Cabinet record has not been examined as part of the embargoed Cabinet release, anyone can lodge an application for access to a particular record from 1 January 2024.

Determining access status of records

How does National Archives determine whether a record is open or closed?

- Access examiners are delegated under the *Archives Act 1983* to examine records and make decisions about whether they can be released.
- Access examiners assess the content of a record and consider the guidance in the Access Examination Manual and the [Access Examination Policy – personal, business and professional affairs of a person | naa.gov.au](https://naa.gov.au/access-examination-policy) in order to make a decision on whether a record will be open, open with exception or closed.
- Sometimes advice is also sought from agencies.

Why would a record be closed?

- Records may be closed if they contain information that, if disclosed, could reasonably be expected to cause damage to Australia's security, defence or international relations under section 33(1)(a) of the Archives Act. We are unable to discuss the contents of the record.

Can we access a closed record?

- Under section 40 of the Archives Act, anyone can request access to 2003 cabinet records when they come into the open access period (from 1 January 2023).

National Security Committee of Cabinet

Does National Archives hold records of the National Security Committee of Cabinet?

- The National Security Committee (NSC) is a Committee of Cabinet that considers the highest-priority, highest risk and most strategic national security matters of the day. Decisions made by the NSC do not require the endorsement of Cabinet itself although particular matters may be referred to Cabinet for endorsement.
- Records of Committees of Cabinet, including the NSC, are covered by the Archives Act 1983.
- National Archives holds some records from the NSC and its predecessors following the establishment of the National and International Security Committee (the predecessor of the NSC) by the Fraser Government in 1977.
- National Archives does not hold records for 2003 documenting NSC decisions relating to the Iraq War.
- While some NSC records are not currently in the Archives' custody, they can be requested for access under the Archives Act. National Archives would be happy to facilitate requests for access (following the currently existing processes).
- **FOR CONTEXT ONLY:** Dr Lee notes in this year's Cabinet essay, and several journalists have commented previously, about the absence of a Cabinet submission on going to war in Iraq. Dr Lee also points to former Prime Minister Howard's indication that the issue was being handled by the NSC.

What is National Archives doing to facilitate the transfer of NSC and other Cabinet Committee records into custody?

- National Archives is working with the Department of the Prime-Minister and Cabinet to finalise the updated records authority for records produced by the Cabinet processes, including the National Security and other Cabinet committees. This will enable future work between the Archives and the Department to establish regular transfers of these important records. The current records authority covering Cabinet records was issued by National Archives in 1988.
- While this work is still in progress, records of Cabinet and its Committees should still be transferred to National Archives.

Records of Dr Peter Hollingworth

Does National Archives hold records of correspondence between Dr Peter Hollingworth and Buckingham Palace from his period as Governor-General?

- On 29 May 2020, the High Court of Australia determined that certain correspondence between Her Majesty Queen Elizabeth II and former Governor-General Sir John Kerr are considered Commonwealth records for the purposes of the Archives Act.
- Following the High Court's decision, the then National Archives' Director-General determined that the correspondence between former Governors-General and Her Majesty are also 'Commonwealth records' which are subject to the public access provisions of the Act.
- National Archives holds 44 archival series (approximate 10 shelf metres) of personal records transferred from Dr Hollingworth.
- Since the High Court's decision, there have been several applications for access to similar correspondence between Her Majesty and other former Governors-General including for Dr Hollingworth
- In October this year, National Archives brought correspondence between Her Majesty and Dr Hollingworth into custody. These records are in series M4595. Seven records from Dr

Hollingworth's term as Governor-General have been digitised and are available for public access on RecordSearch.

- National Archives continues to work with the Office of the Official Secretary of the Governor-General to bring more records of this nature into our custody.

Contact information

The following National Archives staff will be on call over the Christmas and New Year period:

s 22(1)(a)(ii) Acting ADG Access and Public Engagement

Ph. s 22(1)(a)(ii)

e. s 22(1)(a)(ii) [@naa.gov.au](mailto:s 22(1)(a)(ii)@naa.gov.au)

s 22(1)(a)(ii) Acting Director Communications, Marketing, Partnerships and Events

Ph. s 22(1)(a)(ii)

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Media

Ph. 0417 247 157



Official

UNDER EMBARGO UNTIL 1 JANUARY 2024

Media Release

Transfer of 2003 Cabinet records to the National Archives of Australia

Statement

In 2020 the Department of the Prime Minister and Cabinet (the Department) transferred 2003 Cabinet records, including those prepared for the National Security Committee of Cabinet, to the National Archives of Australia (the Archives).

This is the normal process and allows time for appropriate consultation with relevant agencies to ensure content released is compliant with exemptions in the *Archives Act 1983*.

The 2020 transfer of a small number of additional 2003 Cabinet records did not take place as it should have due to apparent administrative oversights by the Department, the Archives and security agencies. These oversights were likely as a result of COVID-19 disruptions at the time.

The additional records were located by the Department on 19 December 2023, and the Department and the Archives jointly inspected the records on 22 December 2023. These additional records have now been transferred to the Archives.

The Archives will review the additional records in consultation with relevant agencies, including security agencies, to ensure content released is compliant with exemptions in the *Archives Act 1983*.

The Secretary of the Department has appointed Mr Dennis Richardson to undertake an independent review of the 2020 transfer process and confirm that all relevant records have been transferred to the Archives. Mr Richardson will complete his review by the end of January 2024.

Only the Archives decides which documents are released and to whom. Neither the Department, nor any Minister, has any role in this decision.

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Review of 2003 Cabinet records transfer to the National Archives of Australia

Terms of Reference

The Department of the Prime Minister and Cabinet has appointed Dennis Richardson to conduct a review of the 2003 Cabinet records transfer process.

The Department recently became aware that a small number of 2003 Cabinet records were not transferred to the National Archives of Australia in 2020, likely due to COVID related disruptions. While work commenced immediately to rectify this, the review will:

1. Examine the circumstances surrounding the 2020 transfer of Cabinet records, and
2. Confirm all 2003 Cabinet records have been transferred to the National Archives of Australia.

The review will report to Professor Glyn Davis, Secretary of the Department of the Prime Minister and Cabinet and Mr Simon Froude, Director General of National Archives of Australia.

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2003 Cabinet Records Media Guide

UNDER EMBARGO UNTIL 1 JANUARY 2024

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Media contact

National Archives of Australia Media Team

0417 247 157 | media@naa.gov.au

1. Embargoed release of 2003 Cabinet records

National Archives of Australia (National Archives) has provided accredited media representatives with embargoed access to key records considered by the Howard Cabinet in the year 2003 in advance of their public release on 1 January 2024, under the *Archives Act 1983*.

The annual embargoed release of Cabinet records by National Archives occurs with the approval of the Cabinet Office, which is responsible for the Cabinet records of previous governments. The release of Cabinet records to the media in advance of their public release is a privilege rather than a right and is therefore subject to embargo.

Embargo conditions

Information contained within the 2003 Cabinet records (including their titles and images) briefing material provided by National Archives, and proceedings of the Cabinet records release event 5 December 2023 (including interviews) are under embargo until 1 January 2024.

The embargo allows media time to analyse the material and prepare content for broadcast and publication from 1 January 2024, when the 2003 Cabinet records reach the open access period under the *Archives Act 1983*.

National Archives expects all journalists who access the 2003 Cabinet records during the embargo period to abide by the embargo conditions. Compliance with the embargo provisions will be closely monitored.

Please direct any questions about embargo conditions to National Archives' Media Team: 0417 247 157 | media@naa.gov.au.

Speakers

The Hon Robert Hill AC

Robert Hill was elected to the Senate for South Australia, representing the Liberal Party, at the 1980 Federal election.

In 1996, Hill became Leader of the Government in the Senate. He held several ministerial portfolios in the Howard government including Minister for the Environment (1996-1998), Minister for the Environment and Heritage (1998-2001) and Minister for Defence (2001-2006).

In January 2006, he announced his resignation from the Ministry and as Leader of the Government in the Senate. Soon after, he was appointed Permanent Representative to the United Nations for Australia, serving until May 2009. In his post political career, Hill has held positions as Chancellor of the University of Adelaide, Chairman of the Australian Carbon Trust and Adjunct Professor in Sustainability at the US Studies Centre at the University of Sydney. In 2002, Hill was appointed a Companion of the Order of Australia.

Associate Professor Dr David Lee

Associate Professor David Lee joined the University of New South Wales in 2019 and before that was based in the Department of Foreign Affairs and Trade for 24 years.

He has published widely on Australian history. His most recent books include *Australia and the World: International Relations and Global Events since Federation* (Melbourne: Circa, 2022) and *John Curtin* (Redland Bay: Connor Court, 2022).

He is also author of *The Second Rush: Mining and the Transformation of Australia* (Redland Bay: Connor Court, 2016) and *Stanley Melbourne Bruce: Australian Internationalist* (London and New York: Bloomsbury, 2010).

He teaches courses on World Economic History and the Cold War, is Chair of the Commonwealth Working Party of the Australian Dictionary of Biography and has been appointed National Archives of Australia, Cabinet historian, 2022-23.

Accessing the 2003 Cabinet records under embargo

Copies of selected Cabinet records from 2003 have been made available to journalists under embargo via secure file transfer. To locate a particular record, match the Item ID number in the table to the PDF file title.

Control Symbol	Title	Item ID	Status
JH2002/18	Cabinet Decision JH02/0018/SM Authorisation for continuation of funding in relation to unauthorised boat arrivals to 30 June 2002 Without Submission	203019300	Open
JH2002/20	Cabinet Submission JH02/0020 Reference copy of Counter-terrorism priorities for investigation, aviation security and border protection Decision JH02/0020/NS	203019724	Open

Photographs

High-resolution images of photographs from National Archives' collection relating to issues, events and personalities of 2003 are provided by secure file transfer. These images are accompanied by a document with image captions and suggested citations.

Acknowledgement of National Archives

Embargoed access to the 2003 Cabinet records is contingent on content clearly acknowledging National Archives as the source of the material.

This can be achieved by including a statement such as 'National Archives of Australia today released Cabinet records from 2003'.

Further information

Enquiries about access to Cabinet and other records may be submitted online to National Archives' [National Reference Service](#).

For further information about Cabinet and its records, see [National Archives' website](#).

Howard government Cabinet submissions, memoranda and their related decisions are held in Commonwealth Record Series A14370.

For further information about John Howard and his government, see [National Archives' website](#), and the Parliamentary Handbook of the Commonwealth of Australia 2014.

Some ministers and senior public servants created or accumulated collections of records in the course of their work and some of these 'personal records' collections have been donated to, or deposited with, National Archives. Check [RecordSearch](#) for details of personal records collections held by National Archives for members of the Howard government.

Records considered by the Howard Cabinet of 2003 that are not available as part of this media kit – including the remaining submissions, memoranda and decisions, and Cabinet Office files – will reach the open access period on 1 January 2024. From that date, applications to access these records may be made via [RecordSearch](#) on National Archives' website.

2. Essay

The 2003 Cabinet Papers in Context

Introduction

The Howard government's decision to participate in the Iraq War dominated Australian politics in 2003. While Iraq was the dominant issue that year, the Cabinet papers on this subject are sparse, pointing to the primacy that the National Security Committee (NSC) of Cabinet had achieved in the domain of national security at that time. Nonetheless, because of its importance, the Iraq War is dealt with in its own section in this paper. Beyond Australia's participation in that conflict, there are many more papers on diverse issues relating to Australia's national security, and to foreign affairs, trade and defence policies. All of these issues are covered in the first two sections below.

Most of the 2003 Cabinet papers deal with manifold aspects of domestic policy, which will be discussed in the remaining five sections: economic, social welfare, health and immigration policies; climate change, energy and the environment; transport, infrastructure, communications and legal issues; rural and regional issues; and Indigenous policy.

Iraq: the Cabinet submission that never was¹

The most important decision John Howard's Cabinet made in 2003 was the one to commit Australia to the US-led military intervention in Iraq, which was an extension of the 'war on terror' that had been waged since 2001.² The invasion of Iraq began on 19 March (air) and 20 March 2003 (ground). Hostilities lasted about a month and included 26 days of major combat operations. Forces from the United States and its close allies – the United Kingdom, Australia and Poland – participated. This was seen as a 'coalition of the willing' rather than the sort of broad-based group, acting under Chapter VII of the United Nations Charter, that expelled Iraq from Kuwait in 1991.³

The early stage of the war ended on 1 May 2003 when President George W Bush declared the end of major combat operations in his 'Mission Accomplished' speech.⁴ Afterwards, the Coalition Provisional Authority (CPA) was established as the first of several transitional governments in Iraq. According to Bush and UK Prime Minister Tony Blair, the coalition aimed 'to disarm Iraq of Weapons of Mass Destruction [WMD], to end Saddam Hussein's support for terrorism, and to free the Iraqi people'.⁵ In 2020 US historian Robert Draper painted a portrait of the Bush administration as driven by 'fear, imagination, ideology, and blind idealism rather than truth seeking – all to justify a decision that would result in hundreds of thousands of deaths and a flood tide of chaos in the Middle East that shows no signs of ending'.⁶

Writing in 2013, the Australian prime minister, John Howard, recalled that 'Australia's decision to join the Coalition in Iraq was a product both of our belief at the time that Iraq had WMDs, and the nature of our relationship and alliance with the United States'.⁷ The US war aim quickly crystallised into that of 'regime change'. Britain and Australia, however, continued to emphasise the objectives of disarming Iraq of the WMD that US intelligence and US diplomats wrongly insisted that Iraq possessed.⁸ As army historian Albert Palazzo observed: 'Once the war began, ADF [Australian Defence Force] forces ... did so under US operational command and by default in support of [the US] desire to overthrow Saddam, no matter the sophistry of the more limited Australian intent'.⁹ For

Palazzo, '[i]mproving the alliance was [Australia's] main goal: a logical if not proper goal, and one that was not explained to the Australian people'.¹⁰

The 2003 Iraq War differed from the first Gulf War, which was undertaken in response to Iraqi aggression against Kuwait and mandated by the UN Security Council.¹¹ The United Nations Charter of 1945 allowed only two exceptions to its general prohibition of the use of force: self-defence against an armed attack and a definite decision on the part of the UN Security Council. The secretary-general of the United Nations, Kofi Annan, and other authorities regarded the 2003 Iraq War as illegal because of the absence of these criteria.¹² Consonant with this position, the Australian Labor Party (ALP) Opposition Leader, Simon Crean, addressed the parliament on 5 February 2003, arguing that Australian troops should not be sent to Iraq in advance of a UN mandate.¹³

What do the Cabinet documents tell us about Australia's decision on the Iraq War? One submission analyses the implications of the post-conflict situation in Iraq for Australia's migration and refugee programs.¹⁴ There is also a short minute dated 1 April 2003 in which Cabinet 'noted an oral report by the Prime Minister on the progress of military operations in Iraq and the contribution made by the Australian Defence Force'.¹⁵ There was no submission to Cabinet on costs, benefits and implications of Australia's entry into the war. This was notwithstanding the fact that the Iraq commitment was in Howard's words, 'the most controversial foreign policy decision taken by my Government in the almost twelve years it held office'.¹⁶ This indicates that Cabinet's National Security Committee (NSC) was the locus of decision-making on the war.¹⁷

There is a Cabinet minute, dated 18 March 2003, based on two oral reports from Howard. The prime minister recalled that the NSC had been meeting regularly on Iraq, but that he 'wanted full Cabinet endorsement of a final decision to commit the invasion'.¹⁸ One of his oral reports to Cabinet outlined his extensive discussions with Bush, and the other was his notification to Cabinet of a request from the US President, received on the morning of 18 March 2003, which asked 'that Australia participate in military action by a coalition to disarm Iraq of its weapons of mass destruction and advice that it was the intention of the President to issue a final ultimatum to Iraq shortly'.¹⁹ Cabinet noted that Australia's goal in 'participating in any military enforcement action would be disarmament of Iraq's weapons of mass destruction'.²⁰ Howard provides no details of the Cabinet discussion but records that there was no surprise or dissent in a subsequent meeting of the two Coalition parties.²¹

The Australian forces committed to Iraq would consist of ADF elements pre-deployed to the Middle East to take part in military enforcement action against Iraq; ADF elements deployed to the Middle East as part of the Multinational Interdiction Force and maritime surveillance forces deployed as part of Operation Slipper (the ADF contribution to the war in Afghanistan made in 2001); and ADF personnel deployed to the Middle East with the forces of other coalition countries.²² Just as Australia joined the Vietnam War in 1965 based on a request from the US government, which arranged a request from the South Vietnamese government, so it participated in the second Iraq War after a request from the US president rather than as a result of a definite decision of the UN Security Council, which declined to pass the necessary resolution.²³

While the United States was keen for Australia to provide a reconnaissance battle group of about 2,000 men to secure the western flank of the US 1st Marine Division driving towards Baghdad, Howard offered instead a niche capability of special forces troops. For some critics, such as Paul Barratt and Paul Brereton, who led the inquiry into Australian Special Forces in Afghanistan, the ADF should not have supported what was a political rather than military decision to rely on special forces in Iraq.²⁴

Several Australian journalists have already commented about the absence of a Cabinet submission on the Iraq War.²⁵ In 2004 Robert Garran wrote:

Howard acknowledges that there was no cabinet submission on the costs and benefits of going to war in Iraq. The Department of Foreign Affairs and Trade (DFAT) was not asked for, and did not offer, any advice on the pros and cons of supporting American intervention. This reinforces the view that Howard's decisions on Iraq were political, not based on a dispassionate appraisal of the threats it posed.²⁶

At that time, Howard did not dispute Garran's account, but indicated that the issue was being handled by the NSC.²⁷ Professor Patrick Weller sees the NSC as the most powerful of three principal Cabinet committees. These were the National Security Committee (NSC), the Expenditure Review Committee (ERC) and the Parliamentary Business Committee.²⁸ The NSC consisted of senior ministers whose discussions ranged over defence, security, intelligence matters and some foreign issues. Senior officials – the Chief of Defence Force, the secretaries of Defence, Prime Minister and Cabinet, Foreign Affairs and Trade, and the heads of the Office of National Assessments (ONA) and the Australian Security Intelligence Organisation (ASIO) – attended all meetings, with ministers on one side of the table and officials on the other.²⁹ In 2002–03 there were 64 meetings of the NSC/Secretaries Committee on National Security and 250 submissions; in 2003–04 there were 32 such meetings and 206 submissions. The large jump in the business of the NSC in 2003 coincided with the Iraq War.³⁰ Howard called his creation 'the most effective whole of government arrangement with which I've been associated as prime minister'.³¹ Weller explains how the NSC worked:

Except on rare occasions where Howard may wish to have a full cabinet discussion of an issue before the NSC, the committee's decisions stand on their own as cabinet decisions, unlike those of the ERC, which are referred to a 'budget cabinet' meeting for final discussion and ratification.³²

The NSC's connection with the war-making power was described to parliament by Brendan Nelson, Robert Hill's successor as Minister for Defence. Nelson explained the procedures for war-making in the 2000s in this way:

It is the NSC that considers, debates and resolves to commit Australian defence personnel to domestic or overseas deployments. The full cabinet then considers the advice and recommendation of the NSC. Once a position is adopted, the Opposition leader, members of the full government executive and its back bench are briefed.³³

What discussions took place in the NSC on Iraq in 2003 must await publication of the relevant volumes of the official histories of Australian operations in Iraq and Afghanistan and public requests for access to those Cabinet committee documents under the *Archives Act 1983*. Cabinet was content that it had 'reached its decisions in accordance with its Executive responsibilities under the Constitution' via the Cabinet minute of 18 March.³⁴ There was no discussion of the modalities of executing Cabinet's decision other than that a draft resolution would be proposed in the House of Representatives and the decision would be conveyed to Bush.

As well as having a powerful NSC, Howard worked with a different kind of public service than the Commonwealth Public Service which operated during the days of Ben Chifley and Robert Menzies, in the era of the 'seven dwarfs'.³⁵ Howard built on reforms to the public service in the years of the Hawke Labor government (1983–91) that had made provision for closer supervision of departments by ministers and for renewable fixed-term

appointments for departmental secretaries.³⁶ In 1999 was added the *Public Service Act 1999*, under which departmental secretaries would be appointed, and could be terminated, by the prime minister rather than by the governor-general. With these changes came a more expansive conception of the role of the prime minister and his or her prerogatives.

For former senior public servant Paul Barratt, 'Cabinet [under John Howard] was not the place where big decisions were made; the decisions to invade Afghanistan and Iraq, and not to ratify the Kyoto Protocol, were made by Howard, without consulting Cabinet and without the benefit of public service advice'.³⁷ Barratt's assessment in relation to matters of defence and national security is corroborated by Ric Smith, Secretary of the Department of Defence (2002–06), who informed journalist Paul Kelly that:

The message from ministers by ... [November 2002] was that they did not want strategic advice from the Defence Department. This reflected a conviction that ministers knew the issues and would take the decisions for or against war.³⁸

Ashton Calvert, Secretary of DFAT (1998–2005), concurred. Calvert recalled that he did not regard it as his duty to question the Howard government's Iraq decision.³⁹ Permanent heads of departments from earlier times, such as Sir Arthur Tange and Sir Frederick Shedden, had the advantage of security of tenure in providing advice to government in ways that might have been unwelcome.⁴⁰

That the Iraq commitment was made without weighing the pros and cons of one or more submissions, but rather by reaching a decision without a submission being made, raises issues worthy of comment. One relates to the perception that, up to the moment of the Iraq War, the Australian Government had not made up its mind about whether to go to war. In Howard's statement to the House of Representatives in February 2003, he repeated that the government had not made a final decision to commit to military conflict.⁴¹

The reality, argued Graeme Dobell, was that 'the commitment had long since been made; the Australian military was deeply involved in US planning for the war and Australia was in'.⁴² Professor Hugh White, a former Deputy Secretary in the Department of Defence, concurred, arguing in 2004 that:

In the weeks after George Bush put the invasion on the agenda with his 'axis of evil speech' in January 2002, Australia clearly indicated it would be willing to join. Of course, no formal commitments were made until the eve of battle – they never are. But the key political decision had already been taken.⁴³

Confining Iraq decisions to a core group of ministers and senior public servants had its advantages. One was in managing legal and constitutional questions. Until the Second World War, the war power was a prerogative of the Crown, exercisable on the advice of the British ministers but also committing the empire's self-governing dominions and colonies.⁴⁴ This was until John Curtin's wartime Labor government insisted that the war power for Australia must be exercisable on the advice of Australian ministers to the governor-general.⁴⁵ Legal scholars have recently discovered that Howard originally planned to take the matter to the governor-general 'for noting', but did not do so after then Governor-General Peter Hollingworth sought the views of the attorney-general about relevant issues of international law.⁴⁶ According to Charles Sampford and Margaret Palmer,

the Governor-General's scrutiny was the only independent scrutiny available because the legality of the decision to go to war was not a matter that could be determined by the High Court, and the federal government had taken action in

March 2002 that effectively prevented the matter coming before the International Court of Justice.⁴⁷

Hollingworth's request for legal advice attracted a reply from Howard to the effect that Hollingworth's 'predecessors had not been involved in past decisions, that no involvement was necessary' and that the decision could be implemented without recourse to the governor-general under the *Defence Act* as amended in 1975.⁴⁸ In its minute of 18 March Cabinet noted only that the 'Prime Minister had discussed the possibility of the commitment of the ADF ... with the Governor-General'.⁴⁹ Brendan Nelson would subsequently assert that contemporary practice, as distinct from the practice in Curtin's time, was that 'decisions to go to war are ultimately matters for the prime minister and Cabinet, involving directly neither the Governor-General nor Federal Executive Council'.⁵⁰ Sampford and Palmer dispute this, arguing that:

A powerful argument could be made that the relevant sections of the *Defence Act* were not intended to be used for the decision to go to war and that such instructions are for peacetime or *in bello* decisions. If so, the power to make war remains within the prerogative to be exercised on advice.⁵¹

In 2003 Hollingworth became involved in controversy over his handling of matters of sex abuse allegations in the Anglican diocese of Brisbane that saw him resign as governor-general in May 2003.⁵² Before he did so, he accepted Howard's advice on the handling of the Iraq matter.⁵³ It is possible that other governors-general might have handled the matter differently. This is demonstrated by an episode in 1977 when Sir John Kerr insisted on advice from the attorney-general before accepting a recommendation from the Fraser government on its establishment of the Department of the Special Trade Negotiator.⁵⁴ Had the governor-general in 2003 not been a clergyman but a lawyer as versed in constitutional law and practice as Kerr or Sir Ninian Stephen or Sir William Deane all were, he or she may well have insisted on advice from the attorney-general.⁵⁵

There were cogent political reasons for the government to bypass the executive council and the governor-general. Howard was relying for his advice on the legality of Australia's entry into the Iraq War on a 'Memorandum of Advice' from two officers at the level of first assistant secretary in the Department of Foreign Affairs and Trade and the Attorney-General's Department.⁵⁶ The Cabinet decision of 18 March noted this Memorandum of Advice, 'which concluded that the use of force to disarm Iraq of weapons of mass destruction ... would be consistent with Australia's obligations under international law' and observed that Attorney-General Daryl Williams 'fully concurred with the advice'.⁵⁷

Former Solicitor-General Gavan Griffith queried why the government had relied on the authors of the Memorandum of Advice and not more senior experts such as Henry Burmester QC, Chief General Counsel of the Attorney-General's Department, or renowned international lawyer Professor James Crawford SC, who commonly advised the government in international law matters. On the question of the Iraq War, moreover, the opinion of the independent solicitor-general, David Bennett QC, was not sought.⁵⁸

Griffith was Australia's second law officer for 14 years from 1984; he pleaded 250 cases before the entire bench of the High Court and was Agent and Counsel at several other cases at the International Court of Justice. He proceeded to argue that the published legal advice from the Government in 2003 (the Memorandum of Advice) had 'insufficient substance to bear the weight of the Prime Minister's reliance to justify the invasion of Iraq by Australian defence forces'.⁵⁹ Griffith continued:

To this end the Australian and United Kingdom legal advices are entirely untenable. They are arrant nonsense. They furnish no threads for military clothes. It is difficult to comprehend that the fanciful assertions (they are not arguments) of the two advices have been invoked by Australia and the United Kingdom to support the invasion of another state. It does not appear from his published remarks that President Bush made any such attempt to clothe American action with the authority of the Security Council. This has the advantage of making the unilateral basis of his country's actions plain.

Once the troops were committed, however, the Howard government's decision attracted stronger popular support as well as full endorsement from large sections of the media.⁶⁰

National security, defence, foreign affairs and trade policies

Many of the Cabinet submissions, memoranda and decisions are concerned with issues of national security, defence policy, foreign policy and trade policy beyond the Iraq War. The Minister for Foreign Affairs, Alexander Downer, and the Minister for Trade, Mark Vaile, made a joint submission to Cabinet on the launch of the 2003 foreign and trade policy white paper, *Advancing the national interest*.⁶¹ The white paper was prepared by a task force within the Department of Foreign Affairs and Trade (DFAT) in consultation with departments and agencies represented on the NSC.

It explained the Howard government's focus on global security threats and its commitment to the war against terrorism. It also set out Australia's contribution to international efforts to halt proliferation of WMDs. On the overseas trade front, the paper asserted that the government had 'developed the most ambitious and wide-ranging trade policy agenda of any government in Australia's history'.⁶²

A submission tells us that the NSC agreed to introduce legislation to ensure that the terrorist wing of Hizballah was listed as a terrorist organisation.⁶³ At the same time, the committee amended the text of *Australia's national security: a defence update* to clarify that: 'The Australian Government is aware that the majority of Muslims hold moderate views and that they are no less victims than other religious, ethnic or national groups'.⁶⁴ The NSC also agreed to implement International Maritime Organization (IMO) measures to enhance maritime security.⁶⁵

In the region, Australia had played a prominent role from 1997 to 2000 in the peace process in Bougainville, Papua New Guinea, deploying more than 2,500 ADF personnel and 300 civilians in the Peace Monitoring Group (PMG). In March 2003 the NSC decided to plan for the withdrawal of the PMG from 30 June 2003, and on 28 May it agreed that a small unarmed civilian force should replace the PMG.⁶⁶ On 22 July 2003 Cabinet noted an oral briefing from Downer and Robert Hill, Minister for Defence, on the Australian-led Regional Assistance Mission to Solomon Islands (RAMSI).⁶⁷ RAMSI was established in response to a request for international aid by the governor-general of Solomon Islands in response to ethnic violence in the period between 1998 and 2003.⁶⁸

In a short minute without submission, Cabinet noted advice from Downer on negotiation of a unitisation agreement with the East Timorese government relating the Sunrise and Troubadour petroleum fields and legislation to ratify the 2002 Timor Sea Treaty.⁶⁹ In addition, the NSC agreed in June 2003 that an inter-departmental committee should consider an appropriate legislative and administrative framework to protect offshore oil and gas infrastructure, particularly in the Timor Sea.⁷⁰

An extraordinary occurrence in 2003 was the Australian Parliament being addressed on consecutive days by US President George W Bush, and the president of a country that was soon to become Australia's largest trading partner, China's Hu Jintao.⁷¹ Before 2003 only two foreign heads of state had addressed a joint meeting of the Australian Parliament: former US President George HW Bush in January 1992 and then US President Bill Clinton in 1996.

Around the time of Hu Jintao's visit, inter-governmental negotiations took place on 9 and 10 October 2003 regarding the Australia–China Trade and Economic Framework (TEF) – a framework agreed in May 2002 by Howard and then Chinese Premier Zhu Rongji for a possible joint scoping study on a bilateral free trade agreement between Australia and China.⁷² China would not agree to such a study unless Australia agreed to recognise China as a market economy, but such recognition was then a major step for Australia, and one that would have attracted considerable international attention. In canvassing options, Trade Minister Vaile recommended, and Cabinet accepted, that Australia not fully accede to China's demands in a way that would have impinged on domestic anti-dumping and safeguard actions against Chinese imports. As a concession, Cabinet accepted that it was willing to recognise, in due course, China as a market economy.⁷³

Negotiation of a free trade agreement with the United States was one of the rewards for Australian participation in the war in Iraq. On 3 March 2003 Cabinet agreed to a joint submission from Vaile and Downer for Australia to pursue a genuinely comprehensive free trade agreement between the two countries. While striving to achieve reduced barriers to trade and enhanced market access, Australian ministers expected that US requests would cover sensitive areas such as single desk marketing, pharmaceutical benefits, foreign investment screening, parallel importation and copyright legislation.⁷⁴

Formal rounds of negotiations commenced in March 2003, with subsequent rounds in May, July, October and December ahead of the end-of-2003 target for concluding the negotiations. The third round of negotiations in July was crucial. Before this took place, Cabinet canvassed various options, including eliminating tariffs on the importation of all goods from the United States, but preferred to offer to reduce tariffs to zero, except for those on passenger motor vehicles and textiles, clothing and footwear.⁷⁵ On 9 October 2003, before the next round of negotiations, Cabinet agreed to Vaile's request to modify the existing mandate for the negotiations following a US offer on agricultural trade that was deemed adequate.⁷⁶ The agreement with the United States was signed on 18 May 2004 and would come into effect on 1 January 2005.

Writing in 2015, Shiro Armstrong observed that the free trade deal was negotiated and signed within a year because of Howard's determination to consummate a trade deal with the United States in the context of the second Iraq War. The deal, Armstrong considered, damaged Australia's trade by diverting it away from low-cost sources.⁷⁷ Cabinet also considered submissions on other trade agreements, including signing the agreement with Singapore after Vaile had reached agreement with his counterpart there, making progress on a free trade agreement with Thailand and strengthening trade and economic links with Japan.⁷⁸

By 2003 progress in the so-called Doha Round of multilateral trade negotiations had been mixed with some areas, such as services, moving at a reasonable place, while others, such as agriculture, progressed more slowly.⁷⁹ Vaile obtained Cabinet approval for an Australian negotiating approach that sought substantial gains in market access for agricultural and industrial products and services while preventing gains being eroded in areas such as anti-dumping subsidies and countervailing measures.⁸⁰ Cabinet agreed to

Australia's participation in the World Exposition held in Aichi, Japan, in 2005.⁸¹ It also approved the signing of an agreement with New Zealand to jointly regulate therapeutic products.⁸²

Another Cabinet submission relates to the sale of Australian wheat to Iraq by AWB Limited (the Australian monopoly wheat trader formerly known as the Australian Wheat Board). Under the UN Oil-for-Food Programme (OIF), which expired on 21 November 2003, AWB had become the dominant supplier of wheat to the Iraqi market. Iraq was Australia's largest wheat market in 1999–2000 and 2001, and Australia secured an average 65 per cent of the Iraqi wheat market over the period from 1996 to 2003. In 2001–02 Australia exported 2.2 million tonnes of wheat worth \$800 million, representing 82 per cent of Iraqi imports and 13.5 per cent of Australian wheat exports.⁸³

The extraordinary success of the Australian wheat trade in Iraq was partly explained by the subsequent discovery, in the mid-2000s, that AWB had been paying kickbacks to the regime of Saddam Hussein through a middleman.⁸⁴ The discovery led to a major scandal and a royal commission presided over by Justice Terence Cole. To cover for the period following the anticipated expiry of OIF in November 2003, Cabinet agreed on 22 October to establish a trade finance facility, by means of the Export Finance and Insurance Corporation (EFIC), that would provide re-insurance for Australian wheat exporters on the National Interest Account (NIA). The NIA facility covered a maximum of \$350 million of exports to Iraq for exports shipped before December 2004.⁸⁵

In matters of international law, Cabinet approved a recommendation from Downer, Attorney-General Philip Ruddock, David Kemp, Minister for the Environment and Heritage, and Ian Macfarlane, Minister for Industry, Tourism and Resources, to make a submission to the UN Commission on the Limits of the Continental Shelf. This proposed the extension of the outer limits of Australia's continental shelf beyond 200 nautical miles from the territorial sea baseline, including in the areas adjacent to the Australian Antarctic Territory. In doing so, the ministers sought to take advantage of the opportunity to define an internationally accepted outer limit that would protect Australia's exclusive sovereign rights and interests in possible future exploration and exploitation of the non-living and sedentary living resources of the seabed and subsoil in the area beyond 200 nautical miles as well as bestowing rights to regulate marine scientific research and the marine environment.⁸⁶

Approval of the submission permitted Australia to submit the data in 2004 within the 10-year deadline set by the 1982 UN Convention on the Law of the Sea (UNCLOS) and to become the third country after Russia and Brazil to do so. This in turn enabled Australia, via the *Seas and Submerged Lands (Limits of the Continental Shelf) Proclamation 2012*, to define the 11 million square kilometres of seabed over which it could exercise exclusive rights to seabed resources. Two areas of Australia's augmented continental shelf extended south into the Antarctic Treaty area.⁸⁷

On other international legal matters, Cabinet authorised relevant ministers, including Attorney-General Daryl Williams (who would be succeeded by Philip Ruddock from 7 October 2003), to prepare a negotiating mandate for the development of a thematic convention on the rights of persons with disabilities.⁸⁸ Cabinet also agreed to a submission from Downer that Australia should ratify a convention on procedures for handling hazardous chemicals and pesticides in international trade.⁸⁹

In September 2002 Howard wrote to Defence Minister Robert Hill, expressing his concern about continuing performance problems with major defence acquisitions.⁹⁰ To address this long-term problem, Howard appointed a Secretaries Task Force and an

External Defence Procurement Team, the latter consisting of Malcolm Kinnaird AO (Chairman), Len Early PSM and Bill Schofield AM. The team recommended reforming the Defence Materiel Organisation (DMO), which had been established in mid-2000, by drawing together the Defence Acquisition Organisation and Support Command Australia to produce an integrated organisation with responsibility for 'whole-of-life' acquisition and through-life support of capabilities.⁹¹ In 2003 Cabinet agreed to several recommendations, including establishing the DMO as an executive agency within the Defence portfolio and as a prescribed agency under the *Financial Management and Accountability Act 1997*. These reforms were designed to transform the culture of the DMO to make it more business-like and performance-focused.⁹²

Cabinet approved another of Hill's submissions to meet key priorities over the four years from 2003–04 to 2006–07, with a fiscal impact of \$2,802.3 million. This decision stemmed from the 2000 Defence White Paper and the associated Defence Capability Plan, which was described as the most 'specific long-term Defence funding commitment given by any Government in 25 years'.⁹³ Defence spending was set to increase by \$500 million in 2001–02, \$1 billion in 2002–03, and thereafter by 3 per cent annually in real terms. Hill and his department continued to work on reforming Defence's budgeting processes by focusing on whole-of-life capability management in acquisitions and logistics and by concentrating responsibility for asset management in both the DMO and the Corporate Services and Infrastructure Group.⁹⁴ In another defence submission, Hill sought Cabinet approval for Defence to amend its budgeting and reporting obligations, which were hitherto based on one outcome: 'the Defence of Australia and its National Interests'. Instead, Hill proposed a reporting structure with seven Outcomes, supported by 29 Outputs and 34 Programs.⁹⁵

In July 2003 Hill received approval to acquire command and control systems and communications infrastructure to upgrade Australia's air defence systems.⁹⁶ A decision to sell and then lease back the Department of Defence's Russell Offices had been taken in 2000 and was confirmed in April 2002. Following that decision, the Department of Finance and Administration and the Department of Defence submitted a memorandum to the NSC in 2003 on necessary steps to address national security considerations before the sale.⁹⁷

Australia's six *Collins* Class submarines were constructed in Adelaide between 1990 and 2003 by the Australian Submarine Corporation (ASC) to a Swedish design. In October 2003 the NSC agreed to a recommendation from Hill for the Commonwealth to sign a contract with the ASC for through-life support of the submarines. The initial period of the agreement was 15 years, with options to extend to 25 years.⁹⁸ Hill also received approval to increase the total funding for Australia's military satellite communications, providing continuous UHR-band low data rate coverage across the region, from Sri Lanka in the west to Hawaii in the east, and from Antarctica to the Arctic Circle.⁹⁹

To promote defence cooperation with our regional neighbours, on 28 May 2003, Cabinet approved a recommendation from Hill that Australia release a second and final tranche of financial assistance worth \$20 million towards the Papua New Guinea (PNG) government's efforts to reform the PNG Defence Force. The assistance, which had commenced in 2001, was predicated on a firm PNG agreement to a downsized force of around 2,000 (a reduction of more than 1,000).¹⁰⁰

Economic, social welfare, health, education and immigration policies

Many of the 2003 Cabinet submissions relate to the Howard government's policies in the areas of the economy, social welfare, health, education and immigration. The Australian economy performed well in 2003. Despite drought, war and rising oil prices, Australia

enjoyed a Gross Domestic Product (GDP) growth rate of 2.7 per cent at the beginning of the year, a 6.1 unemployment rate in the middle of the year and an increase in the Consumer Price Index (CPI) at an annual rate of 2.7 per cent.¹⁰¹ A budget surplus of \$2.2 billion and forecasted economic growth of 3.25 per cent permitted modest 'sandwich and milkshake' income tax cuts for those earning between \$30,000 and \$50,000 and larger cuts for low- and high-income earners.¹⁰² The state of the economy emboldened Cabinet to agree to a moderate increase of up to \$12 per week in the Federal Minimum Wage in the Australian Industrial Relations Commission.¹⁰³

In September 2003 Treasurer Peter Costello announced a federal Budget surplus of \$7.5 billion, raising the prospect of more tax cuts before the 2004 election. In a joint Budget submission for the 2004 pre-election Budget, Costello and Nick Minchin, Minister for Finance and Administration, proposed a staged process beginning with an examination of the state of the Budget in December 2003 by senior ministers and a final stage of early preparation of the Budget in April and May 2004. Cabinet also approved amendments to the budget process that clarified the definition of new policy proposals and improved the processes for identifying financial implications and risks.¹⁰⁴

Under the National Competition Policy (NCP) framework, Costello introduced a submission for a measure to allow the Australian Government to make competition payments to states and territories assessed by the National Competition Council (NCC). The role of the NCC was to assess the progress of all jurisdictions in respect of implementing agreed NCP and related reforms (water, gas, electricity and road transport.) Cabinet accepted Costello's recommendations for competition payments to states and territories that in some cases involved imposing penalties.¹⁰⁵ Together, Costello and Tony Abbott, Minister for Employment and Workplace Relations, received Cabinet approval of a report on using employee share ownership schemes to drive productivity.¹⁰⁶

Minchin brought to Cabinet his own submission aimed at curbing the increasing costs of the Public Sector Superannuation Scheme (PSS), whose unfunded liabilities in 2003 were around \$9 billion after 12 years of operation. Legislation to close the scheme had been defeated in the Senate in 2001, and closure continued to attract opposition from the non-government parties in the upper house. Cabinet agreed in 2003 to convert the PSS to a fully funded accumulation scheme for all new employees and office-holders who became PSS members from 1 July 2005.¹⁰⁷

Senator Helen Coonan, Minister for Revenue and Assistant Treasurer, received Cabinet approval for a strategy to address low levels of consumer and financial literacy in Australia.¹⁰⁸ Another subject for Cabinet on the economy was dealing with the collapse of HIH Insurance group of companies, which went through a corporate collapse in March 2001. In May of that year, Cabinet agreed to implement an assistance scheme to alleviate genuine hardship cases for policyholders affected by the failure of those companies. In 2003 Coonan sought Cabinet approval to close the HIH Claims Support Scheme and establish a limited gateway for special circumstances claims.¹⁰⁹ In another submission, Coonan received approval to introduce a civil penalty regime to deter promotion of tax avoidance and tax evasion schemes.¹¹⁰

The universal health care system Medicare, established by the Hawke government in 1984, assisted Australians in meeting health care costs. While hospital care was free and the Pharmaceutical Benefits Scheme (PBS) limited patient contributions to fixed co-payments with a safety net arrangement, there were no such guarantees around patient contributions for medical services funded under the Medical Benefits Schedule (MBS). By late 2002 opinion polls were registering a degree of public concern about the Medicare

system.¹¹¹ The affordability problem was being manifested in three ways: where the upfront cost of a visit to the doctor was a barrier; where the gap cost of a single visit was the barrier; or where cumulative gap costs were the barriers.¹¹² The level of bulk-billing, which had fallen for 11 quarters before May 2003, became the litmus test of the Howard government's commitment to universal access to health care.¹¹³

In 2003 Howard showed that he continued to have no desire to expend political capital in fighting the popular Medicare scheme.¹¹⁴ To that end, Kay Patterson, Minister for Health and Ageing, launched 'A Fairer Medicare', described as 'the most far-reaching reform of Medicare since its introduction in 1984', and created new incentives to bulk-bill in rural areas and for pensioners and other cardholders.¹¹⁵ But instead of calming hostility, Patterson's reforms:

heightened concerns that Medicare was being undermined by stealth, moving towards a two-tiered system with means-tested bulk-billing. Patterson took the brunt of this attack, and was replaced by Tony Abbott as minister ... with a brief to end the growing political discontent over bulk-billing.¹¹⁶

On 5 November 2003 Cabinet agreed to enhance the Fairer Medicare package, including by extending the government-funded MBS safety net arrangement for concessional patients. This covered 80 per cent of out-of-pockets costs above \$500 a year for low-income families and above \$1000 a year for other families in a calendar year.¹¹⁷ While the version of the plan announced by Abbott was a more generous one than the earlier version, it retained a fundamental assumption in Patterson's scheme. This was that both schemes aimed to 'recast Medicare as a safety net, rather than as the system of universal cover it was conceived to be'.¹¹⁸

A related problem for the Howard government was the rising cost of private health insurance premiums. All 43 health funds applied for premium increases in 2003, and the previous year had seen growth in benefits exceed growth in contribution income by a wide margin. This problem saw Patterson make a submission in February 2003 to secure Cabinet's agreement to a package of measures to reduce pressure on premium increases. Patterson's submission focused on the issues of prostheses benefits, reinsurance arrangements – a method of risk equalisation to support community rating, which required that funds not discriminate based on age, sex, health status or claims history when paying benefits or settling premiums – and default and ancillary benefits.¹¹⁹

Other initiatives in the Health portfolio included Cabinet's agreement to a recommendation from Patterson for Australia to sign the World Health Organization's Framework Convention on Tobacco Control. Australia had been a prominent member of the intergovernmental negotiating body that developed the text. By 2003 Australia's public health policies on tobacco were among the most advanced in the world owing to measures such as bans on advertising, health warnings on tobacco products and restrictions on smoking in public places.¹²⁰

Related initiatives in the health portfolio included Cabinet's agreement to the government's response to reviews in 2002 of the National HIV/AIDS and Hepatitis C Strategies and Strategic Research in HIV/AIDS, hepatitis C and Indigenous sexual health.¹²¹ Another was Cabinet's approval of a National Illicit Drug Strategy (NIDS) that took the government's total spending commitment to 'Tough on Drugs' to over \$1.2 billion.¹²²

By 2003 the Health Insurance Commission (HIC), an agency with a board of directors reporting to the Minister for Health and Ageing, was in financial trouble. The HIC's

10-member board included the managing director and the Secretary of Health in an *ex officio* position. It received 95 per cent of its revenue from the Department of Health, with the remainder coming from the Department of Veterans' Affairs (DVA) (4 per cent) and the Department of Family and Community Services (FACS) (1 per cent).

Under an agreement signed with Health in 1998, the HIC was responsible for managing legislated functions, processing claims, and paying benefits under Medicare and the Pharmaceutical Benefits Scheme (PBS) and delivering services connected with several other health programs. The HIC's revenue was in the order of \$442 million in 2002–03 and was collected under purchaser-provider arrangements with Health, DVA and FACS. The Output Pricing Arrangement with Health, however, had not delivered sufficient funds to ensure the HIC's solvency. This prompted Patterson to ask for additional funding for HIC of \$34.3 million in 2003–04.¹²³

In July 2002 the government agreed that work and family should be a strategic priority for the government's third term. Accordingly, in September of that year, Howard commissioned an Interdepartmental Work and Family Taskforce on to develop policy options. One of the fruits of this taskforce, which provided its initial report to Cabinet in 2002, was a submission from Larry Anthony, Minister for Children and Youth Affairs, to expand access to childcare. Although Anthony proposed the uncapping of Outside School Hours (OSH) and Family Day Care (FCC), Treasury persuaded Cabinet to proceed by expanding places by a set amount.¹²⁴

Brendan Nelson, Minister for Education, Science and Training, introduced a major package for the reform of the higher education sector. In 2001 this sector employed 80,000 people and had total revenue of \$10.2 billion, contributing 1.5 per cent to GDP. Commonwealth funding – including the Higher Education Contribution Scheme (HECS), at around \$6.2 billion in 2001 – accounted for about 61 per cent of total sector funding. In the decade leading up to 2000 the higher education sector attracted a 30 per cent increase in the number of students, and there was a greater emphasis during that time on seeking funding from non-Commonwealth sources. However, the last major reform of the higher education sector had taken place in 1988, when the Hawke government introduced the Unified National System and HECS.

In 2003 Nelson's package included extending unsubsidised loans to fee-paying students in public institutions.¹²⁵ His reforms preserved and even tightened many elements of the centrally controlled system, but they also created new price signals and gave students enrolled at private higher education institutions access to a loans scheme. Under the 2003 package, student charges in government-subsidised places would be set by the university, within limits imposed by the Commonwealth, and the income generated would go to the university.¹²⁶

Nelson also received authority from Cabinet to open a dialogue with private schools on funding arrangements for non-government schools in the 2005–08 quadrennium. At that time, 30 per cent of private schools were funded based on need according to their socioeconomic status (SES). However, the Catholic school systems, which made up 61 per cent of non-government schools, received funding based on historical rates rather than on SES scores. Nelson thought that bringing Catholic schools into the SES policy was good policy and likely to be cheaper than other options.¹²⁷ He also devised a new method for the Commonwealth's contribution to the national vocational education and training (VET) system. This approach incorporated new performance measures relating to Commonwealth priorities for addressing 'Australia's changing demographics, welfare reform, youth transitions, practical reconciliation for Indigenous Australians and workplace relations'.¹²⁸

Philip Ruddock, Minister for Immigration and Multicultural and Indigenous Affairs, persuaded Cabinet that the success of policies in relation to those attempting to come to Australia by boat meant that the government had been able to restore the balance in its humanitarian immigration program. This had enabled his department 'to provide greater entitlements for those resettled from countries of first asylum and reduced entitlements for those resettled as secondary movers'.¹²⁹ Ruddock and Downer received Cabinet approval to seek extensions of offshore processing arrangements with Nauru and, possibly, Papua New Guinea.¹³⁰ This was deemed necessary because the processing facility on Christmas Island was not expected to be ready until 2006.¹³¹

Kay Patterson, as Minister for Family and Community Services, and Kevin Andrews, Abbott's successor as Minister for Employment and Workplace Relations, obtained guidance for Cabinet on the government's long-term plans to modernise the social support system to better support participation and self-reliance of working-age people. This was consistent with the McClure Reference Group's recommendation to the government in 2000 to balance the goals of poverty alleviation and participation.¹³²

Another subject on the social security front was negotiation of a social security agreement with Greece. Negotiations had been going on for ten years but had stalled over the issue of the level of pension paid to former Australian residents who moved back to Greece before they retired. Without an agreement, they could not claim an Australian pension when they reached pension age.¹³³ An agreement would eventually be concluded in 2007.¹³⁴

Meanwhile, Ian Macfarlane and Joe Hockey, Minister for Small Business and Tourism, received Cabinet endorsement of a white paper on tourism, which was an industry contributing 4.5 per cent to GDP and representing 11.2 per cent of export earnings.¹³⁵ Cabinet also endorsed recommendations from Industry, Tourism and Resources for a whole-of-government approach to implementing recommendations for an Aerospace Industry Action Agenda.¹³⁶ On housing matters, it approved a submission from Amanda Vanstone, Minister for Family and Community Services, for a multilateral Commonwealth State Housing Agreement, with Commonwealth funding of over \$900 million per year from 2003–04 to 2007–08.¹³⁷

Climate change, energy and the environment

Having decided in 2002 not to ratify the Kyoto Protocol, the Howard government decided to respond to electoral pressure to take action to mitigate the long-term effects of climate change. One of the consequences was that in 2002, it adopted the Mandatory Renewable Energy Target (MRET). The MRET was introduced with an initial target of 9,500 gigawatt hours of new electricity generation and was intended to run to 2010.¹³⁸ In 2003 the government also pursued a forward strategy on climate, as set out in a memorandum from the Department of the Environment and Heritage, the Department of Industry, Tourism and Resources, the Australian Greenhouse Office and DFAT. The plan wove together an international strategy, a domestic emissions abatement strategy and an adaptation strategy.¹³⁹ Treasury preferred to introduce a 'non-prescriptive, broad-based market instrument', such as 'an emissions trading scheme' of the kind that Howard would later foreshadow before the Australian general election in 2007.¹⁴⁰

In a submission on their preferred approach to emissions management, David Kemp, Minister for Environment and Heritage, Costello, Downer and Joe Hockey, as Acting Minister for Industry, Tourism and Resources, recommended a 'mandatory national emissions trading system', albeit one that would not be introduced before 2012 'unless it

was in the national interest to do so'.¹⁴¹ On 8 September 2003, however, Cabinet decided not to support an emissions trading system after noting an oral report from Howard 'on his meeting with industry leaders who expressed opposition to any government announcement of a disposition toward emissions trading as the preferred policy instrument for managing future emissions'.¹⁴²

Cabinet noted several items of business before the Sustainable Environment Committee of Cabinet in 2003, including property rights for water, The Living Murray Program established in 2002, land-clearing in Queensland, national coastal policy, regional marine plans and priorities for the conservation of biodiversity.¹⁴³ The *Great Barrier Reef Marine Park Act 1975* required that zoning plans be developed for all areas declared to be part of the Great Barrier Reef Marine Park.

These were primary planning instruments for the conservation and management of the marine park. Cabinet gave Kemp authority to discuss key aspects of a revised zoning plan with stakeholders.¹⁴⁴ Cabinet also agreed that he should develop a Commonwealth position on a national Water Efficiency Labelling and Standards (WELS) scheme for consideration at the Environment Protection and Heritage Council meeting held in Perth on 2 October.¹⁴⁵ Ministers supported the work of the Department of the Environment and Heritage to halt the decline in Australia's biodiversity through the Natural Heritage Trust, the National Action Plan for Salinity and Water Quality and efforts to reduce land clearing and promote environmental flows.¹⁴⁶ Cabinet also considered options for environmental measures associated with the reform of fuel excise.¹⁴⁷

In energy policy, on 6 March 2003, Cabinet's Energy Committee established an energy task force, a whole-of-government process involving officers from the Department of the Prime Minister and Cabinet (PM&C), the Department of the Treasury, the Department of the Environment and Heritage (DEH), the Department of Transport and Regional Services (DOTARS) and the Department of Industry, Tourism and Resources (DITR).¹⁴⁸ The task force was instructed to develop proposals for a more consistent and integrated framework for energy policy, to identify key decisions that the government needed to take during the year, and establish a clear timetable for the taking of those decisions.

The approach and timetable proposed by the task force supported the development of a major public statement on energy policy. Key decisions on energy policy in 2003 included the government's response to an Independent Review of Energy Market Directions chaired by former Liberal Senator Warwick Parer; development of the Climate Forward Strategy discussed above; consideration of a National Framework on Energy Efficiency being developed by the Ministerial Council on Energy (MCE); a response to Sasol Chevron's application for an investment incentive for its proposed Gas to Liquids project; a review of the balance of resource development initiatives; a review of the Gas Access Regime; and reform of the downstream petroleum market.¹⁴⁹

In August 2003 Cabinet accepted the position of the energy task force that Australia enjoyed a strong energy position and argued against the needs for pipelines to supply gas from Western Australia and northern Australia to south-eastern Australia. The task force argued that:

While observing that declining reserves proximate to the south east markets may result in higher gas prices in the medium term, the Task Force does not consider this provides sufficient reason to intervene in the market.¹⁵⁰

The Howard government pursued negotiations with the states and territories to try to develop a national legislative framework for the national energy market; establish a single national regulator for electricity and gas located in the Australian Competition and Consumer Commission (ACCC); develop a national code for energy distribution and retailing to be brought within the national energy regulator by 2005; and establish an independent transmission planning panel by 2004. While federal ministers made some progress in negotiations in June 2003, the states and territories resisted the Commonwealth's objective of a single national energy regulator within the ACCC.¹⁵¹

As part of its 2001 election campaign, the government announced a Biofuels for Cleaner Transport plan to promote the production, distribution, and transportation of biofuels. In 2003 Costello and Kemp obtained Cabinet agreement on measures to support greater market acceptance of ethanol–petrol blends in Australia by setting a 10 per cent upper limit for ethanol in petrol and by providing for fuel labelling under the *Fuel Quality Standards Act 2000*.¹⁵² On a related matter, the Department of Industry, Tourism and Resources submitted a memorandum to Cabinet on Australia's obligations to participate in emergency oil measures developed by the International Energy Agency (IEA) to meet future oil supply emergencies. This issue had heightened relevance following the loss of Iraqi oil supplies during the Iraq War.¹⁵³

Transport, infrastructure, communications, and legal issues

Several submissions relate to the Royal Commission into the Building and Construction Industry, an inquiry established by the Howard government in 2001 to inquire into alleged misconduct in the building and construction industry in Australia.¹⁵⁴ The building and construction industry, which contributed an estimated 5.5 per cent to GDP annually had a pivotal role in Australia's economy. This inquiry followed several unsuccessful attempts by the Howard government to regulate the conduct of industrial relations more strongly within that industry. The royal commission commenced on 29 August 2001 and was overseen by a sole royal commissioner, Justice Terence Cole, who handed his final report to the governor-general on 24 February 2003.

Although Cole found no evidence of organised criminal activity, he recommended sweeping changes to industrial relations laws applicable to that industry. On 1 April 2003 Cabinet agreed to a response to Cole's final report in two stages: a broad initial response, to be followed by a detailed second-stage response. On 2 April 2003 Tony Abbott, Minister for Workplace and Employment Relations, announced industry-specific legislation to regulate workplace relations in the industry, including a new regulatory body, the Australian Building and Construction Commission (ABCC). A Treasury submission provided a response that accepted 27 of 32 recommendations, either wholly or partially.¹⁵⁵

The government's efforts to implement its reform legislation for the industry stalled in the Senate in 2004 but were revived in 2005 after the government secured control of the upper house. This enabled passage of the *Building and Construction Industry Improvement Act 2005* along with establishment of the Office of the Australian Building and Construction Commissioner (ABCC), an independent statutory authority responsible for monitoring and protecting workplace relations in the building and construction industry.

In November 2002 Cabinet considered the report of the Regional Telecommunications Inquiry (RTI) chaired by Dick Estens. Cabinet accepted that the RTI report provided a sufficient basis for proceeding with the full privatisation of Telstra as long as two issues identified in the report were addressed. Accordingly, in June 2003 Cabinet agreed to a submission from Richard Alston, Minister for Communications, Information

Technology, and the Arts, that legislation be introduced as soon as possible to enable full privatisation of Telstra Corporation (Telstra).

To ease the path, Cabinet agreed to Estens' key recommendations. One was to impose a license condition on Telstra to provide dial-up internet access over its fixed telephone network at a minimum equivalent data rate of 19.2 kilobits per second. The other was to require the Australian Communications Authority (ACA) to identify the worst-performing Exchange Service Areas (ESAs) in regional, rural and remote areas and require Telstra to provide a formal strategy for improving service in those ESAs.¹⁵⁶

Alston had less success with a submission proposing new arrangements for costing and funding the Universal Service Obligation (USO) that had been established in the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to ensure reasonable access to telephone services for all Australians. In practice, Telstra was the sole USO provider in Australia, 'reflecting its historical position as the incumbent, ubiquitous national service provider, with other major providers subsidising Telstra for this provision on the basis of a costing model'.¹⁵⁷

Alston's submission was based on the RTI's finding that current USO obligations might be favouring Telstra and constraining regional competition. To address this problem, he framed a submission requiring Telstra to take on full responsibility for the USO in regard to telephone services, but to make a clear break with the USO when encouraging access to important new services such as broadband. On 15 April 2003, however, Cabinet decided not to proceed with the submission.¹⁵⁸

In another communications submission Alston sought guidance from Cabinet on a proposal for the merger of the Australian Broadcasting Authority (ABA), the body responsible for broadcasting licensing, regulation of commercial and subscription broadcasting services, online content regulation and Broadcasting Services Bands, and the ACA, the agency responsible for the regulation of telecommunications licensing, most aspects of telecommunications-specific service regulation and the management of spectrum other than the 'broadcasting services bands' (that is, that part of the spectrum used for commercial, national and community television and radio).¹⁵⁹ Changes to cross-media ownership rules including a two-out-of-three media sector limit for TV/newspaper/radio mergers and metropolitan and rural/regional voice limits, were noted by Cabinet, but it took until 2005 for these to come to fruition.¹⁶⁰

A memorandum from the Department of Transport and Regional Services, the Treasury and PM&C responded to Cabinet's request in December 2002 to examine options for more effective and efficient operation of the coastal trading permit system. Unlike many other countries, Australia did not reserve its coastal trade for Australian flagged or based vessels. The coastal trade was open to foreign shipowners under a licensing system whose main prerequisite was that they pay Australian wages to their crews. Cabinet decided to extend the interim immigration arrangements in respect of foreign crews on Australian ships – arrangements announced by Ruddock in December 2002 – and to remove the need to provide six months' notice of cancellation of a Continuing Voyage Permit (CVP).¹⁶¹

The sale of Sydney (Kingsford Smith) Airport was completed in 2002. In the same year, Nick Minchin, Minister for Finance and Administration, and John Anderson, Minister for Transport and Regional Services, were given approval for their proposed strategy to sell the three remaining Sydney airports (Bankstown, Camden and Hoxton Park).¹⁶² Meanwhile, Attorney-General Daryl Williams received Cabinet approval for a strategy to combat rising levels of identity fraud. This did not embrace the national identity card idea that the Hawke

government had tried but failed to implement in the 1980s, but rather sought to develop common supporting mechanisms for Commonwealth agencies to ensure accuracy in the verification of identity and a basis for cleansing existing data that had not been verified.¹⁶³

In 2001 the Senate rejected legislation to establish an Administrative Review Tribunal (ART) by amalgamating the Administrative Appeals Tribunal (AAT), the Social Security Appeal Tribunal (SSAT), the Merits Review Tribunal (MRT) and the Refugee Review Tribunal (RRT). That being so, Williams recommended discontinuing the plan to establish a single tribunal, but instead reforming the AAT and pursuing administrative efficiencies with respect to the federal merits tribunal.¹⁶⁴ Williams also made a submission to Cabinet on reform of the family law system, and Chris Ellison, Minister for Justice and Customs, received approval to amend the *Criminal Code Act 1995* to introduce new telecommunications offences in relation to internet content.¹⁶⁵

Rural and regional issues

In rural and regional policy, Cabinet had on its agenda the Sustainable Regions Program. This was one of the issues that spoke to an enduring issue in the Howard government: maintaining the relationship between the Liberal and National parties. During the period of this government, the National Party, the junior Coalition party, was losing numbers and had, at the same time, to combat Pauline Hanson's 'One Nation' movement.¹⁶⁶ In the 2000s there were none of the vigorous Coalition battles that had occurred in the early 1950s (the debate over revaluation), the late 1960s (what to do about sterling's devaluation) and 1971–72 (devaluation again).¹⁶⁷

The National Party nonetheless fought its corner on aid to rural and regional Australia, which was one of the nine major issues identified by Cabinet on 30 July 2002. One of its projects was the Sustainable Regions Program (SRP), a project resulting from the *Stronger regions, a stronger Australia*, endorsed by Cabinet on 20 August 2001. The SRP was designed to assist regions undergoing major economic, social, technological and environmental change and to support community leadership in the development of local solutions.

The eight regions were the Atherton Tablelands and Wide Bay Burnett (Qld); Far North East New South Wales and Campbelltown–Camden (NSW); Gippsland (Vic); North West and West Coast (Tas); Playford/Salisbury (SA); and Kimberley (WA). By August 2003 Anderson had approved 97 projects to the value of \$29.5 million (GST exclusive), and the projects had attracted an additional \$84 million in funding from other partners.¹⁶⁸ Another facet of the *Stronger regions, a stronger Australia* project in 2003 was Cabinet's agreement to publish an independent report, *Regional business – a plan for action*. The report was commissioned to identify impediments to the growth and effectiveness of federal government assistance to regional business.¹⁶⁹

Following a disastrous fire season in the Australian Capital Territory in 2003 and severe drought across much of the country from March 2002 to January 2003, Cabinet agreed to set up a national inquiry into bushfire prevention and mitigation and continued to provide financial relief to farmers to manage drought conditions.¹⁷⁰

Indigenous policy

A key Cabinet submission from 2003 in the Indigenous area was concerned with health. A National Aboriginal and Torres Strait Islander Health Council had developed the *National strategic framework for Aboriginal and Torres Strait Islander health* to provide an approach

to Indigenous health. The development of the framework was driven by the Commonwealth and gained the support of state and territory governments, the Aboriginal and Torres Strait Islander Commission (ATSIC) and the Aboriginal community-controlled health sector. It aimed to achieve a whole-of-government commitment in each jurisdiction to address nine key result areas, recognised that action had to be in partnership with local communities, and devoted attention to improving the responsiveness of the mainstream health system to the needs of Indigenous Australians.¹⁷¹

Ruddock sought to shape a draft *UN Declaration on the Rights of Indigenous Peoples* so as to avoid the use of 'self-determination' in the operative articles of the declaration.¹⁷² Later, Amanda Vanstone, Ruddock's successor as Minister for Immigration and Multicultural and Indigenous Affairs, obtained Cabinet's approval to modernise the Malcolm Fraser-era *Aboriginal Councils and Associations Act 1976* into what became the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* after a review agreed by Cabinet in July 2002.¹⁷³

In November 2003 Vanstone received the final report of the review of ATSIC, *In the hands of the region*.¹⁷⁴ Intended by the Hawke government in 1990 to be the body through which Indigenous people were formally involved in the processes of government affecting their lives, ATSIC had attracted criticism over succeeding years – perhaps unfairly, given that it had achieved a measure of success in promoting Indigenous self-determination. The decentralised structure of ATSIC, based on regional councils, gave elected representatives real power over funding, and in 2002 almost half of the Commonwealth's \$2.5 billion Indigenous-specific spending was controlled by ATSIC. Yet policy differences emerged between the minister and ATSIC, which, following the 2001 election, was subsumed within the larger Department of Immigration, Multiculturalism and Indigenous Affairs. In June 2002 the Howard government approved a recommendation from Ruddock to review the operations of the commission. While the report that was eventually delivered to Vanstone did not advocate abolishing ATSIC, it did point out the limitations of providing funding through mainstream agencies. Nonetheless, in 2004 legislation was enacted to finally abolish the body.¹⁷⁵

In August 2002 Cabinet had decided that the government should not issue an apology for past treatment of Indigenous people, not to pursue a treaty and not to have a referendum for a new preamble to the Constitution.¹⁷⁶ However, in 2007, Howard would reverse one aspect of these decisions by putting the issue of Constitutional recognition on the table – thus setting Australia on the path to the unsuccessful 2023 referendum on the Indigenous Voice to parliament.¹⁷⁷

Conclusion

Australia joined the war in Iraq in March 2003, even while maintaining that it had not made up its mind until the last moment.¹⁷⁸ As Graeme Dobell put it in 2013:

The Howard Government claimed to be considering all options, but in reality it closed down consideration. Options weren't called for. Getting wrong answers to questions posed about Iraq would make it harder for the Prime Minister to take Australia to war.¹⁷⁹

By contrast, Canada's prime minister, Jean Chrétien, made it clear in 2002 that his country's participation in any war against Iraq would depend on having the support of the United Nations.¹⁸⁰ The policy still permitted Chrétien to participate in the invasion should China or Russia veto a resolution that was supported by the rest of the US Security Council. In 2003,

when the Security Council did not support the war, neither did Canada. By contrast, Australia went ahead with its commitment to the United States in Iraq lacking a Security Council resolution but armed with internal advice that the use of force was authorised by earlier Security Council resolutions.¹⁸¹

The October 2003 visit to Australia by the leaders of the United States and China offered the Australian Government hope that these two foreign countries would establish a *modus vivendi* and that Australia would be able to maintain a constructive relationship with both its major ally and its soon-to-be major trading partner. At home, Australia was on the cusp of one of the greatest economic booms in its history, fueled by Chinese demand for exports of minerals and energy.¹⁸² This boom gave the Howard government the space to turn its attention to reforms illuminated by these Cabinet papers. They include areas such as defence acquisitions, energy policy, the building and construction industry, the higher education and vocational training sectors, communications, coastal shipping, social welfare and the private and public health systems.

Two opportunities were missed in 2003. One was an emissions trading system, which Howard only sought to introduce at the end of his term and which one of his ministers, Tony Abbott, extinguished in 2013. The other was an Australian sovereign wealth fund, larger than the Future Fund for unfunded liabilities of politicians and public servants that was established by Peter Costello in 2006. Such a sovereign wealth fund could ideally have been introduced in 2003, when the China resources boom was beginning, with immense consequences for Australia's continuing prosperity once the boom had ended.¹⁸³

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Endnotes

¹ The title of this section is based on Graeme Dobell's perceptive series of articles on the Howard government's Iraq War decision in *The Strategist* cited below.

² James Bluemel and Renad Mansour, *Once upon a time in Iraq: history of a modern tragedy*, BBC Books, London, 2020; Benjamin Isakhan, 'Iraq war, 20 years on: how the world failed Iraq and created a less peaceful, democratic and prosperous state', *The Conversation*, 17 March 2023.

³ Chapter VII of the United Nations Charter is the section that deals with international action in response to threats to world peace. The measures that can be taken under Chapter VII range from partial to complete interruption of economic relations and means of communication and the severance of diplomatic relations to the direct use of armed force (Article 42).

⁴ 'President Bush announces major combat operations in Iraq have ended', 1 May 2003, [President Bush Announces Major Combat Operations in Iraq Have Ended \(archives.gov\)](https://www.archives.gov/historical-resources/President-Bush-Announces-Major-Combat-Operations-in-Iraq-Have-Ended)

⁵ 'How the war started', *The Week*, 24 March 2003.

⁶ Robert Draper, *To start a war: how the Bush Administration took America into Iraq*, Penguin Press, New York, 2020, cover. See also Thomas E Ricks, *Fiasco: the American military adventure in Iraq*, Penguin Press, New York, 2007.

⁷ John Howard, 'Iraq 2003: a retrospective', Speech, Lowy Institute, 9 April 2013. See also John Howard, *Lazarus rising: a personal and political autobiography*, revised edition, HarperCollins, Sydney, 2011, Chapter 34.

⁸ Julian Borger, 'Colin Powell's UN speech: a decisive moment in undermining US credibility', *The Guardian*, 19 October 2021; Judith Betts and Mark Phythian, *The Iraq War and democratic governance: Britain and Australia go to war*, Palgrave Macmillan, Basingstoke, UK, 2020.

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- ⁹ Quoted in Paul Barratt, 'Howard's war – a continuation of politics by other means', *Pearls and Irritations*, 10 March 2017.
- ¹⁰ Albert Palazzo, 'Iraq and the politics of alliance relationships', in Tom Frame (ed.), *Trials and transformations, 2001–2004: the Howard government*, vol. III, UNSW Press, Sydney, 2019, p. 238.
- ¹¹ Jean Edward Smith, *George Bush's war*, Henry Holt, New York, 1992.
- ¹² Ewen MacAskill and Julian Borger, 'Iraq War was illegal and breached UN Charter, says Annan', *The Guardian*, 16 September 2004. See James Traub, *The best intentions: Kofi Annan and the UN in the era of world power*, Bloomsbury, London, 2006.
- ¹³ 'Every word of Crean's defining counter to John Howard on Iraq', 5 February 200, republished in *The Sydney Morning Herald*, 25 June 2003; Phillip Coorey, 'Labor's journeyman leaves a legacy of principle and reform', *Australian Financial Review*, 26 June 2023.
- ¹⁴ Cabinet Submission JH03/0236 – Implications of the Post-Conflict Situation in Iraq for Australia's Migration and Refugee Programs, Decision of the National Security Committee, JH03/0326/NS, 25 June 2003, NAA: JH03/0236/NS.
- ¹⁵ Without Submission – Iraq–Military Operations, Cabinet Decision JH03/0157/CAB, 1 April 2003, NAA: A14370, JH03/0157.
- ¹⁶ John Howard, 'Iraq 2003: a retrospective', Speech, Lowy Institute, 9 April 2013.
- ¹⁷ Paul Barratt, in 'Here we go again', *Arena Magazine*, October 2014, criticised decisions made by a small group of ministers to go to war in the cases of Vietnam, Iraq and Afghanistan. He argued that 'inhibitions based on concerns about the major ally's capacity to fight effectively and win within a period of a year or two (if perceived at all) can be easily swept aside by the desire ... to remain close to whoever is the US President at the time of deciding. Also in this system of decision-making, broader issues such as the morality of the commitment, which was clearly a major public issue in the cases of Vietnam and Iraq, are relatively easy for the Government to ignore or set to one side. The small group setting also makes it easier to believe faulty intelligence reports, or even dismiss them when they are inconvenient for the government's preferred policy'.
- ¹⁸ John Howard, *Lazarus rising: a personal and political autobiography*, HarperCollins, Sydney, 2011, p. 445.
- ¹⁹ Without Submission – Iraq: Authority for Australian Defence Force Military Action, Cabinet Decision JH03/0124/CAB, NAA: A14370, JH03/0124. Margaret Swieringa argues that the government's justification for war was not supported by any of its own agencies' intelligence. See Margaret Swieringa, 'Howard ignored advice and went to war in Iraq', *The Sydney Morning Herald*, 12 April 2013.
- ²⁰ Without Submission – Iraq – Military Operations, Cabinet Decision JH03/0157/CAB, 1 April 2003, NAA: A14370, JG03/0157.
- ²¹ Howard, *Lazarus rising*, p. 446.
- ²² Howard, *Lazarus rising*, p. 446.
- ²³ Gregory Pemberton, *All the way: Australia's road to Vietnam*, Allen & Unwin, Sydney, 1987; Peter Edwards with Gregory Pemberton, *Crises and commitments: the politics and diplomacy of Australia's involvement in Southeast Asian conflicts 1948–1965*, Allen & Unwin in association with the Australian War Memorial, Sydney, 1992; Gary Woodard, *Asian alternatives: Australia's Vietnam decision and lessons on going to war*, Melbourne University Publishing, Carlton, Vic, 2004; Gary Woodard, 'Two Australian wars, two prime ministers: Australia's virtual Vietnam, and lessons for today', NAPS/net Policy Forum, 18 April 2013, [Two Australian wars, two prime ministers: Australia's virtual Vietnam, and lessons for today | Nautilus Institute for Security and Sustainability](#)
- ²⁴ Paul Barratt, 'The war crimes inquiry should make us question how we go to war and why', *The Guardian*, 20 November 2020.
- ²⁵ Graeme Dobell, 'Iraq lessons: the Cabinet submission that never was', *The Strategist*, 23 November 2015, and 'Iraq lessons: the Cabinet submission that never was (part 2)', *The Strategist*, 30 November 2015.

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- ²⁶ Robert Garran, *True believer: John Howard, George Bush and the American alliance*, Allen & Unwin, Sydney, 2004, p. 199.
- ²⁷ In an interview with Garran on 12 March 2004, Garran recorded that ‘asked to comment on reports that there had been no overarching cabinet submission on Iraq, Howard did not dispute the point, and answered that the issue was dealt with by cabinet’s National Security Committee’. Garran, *True believer*, fn 15, p. 220. See also Patrick Weller, *Cabinet government in Australia, 1901–2006*, UNSW Press, Sydney, 2007, p. 182 and Howard, *Lazarus rising*, p. 238.
- ²⁸ Weller, *Cabinet government in Australia*, p. 182.
- ²⁹ Weller, *Cabinet government in Australia*, p. 183.
- ³⁰ Weller, *Cabinet government in Australia*, p. 187.
- ³¹ Weller, *Cabinet government in Australia*, p. 183.
- ³² Weller, *Cabinet government in Australia*, p. 183.
- ³³ Brendan Nelson, ‘The role of government and parliament in the decision to go to war’, n.d. Parliament of Australia, Papers of Parliament No. 63, [The Role of Government and Parliament in the Decision to Go to War – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_and_Trade_Development/The_Role_of_Government_and_Parliament_in_the_Decision_to_Go_to_War_-_Parliament_of_Australia)
- ³⁴ Without Submission – Iraq: Authority for Australian Defence Force Military Action, Cabinet Decision JH03/0124/CAB, NAA: A14370, JH03/0124.
- ³⁵ Samuel Furphy (ed.), *The seven dwarfs and the age of the mandarins: Australian Government administration in the post-war reconstruction era*, ANU Press, Canberra, 2015. For the operation of the Cabinet system under Menzies, see David Lee, ‘Cabinet’, in Scott Prasser, JR Nethercote and John Warhurst (eds), *The Menzies era: a reappraisal of government, politics and policy*, Hale & Iremonger, Sydney, 1995, pp. 123–36.
- ³⁶ *The Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994*. See Elaine Thompson, ‘Democracy undermined: reforms to the Australian Public Service from Whitlam to Hawke’, *The Australian Quarterly*, vol. 63, no. 2, 1991, pp. 127–42.
- ³⁷ Paul Barratt, ‘My, how things have changed’, *Meanjin*, Autumn, 2021.
- ³⁸ Quoted in Dobell, ‘Iraq lessons: the impact of the Howard fib’, *The Strategist*, 13 November 2015.
- ³⁹ Dobell, ‘Iraq lessons: the impact of the Howard fib’. For a long-term perspective, see James Curran, ‘Iraq War casts a long shadow over Australia’s sovereignty’, *Australian Financial Review*, 19 March 2023.
- ⁴⁰ Peter Edwards, *Arthur Tange: last of the mandarins*, Allen & Unwin, Crows Nest, NSW, 2006, and David Horner, *Defence supremo: Sir Frederick Shedden and the making of Australian defence policy*, Allen & Unwin, St Leonards, NSW, 2000.
- ⁴¹ Ministerial Statement by the Prime Minister, 4 February 2003, [ParlInfo - MINISTERIAL STATEMENTS: Iraq \(aph.gov.au\)](https://aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_and_Trade_Development/ParlInfo_-_MINISTERIAL_STATEMENTS:_Iraq)
- ⁴² Graeme Dobell, ‘The Iraq war 10th anniversary: the Canberra silence’, *The Strategist*, 12 March 2013, and ‘Cabinet papers reveal Australia was on path to war in Iraq in 1998’, *The Strategist*, 20 January 2020. See also Sally Graham, ‘Australia in Iraq: a summary of the Iraq dossier’, *The Cove*, 5 September 2017; David Wroe, ‘The secret Iraq dossier: inside Australia’s flawed war’, *The Age*, 25 February 2017; and Albert Palazzo, *The Australian Army and the war in Iraq 2002–2010*, 15 March 2011 (released in 2017).
- ⁴³ Hugh White, ‘Why Howard took us to war’, *The Age*, 26 February 2004. See also Paul Barratt, ‘Faulty intelligence, or a war pre-ordained?’, *Pearls and Irritations*, 12 July 2016.
- ⁴⁴ A Berriedale Keith, *The dominions as sovereign states: their constitutions and governments*, Macmillan and Co, London, 1938, pp. 46–48 and pp. 605–07.
- ⁴⁵ Cablegram from John Curtin to SM Bruce, 3 December 1941, WJ Hudson and HJW Stokes (eds), *Documents on Australian foreign policy, 1937–49. Volume V: July 1941–June 1942*, Australian Government Publishing Service, Canberra, 1982, pp. 266–68; David Lee, *John Curtin*, Connor Court Publishing, Redland Bay, Qld, 2022, p. 77; David Lee, ‘States rights and Australia’s adoption of the Statute of Westminster, 1931–1942’, *History Australia*, vol. 13, issue 2, 2016, pp. 258–74. See also, Commonwealth on Australia, *Inquiry into international armed conflict decision making*,

Commonwealth of Australia, 2023,
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Armedconflict/Report

- ⁴⁶ Charles Sampford and Margaret Palmer, 'The Constitutional power to make war: domestic legal issues raised by Australia's action in Iraq', *Griffith Law Review*, 2009, vol. 18, issue 2, p. 374. They report that Hollingworth recalled: 'I had previously read public statements made by some academics and international lawyers, and, on the advice of the Official Secretary, I sought clarification from the Attorney-General as to technical ramifications that could arise under international law'.
- ⁴⁷ Sampford and Palmer, 'The Constitutional power', p. 350. 'Declarations recognizing the jurisdiction of the Court as compulsory', Australia, 22 March 2002, <https://www.icj-cij.org/declarations/au>
- ⁴⁸ Sampford and Palmer, 'The Constitutional power', p. 374. Hollingworth may also have been reacting to claims from the Anglican Church that the Howard government was beholden to the United States and unable to think for itself on Iraq. See 'PM and churches clash over Iraq', *The Age*, 5 October 2002.
- ⁴⁹ Without Submission – Iraq: Authority for Australian Defence Force Military Action, Cabinet Decision JH03/0124/CAB, NAA: A14370, JH03/0124.
- ⁵⁰ Nelson, 'The role of government and parliament in the decision to go to war'.
- ⁵¹ Sampford and Palmer, 'The Constitutional Power', p. 350. Later, on p. 380, they argue: 'In 2003, it appeared that the Defence Minister used his legal powers under the *Defence Act* to implement decisions taken by Cabinet and/or its Security Sub-Committee to give instructions to service head(s) to take the actions which involved us in war. A powerful argument could be made that the relevant sections of the *Defence Act* were not intended to be used to go to war and that such instructions are in peacetime or *in bello* decisions ... [G]iven the gravity of the decision, it might seem surprising that the government did not choose the most obvious and unimpeachable legal means to go to war'. In a similar vein, former Secretary of Defence Paul Barratt argued, in 'It's too easy to take us to war', *Pearls and Irritations*, 22 November 2019, that 'successive Governments appear to have relied upon Section 8 of the *Defence Act 1903*, a provision which in its current form was introduced in 1975 to make clear that the Minister for Defence had 'general control and administration' of the Defence Force and that both the Secretary and the newly created position of Chief of the Defence Force were subject to the Minister's discretion. Section 8 was never intended to create a new power to make war'.
- ⁵² Without Submission – Governor-General: Provision in Letters Patent for Standing Aside, Decision of Ministry JH03/0186/MIN, 12 May 2003, NAA: A14370, JH03/0186.
- ⁵³ Sampford and Palmer, 'The Constitutional power', p. 374, record that the attorney-general did not respond to Hollingworth, but that Howard did 'from available legal advice'. Howard did not pursue an undertaking to bring the decision to the Executive Council 'for noting' and advised Hollingworth that 'his predecessors had not been involved in past decisions and that no involvement was necessary'.
- ⁵⁴ Tom McIlroy, 'Kerr–Fraser conflict a precedent for governor-general's intervention', *Australian Financial Review*, 21 August 2022.
- ⁵⁵ Among the questions raised by this episode are whether the governor-general was entitled to ask for the advice of the attorney-general as to the international legality of the war, whether he could seek independent legal advice if the government were not permitted to give it, and '[w]hat should the Governor-General do if he is uncertain of the international legality of the war after receiving advice from the government – especially if the advice is not from the Attorney-General whose advice he has requested?' Sampford and Palmer, 'The Constitutional Power', pp. 375–76. The authors go on to discuss the possibility that the governor-general might insist on seeking the opinion of the attorney-general as first law officer, insist on the publication of the advice or even consider the possibility of resignation. Sampford and Palmer, 'The Constitutional power', pp. 374–77. See also Barratt, 'It's too easy to take us to war'. Before he agreed to Malcolm Fraser's request for a double dissolution in 1983, Stephen asked for further advice. For Stephen, see Philip Ayres, *Fortunate voyager: the worlds of Ninian Stephen*, The Miegunyah Press, Carlton, Vic, 2013.
- ⁵⁶ 'The government's legal advice on using force', *Sydney Morning Herald*, 19 March 2003.
- ⁵⁷ Without Submission – Iraq: Authority for Australian Defence Force Military Action, Cabinet Decision JH03/0124/CAB, NAA: A14370, JH03/0124.

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- ¹⁶⁵ Cabinet Submission JH03/0440 – Government Response to the Report of the Family Law Pathways Advisory Group – Out of the Maze, Cabinet Decision JH03/0440/CAB/3, 15 April 2003, NAA: A14370, JH03/0440; Cabinet Submission JH03/0880 – Telecommunications Offences, Cabinet Decision JH03/0880/CAB, 1 April 2003, NAA: A14370, JH03/0880.
- ¹⁶⁶ Weller, *Cabinet government in Australia*, p. 180.
- ¹⁶⁷ Weller, *Cabinet government in Australia*, Chapter 6.
- ¹⁶⁸ Cabinet Memorandum JH03/0332 – Sustainable Regions Programme Update, Cabinet Decision JH03/0332/CAB, 15 September 2003, NAA: A14370, JH03/0332.
- ¹⁶⁹ Cabinet Submission JH03/0276 – Regional Business – A Plan for Action, Cabinet Decision JH03/0276/CAB, 29 July 2003, NAA: A14370, JH03/0276.
- ¹⁷⁰ Without Submission – National Inquiry into Bushfire Prevention and Mitigation, Cabinet Decision JH03/0068/CAB, 3 March 2003, NAA: A14370, JH03/0068; Without Submission – Drought Update, Cabinet Decision JH03/0032/CAB/3, 26 August 2003, NAA: A14370, JH03/0032; Ron McLeod, *Inquiry into the operational response to the January 2003 bushfires in the ACT*, Department of Urban Services ACT Government, Canberra, 2003.
- ¹⁷¹ Cabinet Submission JH03/0006 – National Strategic Framework for Aboriginal and Torres Strait Islander Health, Cabinet Decision JH03/0006/CAB, 3 February 2003, NAA: A14370, JH03/0006.
- ¹⁷² Cabinet Submission JH03/0212 – Draft Declaration on the Rights of Indigenous Peoples, Cabinet Decision JH03/0212/CAB, 10 June 2003, NAA: A14370, JH03/0212.
- ¹⁷³ Submission JH03/0286 – Reform of the Aboriginal Councils and Associations Act, Decision JH03/0286/CAB, 11 November 2003, NAA: A14370, JH03/0286.
- ¹⁷⁴ John Hannaford, Jackie Huggins and Bob Collins, 'In the hands of the regions – a new ATSIC report of the review of the Aboriginal and Torres Strait Islander Commission', *Australian Indigenous Law Reporter*, vol. 8, no. 3, 2003, pp. 105–12.
- ¹⁷⁵ Quoted in Alison Holland, 'Many claim Australia's longest-running Indigenous body failed. Here's why that's wrong', *The Conversation*, 24 July 2023.
- ¹⁷⁶ Cabinet Submission JH02/0271 – Government Response to the Final Report of the Council for Aboriginal Reconciliation – Reconciliation: Australia's Challenge – Decision JH02/0271/CAB, 10 September 2002, NAA: A14370, JH2002/271.
- ¹⁷⁷ Gabrielle Appleby and Sean Brennan, 'The long road to recognition', *Inside Story*, 19 May 2017.
- ¹⁷⁸ According to former diplomat Tony Kevin, Australian troops were engaged in hostilities on the evening of 18 March (Iraq time), 16 hours after Bush's 48-hour ultimatum to cede power. Tony Kevin, 'Our questionable tactics in Iraq', *The Age*, 17 January 2004.
- ¹⁷⁹ Graeme Dobell, 'Iraq lessons: the impact of the Howard fib'.
- ¹⁸⁰ Timothy A Sayle, "'But he has nothing on at all!" Canada and the Iraq War, 2003', *Canadian Military History*, vol. 19, issue 4, 2015, p. 6.
- ¹⁸¹ Ewan MacAskill, 'Adviser quits Foreign Office over legality of war', *The Guardian*, 22 March 2003; Vikram Dodd, 'Iraq war illegal, says FO adviser who quit', *The Guardian*, 14 June 2004.
- ¹⁸² David Lee, *The second rush: mining and the transformation of Australia*, Connor Court Publishing, Redland Bay, Qld, 2016, Chapter 9.
- ¹⁸³ Rod Myer, 'Australia missed out on mining boom cash by rejecting larger sovereign wealth fund', *The New Daily*, 17 November 2019.

3. 2003 Cabinet records examined for public access

Key Cabinet records from 2003 were selected by members of the media, National Archives and the Cabinet historian and have been access examined by National Archives for embargoed release. The access status of 246 records has been determined, with 14 records closed withheld pending agency advice.

Of the 246 Cabinet records:

- 228 records are open in full
- 18 records are open with exemption
- 0 records are closed in full

Digitised records provided under embargo include the releasable portions of records that are open, or open with exemption.

For open with exemption records, a statement explaining the reasons for exemption is included with the digital copy. Statements of reasons for closed records are included in the secure file transfer.

4. 2003 Cabinet records - Access status explained

Under the *Archives Act 1983*, Commonwealth records are available for public access when they reach the open access period unless they contain information that falls into one or more of the exemption categories defined at section 33 of the Act. Before National Archives releases records for public access, they are examined, sometimes in consultation with other government agencies, to ensure they do not contain information requiring exemption.

The access status of the examined 2003 Cabinet records will be displayed on RecordSearch from 1 January 2024.

Access status: Open

Records with an access status of OPEN indicates that no information was considered exempt under section 33 of the *Archives Act 1983* and the record can be released in full.

Access status: Open with Exemption (OWE)

Records with an access status of Open with Exemption have been partially withheld from public access as they contain information that falls into one or more of the exemption categories defined at section 33 of the *Archives Act 1983*.

Statements explaining the reasons for exemption are included as part of the digitised copy.

If you wish to seek review of an access decision where information has been exempted, you must submit an application for access via [RecordSearch](#) on the National Archives' website, from 1 January 2024. If the decision on the application confirms the decision made for the embargoed Cabinet release, an Internal Reconsideration application may then be lodged to request a review of the decision made on the application for access.

Access status: Closed

Records with an access status of Closed are wholly withheld from public access as they contain information that falls into one or more of the exemption categories defined at section 33 of the *Archives Act 1983*.

Closed records are not supplied. Statements explaining the reasons for exemption are included in the secure file transfer.

Access status: Withheld Pending Advice (WPA)

Records with an access status of Withheld Pending Advice are withheld from public access as National Archives is awaiting access advice from other government agencies. National Archives aims to have decisions made on these records and have a digital copy available for viewing on the RecordSearch database from 1 January 2024.

If access decisions have not been made by 1 January 2024, the access status of these items is noted on RecordSearch as 'Withheld Pending Adv'.

Access status: Not Yet Examined (NYE)

Records with an access status of Not Yet Examined have yet to be examined for public release under the *Archives Act 1983*.

UNDER EMBARGO UNTIL 1 JANUARY 2024

The access status of these items is noted on RecordSearch as Not Yet Examined. If the records you are interested in are not yet examined, you can submit applications for access by logging into [RecordSearch](#) .

5. 2003 Cabinet records

CONTROL SYMBOL	TITLE	ITEM ID	ACCESS STATUS
JH2003/4	Reform of the Federal Merits Review Tribunal System	32711234	Open
JH2003/40	Government response to the Report of the Family Law Pathways Advisory Group - Out of the Maze	32711236	Open
JH2003/85	2003-2004 Budget - Defence Portfolio Budget Submission	32711238	OWE
JH2003/97	2003-2004 Budget - Family and Community Services Portfolio Budget Submission	32711240	Open
JH2003/100	National Illicit Drug Strategy - 'Tough on Drugs' - Next Phase	32711241	Open
JH2003/110	Ethanol labelling and limits in petrol	32711244	Open
JH2003/124	Iraq authority for Australian Defence Force Military action	32711245	Open
JH2003/134	2003-2004 Budget - Report on Discretionary Grants	32711246	Open
JH2003/135	Rationalising Commonwealth and State Responsibilities for Specific Purpose Payments (SPPs)	32711247	Open
JH2003/147	Strategy for the sale of Three Sydney Basin Airports	32711248	Open
JH2003/160	Fuel excise - immediate issues and reform options	32711249	Open
JH2003/199	National Water Initiatives	32711251	Open
JH2003/212	Draft Declaration on the Rights of Indigenous Peoples	32711252	Open
JH2003/255	Government response to recommendations of the HIH Royal Commission Report into the failure of the HIH Insurance Group	32711254	Open
JH2003/276	Regional Business - A Plan for Action	32711255	Open
JH2003/287	Proposal to restructure the HIH Claims Support Scheme	32711256	Open
JH2003/333	Social Security agreement between Australia and Greece - Further Submission	32711258	Open
JH2003/347	Assessment of The National Research Priority Implementation Plans and Enhancements to the Framework	32711259	Open
JH2003/380	Tourism White Paper - A Medium to Long Term Strategy for Australia's Tourism Industry	32711260	Open

JH2003/400/1	Response to Clarke Review of Veteran's Entitlements	32711261	Open
JH2003/416	Regulating Therapeutic Products in Australia and New Zealand	32711262	Open
JH2003/437	Small Business and Regulation	32711263	Open
JH2003/6	National Strategic Framework for Aboriginal and Torres Strait Islander Health	203026077	Open
JH2003/7	Regional Telecommunications Inquiry - Further Submission	203026078	Open
JH2003/8	Telecommunications Universal Service Obligation arrangements	203026079	Open
JH2003/10	Singapore-Australia Free Trade Agreement	203026081	Open
JH2003/11	Commonwealth's position in the 2003 review of award wages	203026082	Open
JH2003/12	Foreign and Trade Policy White Paper	203026083	Open
JH2003/15	Support for volunteers in emergency situations	203026085	Open
JH2003/16	Report of the Independent Review of Veteran's Entitlements	203026086	Open
JH2003/18	Workplace Relations Amendment (Political Affiliation) Bill 2002	203026088	Open
JH2003/19	Bali Tragedy - memorial options	203026089	Open
JH2003/29	Higher Education Reforms	203026092	Open
JH2003/30	Options to contain Future Private Health Insurance Premium increases - final response	203026093	Open
JH2003/31	Christmas Island Permanent Immigration Reception and Processing Centre (IRPC) - Supplementary Submission	203026094	OWE
JH2003/32	Drought update	203026095	Open
JH2003/35	Parental access to Medicare information of children 12 years and over	203026097	Open
JH2003/36	Affordability of Medical Services under the Medicare Benefits Schedule - A New Policy Approach	203026098	Open
JH2003/39	Development of a Forward Strategy on Climate Change - Progress Report	203026101	Open
JH2003/50/1	Queensland land clearing - Commonwealth negotiating position	203026103	Open
JH2003/50/2	Queensland land clearing - proposals	203026104	Open
JH2003/51	Australia-United States Free Trade Agreement	203026105	Open
JH2003/56	Strategic Presentation - Economic Policy	203026107	Open
JH2003/57	Strategic Presentation - National Defence and Security	203026108	OWE

JH2003/59	Strategic Presentation - Sustainable Environment	203026110	Open
JH2003/60	Strategic Presentation - Demographic Change	203026111	Open
JH2003/62	Strategic Presentation - Energy Policy	203026113	Open
JH2003/68	National inquiry into bushfire prevention and mitigation	203026119	Open
JH2003/69	Australia-Japan Trade and Economic Consultations	203026120	Open
JH2003/70	Sustainable Environment Committee of Cabinet - indicative business for 2003	203026121	Open
JH2003/71	Cross-Media arrangements	203026122	Open
JH2003/72	Presentation - The Living Murray	203026123	Open
JH2003/75	2003-2004 Budget - Environment and Heritage Portfolio Budget Submission	203026125	Open
JH2003/76	International Unitisation Agreement for the Sunrise and Troubadour Petroleum Fields and Implementation of the Timor Sea Treaty	203026126	OWE
JH2003/80	Telecommunication Offences	203026129	Open
JH2003/81	Country of Origin Labelling of Food	203026130	Open
JH2003/84	2003-2004 Budget - Immigration and Multicultural and Indigenous Affairs Portfolio Budget Submission	203026133	Open
JH2003/87	Australian Energy Policy - An Overview	203026135	Open
JH2003/89	Commonwealth position on the Energy Markets	203026137	Open
JH2003/90	2003-2004 Budget - Foreign Affairs and Trade Portfolio Budget Submission	203026138	Open
JH2003/92	Export Finance and Insurance Corporation (EFIC) - National Interest Account (NIA) - Exposure and Risk Management Report	203026139	Open
JH2003/93/1	Australia-Thailand Free Trade Agreement	203026140	Open
JH2003/93/2	Australia-Thailand Free Trade Agreement	203026141	Open
JH2003/98	Pharmaceuticals Industry Research and Development Program	203026142	Open
JH2003/99	Proposed New Defence Outcome, Output and Program Structure	203026143	Open
JH2003/101	World Trade Organization (WTO) - Doha Negotiations - Australia's Approach	203026144	Open
JH2003/102	2003-2004 Budget - Transport and Regional Services Portfolio Budget Submission	203026145	Open
JH2003/103	2003-2004 Humanitarian Program	203026146	Open

JH2003/104	2003-2004 Migration (Non Humanitarian) Program	203026147	Open
JH2003/108	Defence Capability Plan	203026149	Open
JH2003/109	Commonwealth support for Vocational Education and Training	203026150	Open
JH2003/130	A New Strategy for Community Care	203026153	Open
JH2003/131	2003-2004 Budget - Treasury Portfolio Budget Submission	203026154	Open
JH2003/119	Employee Share Ownership	203026158	Open
JH2003/120/1	Higher Education Reforms	203026159	Open
JH2003/120/2	Higher Education Reforms	203026160	Open
JH2003/136	Air passenger ticket levy	203026162	Open
JH2003/138	Financial issues concerning superannuation arrangements for Commonwealth civilian employees	203026164	Open
JH2003/144	Finalisation of Government's position on 2003-2008 Australian Health Care Agreements	203026168	Open
JH2003/145	Government response to the Final Report of the Royal Commission into the Building and Construction Industry	203026169	Open
JH2003/148	Incentive arrangements for Defence property sales	203026170	Open
JH2003/150	Reforms to Defence's Budgeting and Business Processes	203026172	Open
JH2003/151	Financial needs of the Health Insurance Commission for 2003-2004 and beyond	203026173	Open
JH2003/156	Scoping Study into the Possible Sale of Defence Housing Authority Assets	203026178	Open
JH2003/157	Iraq - military operations	203026179	Open
JH2003/158	Severe Acute Respiratory Syndrome	203026180	Open
JH2003/159	Energy Grants (Credits) Scheme - environmental component	203026181	Open
JH2003/163	Tax deductibility of course fees incurred under Commonwealth Student Loan Schemes	203026184	Open
JH2003/165	Medical Expenses Offset - dogs for the guidance or assistance of the hearing impaired and other disabled individuals	203026186	Open
JH2003/166	Goods and Services Tax treatment of Languages other than English (LOTE) Courses	203026187	Open
JH2003/167	Medicare Levy low income thresholds	203026188	Open
JH2003/168	Energy Task Force - Key decisions workplan and timetable	203026189	Open
JH2003/169	International Energy Agency (IEA) emergency oil measures and Australia's obligations	203026190	Open

JH2003/171	Mining Technology Services Action Agenda - Strategic Leaders report to Government	203026191	Open
JH2003/172	Handling Strategy for the Funding of Science and Innovation Post 2005-2006 - Backing Australia's Ability	203026192	Open
JH2003/174	Government response to the Report on the Review of the Competition Provisions of the Trade Practices Act	203026194	Open
JH2003/180	East Timorese Asylum Seekers	203026197	Open
JH2003/181	Proposed Restructure of the Aboriginal and Torres Strait Islander Commission	203026198	Open
JH2003/183	HIH Royal Commission	203026199	Open
JH2003/184	Proposed Merger of the Australian Bureau of Agricultural and Resource Economics and the Bureau of Rural Sciences	203026200	Open
JH2003/185	Possible Amendments to Cross-Media Legislation	203026201	Open
JH2003/186	Governor-General - Provision in Letters Patent for Standing Aside	203026202	Open
JH2003/187	Review of Settlement Services for Migrants and Humanitarian Entrants	203026203	Open
JH2003/192	Tourism Green Paper - Medium to Long Term Strategy for Tourism	203026204	Open
JH2003/194	Ad Hoc Committee Meeting on a Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities	203026206	Open
JH2003/195	Strategy for Managing Australia's Response to Climate Change Issues over the Short and Long Term	203026207	OWE
JH2003/196	National Biodiversity Conservation Priorities	203026208	Open
JH2003/197	Revitalised Strategy to Progress the Government's Superannuation Agenda	203026209	Open
JH2003/201	The Living Murray Initiative	203026211	Open
JH2003/208	Identity fraud	203026212	Open
JH2003/209	Institutional arrangements for Regulation of Telecommunications and Broadcasting	203026213	Open
JH2003/219	Future arrangements for the supply of plasma products in Australia	203026218	Open
JH2003/221/1	Air Passenger Ticket Levy	203026220	Open
JH2003/221/2	Air Passenger Ticket Levy	203026221	Open
JH2003/222	Trade implications of Australia's Quarantine Regime	203026222	Open
JH2003/223	Development of a National Energy Market	203026223	Open

JH2003/224	Offshore Processing Centres - arrangements with Nauru and Papua New Guinea (PNG)	203026224	OWE
JH2003/225	Measures to deal with spam (unsolicited electronic messaging)	203026225	Open
JH2003/226	National Counter-Terrorism Plan	203026226	Open
JH2003/227	Recommendations arising from the Medibank Private Limited scoping study	203026227	Open
JH2003/228	Australian Magnesium Corporation - Stanwell Magnesium Project	203026228	Open
JH2003/230	Branding of Australian Government Organisations and activities	203026230	Open
JH2003/231	Australia's participation in the 2005 World Exposition in Aichi, Japan	203026231	Open
JH2003/232	Possible inquiry into child custody arrangements in the event of family separation	203026232	Open
JH2003/233	Options for the national low level radioactive waste repository	203026233	OWE
JH2003/243	Request for legal assistance - Attorney-General and the Minister for Immigration and Multicultural and Indigenous Affairs	203026235	Open
JH2003/244	Draft Parliamentary Programme for week 5 (23 to 26 June 2003) and a variation to the 2003 Winter Legislation Programme	203026236	Open
JH2003/246	Innovation Investment Fund Progress Report	203026237	Open
JH2003/247	Australia-United States Free Trade Agreement (AUSTFA) - Market Access	203026238	Open
JH2003/248	Short and Medium Term issues facing the Biofuels Sector	203026239	Open
JH2003/249	Queensland land clearing	203026240	Open
JH2003/254	2003-08 Commonwealth State Housing Agreement - Endorsement of the Agreement	203026241	Open
JH2003/257	Royal Commission into the Building and Construction Industry - Legislation and related matters	203026243	Open
JH2003/258	Climate Change Forward Strategy - preferred strategic approach to emissions management	203026244	OWE
JH2003/259	Royal Commission into the Building and Construction Industry - Changes to the National Building Code	203026245	Open
JH2003/260	Progress with a National Water Initiative	203026246	Open

JH2003/261	Royal Commission into the Building and Construction Industry - response to Treasury Portfolio related recommendations	203026247	Open
JH2003/262/1	Long term strategy for the Biofuels Sector	203026248	Open
JH2003/262/2	Report on 350 million litre production target for biofuels	203026249	Open
JH2003/263	Australia-China free trade agreement scoping study	203026250	Open
JH2003/264	Government air travel - use of smaller aircraft	203026251	Open
JH2003/277	Development of a National Energy Market	203026252	Open
JH2003/278	Issues for Non-Government Schools Funding - 2005 to 2008	203026253	Open
JH2003/280	Solomon Islands - Regional Assistance Mission	203026254	Open
JH2003/283	Australia-United States Free Trade Agreement - Import Risk Analysis for Pigmeat	203026257	Open
JH2003/284	Proposed Terms of Reference for a Possible Productivity Commission Review of Housing Affordability	203026258	Open
JH2003/285	Australia-United States of America Free Trade Agreement Negotiations	203026259	Open
JH2003/286	Reform of the Aboriginals Councils and Associations Act	203026260	Open
JH2003/289	Ratification of the Stockholm Convention on Persistent Organic Pollutants (POPS)	203026261	Open
JH2003/290	Ratification of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure	203026262	Open
JH2003/291	Australian Energy Security	203026263	Open
JH2003/294	Fuel Excise Reform - Overview	203026266	Open
JH2003/295	Aerospace Industry Action Agenda	203026267	Open
JH2003/296	Fuel Excise Reform - environment issues	203026268	Open
JH2003/297	Commonwealth preparations for Rugby World Cup 2003	203026269	Open
JH2003/312	Melbourne 2006 Commonwealth Games - Policies and Principles for Provision of Commonwealth Security Services	203026270	Open
JH2003/314	Financial assistance to Bali bombing victims	203026272	Open
JH2003/315	Council of Australian Governments Meeting - August 2003	203026273	OWE

JH2003/316	Aviation Security and Assessment of the Adequacy and Appropriateness of Australia's Aviation Security Policy Settings	203026274	Open
JH2003/317	Export of Live Animals	203026275	Open
JH2003/322	Exceptional Circumstances Assistance for Pig Producers	203026277	Open
JH2003/324	Future arrangements for Australian Shipping	203026279	Open
JH2003/325	World Trade Organization (WTO) - Approach to the Fifth Ministerial Conference in Mexico in September 2003	203026280	Open
JH2003/327	Replacement Patrol Boat Project	203026281	Open
JH2003/329	Slim Dusty Centre	203026283	Open
JH2003/331	Tough on Drugs in Sport	203026284	Open
JH2003/332	Sustainable Regions Programme Update	203026285	Open
JH2003/343	Framework Convention on Tobacco Control and Future Agenda	203026294	Open
JH2003/344	Implementation of a Mandatory National Water Efficiency Labelling and Standards Scheme	203026295	Open
JH2003/345	Government response to the 2002 Reviews of the National HIV/AIDS and Hepatitis C Strategies and Strategic Research	203026296	Open
JH2003/346	Establishment of a Postal Industry Ombudsman	203026297	Open
JH2003/350	Regional Programmes Report and the National Regional Evaluation Framework	203026299	Open
JH2003/351	Proposed new superannuation arrangements for Commonwealth Civilian Employees	203026300	Open
JH2003/352	Terrorism-related offences - Australia's extradition arrangements	203026301	OWE
JH2003/353	2004-2005 Budget process	203026302	Open
JH2003/354	Assistance for Soccer	203026303	Open
JH2003/357	Australian Government Specific Purpose Payment (SPP) for Schools for the 2005-2008 Quadrennium	203026306	Open
JH2003/358	Specific Purpose Payments (SPPs) for Indigenous Education for the 2005-2008 Quadrennium	203026307	Open
JH2003/359	Live Sheep Exports - alleged feed contamination	203026308	Open
JH2003/372	Centenary of Women's Suffrage	203026310	Open
JH2003/375	Australia-United States Free Trade Agreement (AUSFTA) - Mandate Review	203026312	Open

JH2003/376	Australia-Thailand Free Trade Agreement	203026313	Open
JH2003/377	China - Trade and Economic Framework (TEF)	203026314	Open
JH2003/378	Manufacture of Generic Pharmaceuticals	203026315	Open
JH2003/381	Export Finance and Insurance Corporation (EFIC) - National Interest Account (NIA) Facility for Australian Exports to Iraq	203026317	Open
JH2003/382	Pharmaceutical Benefits Scheme - Proposal for listing and extension to listing of six drugs on the PBS	203026318	Open
JH2003/384	Medical Indemnity Policy Review	203026320	Open
JH2003/394	The Living Murray Initiative	203026321	Open
JH2003/395	Commonwealth Support for Vocational Education and Training	203026322	Open
JH2003/396	Great Barrier Reef Marine Park - Representative Areas Programme	203026323	Open
JH2003/397	Progress with the National Water Initiative and Funding to Address Water Overallocation in the Murray-Darling Basin	203026324	Open
JH2003/398	Queensland Land Clearing Proposal	203026325	OWE
JH2003/403	Excise Reform - Handling strategy	203026330	Open
JH2003/404	Fuel Excise Reform - Environment measures	203026331	Open
JH2003/406/1	Downstream Petroleum Overview	203026333	Open
JH2003/408	Listing of Terrorist Organisations	203026335	Open
JH2003/410	Restaurant and Catering Industry Action Agenda	203026337	Open
JH2003/411	A Fairer Medicare	203026338	Open
JH2003/412	Reforms to Australia's Anti Money Laundering System	203026339	Open
JH2003/413	New civil penalty regime to deter the promotion of Tax Avoidance and Tax Evasion Schemes	203026340	Open
JH2003/415	Delineation of the Outer Limit of Australia's Extended Continental Shelf	203026342	OWE
JH2003/417	Future Textile, Clothing and Footwear (TCF) assistance arrangements	203026343	Open
JH2003/418	Government response to the Review of Settlement Services	203026344	Open
JH2003/420	National Competition Policy - 2003-2004 Competition Payments to States and Territories	203026346	Open
JH2003/421	Child Care Initiatives	203026347	Open
JH2003/422	The National Consumer and Financial Literacy Strategy	203026348	Open

JH2003/434	Changes to Bankruptcy and Superannuation Laws to Limit the Transfer of a Bankrupt's assets to Superannuation Funds	203026350	Open
JH2003/435	Amendments to the Bankruptcy Act 1966	203026351	Open
JH2003/444	Youth Allowance debts	203026357	Open
JH2003/446	State-Specific and Regional Migration	203026359	Open
JH2003/449	National Workers' Compensation and Occupational Health and Safety Frameworks	203026362	Open
JH2003/450	Independent Assessment of Australian Government Air Travel	203026363	Open
JH2003/453	Working Age Payment Reform	203026365	Open
JH2003/454	Marine Protected Areas and Displaced Fishing	203026366	OWE
JH2003/456	Senior Minister' Review for 2004-2005 Budget - Overview	203026368	Open
JH2003/459	Senior Ministers' Review for 2004-2005 Budget - Australian Security Intelligence Organisation	203026371	Open
JH2003/461	Senior Ministers' Review for 2004-2005 Budget - Melbourne 2006 Commonwealth Games	203026373	Open
JH2003/462	Senior Ministers' Review for 2004-2005 Budget - Defence Portfolio	203026374	Open
JH2003/465	Senior Ministers' Review for 2004-2005 Budget - Environment and Heritage Portfolio	203026377	Open
JH2003/468	Senior Ministers' Review for 2004-2005 Budget - Foreign Affairs and Trade Portfolio	203026380	Open
JH2003/479	Senior Ministers' Review for 2004-2005 Budget - Climate Change Forward Strategy	203026389	Open
JH2003/480	National Initiative to Combat Sexual Assault and Partnership against Domestic Violence	203026390	Open
JH2003/481	Review of pricing arrangements in Residential Aged Care	203026391	Open
JH2003/3	Reference copy of Consular Travel Advisory Campaign	203026665	Open
JH2003/23	Reference copy of Sale of Defence Russell Offices	203026667	Open
JH2003/34	Reference copy of Australia's National Security - A Defence Update	203026668	OWE
JH2003/41	Reference copy of International Maritime Organisation - implementation of measures to enhance maritime security	203026669	Open

JH2003/96	Reference copy of Proposal for a Productivity Commission Review of the Naval Shipbuilding and Repair Sector Strategic Plan	203026671	Open
JH2003/112	Reference copy of Carriage of Foreign Air Security Officers to/from Australia and overseas destinations for Australian Air Security Officers	203026673	Open
JH2003/117	Reference copy of Bougainville - withdrawal of Australia's participation in the Peace Monitoring Group	203026675	OWE
JH2003/202	Reference copy of Bougainville - successor to the Peace Monitoring Group	203026676	OWE
JH2003/204	Reference copy of Papua New Guinea - release of further financial assistance to the PNGDF (PNG Defence Force) Reform Program	203026677	OWE
JH2003/217	Reference copy of Hizballah	203026678	Open
JH2003/236	Reference copy of Implications of the post-conflict situation in Iraq for Australia's migration and refugee programmes	203026679	Open
JH2003/252	Reference copy of Replacement Patrol Boats	203026682	Open
JH2003/253	Reference copy of Counter-Terrorism Overseas Response Group	203026683	Open
JH2003/265	Reference copy of Project Air 5333 (Vigilare) replacement of Air Defence systems	203026684	Open
JH2003/271	Reference copy of Joint Project 2008 Phase 3E - Military Satellite Communications (MILSATCOM) Ground Infrastructure	203026685	Open
JH2003/272	Reference copy of The Defence Integrated Distribution System (DIDS) Project - Tender evaluation outcome	203026686	Open
JH2003/288	Reference copy of David Hicks - update on discussions in Washington	203026687	Open
JH2003/302	Reference copy of Defence Science and Technology Organisation (DSTO) Rationalisation Project	203026688	Open
JH2003/311	Reference copy of Pacific Regional Policing Initiative (PRPI) proposal	203026689	Open
JH2003/320	Reference copy of Report into the Review of Defence Procurement	203026691	Open
JH2003/366	Reference copy of Establishment of a Strategic Agreement for the Through Life Support of Collins Class Submarines	203026693	Open

JH2003/391	Reference copy of Visit to Canberra by the President of the United States George W Bush - Aviation security arrangements	203026696	Open
JH2003/425	Reference copy of Protection of Timor Sea oil and gas infrastructure	203026699	OWE

MS23-001400

NATIONAL ARCHIVES OF AUSTRALIA ANNUAL CABINET DOCUMENT RELEASE

Prime Minister, we recommend you:

Through: Cabinet Secretary

1. Note that the National Archives of Australia (NAA) is releasing 100 Cabinet records from 2003 on 1 January 2024 and there is some public concern about the release of records related to the Iraq war.

Noted / Please Discuss

2. Note a small number of records were not transferred to the NAA in 2020 and work is underway to transfer the remaining records before 1 January 2024.

Noted / Please Discuss

3. Note that I plan to publicly announce a review by Dennis Richardson to examine the circumstances that occurred in 2020 and confirm all relevant records are transferred to the NAA (**Attachment A – PM&C Media Statement and Attachment B – Review of 2003 Cabinet Records Transfer Terms of Reference**)

Noted / Please Discuss

ANTHONY ALBANESE

Date:

Comments:

KEY POINTS

1. The NAA releases a selection of Cabinet documents that are at least 20 years old on 1 January each year. PM&C transfers all relevant Cabinet documents to the Archives on an annual basis. Documents 15 years and older are transferred in an annual process.
2. As part of the release of 2003 documents, NAA has briefed journalists and historians and some concerns have been raised about the release of records related to the Iraq war.
3. PM&C recently became aware that a small number of Cabinet records were not transferred to the NAA in 2020, this was likely due to the outbreak of COVID-19 and related lockdowns stalling the transfer process.
4. The process to transfer these records to NAA has commenced and will be completed before 1 January 2024. The NAA can then commence consultation with relevant Agencies, including security agencies, to identify exempt information and ensure personal or security information is not compromised.
5. Only 100 of the records transferred are selected by the NAA for inclusion in the embargoed media packs provided to journalists ahead of the 1 January release (**Attachment C - NAA Cabinet Records Media Guide 2003**).
6. National Security Council (NSC) documents that have not been considered by Cabinet are not included in the NAA public release. In 2003, a number of items related to the Iraq war were only considered by NSC.
7. PM&C became aware on 18 December 2023 that some NAA staff were of the view that some 2003 records may not have been transferred. The NAA unfortunately did not query the completeness of the transfer (which took place in 2020) with PM&C.

8. PM&C became aware of the NAA concern after reading an NAA media response and immediately reviewed its records for 2003 files and identified a small number remaining in an appropriately classified secure vault on 19 December 2023.
9. PM&C then commenced the process to transfer the remaining files to the NAA on 22 December 2023. The NAA has confirmed they will accept the remaining files on 31 December 2023. Importantly, these records do not exclusively relate to the Iraq war, they cover a range of subjects.

SUPPLEMENTARY INFORMATION

10. The NAA is responsible for consulting with relevant Agencies to ensure content released is compliant with the *Archives Act 1983* (the Act) exemptions. Personal information and information about the security of the Commonwealth and its residents are exempt from release.

Release exemptions - Archives Act 1983

11. The Act exempts certain information from public release. These exemptions provide that access may be refused where release would:
 - a. damage Australia's security, defence or international relations – s33(1)(a)
 - b. reveal confidential information provided to the Australian Government by a foreign government or an international organisation — 33(1)(b)
 - c. negatively affect Australia's financial or property interests, where releasing the information would not be in the public interest – 33(1)(c)
 - d. be a breach of confidence – 33(1)(d)
 - e. interfere with the law – 33(1)(e)(i)
 - f. provide details about a person who has provided confidential information to the Australian Government or a witness under the Witness Protection Act 1994 – 33(1)(e)(ii) and 33(1A)
 - g. endanger the life or safety of any person – 33(1)(e)(iii)
 - h. prejudice the fair trial of a person – 33(1)(f)(i)
 - i. disclose law-enforcement methods – 33(1)(f)(ii)
 - j. threaten public safety – 33(1)(f)(iii)
 - k. unreasonably disclose information about someone's personal affairs – 33(1)(g)
 - l. threaten the commercial value of trade secrets or other information – 33(1)(h)
 - m. damage a person's lawful business or professional affairs 33(1)(j)
 - n. breach legal professional privilege and disclosure would not be in the public interest – 33(2)
 - o. release information which cannot be disclosed under a Commonwealth, state or territory taxation law – 33(3)

Annual pre-release process

12. Each year prior to the annual release, the NAA consults with relevant Agencies (including PM&C) to confirm if content included within relevant Cabinet documents meets the legislated exemption criteria. Agencies then identify and refer exempt content to the NAA for consideration.
13. The NAA determines which documents will be included in the annual release and which exemptions will be applied. A subset of documents transferred to the archives are selected for inclusion in the release and a further subset of 100 documents is made available to journalists in the media pre-release process.
14. In 2023 the NAA listed 334 Howard Cabinet records. Of these 260 were selected to be part of the 2003 records release (includes the 100 released to media). Of these only 228 are to be released in full, 18 have some exemption applied and no records were exempt in full. A further 14 records are withheld pending agency advice.
15. The NAA has advised PM&C that it only releases NSC submissions that have also been to Cabinet in its annual public release. This means that submissions, including oral submissions that are only considered by NSC would not be included in the annual release.

16. A number of media queries have now been received by the NAA and PM&C which state that no NSC documents were included in the release. This is incorrect as a number of NSC documents that were also considered by the Cabinet are included in the release.
17. PM&C no longer has access to the files transferred to the NAA, only copies provided during the consultation and media event processes. Due to the age of the files, digital copies did not exist. The NAA has digitised 100 of the records which were pre-released to journalists in mid-December.

Inadvertent non-transfer of some files

18. During a document review of the PM&C Cabinet file holdings on 19 December 2023, a small number of boxes holding some files relevant to the 2023 release were identified. These records should have been transferred to the NAA in 2020.
19. A review of emails from this time found that these files were awaiting security agency review to ensure they did not contain sensitive (non-Cabinet) information that should not be transferred to the NAA. This is a standard security step that is arranged by PM&C during the record transfer process.
20. While PM&C did reach out to relevant Agencies at that time, it seems lock downs related to the outbreak of COVID-19 meant that the necessary reviews did not, or could not, take place.
21. PM&C since finalised the security agency review of the remaining records on 22 December 2023.
22. PM&C also hosted NAA staff on 22 December 2023 to securely review the records and commence the transfer process.
23. These files are likely to contain information that is sensitive to Australia's security, defence or international interests. As such, it will be necessary for the content to be carefully consulted with relevant agencies to identify exemptions prior to any release.
24. The NAA leads the exemption review process and PM&C will continue to support the NAA as they conduct that process.

Next Steps

25. The NAA will release the 2003 Cabinet document on 1 January 2024 (**Attachment D – NAA Media Talking Points**).
26. PM&C has arranged for Dennis Richardson to review the record transfer process that occurred in 2020 and to confirm all relevant Cabinet records from 2003 have been transferred to the NAA. The Review Terms of reference are provided at **Attachment B**.

Risks and Sensitivities

- A number of journalists have indicated they believe that no NSC documents related to the Iraq War are being released. However, 33 NSC documents are being released on 1 January 2024. As the NAA will only include NSC documents that were also considered by Cabinet for their annual release, NSC Submissions and Minutes (including Minutes detailing oral updates to NSC) that did not also go to Cabinet are not included in the release.
- Where an exemption is applied to a record under the Act, that record may be exempt in part or in full. To date, of the 2003 records being released by the NAA, no documents are exempt in full and 18 include a partial exemption.
- s 47E(d)

s 47E(d)

- The records that were inadvertently not transferred to the NAA by PM&C relate to a number of Cabinet Committees including Cabinet proper, the Expenditure Review Committee and NSC. These records are all classified Secret or above and relate to a variety of topics, they do not solely relate to the Iraq War.

Financial Implications

Nil

Consultation

Nil

Glyn Davis

Secretary

Department of Prime Minister and Cabinet

29 December 2023

Policy Officer: Leonie McGregor

Phone no: s 22(1)(a)(ii)

Circulation

PM&C Secretary, Davis; A/g Secretary, Hefren-Webb; A/g Deputy Secretary, Governance & Corporate Group, Elliston; A/g First Assistant Secretary, Ministerial Support Division, Robertson; First Assistant Secretary, Cabinet Division, McGregor; First Assistant Secretary Government, Walter; A/g Assistant Secretary Communications, s 22(1)(a)(ii)

PMO Chief of Staff; Tim Gartrell; Director of Governance, s 22(1)(a)(ii) Prime Minister Executive Officer, s 22(1)(a)(ii) CoS Executive Officer, s 22(1)(a)(ii) Senior Advisor, s 22(1)(a)(ii)

Cabinet Secretary s 22(1)(a)(ii) CSO DLOs

ATTACHMENTS:

ATTACHMENT A – PM&C MEDIA STATEMENT

ATTACHMENT B – REVIEW OF 2003 CABINET RECORDS TRANSFER TERMS OF REFERENCE

ATTACHMENT C – NAA 2003 CABINET RECORDS GUIDE

ATTACHMENT D – NAA MEDIA TALKING POINTS

From: s 22(1)(a)
To: s 22(1)(a)
Cc: s 22(1)(a)
Subject: JH 2003-04 TS Cabinet files [SEC=PROTECTED, CAVEAT=SH:CABINET]
Date: Friday, 4 September 2020 2:44:19 PM
Attachments: [image001.gif](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

PROTECTED//CABINET

Hi s 22(1)(a)

Please see below the 03-04 JH TS titles that we are yet to locate. We will need to try and track down these before we can ask agencies to come and view.

When you have time, would you mind letting me know if there are any with you please. I will probably come in one day next week to see if I can drag s 22(1)(a)(ii) down to the basement for a hunt.

Thank you

s 22(1)(a)(ii)

s 34(2)

JH03/0385	Iraq Update - NSC Meeting 15 October 2003	Need to locate to itemise
s 34(2)		

s 34(2)

s 22(1)(a)(ii) | Adviser

Appointments | Legal Information Integrity | Cabinet Secretariat

Cabinet Division | Department of the Prime Minister and Cabinet

☎ s 22(1)(a)(ii) | 📧 s 22(1)(a) @pmc.gov.au | www.pmc.gov.au

One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

s 22(1)(a)(ii)





From: s 22(1)(a)(ii)

Sent: Friday, 4 September 2020 1:08 PM

To: s 22(1)(a)(ii)

Subject: Cabinet file listing [SEC=PROTECTED, CAVEAT=SH:CABINET]
PROTECTED//CABINET

Good afternoon

As required - missing lists are included

Have a great weekend

Regards

s 22(1)(a)(ii) Official History Project Adviser
gement Unit – Information Services Branch
Corporate Division – Department of The Prime Minister and Cabinet
p. s 22(1)(a)(ii)

e. s 22(1)(a) [@pmc.gov.au](mailto:s 22(1)(a)(ii)@pmc.gov.au) | w. www.pmc.gov.au

Andrew Fisher Building - 1 National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

Series	Barcode No	Control Symbol	Title (1)	Title (2)	Title (3)	Extent	Contents Start Date	Contents End Date	Selected by
A1 370	20302665	JH2003/3	Cabinet Decision JH03 003/NS	Reference copy of Consular Travel Advisory Campaign	Without Submission	1 fol o	1/01/2003	1/01/2003	
A1 370	20302665	JH2003/19	Cabinet Decision JH03 019/CAB	Ref Travelg - removal of options	Without Submission	2 fol o	3/02/2003	3/02/2003	
A1 370	20302668	JH2003/3	Cabinet Decision JH03 003 /NS	Reference copy of Australia's National Security - A Defence Update	Without Submission	1 fol o	18/02/2003	18/02/2003	
A1 370	203026128	JH2003/76	Cabinet Decision JH03 0076/CAB	International Unit set on Agreement for the Sumatra and Troubadour Petroleum Fields and Implementation of the Timor Sea Trust	Without Submission	2 fol os	3/03/2003	3/03/2003	
A1 370	203026671	JH2003/96	Cabinet Decision JH03 0096/NS	Reference copy of Proposal for a Productivity Commission Review of the Naval Shipbuilding and Repair Sector Strategy	Without Submission	1 fol o	5/03/2003	5/03/2003	
A1 370	203026119	JH2003/108	Cabinet Decision JH03 0108/ER	Defence Capabilities Plan	Without Submission	2 fol os	19/03/2003	19/03/2003	
A1 370	327112 5	JH2003/12	Cabinet Decision JH03 012 /CAB	Inteq for Austria in Defence Force Military action	Without Submission	6 fol os	18/03/2003	18/03/2003	
A1 370	203026179	JH2003/157	Cabinet Decision JH03 0157/CAB	Inteq - military operations	Without Submission	1 fol o	1/0 /2003	1/0 /2003	
A1 370	203026180	JH2003/158	Cabinet Decision JH03 0158/CAB	Severe Acute Respiratory Syndrome	Without Submission	1 fol o	1/0 /2003	1/0 /2003	
A1 370	203026230	JH2003/230	Cabinet Decision JH03 0230/CAB	Branding of Australian Government Organisations and activities	Without Submission	2 fol os	1/06/2003	1/06/2003	
A1 370	203026682	JH2003/252	Cabinet Decision JH03 0252/NS	Reference copy of Replacement Patrol Boats	Without Submission	1 fol o	25/06/2003	25/06/2003	
A1 370	203026683	JH2003/253	Cabinet Decision JH03 0253/NS	Reference copy of Counter-Terrorism Overseas Response Group	Without Submission	1 fol o	25/06/2003	25/06/2003	
A1 370	203026259	JH2003/283	Cabinet Decision JH03 0283/CAB	Australia-China free trade agreement scoping study	Without Submission	1 fol o	22/07/2003	22/07/2003	
A1 370	203026687	JH2003/288	Cabinet Decision JH03 0288/NS	Reference copy of David H. Lee - update on disaster on in Washington	Without Submission	1 fol o	28/07/2003	28/07/2003	
A1 370	203026275	JH2003/317	Cabinet Decision JH03 0317/CAB	Export of Live Animals	Without Submission	1 fol o	11/08/2003	11/08/2003	
A1 370	203026281	JH2003/327	Cabinet Decision JH03 0327/CAB	Replacement Patrol Boat Project	Without Submission	1 fol o	26/08/2003	26/08/2003	
A1 370	203026283	JH2003/329	Cabinet Decision JH03 0329/CAB	Sim Duty Centre	Without Submission	1 fol o	30/09/2003	30/09/2003	
A1 370	203026686	JH2003/391	Cabinet Decision JH03 0391/NS	Reference copy of Visi to Canberra by the President of the United States George W. Bush - Avial on security arrangements	Without Submission	1 fol o	15/10/2003	15/10/2003	
A1 370	203026371	JH2003/ 59	Cabinet Decision JH03 0 /59/SM	Senior Ministers' Review for 200 -2005 Budget - Australia's Security Intelligence Database	Without Submission	2 fol os	10/12/2003	10/12/2003	
A1 370	20302637	JH2003/ 62	Cabinet Decision JH03 0 /62/SM	Senior Ministers' Review for 200 -2005 Budget - Defence Portfolio	Without Submission	5 fol os	10/12/2003	10/12/2003	
A1 370	203026380	JH2003/ 68	Cabinet Decision JH03 0 /68/SM	Senior Ministers' Review for 200 -2005 Budget - Foreign Affairs and Trade Portfolio	Without Submission	2 fol os	10/12/2003	10/12/2003	
A1 370	20302625	JH2003/280	Cabinet Decision JH03 280/CAB	Solomon Islands - Regional Asia since Mission	Without Submission	1 fol o	22/07/2003	22/07/2003	
A1 370	203026261	JH2003/283	Cabinet Memorandum JH030283 Second Amended	Decisions on JH030283/NS	Without Submission	18 fol os	27/02/2003	27/02/2003	
A1 370	203026170	JH2003/1 8	Cabinet Memorandum JH0301 8	Incentive arrangements or Defence property sales	Decisions on JH0301 8/ER and JH0301 8/ER2	18 fol os	28/03/2003	1/0 /2003	
A1 370	203026172	JH2003/150	Cabinet Memorandum JH030150	Reforms to Defence's Budgeting and Business Processes	Decisions on JH030150/ER and JH030150/CAB/2	28 fol os	31/03/2003	1/0 /2003	
A1 370	327112 9	JH2003/160	Cabinet Memorandum JH030160	Fuel excise - immediate issues and reform options	Decisions on JH030160/ER and JH030160/AH/2	7 fol os	7/0 /2003	1/0 /2003	
A1 370	2030262 2	JH2003/258	Cabinet Memorandum JH030258	Lessons learned from the response to the Bali bombings	Decisions on JH030258/CAB	15 fol os	16/07/2003	22/07/2003	
A1 370	20302626	JH2003/269	Cabinet Memorandum JH030269	Fuel Excise Reform - Overview	Decisions on JH030269 ER, JH030269 /CAB/2, JH030269 /ER3 and JH030269 /CAB	25 fol os	7/08/2003	15/09/2003	
A1 370	203026279	JH2003/32	Cabinet Memorandum JH03032	Future arrangements for Australia Shipping	Decisions on JH03032/ CAB	21 fol os	21/08/2003	26/08/2003	
A1 370	203026689	JH2003/ 25	Cabinet Memorandum JH0303 25	Reference copy of Protection of Timor Sea oil and gas infrastructure	Decisions on JH0303 25/NSC	17 fol os	27/11/2003	26/11/2003	
A1 370	203026363	JH2003/ 50	Cabinet Memorandum JH0303 50	Independent Assessment of Australian Government Air Travel	Decisions on JH0303 50/CAB	2 fol os	8/12/2003	10/12/2003	
A1 370	203026363	JH2003/12	Cabinet Submits on JH030012	Foreign and Trade Policy White Paper	Decisions on JH030012/CAB	29 fol os	28/01/2003	3/02/2003	
A1 370	20302609	JH2003/31	Cabinet Submits on JH030031	Cyber-stand Permanent Immigrant on Reception and Processing Centres (IRPC) - Supplementary Submission	Decisions on JH030031/CAB	25 fol os	13/02/2003	18/02/2003	
A1 370	203026105	JH2003/61	Cabinet Submits on JH030061	Australia-United States Free Trade Agreement	Decisions on JH030061/CAB	50 fol os	26/03/2003	3/03/2003	
A1 370	203026130	JH2003/81	Cabinet Submits on JH030081	Country of Origin Labeling of Food	Decisions on JH030081/CAB	15 fol os	10/03/2003	19/03/2003	
A1 370	32711238	JH2003/85	Cabinet Submits on JH030085	2003-2005 Budget - Defence Portfolio Budget Submission	Decisions on JH030085/ER, JH030085/ER 2 and JH030085/CAB/3	2 Scm	7/03/2003	1/0 /2003	
A1 370	2030261 3	JH2003/99	Cabinet Submits on JH030099	Proposed New Defence Outcome, Output and Program Structure	Decisions on JH030099/ER and JH030099/CAB/2	33 fol os	1/03/2003	1/0 /2003	
A1 370	203026675	JH2003/117	Cabinet Submits on JH030117	Reference copy of Bougainville - withdrawal of Australia's aid, as well as Peace Monitoring Group	Decisions on JH030117/NS	15 fol os	21/03/2003	25/03/2003	
A1 370	203026159	JH2003/1201	Cabinet Submits on JH030120	Higher Education Reforms	Decisions on JH030120/ER, JH030120/ER 2, JH030120/ER 3 and JH030120/CAB/5	250 folios	22/03/2003	1/0 /2003	
A1 370	203026677	JH2003/20	Cabinet Submits on JH030200 First Amended	Reference copy of Papua New Guinea - release of further financial assistance to the PNGDF (PNG Defence Force) Reform Program	Decisions on JH030200 /NS	19 fol os	26/05/2003	28/05/2003	
A1 370	203026220	JH2003/2211	Cabinet Submits on JH030221	Air Passenger Ticket Levy	Decisions on JH030221/CAB	21 fol os	/06/2003	1/0 /2003	
A1 370	203026238	JH2003/2 7	Cabinet Submits on JH0302 7	Australia-United States Free Trade Agreement (AUSTA) - Market Access	Decisions on JH0302 7/CAB and JH0302 7/CAB/2	16 fol os	20/06/2003	28/06/2003	
A1 370	203026668	JH2003/265	Cabinet Submits on JH030265	Reference copy of Project Air 533 (Vigilance) replacement of Air Defence Systems	Decisions on JH030265/NS	13 fol os	29/07/2003	29/07/2003	
A1 370	203026685	JH2003/271	Cabinet Submits on JH030271	Reference copy of Joint Project 2008 Phase 3E - Military Satellite Communications (MLSATCOM) Ground Infrastructure	Decisions on JH030271/NS	12 fol os	29/07/2003	29/07/2003	
A1 370	203026269	JH2003/297	Cabinet Submits on JH030297	Commonwealth preparation for Rugby World Cup 2003	Decisions on JH030297/CAB	18 fol os	22/08/2003	8/09/2003	
A1 370	203026276	JH2003/318	Cabinet Submits on JH030318	Combating trafficking in persons - Whole of Government Strategy	Decisions on JH030318/CAB	28 fol os	21/08/2003	26/08/2003	
A1 370	203026690	JH2003/319	Cabinet Submits on JH030319	Reference copy of Update on critical issues associated with the Coal Class submarines and the Australian Submarine Corporation	Decisions on JH030319/NS	18 fol os	21/08/2003	21/08/2003	
A1 370	203026691	JH2003/320	Cabinet Submits on JH030320	Reference copy of Report into the Review of Defence Procurement	Decisions on JH030320/NS	37 fol os	17/09/2003	17/09/2003	
A1 370	203026692	JH2003/360	Cabinet Submits on JH030360 First Amended	Reference copy of Establishment of a National Threat Assessment Centre	Decisions on JH030360/NS	21 fol os	15/10/2003	15/10/2003	
A1 370	203026699	JH2003/387	Cabinet Submits on JH030387	Reference copy of Bougainville - Future Australian engagement	Decisions on JH030387/NS	15 fol os	30/10/2003	30/10/2003	
A1 370	203026697	JH2003/ 23	Cabinet Submits on JH0303 23	Reference copy of Pacific Governance	Decisions on JH0303 23/NSC	5 fol os	27/11/2003	26/11/2003	
A1 370	203026698	JH2003/ 2	Cabinet Submits on JH0303 2	Reference copy of Papua New Guinea (PNG) - More progress on assessment - Implementation	Decisions on JH0303 2 /NSC	56 fol os	27/11/2003	26/11/2003	
A1 370	203026700	JH2003/ 31	Cabinet Submits on JH0303 31	Reference copy of Review of the Counter-Terrorism Overseas Response Group	Decisions on JH0303 31/NSC	16 fol os	27/11/2003	26/11/2003	
A1 370	203026698	JH2003/16	Cabinet Decision JH03 0016/CAB	Workshops Report on Amendment (Poll tax All sit on) Bill 2002	Without Submission	1 fol o	3/02/2003	3/02/2003	
A1 370	203026107	JH2003/56	Cabinet Decision JH03 0056/CAB	Strategy Presentation - Economic Policy	Without Submission	3 fol os	2 /02/2003	2 /02/2003	
A1 370	203026108	JH2003/57	Cabinet Decision JH03 0057/CAB	Strategy Presentation - National Defence and Security	Without Submission	2 fol os	2 /02/2003	2 /02/2003	
A1 370	203026110	JH2003/58	Cabinet Decision JH03 0058/CAB	Strategy Presentation - Sustainable Environment	Without Submission	3 fol os	2 /02/2003	2 /02/2003	
A1 370	203026113	JH2003/59	Cabinet Decision JH03 0059/CAB	Strategy Presentation - Energy Policy	Without Submission	3 fol os	2 /02/2003	2 /02/2003	
A1 370	203026119	JH2003/68	Cabinet Decision JH03 0068/CAB	Nat oil inquiry into bushfire prevention and mitigation	Decisions on JH030068/CAB	1 fol o	3/03/2003	3/03/2003	
A1 370	203026122	JH2003/71	Cabinet Decision JH03 0071/CAB	Cross-Media arrangements	Without Submission	3 fol os	3/03/2003	3/03/2003	
A1 370	2030261 1	JH2003/932	Cabinet Decision JH03 0093/CAB/2	Australia-United States Free Trade Agreement	Without Submission	1 fol o	26/08/2003	26/08/2003	
A1 370	203026153	JH2003/130	Cabinet Decision JH03 0130/CAB	A New Strategy for Community Care	Without Submission	1 fol o	2 /03/2003	2 /03/2003	
A1 370	203026198	JH2003/181	Cabinet Decision JH03 0181/CAB	Proposed Restructure of the Aboriginal and Torres Strait Islander Commission	Without Submission	2 fol os	1/05/2003	1/0 /2003	
A1 370	203026198	JH2003/183	Cabinet Decision JH03 0183/CAB	HPR Royal Commission on	Without Submission	2 fol os	1/05/2003	1/0 /2003	
A1 370	203026200	JH2003/18	Cabinet Decision JH03 018 /CAB	Proposed Merge of the Australian Bureau of Agricultural and Resource Economics and the Bureau of Rural Sciences	Without Submission	1 fol o	1/06/2003	1/0 /2003	
A1 370	203026202	JH2003/186	Cabinet Decision JH03 0186/MN	Governor-General - Provision in Letters Patent for Standing Aside	Without Submission	1 fol o	12/05/2003	12/05/2003	
A1 370	203026209	JH2003/197	Cabinet Decision JH03 0197/CAB	Revised Strategy to Progress the Government's Superannuation Agenda	Without Submission	3 fol os	12/05/2003	12/05/2003	
A1 370	203026678	JH2003/217	Cabinet Decision JH03 0217/NS	Reference copy of H zballat	Without Submission	1 fol o	28/05/2003	28/05/2003	
A1 370	203026226	JH2003/226	Cabinet Decision JH03 0226/CAB	Nat oil Counter-Terrorism Plan	Without Submission	1 fol o	10/06/2003	10/06/2003	
A1 370	203026235	JH2003/2 3	Cabinet Decision JH03 02 3/CAB	Request for legal assistance - Attorney-General and the Minister for Immigration and Multicultural and Indigenous Affairs	Without Submission	2 fol os	23/06/2003	23/06/2003	
A1 370	203026258	JH2003/28	Cabinet Decision JH03 028 /CAB	Proposed Terms of Reference for a Possible Productivity Commission Review of Housing Affordability	Without Submission	2 fol os	29/07/2003	29/07/2003	
A1 370	203026259	JH2003/285	Cabinet Decision JH03 0285/CAB	Australia-United States of America Free Trade Agreement Negotiations	Without Submission	1 fol o	11/08/2003	11/08/2003	
A1 370	203026699	JH2003/311	Cabinet Decision JH03 0311/NS	Reference copy of Pacific Regional Policing Initiative (PRP) Protocol	Without Submission	1 fol o	21/08/2003	21/08/2003	
A1 370	203026315	JH2003/378	Cabinet Decision JH03 0378/CAB	Manufacture of Generic Pharmaceuticals	Without Submission	2 fol os	9/10/2003	9/10/2003	
A1 370	203026695	JH2003/388	Cabinet Decision JH03 0388/NS	Reference copy of Papua New Guinea (PNG) - update	Without Submission	2 fol os	30/10/2003	30/10/2003	
A1 370	s 47E(d)	s 47C	s 47C s 34(2)	s 34(2)	s 47C	s 47C	s 34(2)	s 34(2)	
A1 370	203026286	JH2003/40	Cabinet Decision JH03 0040/CAB	Listing of Terrorist Organisations	Without Submission	3 fol os	8/11/2003	8/11/2003	
A1 370	203026338	JH2003/ 11	Cabinet Decision JH03 011/M	A Fairer Model of	Without Submission	3 fol os	5/11/2003	5/11/2003	
A1 370	203026388	JH2003/ 56	Cabinet Decision JH03 0 /56/SM	Senior Ministers' Review for 200 -2005 Budget - Overview	Without Submission	2 fol os	10/12/2003	10/12/2003	
A1 370	203026391	JH2003/ 81	Cabinet Decision JH03 0 /81/CAB	Review of pricing arrangements in Residential Aged Care	Without Submission	2 fol os	15/12/2003	15/12/2003	
A1 370	203026095	JH2003/32	Cabinet Decisions JH030032/CAB, JH030032/CAB 2 and JH030032/CAB/2	Drought update	Without Submission	1 fol o	18/02/2003	26/08/2003	
A1 370	20302610	JH2003/502	Cabinet Decisions JH030050/SE 3 and JH030050/CAB/	Queensland land clearing - proposals	Without Submission	6 fol os	1/05/2003	1/0 /2003	
A1 370	203026123	JH2003/72	Cabinet Decisions JH030072/SE and JH030072/CAB/2	Present on - The Living Murray	Without Submission	6 fol os	/03/2003	19/03/2003	
A1 370	203026185	JH2003/187	Cabinet Decisions JH030018/ER and JH03 0018/CAB/2	Australia on Energy Policy - An Overview	Without Submission	6 fol os	8/03/2003	19/03/2003	
A1 370	203026137	JH2003/89	Cabinet Decisions JH030089/ER and JH03 0089/CAB/2	Commonwealth position on the Energy Markets	Without Submission	6 fol os	6/03/2003	19/03/2003	
A1 370	203026160	JH2003/1202	Cabinet Decisions JH030120/M/6 and JH03 0120/CAB/7	Higher Education Reforms	Without Submission	7 fol os	27/11/2003	/12/2003	
A1 370	203026201	JH2003/185	Cabinet Decisions JH030185/CAB and JH030185/CAB/2	Possible Amendments to Cross-Media Legislation	Without Submission	3 fol os	10/06/2003	28/06/2003	
A1 370	203026227	JH2003/316	Cabinet Decisions JH030316/CAB, JH030316/CAB 2 and JH030316/CAB/3	Audit on Security and Assessment of the Adequacy and Appropriateness of Australia's Avia ion Security Policy Settings	Without Submission	5 fol os	11/08/2003	17/12/2003	
A1 370	203026301	JH2003/352	Cabinet Decisions JH030352/CAB and JH030352/CAB 2	Terrorism-related offences - Australia is extradition arrangements	Without Submission	1 fol o	15/09/2003	22/03/2003	
A1 370	203026308	JH2003/359	Cabinet Decisions JH030359/CAB, JH030359/CAB 2, JH030359/CAB/3, JH03 0359/CAB, and JH030359/CAB/5	Live Sheep Exports - a legated feed contamination	Without Submission	7 fol os	23/09/2003	17/12/2003	
A1 370	s 47E(d)	s 47C	s 47C s 34(2)	s 34(2)	s 47C	s 47C	s 34(2)	s 34(2)	
A1 370	203026358	JH2003/ 5	Cabinet Decisions JH030 /5/CAB, JH030 /5/CAB 2 and JH030 /5/CAB/3	Australia-United States of America Free Trade Agreement - update	Without Submission	6 fol os	1/12/2003	9/02/2003	
A1 370	203026101	JH2003/399	Cabinet Memorandum						

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A1 370	203026270	JH2003/312	Cabinet Submiss on JH03/0312	Melbourne 2006 Commonwealth Games - Policies and Principles for Provision of Commonwealth Security Services	Decis on JH03/0312/CAB	19 to ios	13/08/2003	18/08 2003
A1 370	203026297	JH2003/3 6	Cabinet Submiss on JH03/03 6	Establishment of a Postal Industry Ombudsman	Decis on JH03/03 6/CAB	27 to ios	15/09/2003	30/09 2003
A1 370	203026362	JH2003/ 9	Cabinet Submiss on JH03/03 9	National Workers' Compensation and Occupational Health and Safety Frameworks	Decis on JH03/0 9/CAB	25 to ios	5/12/2003	10/12 2003
A1 370	203026366	JH2003/ 5	Cabinet Submiss on JH03/0 5	Marine Protected Areas and Displaced Fishing	No Decision	25 to ios	10/12/2003	10/12 2003
A1 370	203026351	JH2003/ 35	Cabinet Submiss on JH03/ 35	Amendments to the Bankruptcy Act 1966	Decis on JH03/0 35/CAB	13 to ios	25/1/2003	10/12 2003
A1 370	203026231	JH2003/031	Cabinet Decision JH03 0231/CAB	Austria is a participant in the 2005 World Expo in Aichi, Japan	Without Submission	2 fol os	23/06/2003	23/06 2003
A1 370	203026257	JH2003/0283	Cabinet Decision JH03 0283/CAB	Austria is a United States Free Trade Agreement - Import Risk Analysis for Potatoes	Without Submission	1 fol o	11/08/2003	11/08 2003
	203026373	JH2003/ 61	Cabinet Decision JH03 0 61/SM	Senior Ministers Review for 200 - 2005 Budget - Melbourne 2006 Commonwealth Games	Without Submission	1 fol o	10/12/2003	10/12 2003
A1 370	203026377	JH2003/ 65	Cabinet Decision JH03 0 65/SM	Senior Ministers Review for 200 - 2005 Budget - Environment and Heritage Portfolio	Without Submission	1 fol os	10/12/2003	10/12 2003
A1 370	203026233	JH2003/233	Cabinet Memorandum JH03/0233 First Amended	Options for the national low level radioactive waste repository	Decis on JH03/0233/CAB	2 to ios	13/06/2003	16/06 2003
A1 370	203026236	JH2003/2	Cabinet Memorandum JH03/02	Draft Parliamentary Programme for week 5 (23 to 26 June 2003) and a visit on to the 2003 Winter Legislation Programme	Decis on JH03/02 /PB	12 to ios	20/06/2003	23/06 2003
A1 370	203026253	JH2003/278	Cabinet Memorandum JH03/0278	Issues for Non-Government Schools Funding - 2005 to 2008	Decis on JH03/0278/CAB	16 to ios	2 8/7/2003	28/07 2003
A1 370	203026125	JH2003/75	Cabinet Submiss on JH03/0075	2003-200 Budget - Environment and Heritage Portfolio Budget Submiss on	Decis ons JH03/0075/ER, JH03/0075/ER 2, JH03/0075 ER/3, JH03/0075 ER/ and JH03/0075/CAB/5	8 to ios	12/03/2003	15/0 2003
A1 370	203026295	JH2003/3	Cabinet Submiss on JH03/03	Implementation of a Mandatory National Water Efficiency Labelling and Standards Scheme	Decis on JH03/03 /CAB	0 to ios	2 /09/2003	30/09 2003
A1 370	32711282	JH2003/ 16	Cabinet Submiss on JH03/0 16	Regulating Therapeutic Products in Australia and New Zealand	Decis on JH03/0 16/CAB	1cm	18/11/2003	1/12/2003
A1 370	2030263 3	JH2003/ 17	Cabinet Submiss on JH03/0 17	Future Textile, Clothing and Footwear (TCF) assistance arrangements	Decis on JH03/0 17/CAB	1cm	19/1/2003	2 /11 2003
A1 370	2030263	JH2003/ 18	Cabinet Submiss on JH03/0 18	Government response to the Review of Settlement Services	Decis ons JH03/0 18/ER and JH03/0 18 CAB/2	1cm	21/11/2003	10/12 2003
A1 370	203026086	JH2003/16	Cabinet Decision JH03 0016/CAB	Report of the Independent Review of Veterans' Entitlements	Without Submission	2 fol os	3/02/2003	3/02/2003
A1 370	203026186	JH2003/165	Cabinet Decision JH03 0165/AM	Medical Expenses Offset - changes for the guidance or assistance of the hearing impaired and other disabled individuals	Without Submission	1 fol o	1/0/ 2003	1/0/ 2003
A1 370	203026188	JH2003/167	Cabinet Decision JH03 0167/AM	Medical Levy low income thresholds	Without Submission	2 fol os	1/0/ 2003	1/0/ 2003
A1 370	2030262 9	JH2003/262/2	Cabinet Decision JH03 0262/CAB/2	Report on 350 m ill on the production target for biofuels	Without Submission	1 fol o	16/12/2003	16/12 2003
A1 370	203026251	JH2003/026	Cabinet Decision JH03 026 /CAB	Government air travel - use of smaller aircraft	Without Submission	2 fol os	22/07/2003	22/07 2003
A1 370	203026228	JH2003/028	Cabinet Decisions JH03/0228/CAB and JH03/0228 CAB/2 Proposed	Austria an Magnesium Corporation - Stanwell Magnesium Project	Without Submission	2 fol os	10/06/2003	15/07 2003
A1 370	203026320	JH2003/38	Cabinet Decisions JH03/038 /CAB and JH03/038 CAB/2	Medical Indemnity Policy Review	Without Submission	10 to ios	3/11/2003	16/12 2003
A1 370	203026139	JH2003/62	Cabinet Memorandum JH03/0092	Export Finance and Insurance Corporation (EFIC) - National Interest Account (NIA) - Exposure and Risk Management Report	Decis on JH03/0092/CAB	26 to ios	10/03/2003	2 /03 2003
A1 370	203026192	JH2003/172	Cabinet Memorandum JH03/0172	Handling Strategy for the Funding of Science and Innovation Post 2005-2008 - Backing Australia's Ability	Decis on JH03/0172/CAB	31 to ios	11/0 /2003	15/0 2003
A1 370	203026239	JH2003/2 8	Cabinet Memorandum JH03/02 8	Short and Medium Term issues facing the Biofuels Sector	Decis ons JH03/02 8/CAB, JH03/02 8/CAB/2 and JH03/02 8 CAB/3	52 to ios	19/06/2003	15/09 2003
A1 370	3271123	JH2003/	Cabinet Submiss on JH03/000	Reform of the Federal Merit Review Tribunal System	Decis on JH03/000 /CAB	2 to ios	17/01/2003	3/02/2003
A1 370	203026036	JH2003/36	Cabinet Submiss on JH03/0036	Availability of Medical Services under the Medicare Benefits Schedule - A Study Pilot in Queensland	Decis ons JH03/0036/CAB, JH03/0036/CAB/2 and JH03/0036 CAB/3	10 folios	26/02/2003	15/0 2003
A1 370	203026669	JH2003/ 1	Cabinet Submiss on JH03/000 1	Reference copy of Internal Civil Maritime Organisation - implementation of measures to enhance maritime security	Decis on JH03/000 1/NS	23 to ios	28/02/2003	5/03/2003
A1 370	203026673	JH2003/112	Cabinet Submiss on JH03/0112	Reference copy of Carriage of Foreign Air Security Offences from Australia and overseas destinations, or Australian Air Security Officers	Decis on JH03/0112/NS	1 to ios	20/3/2003	25/03 2003
A1 370	203026158	JH2003/119	Cabinet Submiss on JH03/0119	Employee Share Ownership	Decis on JH03/0119/CAB	to ios	19/03/2003	2 /03 2003
A1 370	20302619	JH2003/17	Cabinet Submiss on JH03/017	Government response to the Report on the Review of the Competition Policy of the Electricity Act	Decis on JH03/017 /CAB	68 to ios	10/0 /2003	15/0 2003
A1 370	32711255	JH2003/0276	Cabinet Submiss on JH03/0276	Regional Business - A Plan for Action	Decis on JH03/0276/CAB	86 to ios	23/07/2003	29/07 2003
A1 370	203026262	JH2003/0290	Cabinet Submiss on JH03/0290	Ratification of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure	Decis on JH03/0290/CAB	60 to ios	/08/2003	18/08 2003
A1 370	20302629	JH2003/3 3	Cabinet Submiss on JH03/03 3	Framework Convention on Tobacco Control and Future Agenda	Decis on JH03/03 3/CAB	20 to ios	8/09/2003	23/09 2003
A1 370	2030263 8	JH2003/ 22	Cabinet Submiss on JH03/0 22	The National Consumer and Financial Literacy Strategy	Decis on JH03/0 22/CAB	6 to ios	9/12/2003	15/12 2003

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Page 21 of 35 - **Cabinet-in-Confidence**

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Department of the Prime Minister and Cabinet

Box Number	Series Number	Box Barcode Number	Container Type	Barcode Number	Control Symbol	Alternative Control Symbol	Title	Contents Start Date	Contents End Date	Disposal Class	Security Agency(ies) to Check File	
s 47E(d)												
	A14371	B3343043	1	32711388	JH03/0124/P1		Iraq Authority for Australian Defence Force Military Action	17/03/2003	20/03/2003	21766		
s 47E(d)												
	A14371	B3343044	1	31472113	JH03/0216/P1		Iraq Update - NSC 28 May 2003	28/05/2003	4/06/2003	21766		
s 47E(d)												

Box Number	Series Number	Box Barcode Number	Container Type	Barcode Number	Control Symbol	Alternative Control Symbol	Title	Contents Start Date	Contents End Date	Classification	Disposal Class	To be transferred or held by PM&C
s 47E(d)					s 34(2)		s 34(2)	s 47E(d)				

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Box Number	Series Number	Box Barcode Number	Container Type	Barcode No	Control Symbol	Alternative Control Symbol	Title	Contents Start Date	Contents End Date	Disposal Class
1	A14370	B3343171	1	32711234	VOLUME 166		Submissions, memorandums and minutes s 34(2) to JH03/0013	17/01/2003	3/02/2003	21766
	A14370	B3343171	1	32711235	VOLUME 167		Submissions, memorandums and minutes JH03/0014 to JH03/0039	3/02/2003	19/03/2003	21766
2	A14370	B3343172	1	32711236	VOLUME 168		Submissions, memorandums and minutes JH03/0040 to JH03/0078	26/02/2003	15/04/2003	21766
	A14370	B3343172	1	32711237	VOLUME 169		Submissions, memorandums and minutes JH03/0079 to JH03/0085	7/03/2003	15/04/2003	21766
3	A14370	B3343173	1	32711238	VOLUME 170		Submissions, memorandums and minutes JH03/0086 to JH03/0090 Secret	7/03/2003	15/04/2003	21766
	A14370	B3343173	1	32711239	VOLUME 171		Submissions, memorandums and minutes JH03/0091 to JH03/0093	11/03/2003	26/08/2003	21766
4	A14370	B3343174	1	32711240	VOLUME 172		Submissions, memorandums and minutes JH03/0097 to JH03/0099	10/03/2003	15/04/2003	21766
	A14370	B3343174	1	32711241	VOLUME 173		Submissions, memorandums and minutes JH03/0100 to JH03/0105	13/03/2003	13/09/2004	21766
5	A14370	B3343175	1	32711242	VOLUME 174		Submissions, memorandums and minutes JH03/0106 to JH03/0106	25/03/2003	16/04/2003	21766
	A14370	B3343175	1	32711243	VOLUME 175		Submissions, memorandums and minutes JH03/0107 to JH03/0109	20/03/2003	16/04/2003	21766
6	A14370	B3343176	1	32711244	VOLUME 176		Submissions, memorandums and minutes JH03/0110 to JH03/0121	19/03/2003	16/04/2003	21766
	A14370	B3343176	1	32711245	VOLUME 177		Submissions, memorandums and minutes JH03/0126 to JH03/0133	19/03/2003	16/04/2003	21766
7	A14370	B3343177	1	32711246	VOLUME 178		Submissions, memorandums and minutes JH03/0134 to JH03/0134	25/03/2003	16/014/2003	21766
	A14370	B3343177	1	32711247	VOLUME 179		Submissions, memorandums and minutes JH03/0135 to JH03/0145	26/03/2003	2/04/2003	21766
8	A14370	B3343178	1	32711248	VOLUME 180		Submissions, memorandums and minutes JH03/0147 to JH03/0159	27/03/2003	14/04/2003	21766
	A14370	B3343178	1	32711249	VOLUME 181		Submissions, memorandums and minutes JH03/0160 to JH03/0169	7/04/2003	13/05/2003	21766
9	A14370	B3343179	1	32711250	VOLUME 182		Submissions, memorandums and minutes JH03/0170 to JH03/0197	14/04/2003	13/05/2003	21766
	A14370	B3343179	1	32711251	VOLUME 183		Submissions, memorandums and minutes JH03/0199 to JH03/0211	0805/2003	26/05/2003	21766
10	A14370	B3343180	1	32711252	VOLUME 184		Submissions, memorandums and minutes JH03/0212 to JH03/0244 Secret	30/05/2003	24/06/2003	21766
	A14370	B3343180	1	32711253	VOLUME 185		Submissions, memorandums and minutes JH03/0245 to JH03/0254	20/06/2003	16/07/2003	21766
11	A14370	B3343181	1	32711254	VOLUME 186		Submissions, memorandums and minutes JH03/0255 to JH03/0264	9/07/2003	23/07/2003	21766
	A14370	B3343181	1	32711255	VOLUME 187		Submissions, memorandums and minutes JH03/0276 to JH03/0286	23/07/2003	12/11/2003	21766
12	A14370	B3343182	1	32711256	VOLUME 188		Submissions, memorandums and minutes JH03/0287 to JH03/0297	31/07/2003	8/08/2003	21766
	A14370	B3343182	1	32711257	VOLUME 189		Submissions, memorandums and minutes JH03/0299 to JH03/0332	8/08/2003	15/09/2003	21766
13	A14370	B3343183	1	32711258	VOLUME 190		Submissions, memorandums and minutes JH03/0333 to JH03/0346	3/09/2003	30/09/2003	21766
	A14370	B3343183	1	32711259	VOLUME 191		Submissions, memorandums and minutes JH03/0347 to JH03/0379	12/09/2003	25/11/2003	21766
14	A14370	B3343184	1	32711260	VOLUME 192		Submissions, memorandums and minutes JH03/0380 to JH03/0399	29/10/2003	3/11/2003	21766
	A14370	B3343184	1	32711261	VOLUME 193		Submissions, memorandums and minutes JH03/0400 to JH03/0415	24/11/2003	2/12/2003	21766
15	A14370	B3343185	1	32711262	VOLUME 194		Submissions, memorandums and minutes JH03/0416 to JH03/0436	19/11/2003	9/03/2004	21766
	A14370	B3343185	1	32711263	VOLUME 195		Submissions, memorandums and minutes JH03/0437 to JH03/0450	1/12/2003	11/12/2003	21766
16	A14370	B3343186	1	32711264	VOLUME 196		Submissions, memorandums and minutes JH03/0451 to JH03/0481	10/12/2003	16/12/2003	21766

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MS23-001300

Signature Due Date: 22/12/2023

PUBLIC RELEASE ON 1 JANUARY 2024 OF THE 2003 CABINET PAPERS

Prime Minister, we recommend you:	CC: Cabinet Secretary
1. Note that Cabinet documents and records from 2003 are considered in the 'open access' period from 1 January 2024 and a selection of media have been briefed on a subset of these documents by the National Archives of Australia (NAA).	Noted / Please Discuss
2. Note that the NAA consulted extensively with departments prior to the media event on the subset of documents so that documents which would be exempt from the 'open access' provisions, on the basis they could reasonably be expected to damage the security, defence or international relations of the Commonwealth, were not included in the media briefing and were not released publicly. s 22(1)(a)(ii)	Noted / Please Discuss
ANTHONY ALBANESE	Date: 24/12/23
Comments:	

KEY POINTS

1. The *Archives Act 1983* (the Act) governs the open access of historical Commonwealth records, including Cabinet documents. Records created after the year 2000 are open access after 21 years unless exempted as defined in section 33 of the Act (such as where records could cause damage to security or defence).
2. In preparation for the release, the National Archives of Australia (NAA) conducts consultations with Departments in order to determine which documents are to be withheld.
3. On 5 December 2023, the NAA conducted a media briefing on the 2003 Cabinet papers ahead of public release. The documents, and references to their content, are under embargo until 1 January 2024. The documents are from the government of the Hon John Howard OM AC SSI, former Prime Minister.
4. The NAA media briefing pack is at Attachment A.
 - a. Consistent with prior years, key records from 2003 were selected for potential proactive release by the media, the NAA and the Cabinet Historian, Associate Professor Dr David Lee of the University of New South Wales.
 - b. According to Attachment A, of the 246 Cabinet records selected:
 - i. 228 records are open in full
 - ii. 18 records are open with exemption.

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SUPPLEMENTARY INFORMATION

1. Key themes raised in the media briefing at Attachment A include issues of national security, defence, foreign affairs and trade policies. These include the decision to go to war in Iraq, withdrawal of Australian peacekeepers from Papua New Guinea, regional assistance to the Solomon Islands, ratification of the Timor Sea Treaty, and negotiation of a free trade agreement with the United States.
2. Other key themes raised include issues of economic, social welfare, health, education and immigration, climate change, energy and the environment policies. These include the Fairer Medicare package, the National Illicit Drug Strategy, expansion of HECS, asylum-seeker policy, adoption of the Mandatory Renewable Target, and Great Barrier Reef Marine Park policy. Issues of infrastructure, communications and legal issues, rural and regional issues and Indigenous policy were also raised.

Risks and Sensitivities

Note there is always significant media coverage of the release of documents on 1 January. At the media briefing on 5 December 2023, media asked a number of questions about Cabinet decision-making on the decision to go to war in Iraq and noted that Cabinet material from the National Security Committee of Cabinet is sparse.

Financial Implications

Nil.

Consultation

PM&C DIVISIONS – Cabinet Division, Government Division

DEPARTMENTS – Nil

Christina Grant

Assistant Secretary

Cabinet Information and Governance

5 December 2023

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

Circulation

PM&C Secretary; A/g DS, Governance and Corporate Group, *L Elliston*; FAS, Government Division, *A Walter*; A/g AS, Legal Policy, s 22(1)(a)(ii) FAS, Cabinet Division, *L McGregor*; AS, Cabinet Division, *C Grant*; A/g DS, International and Security Group, *L Wood*; FAS, National Security Division, *L Colquhoun*; AS, Defence & Intelligence Branch, *P Kimpton*; AS, Domestic Security Branch, *G Smyth*; FAS, International Division, *C Chittick*; AS, Global Interests Branch, *D Titheridge*; AS, Asia Branch, *E Stevens*; AS, Pacific Branch, *B Costello*; FAS, Ministerial Support Division, *G Martin*

PMO Chief of Staff, Tim Gartrell; s 22(1)(a)(ii)

Cabinet Secretary s 22(1)(a)(ii)

ATTACHMENTS:

ATTACHMENT A 2003 CABINET RECORDS RELEASE MEDIA GUIDE

