

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) 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

MS24-000001

NATIONAL ARCHIVES OF AUSTRALIA 2003 CABINET RECORD RELEASE - TIMELINE

Prime Minister, we recommend you:	Through: Cabinet Secretary
<p>1. Note the timeline provided below, outlining the sequence of events leading up to the 2003 Cabinet Document release by the National Archives of Australia (NAA)</p> <p>s 22(1)(a)(ii)</p> 	
ANTHONY ALBANESE	<p><u>Noted</u> / Please Discuss</p> <p>2/1/24</p> <p>Date:</p>
Comments:	

KEY POINTS

1. Work to determine the exact sequence of events relating to the 2003 Cabinet Document transfer is ongoing as part of the Richardson Review.
2. The Department of Prime Minister and Cabinet (PM&C) commenced the transfer of 2003 Cabinet Records to the NAA in 2020. This is the normal process and allows time for appropriate consultation with relevant agencies.
 - a. These original transfers included more than 600 records of Cabinet committee items including items from the National Security Committee (NSC). The records transferred included a number of items relating to the Iraq war.
3. On 18 December 2023, a media query asking if PM&C still held 2003 National Security Committee (NSC) records was received.
4. On 19 December 2023, a review of the files held within a secure vault in the basement of 1 National Circuit was carried out to confirm if any 2003 Cabinet files remained.
5. That review found a small number of archive boxes holding 78 Cabinet records from 2003 which had not been transferred to the NAA. These records relate to a range of Cabinet committees and include some NSC files relating to the Iraq war.
6. The records were reviewed by security agencies on 21 December 2023, and transferred to the NAA on 31 December 2023.
7. The Department immediately commenced a review of email holdings to understand the transfer process. The Department has also established the Richardson Review into the 2020 Cabinet Document release to investigate the issue further and confirm all relevant records are transferred to NAA (MS23-001400 refers).
8. Initial review revealed that the majority of records were transferred between September 2020 and April 2021, but that a subset remained in the vault awaiting a security agency review.

TIMELINES

9. The timeline of events from 2020 and 2021 identified as at 2 January 2024:

- In early 2020 the 2003 Cabinet Records transfer review process commences.
- Mid 2020 business arrangements are altered due to the COVID-19 response.
- In early September 2020, a list of 2003 Cabinet records to be gathered and transferred to the NAA was compiled and provided to the NAA.
- In late August 2020 and early October 2020, PM&C made phone calls to security agency Cabinet Liaison Officers to discuss capacity to organise a review of sensitive material. PM&C was advised that business arrangements had changed due to COVID-19, and that it would not be possible to organise attendance at that time. COVID-19 lockdowns prevented this process from being finalised.
- On 1 October 2020, PM&C emailed the NAA advising that due to COVID-19 lockdowns, it would not be possible to carry out full transfer of all documents until such time as security agencies were able to carry out reviews of sensitive records.
- On 6 October 2020, the NAA emailed PM&C requesting the possibility of triaging the transfer without the sensitive series in order to meet associated released deadline.
- On 4 February 2021, PM&C emailed the NAA to organise a transfer of 2003 Cabinet records which was to take place on 11 February 2021 with the records being transferred by s 47G(1)(a) [REDACTED] This transfer did not include documents that were identified as particularly sensitive.
- In April 2021 a further CD containing details of records was provided to the NAA.
- This analysis indicates that while more than 600 Cabinet records were transferred to the NAA, as the security review was not completed on the most sensitive files, those records remained in the secure vault and were not transferred to the NAA as they should have been.

10. The timeline of events from December 2023 as at 2 January 2024 is as follows:

- On 11 December 2023, PM&C provided a briefing for the Prime Minister on the Public Release on 1 January 2024 of the 2003 Cabinet papers (MS23-001300 refers). PM&C were not aware of any concerns about the completeness of the records transfer at this time and it was therefore not mentioned in the brief.
- On 18 December 2023, PM&C received a media query about the 2003 release from The West Australian.
- On 19 December 2023, a review of Cabinet records was conducted and some 2003 archive boxes containing 78 Cabinet records were located.
- On 20 December 2023, the Prime Minister's Office was provided an update over the phone on the record transfer situation.
- On 21 December 2023, security agencies attended PM&C to review the remaining 2003 records.
- On 22 December 2023, staff from the NAA attended PM&C to view the files ahead of their transfer.
- On 30 December 2023, a full briefing of the situation to date was provided for the Prime Minister (MS23-001400 refers).
- On 30 December 2023, the remaining 78 records were prepared and listed for transfer to the NAA.
- On 31 December 2023, the 78 records were securely transferred by safe hand to the NAA.

SUPPLEMENTARY INFORMATION

11. The NAA selects certain Cabinet Records that are 20 years or older for inclusion in their annual release.
12. PM&C was advised by the NAA that only records of Cabinet are included in their 2003 record selection. Records that were only considered by NSC were excluded from the 2003 release.
13. All of the 2003 Cabinet records identified by PM&C in the Cabinet document vault have now been transferred to the NAA.
14. The NAA is responsible for consulting with relevant Agencies and applying exemptions to sensitive material in accordance with the *Archives Act 1983* (the Act)
15. The Act exempts certain information from public release 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)

Risks and Sensitivities

16. It may be helpful for the NAA to release their selection criteria and to advise the media that NSC files were excluded from selection.
17. A number of journalists have reported that NSC files were not transferred by PM&C to the NAA and therefore not included in the release. There are also reports that the NAA has advised they did not receive NSC files from PM&C.
 - a. This is incorrect. Approximately 35 NSC files were transferred to the NAA in the original record transfers. The NAA has advised PM&C they did not select NSC files for the 2003 release unless the item had also been considered by Cabinet.
18. Given the sensitive nature of the review, including the security classification of the transferred records, the engagement of a suitably qualified eminent person is required. Mr Richardson has directly relevant expert knowledge as former Director General of Security, former Secretary of the Department of Foreign Affairs and Trade and former Secretary of the Department of Defence.

Financial Implications

Nil

Consultation

PM&C DIVISIONS – Government Division

DEPARTMENTS

Nil

Liz Hefren-Webb

Acting Secretary

Department of the Prime Minister and Cabinet

2 January 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 Deputy Secretary, International & Security Group, Wood; 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) CoS Executive Officer, s 22(1)(a)(ii) Senior Advisor, s 22(1)(a)(ii)

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

MS24-000045

Signature Due Date: 29/01/2024

PUBLIC RELEASE OF THE REPORT AND RESPONSE TO THE RICHARDSON REVIEW INTO THE TRANSFER OF 2003 CABINET RECORDS TO THE NATIONAL ARCHIVES OF AUSTRALIA**Prime Minister, we recommend you:****Through: Cabinet Secretary**

1. Note that Mr Dennis Richardson AC finalised his review of the transfer of 2003 Cabinet records from the Department of the Prime Minister and Cabinet (the Department) to the National Archives of Australia (NAA) on 25 January 2024.

Noted/ Please Discuss

2. Note the Department will release a public version of the report on 30 January 2024 (Attachment A).

Noted/ Please Discuss

3. Note the Department will also release a public statement in response to Mr Richardson's findings, which accepts all recommendations that relate to the Department (four of the five recommendations, with the remaining recommendation relating to the NAA) (Attachment B).

s 22(1)(a)(ii)

Noted/ Please Discuss

ANTHONY ALBANESE

Date:

29/1/24

Comments:**KEY POINTS**

1. On 29 December 2023, the Department of the Prime Minister and Cabinet (the Department) briefed you (MS23-001400 refers) advising:
 - a. not all 2003 Cabinet records had been transferred to the National Archives of Australia (NAA) in 2020; and
 - b. the Department intended to publicly announce a review by Mr Richardson to examine the circumstances relating to the transfer process that occurred in 2020 and confirm all relevant records had now been transferred to the NAA.
2. On 1 January 2024, I appointed Mr Richardson to undertake an independent review of the transfer of the 2003 Cabinet records from the Department to the NAA (the Review).
3. On 25 January 2024, Mr Richardson finalised his report, providing a copy to myself, and Mr Simon Froude, Director-General of the NAA.
4. Mr Richardson found:
 - a. the Department's failure to provide the NAA with a complete set of 2003 Cabinet records was a result of administrative error, in part due to the impact of the COVID-19 pandemic and in part due to systemic issues within the Department's Cabinet Division;

- b. as at 5 January 2024, all 2003 Cabinet records had been transferred to the NAA; and
 - c. there was no political interference or influence in the transfer of 2003 Cabinet records to the NAA.
5. The report makes five recommendations (as set out below at paragraph 11).
6. s 47C [REDACTED]
7. The Department has prepared a public statement in response to the Review report's recommendations. In that statement, the Department accepts all recommendations that apply (being four of the five recommendations). The remaining recommendation relates to the NAA.
- a. The Department and the NAA have agreed to issue separate statements on the Review.
8. The Department intends to publish the public version of the report along with a copy of the Department's public statement on its website on 30 January 2024.
- a. As set out in the statement, the Department will provide a public update on implementation of the recommendations at the end of June 2024.
 - b. The Department has notified the NAA, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts, Department of Defence, Department of Foreign Affairs and Trade regarding our intended release and shared a copy of the final report and public statement for visibility.
9. While not within the terms of reference to the Review, the Department advises that Cabinet records created for 2004, 2005, 2006 and 2007 have not yet been transferred to the NAA. s 42
s 42 [REDACTED]
- a. The Department are actively working with the NAA to clarify legislative obligations and supporting operational arrangements to support transfer of Cabinet records.
 - b. With respect to the 2004 records, all Protected-level Cabinet records have already been transferred to the NAA. The Department is currently in the process of scheduling the transfer of Secret and Top Secret 2004 Cabinet records to the NAA.
- c. s 47C [REDACTED]
10. During the course of the Review, Cabinet Division also identified 30 Cabinet notebooks (dating from 1978 – 1992) that have not been transferred to the NAA. Cabinet Division are working with the NAA to transfer the notebooks week commencing 29 January 2024.

SUPPLEMENTARY INFORMATION

Terms of reference

11. The terms of reference of the Review were:
- a. to examine the circumstances surrounding the 2020 transfer of Cabinet records; and
 - b. confirm all 2003 Cabinet records have been transferred to the NAA.

Recommendations

12. The Review recommends:

- a. The Department review its record transfer process to ensure: there is a central register of Cabinet records held by the Department; staff hold at least a basic understanding of their archival responsibilities; relevant staff have a Top Secret Security Clearance (TSPV); Cabinet Division has a properly trained records management officer; and that the Department periodically undertake an internal audit of its record management processes as they relate to Cabinet records;
- b. the head of Cabinet Division within the Department, and the Director-General of the NAA, should hold a TSPV security clearance;
- c. the Secretary of the Department sign a letter to the Director-General of the NAA on an annual basis confirming all Cabinet records older than 15 years have been transferred to the NAA;
- d. the NAA, with the support of the Department, review its records authorities, relevant to Cabinet records. In particular, NAA and the Department are recommended, as a matter of urgency, to develop a new records authority establishing a section 3C determination certifying that Cabinet records are part of the archival resources of the Commonwealth to ensure Cabinet records are subject to transfer obligations under the Archives Act; and
- e. the NAA consider the desirability of including National Security Committee of Cabinet (NSC) records in the annual public release process in the same way as records of the full Cabinet.

Risks and Sensitivities

13. Of the 78 Cabinet records originally identified as having not been transferred to the NAA, 14 records related to the Iraq war, either in part or in full.

- a. During the course of the Review, the Department identified that one of the 78 records scheduled for transfer on 31 December 2023, had not been included.
- b. Further, four additional 2003 Cabinet records were discovered by Mr Richardson that had not been transferred to the NAA. None of these records related to the Iraq war.
- c. As at 5 January 2024, all 82 2003 Cabinet records have now been transferred to the NAA.

14. There has been extensive reporting on the Department's transfer of 2003 Cabinet records, the independent review and the Howard government's decision to support the 2003 invasion of Iraq. On 1 and 2 January 2024, the Australian ran a series of articles relating to the transfer of Cabinet records alleging that the Department's failure to transfer Cabinet records, and subsequent non-release of documents to the public, was due to "supreme incompetence by the lead government department or a deliberate cover-up" and "shows that the Albanese government was not paying attention".

- a. Any allegation regarding involvement by government involvement is addressed by the Review's finding that there has been no political involvement in the transfer of Cabinet records to the NAA.

Financial Implications Nil

Consultation

PM&C DIVISIONS – Cabinet Division; Corporate and Technology Division; Ministerial Support Division

OFFICIAL: Sensitive Legal privilege

DEPARTMENTS – National Archives of Australia, Department of Infrastructure, Transport, Regional Development, Communications and the Arts, Department of Defence, Department of Foreign Affairs and Trade

Glyn Davis

Secretary

Department of Prime Minister and Cabinet

25 January 2024

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

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

Circulation

PM&C Secretary; *G Davis*; FAS Government Division, *A Walter*; FAS Cabinet Division, *L McGregor*; FAS Corporate and Technology Division, *H Cameron*; FAS Ministerial Support Division, *G Martin*

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

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

ATTACHMENTS:

ATTACHMENT A s 22(1)(a)(ii)

ATTACHMENT B

Transfer of 2003 Cabinet records to the National Archives of Australia

Handling Note:

Questions on the substance of the review, Department of the Prime Minister and Cabinet's (PM&C) handling of Cabinet records, PM&C's transfer processes and response to Mr Richardson's recommendations should be directed to the FAS, Cabinet Division, *Leonie McGregor*.

FAS, Government Division, *Andrew Walter*, to lead on engagement of, and support to, the independent reviewer.

Questions about the access to Commonwealth archival records and the annual public release of Cabinet records should be directed to the National Archives of Australia (NAA).

Questions on the *Archives Act 1983* (the Archives Act) should be directed to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

Key Messages

- On 1 January 2024, Professor Glyn Davis AC, Secretary of PM&C appointed Mr Dennis Richardson AC to undertake an independent review of the 2020 transfer of the 2003 Cabinet records from PM&C to the NAA (the Review).
- On 25 January 2024, the Review report was provided to the Secretary of PM&C.
- On 30 January 2024, PM&C publically released the Review report and its Departmental response ([Attachment A](#)). The NAA made a separate public statement on 30 January 2024 ([Attachment B](#)).
- PM&C has agreed to all recommendations that relate to the Department (being 4 of the 5). PM&C has undertaken to provide an update on implementation by the end of June 2024.
- The Review found that PM&C's failure to provide the NAA with a complete set of 2003 Cabinet records was a result of administrative error, due partly to the impact of COVID-19 and partly systemic issues. Mr Richardson found that there was no political interference or influence that affected the 2003 Cabinet record transfer.
- The Review found that, as at 5 January 2024, all 2003 Cabinet records had been transferred from PM&C to the NAA.
- During the Review, Mr Richardson identified 30 Cabinet notebooks from the period 1978 to 1992 that had not been transferred to the NAA.
 - The Department are working with the NAA to transfer the notebooks as soon as possible in line with security requirements.
 - The Department has transferred all 2004 Cabinet records to the NAA. The Department will transfer 2005, 2006 and 2007 Cabinet records to the NAA by 1 April 2024.

Talking Points

PM&C role

- . On 1 January 2024, Mr Dennis Richardson AC was engaged by PM&C for the Review.
- . Mr Richardson was selected by the Secretary due to his extensive senior public service experience, knowledge of government and Cabinet processes, experience conducting independent reviews and reputation for integrity.
 - Mr Richardson has served successive governments in senior policy, administration and security roles and has led agencies responsible for preparing documents for the Cabinet and the National Security Committee.
 - Mr Richardson also holds a security clearance at the appropriate level.
- . PM&C provided a small secretariat to Mr Richardson: 1 x SES Band 1 and 1 x APS 6.
- . PM&C supported Mr Richardson with a workspace to undertake the Review.

What is the government doing in response to the failures uncovered by the Richardson review?

- . This is a Departmental issue. Mr Richardson found that there was no political influence or interference, and that the transfer process set out under the Archives Act is a mechanical matter for Commonwealth departments and agencies.
- . On 30 January 2024, the Secretary of PM&C publically responded to the Review's findings.
- . PM&C has accepted all Review recommendations that relate to the Department and has commenced implementation. The Department intends to provide an update on implementation by the end of June 2024.

How did such a failure at PM&C occur?

- . The Review found PM&C's failure to provide the NAA with a complete set of 2003 Cabinet records was due to administrative error.
- . The Review found PM&C's failure was due partly to the impacts of COVID-19 and partly due to systemic issues within PM&C.
- . As a result of the pandemic and restrictions on attending the office, an in person intelligence agency review was delayed and a small number of boxes containing sensitive Cabinet records was left in a secure storage area pending the review and subsequently forgotten.
 - The boxes contained 78 Cabinet records, 77 of which were transferred to the NAA on 31 December 2023. The other record was transferred on 5 January 2024.
 - A further four 2003 Cabinet records were identified during the course of the Review. These records were also transferred to the NAA on 5 January 2024.

OFFICIAL: Sensitive

- . Systemic issues within PM&C's Cabinet Division identified by the Review included:
 - incomplete standard operating procedures in place regarding the transfer of Cabinet records;
 - lack of knowledge of the transfer obligations under the Archives Act;
 - no central control of Cabinet records within Cabinet Division; and
 - no staff with records management expertise.
- . The Review also found that key personnel within PM&C did not hold appropriate security classifications to access material the subject of transfer to the NAA.

What does the Review recommend?

- . The Review makes five recommendations:
- . Recommendation 1: recommends PM&C review its record management processes and transfer of Cabinet records, with a view to improve these processes.
- . Recommendation 2: recommends that the head of Cabinet Division within PM&C and the Director-General of the NAA should hold a Top Secret Security Clearance.
- . Recommendation 3: recommends the Secretary of PM&C sign a letter to the Director-General of the NAA on an annual basis confirming all Cabinet records required to be transferred to the NAA that year, have been transferred.
- . Recommendation 4: recommends the NAA, with the support of PM&C, review its records authorities relevant to Cabinet records and develop a new records authority confirming Cabinet records are part of the archival resources of the Commonwealth to ensure Cabinet records are subject to transfer obligations under the Archives Act.
- . Recommendation 5: recommends the NAA consider the desirability of including NSC records in the annual public release process in the same way as records of the full Cabinet.

When will the additional 2003 Cabinet records (identified since 18 December 2023) be publically released?

- . The NAA is responsible for the public release of Cabinet records.
- . As at 5 January 2024, all 2003 Cabinet records have been transferred from PM&C to the NAA.
- . As 2003 Cabinet records have now entered the open access period, each 2003 Cabinet record is accessible by making a public access request under section 40 of the Archives Act, subject to NAA and agency assessment for any relevant exemption (such as national security).
- . Even in the event where records are not in the NAA's custody, they can still be accessed through application to the NAA once they enter the open access period, subject to exemptions under the Archives Act (such as national security).
- . *Questions regarding the NAA's public release process should be directed to the NAA.*

If asked: how many records related to the Iraq war?

- During the course of the Review, Mr Richardson personally inspected all 82 Cabinet records not transferred in 2020.
- 14 of the 82 Cabinet records that were not transferred to the NAA in 2020 related to the Iraq war, either in full or in part.
- The remaining 68 records did not relate to the Iraq war.
- All 2003 Cabinet records relating to the Iraq war with protected classifications were transferred to the NAA in 2020.

If asked: what is the total cost of the Review? Who is paying?

- Expenses for the Review were \$35,200 (GST inclusive), including Mr Richardson's fees.
- Mr Richardson was appointed by PM&C on 1 January 2024.

If asked about the Review's terms of reference

- Mr Richardson was asked to:
 - examine the circumstances surrounding the 2020 transfer of Cabinet records; and
 - confirm all 2003 Cabinet records have been transferred to the National Archives of Australia.

If asked whether the Review sought public submissions

- The Review did not seek public submissions.

If asked: who did the Review meet with?

- Mr Richardson met with a wide range of appropriate people, including current and former Prime Ministers, Secretaries of PM&C, Directors-General of the NAA, PM&C and NAA staff.
- Mr Richardson also engaged the Australian Government Solicitor to ensure legal accuracy of his findings and recommendations.

If asked: is someone being held accountable?

- The Review identified systemic issues within PM&C's Cabinet Division and did not attribute blame to any individual.
- PM&C has accepted all recommendations from the report. The Department is committed to implementing Mr Richardson's recommendations to prevent similar mistakes occurring in the future.
 - Improvements to the PM&C's processes will ensure transfer processes are completed in line with historical arrangements to support the transparency of government decision-making.

OFFICIAL: Sensitive***If asked: have records from 2004 to 2007 been transferred?***

- As at 25 January 2024, all 2004 records have been transferred to the NAA.
- Cabinet Division advised the Review that all Cabinet records for 2005, 2006 and 2007 will be transferred to the NAA by 1 April 2024.

If asked: why did PM&C fail to transfer all 78 Cabinet records originally identified?

- During the course of the Review, the Department identified that one of the 78 records scheduled for transfer on 31 December 2023, had not been included on the transfer list.
- Once this was realised, PM&C made arrangements to transfer the record on 5 January 2024.
- PM&C has accepted all of the Review's recommendations which includes PM&C reviewing its record management processes and its transfer of Cabinet records to the NAA. PM&C will provide an update on its implementation of the recommendations by the end of June 2024.

If asked: why did PM&C fail to identify the additional four Cabinet records when it conducted its review in December 2023?

- Four additional 2003 Cabinet records were discovered during the course of the Review, in addition to the 78 that were originally identified.
- PM&C has accepted the report's finding that there are systemic issues within PM&C's Cabinet Division, including a lack of central control of Cabinet records.
- As recommended by Mr Richardson, PM&C will review its record management processes and transfer of Cabinet records with a view to establish a central register of the locations within PM&C which store Cabinet records.
- PM&C will provide an update on implementation of the Review's recommendations at the end of June 2024.

If asked: did the Prime Minister/PMO see a copy of the report prior to publication, and if so, were any changes made after PMO's review?

- On 29 January 2024, the Prime Minister was provided with a noting brief containing a copy of the Review, and the Department's public statement, prior to publication.
 - No changes were made to the report or public statement prior to publication.

s 47C

Background

- . In 2020 PM&C transferred 2003 Cabinet records, including those prepared for the National Security Committee (NSC) of Cabinet which had a PROTECTED classification, to the NAA.
- . Following a media query on 18 December 2023, PM&C identified that it had failed to transfer 78 Cabinet records containing Cabinet records from 2003, with Secret or Top Secret classifications, to the NAA.
- . On 31 December 2023, 77 of the 78 Cabinet records that had not been transferred in 2020 were provided to the NAA.
- . On 1 January 2024, PM&C Secretary commissioned an independent review of the record transfer process, appointing Mr Dennis Richardson AC.
- . During the course of the Review, the Department identified that one of the 78 records scheduled for transfer on 31 December 2023, had not been included on the transfer list.
- . During the course of the Review, four additional Cabinet records were discovered by Mr Richardson that had not been transferred to the NAA.
- . As at 5 January 2024, all 2003 Cabinet records have been transferred to the NAA.
- . The review found PM&C's failure to transfer 2003 Cabinet records was due to administrative error.
- . The review identified systemic issues within PM&C's Cabinet Division, including:
 - incomplete standard operating procedures;
 - no consistent knowledge of transfer obligations under the Archives Act;
 - no central control of the Cabinet records within Cabinet Division;
 - an absence of records management expertise within Cabinet Division; and
 - key personnel not having appropriate security clearances.

OFFICIAL: Sensitive**2023 Timeline:**

Date	Action
18 December 2023	PM&C received a media query about the 2003 Cabinet record release from The West Australian.
19 December 2023	A review of Cabinet records was conducted and some 2003 archive boxes containing sensitive Cabinet records were located (with Secret or Top Secret classifications).
31 December 2023	77 of the 78 Cabinet records identified were securely transferred by safe hand to the NAA. 13 of the 77 records transferred related to the Iraq war, either in full or in part.
1 January 2023	PM&C announced the independent review to be led by Mr Dennis Richardson AC.
3 January 2024	Mr Richardson was escorted to physically inspect the SCIF and uncovered four additional 2003 Cabinet records that had not been transferred to the NAA in 2020. None of these records related to the Iraq war.
5 January 2024	PM&C identified that one of the 78 records scheduled for transfer on 31 December 2023, had not been included on the transfer list. This record related to the Iraq war, in part.
5 January 2024	The five additional Cabinet records were transferred to the NAA.
25 January 2024	The Review report was provided to the Secretary of PM&C.
29 January 2024	Prime Minister provided with the report and statement for noting before publication.
30 January 2024	The report was published on PM&C's website.

Supporting information

Freedom of Information (FOI) Requests

- On 1 January 2024, the Department received a Freedom of Information request seeking access to records relating to the transfer of the 2003 Cabinet records from PM&C to the NAA, and all records relating to Mr Richardson's appointment to undertake the review. This request is currently ongoing.
- A decision is due by 31 January 2024.

Recent Ministerial Comments

- On 3 January 2024, the Prime Minister, during a Press Conference, stated Australians have a right to know the decision making process and basis upon which Australia went to war in Iraq. He further stated his Government believes that the transfer mistake must be corrected and that the NAA should release all the documentation that has been provided to them, having account for any national security issues.
- On 15 January 2024, former Prime Minister John Howard stated that all relevant documents should be released in line with current protocols and reiterated that "at no stage have I sought to suppress them".

Relevant Media Reporting

- There has been extensive reporting on PM&C's transfer of 2003 Cabinet records, the independent review and the Howard government's decision to support the 2003 invasion of Iraq.
- On 1 and 2 January 2024, the Australian ran a series of articles relating to the transfer of Cabinet records alleging that PM&C's failure to transfer Cabinet records, and subsequent non-release of documents to the public, was due to "supreme incompetence by the lead government department or a deliberate cover-up" and "shows that the Albanese government was not paying attention".
- Between 1 and 3 January 2024, The West Australia, the Canberra Times, the Australian Financial Review and the Age published articles reporting that an inquiry had been launched into missing Iraq documents and that former top public servant Dennis Richardson had been appointed to lead the inquiry.
- On 25 January 2024, the Klaxon reported that the Government had missed the Prime Minister's stated deadline for the independent review to report on the "missing" Iraq war cabinet papers by more than a week and noted the review was "being conducted by a man who was a party to the dozens of secret meetings to which the "missing" cabinet papers pertain".
- On 31 January 2024, Mr Richardson gave an interview on ABC Radio National Breakfast on the review and its findings (transcript at [Attachment C](#)).

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Division: GG - Government Division	
PDR No: SB24-000005	
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Consultation: Cabinet Division Name: Type in Officer's name.	Date: Click or tap to enter consultation date. Mob: Type mobile. Ext: Type extension.
Cleared by Deputy Secretary: Martin Hehir	Date: 31 January 2024
<i>Clearance of updates (if necessary)</i>	
Update cleared by: Click to type name. Click to type name.	Date: Click or tap to enter a date.