



LEGISLATIVE COUNCIL

PRIVILEGES COMMITTEE

# Possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse - Part 1



Report 102

October 2025



Privileges Committee

# **Possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse – Part 1**

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Possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse – Part 1

October 2025

Chair: Hon Stephen Lawrence MLC



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## Table of contents

	<b>Terms of reference</b>	<b>iv</b>
	<b>Committee details</b>	<b>v</b>
	<b>Chair’s foreword</b>	<b>vi</b>
	<b>Conduct of inquiry</b>	<b>vii</b>
<b>Chapter 1</b>	<b>Background to the inquiry</b>	<b>1</b>
	<b>Background to the establishment of the Select Committee</b>	<b>1</b>
	<b>Select Committee into the Proposal to Develop Rosehill Racecourse</b>	<b>2</b>
	Racing NSW and allegations of possible interference with witnesses	2
	Special report to the House and referral to the Privileges Committee	4
	Further correspondence with Racing NSW	5
	<b>Unauthorised disclosure of confidential committee proceedings</b>	<b>6</b>
<b>Chapter 2</b>	<b>General principles relating to contempt of Parliament and the allegations against Racing NSW</b>	<b>7</b>
	<b>What is a contempt?</b>	<b>7</b>
	Approach of Privileges Committees to contempt	8
	<b>Interference with committee witnesses</b>	<b>9</b>
	The Hon Dr Andrew Refshauge MP (1998)	10
	NSW Police Service (2001)	10
	<b>Allegations of contempt against Racing NSW</b>	<b>11</b>
	Evidence in support of allegations of witness interference	11
	Evidence against allegations of witness interference	12
	<b>Committee conclusion</b>	<b>15</b>
	Did the actions of Racing NSW constitute with interference with witnesses?	15
	Did the actions of Racing NSW constitute contempt of Parliament?	16
<b>Appendix 1</b>	<b>Submissions</b>	<b>19</b>
<b>Appendix 2</b>	<b>Minutes</b>	<b>20</b>

## Terms of reference

1. That the Special Report and recommendation of the Select Committee on the Proposal to Develop Rosehill Racecourse be referred to the Privileges Committee for inquiry and report.

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 25 September 2024.<sup>1</sup>

2. That the unauthorised disclosure of the draft minutes of the meeting of the Select Committee on the Proposal to Develop Rosehill Racecourse on Friday 29 November 2024 be referred to the Privileges Committee, and that the following matters be investigated as part of the existing inquiry in relation to a possible contempt arising from the Select Committee inquiry:
  - a. whether the Privileges Committee's unauthorised disclosure guidelines have been breached on this occasion,
  - b. whether the guidelines remain fit for purpose, and
  - c. any other related matter concerning this unauthorised disclosure.

The additional terms of reference for the inquiry were referred to the committee by the President on 6 December 2024.<sup>2</sup>

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<sup>1</sup> Minutes, NSW Legislative Council, 25 September 2024, pp 1565-1566.

<sup>2</sup> Correspondence from the Hon Ben Franklin MLC, President, NSW Legislative Council, to the Hon Stephen Lawrence MLC, Chair, Privileges Committee, referring the unauthorised disclosure of confidential information of the Select Committee to the Privileges Committee as part of its inquiry into a possible contempt under paragraph 3(a) of the resolution establishing the Privileges Committee, 6 December 2024.

## Committee details

### Committee members

<b>Hon Stephen Lawrence MLC</b>	Australian Labor Party	<i>Chair</i>
<b>Hon Natasha Maclaren-Jones MLC</b>	Liberal Party	<i>Deputy Chair</i>
<b>Hon Greg Donnelly MLC<sup>3</sup></b>	Australian Labor Party	
<b>Hon Wes Fang MLC</b>	The Nationals	
<b>Ms Sue Higginson MLC</b>	The Greens	
<b>Hon Cameron Murphy MLC<sup>4</sup></b>	Australian Labor Party	
<b>Hon Rod Roberts MLC</b>	Independent	
<b>Hon Emily Suvaal MLC<sup>5</sup></b>	Australian Labor Party	

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Robin Howlett, A/Senior Council Officer

Sharon Ohnesorge, Director

Steven Reynolds, Clerk of the Parliaments and Clerk of the Legislative Council

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- <sup>3</sup> The Hon Greg Donnelly MLC substituted for the Hon Bob Nanva from 6 February 2025 for the duration of the inquiry.
- <sup>4</sup> The Hon Cameron Murphy MLC was a member of the committee to 28 May 2025.
- <sup>5</sup> The Hon Emily Suvaal MLC substituted for the Hon Peter Primrose MLC from 5 February 2025 for the duration of the inquiry.

## Chair's foreword

This inquiry stems from concerns raised about the conduct of Racing NSW during the inquiry of the Select Committee on the Proposal to Develop Rosehill Racecourse in 2024.

In the course of the Select Committee inquiry, allegations were aired about impropriety and poor workplace culture at Racing NSW, based on confidential evidence to that committee. In response, senior Racing NSW personnel wrote to the Select Committee suggesting that former staff were engaged in a campaign to make submissions critical of the organisation. In its letters, Racing NSW provided details of former staff it believed were behind criticisms of the organisation. Due to adverse reflections on individuals in those letters, the Select Committee kept them confidential. Nevertheless, the Select Committee considered that Racing NSW's actions could be interpreted as an attempt to interfere with inquiry participants. The Select Committee outlined its concerns in a special report, which recommended the matter be referred to the Privileges Committee to consider whether Racing NSW's actions amounted to a contempt of Parliament.

This committee has carefully considered two questions: first, whether the actions of Racing NSW constituted interference with witnesses; and second whether the actions amount to contempt. On the first question, this committee has serious concerns that Racing NSW has engaged in conduct that may have had the effect of deterring potential inquiry witnesses from coming forward to give evidence for fear of reprisals – the so-called 'chilling effect'. On the second question, the committee did not consider that the threshold for contempt was met, primarily due to lack of conclusive evidence, and the limited impact of Racing NSW's actions on the Select Committee's ability to report on its terms of reference.

While not finding contempt in this instance, this committee is concerned by the conduct of Racing NSW in a number of respects, particularly its deeply personal depictions of third-party individuals. It considers that it is highly unusual for an organisation to take such steps in respect of former employees, and reflects poorly on Racing NSW as an organisation. This committee has concerns about the potential for such behaviour, if repeated, to deter potential witnesses from coming forward to any future inquiry for fear of being targeted for adverse treatment.

The committee is also concerned that similar material to that provided by Racing NSW to the Select Committee was broadcast on a radio program just after this inquiry was established. While not making any finding about this, the committee considered it a significant and questionable coincidence.

I take this opportunity to emphasise this committee's strong view that organisations and individuals must take extra care not to engage in any sort of conduct that may deter or have a 'chilling effect' on others from engaging in the parliamentary process. The committee system depends on witnesses and other inquiry participants coming forward to give evidence free from interference, and this committee will continue to take extremely seriously any attempts by organisations or individuals involved in parliamentary inquiries to distort or influence the free flow of information to a committee.

Hon Stephen Lawrence MLC  
**Committee Chair**

## Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 25 September 2024. Additional terms of reference were referred to the committee by the President on 6 December 2024.

The committee received 1 confidential submission related to the initial terms of reference, which concerned alleged interference with witnesses by Racing NSW.

The committee also received correspondence in relation to the alleged interference with witnesses by Racing NSW, which it resolved to keep confidential due to significant adverse references to third parties.

On 6 August 2025, the committee resolved to table its report on this inquiry in two separate parts, with Part 1 focused on alleged interference with witnesses by Racing NSW, and Part 2 on the unauthorised disclosure.

This report completes the committee's inquiry into to the alleged interference with witnesses by Racing NSW.



## Chapter 1 Background to the inquiry

This chapter begins by outlining the events that led to the establishment of the Select Committee on the Proposal to Develop Rosehill Racecourse, and the subsequent referral to the Privileges Committee of an inquiry into a possible contempt in September 2024.

The chapter also outlines the additional terms of reference that were referred to the Privileges Committee by the President of the Legislative Council in December 2024, following an unauthorised disclosure of confidential proceedings of the Select Committee, but notes that these will be considered in a separate report to be tabled at a later date.

### Background to the establishment of the Select Committee

- 1.1 In December 2023, the NSW Government and Australian Turf Club announced that discussions had commenced regarding a proposal to relocate Rosehill Racecourse and develop the land to build tens of thousands of new homes, as well as a new Sydney Metro West station. It was described in a media release by the Premier as a 'once-in-a-generation opportunity'.<sup>6</sup>
- 1.2 As context, Rosehill Racecourse (also known as Rosehill Gardens) is one of two premier racecourses in Sydney and is considered the most popular racetrack for residents of Greater Western Sydney. The racecourse is owned by the Australian Turf Club, a racing club that also owns the other three metropolitan racecourses in Sydney – Royal Randwick, Canterbury Park and Warwick Farm.
- 1.3 The announcement therefore produced an immediate and strong response, especially from those within the racing industry as well as from members of the Australian Turf Club.<sup>7</sup>
- 1.4 Acknowledging the controversy surrounding the proposal, members of the Legislative Council questioned the Minister for Gaming and Racing and senior government officers in Budget Estimates hearings in early 2024 about the genesis of the proposal, the unsolicited proposals process and the Government's involvement to date.<sup>8</sup>
- 1.5 A key issue of concern for some members of the Select Committee on the Proposal to Develop Rosehill Racecourse (Select Committee) related to a meeting held in October 2023 between the Premier and Mr Steve McMahon, Australian Turf Club's Head of Membership and Corporate Affairs, and the characterisation of the meeting as a 'meet and greet' despite the two having a longstanding personal and professional relationship.<sup>9</sup>

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<sup>6</sup> Media release, Hon Chris Minns MP, Premier of NSW, 'Once-in-a-generation opportunity for Rosehill and to secure the future of the NSW racing industry', 7 December 2023.

<sup>7</sup> Further information about the proposal and associated key events are detailed in: Select Committee on the Proposal to Develop Rosehill Racecourse, NSW Legislative Council, *Proposal to develop Rosehill Racecourse* (Report 2, December 2024), p 35

<sup>8</sup> Evidence to the Select Committee on the Proposal to Develop Rosehill Racecourse, Hon David Harris MP, Minister for Gaming and Racing, 22 February 2024, pp 7-9, 26-28, 34-36.

<sup>9</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Proposal to develop Rosehill Racecourse*, p 35.

- 1.6 The controversy surrounding the potential sale of Rosehill Racecourse continued to gain momentum and on 13 March 2024, the Legislative Council passed an order for papers from relevant ministers and government departments regarding the proposal and its impacts, as well as for documents relating to proposals to develop any other racecourse for housing.<sup>10</sup>
- 1.7 In accordance with standing order 52, the Government produced documents to the Legislative Council on 10 April 2024.<sup>11</sup>

### Select Committee into the Proposal to Develop Rosehill Racecourse

- 1.8 Following the production of documents, Opposition and crossbench members asserted in the House that the information contained in the documents raised more questions about the development proposal. The House subsequently agreed to a resolution establishing a select committee to inquire and report on the issue on 15 May 2024.<sup>12</sup>
- 1.9 The terms of reference specified that the Select Committee inquire and report on the proposal to develop Rosehill Racecourse, and in particular:
- (a) the unsolicited proposal process including associated probity measures,
  - (b) the involvement of the Government prior to the unsolicited proposal being made,
  - (c) the role of the proposal in meeting housing targets,
  - (d) impacts on the cost and delivery of the Sydney Metro,
  - (e) potential impacts on parkland in Western Sydney,
  - (f) impacts on the racing industry in New South Wales,
  - (g) the impact on animal welfare and any integrity concerns associated with the proposal which relate to animal welfare, and
  - (h) any other related matters.

### Racing NSW and allegations of possible interference with witnesses

- 1.10 Racing NSW is a statutory body responsible for both the commercial and regulatory functions of thoroughbred racing in New South Wales and is established under the *Thoroughbred Racing Act 1996*. The Act sets out its functions and powers, including specifying that Racing NSW does not represent the Crown and is not subject to the direction or control by or on behalf of the Government.<sup>13</sup>

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<sup>10</sup> *Minutes*, NSW Legislative Council, 13 March 2024, pp 947-948.

<sup>11</sup> Return to order for papers, 10 April 2024, Racecourse housing development proposals, The Cabinet Office.

<sup>12</sup> *Hansard*, NSW Legislative Council, 14 May 2024, pp 34-38 (Damien Tudehope, Mark Latham, Cate Faehrmann and Emma Hurst).

<sup>13</sup> *Thoroughbred Racing Act 1996*, s 5.

- 1.11** Racing NSW was a key stakeholder in the Select Committee's inquiry. The Select Committee's final report stated that it had received large amounts of public and confidential evidence from a wide range of participants involved in the racing industry regarding Racing NSW, some of which contained serious allegations about Racing NSW.
- 1.12** At the committee's first public hearing on 22 July 2024, there were questions and discussion around whether witnesses had been discouraged by Racing NSW from attending the hearing and giving evidence to the Select Committee.<sup>14</sup>
- 1.13** The concerns relating to possible interference with witnesses were strongly denied by the Chief Executive Officer of Racing NSW, Mr Peter V'landys AM, in correspondence to the committee dated 26 July 2024. He stated that Racing NSW had made no attempts directly or indirectly to discourage witnesses from giving evidence.<sup>15</sup>
- 1.14** At a hearing on 9 August 2024, Mr V'landys and Racing NSW's Chief Operating Officer, Mr Graeme Hinton, attended as witnesses. Mr V'landys reiterated his denial that he or anyone at Racing NSW had attempted to interfere with witnesses.<sup>16</sup>
- 1.15** In addition, several lines of questioning were prompted by confidential evidence received by the Select Committee about Racing NSW, its leadership, practices and culture – evidence which the witnesses had not seen and were not provided at the hearing.<sup>17</sup> Members of the Select Committee put to Mr V'landys and Mr Hinton allegations of impropriety within Racing NSW, including sexual harassment, bullying and poor culture, as well as interference with stewards' inquiries.<sup>18</sup> These allegations were also strenuously denied.<sup>19</sup>
- 1.16** Following the 9 August hearing, the Select Committee received correspondence from Mr Hinton on 12 August responding to various matters that had been raised, including specific reference to allegations arising out of confidential evidence received by the committee.<sup>20</sup>
- 1.17** The correspondence stated that Racing NSW had been made aware of reports that former employees had been contacted by individuals encouraging them to make submissions critical of Racing NSW. The correspondence then went on to raise allegations of impropriety against two former employees who Racing NSW believed were either encouraging these submissions or

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<sup>14</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Proposal to develop Rosehill Racecourse*, pp 37-38.

<sup>15</sup> Correspondence from Mr Peter V'landys AM, Chief Executive Officer, Racing NSW, to Chair, Select Committee on the Proposal to Develop Rosehill Racecourse, 26 July 2024. (Appendix 2 to Select Committee on the Proposal to Develop Rosehill Racecourse, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*.)

<sup>16</sup> Evidence, Mr Peter V'landys AM, Chief Executive Officer, Racing NSW, to Select Committee on the Proposal to Develop Rosehill Racecourse, 9 August 2024, p 46.

<sup>17</sup> For example, Evidence, Mr V'landys to Select Committee, 9 August 2024, p 50.

<sup>18</sup> Evidence, Mr V'landys to Select Committee, 9 August 2024, pp 46-47.

<sup>19</sup> Evidence, Mr V'landys to Select Committee, 9 August 2024, pp 42-43 and 53.

<sup>20</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, NSW Legislative Council, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse* (Report 1, September 2024), p 1.

were behind the allegations raised at the 9 August hearing. The correspondence further stated that Racing NSW had 'investigated the issues raised with utmost urgency'.<sup>21</sup>

**1.18** This letter was subsequently considered at a deliberative meeting of the Select Committee on 26 August 2024, where the committee resolved to keep the correspondence confidential as it contained identifying and sensitive information and adverse mention.<sup>22</sup>

**1.19** The Select Committee was very concerned that, given the contents of Mr Hinton's correspondence and other contextual factors of which the committee was aware, the 'investigation' referred to in the 12 August letter could be interpreted as a wrongful attempt by Racing NSW to uncover the identity of confidential submission authors, potentially with the intention of discouraging or intimidating those inquiry participants from giving evidence.<sup>23</sup>

**1.20** Accordingly, at its meeting on 26 August 2024 the Select Committee resolved to:

- make a special report to the House, recommending that the correspondence be referred to the Privileges Committee for inquiry and report on the basis that it may constitute a substantial interference with the work of the committee and therefore a possible contempt
- provide a copy of this correspondence to the Privileges Committee on a confidential basis, should the House refer the matter to the Privileges Committee.<sup>24</sup>

### **Special report to the House and referral to the Privileges Committee**

**1.21** On 20 September 2024, the Select Committee tabled its report entitled '*Special Report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*' (Special Report).<sup>25</sup>

**1.22** In its Special Report, the Select Committee concluded that:

The committee is concerned that the possible actions inferred in Racing NSW's confidential correspondence dated 12 August 2024 could amount to an attempt to interfere with inquiry participants. If this interpretation is correct, this would have a substantial and detrimental impact on the ability of this committee to conduct its inquiry, and would be a matter of utmost seriousness.

... The committee therefore recommends that the House refer the correspondence dated 12 August 2024 to the Privileges Committee for inquiry and report on the basis

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<sup>21</sup> Confidential correspondence from Mr Graeme Hinton, Chief Operating Officer, Racing NSW, to Chair, Select Committee on the Proposal to Develop Rosehill Racecourse, 12 August 2024 (cited by resolution of the committee).

<sup>22</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*, p 159.

<sup>23</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*, pp 1-2.

<sup>24</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*, p 159.

<sup>25</sup> *Minutes*, NSW Legislative Council, 24 September 2024, p 1546.

that it may constitute a substantial interference with the work of the committee and therefore a possible contempt.<sup>26</sup>

**1.23** Subsequently on 25 September 2024, the Legislative Council referred an inquiry to the Privileges Committee and the resolution of the House stated:

That the special report and recommendation of the Select Committee on the Proposal to Develop Rosehill Racecourse be referred to the Privileges Committee for inquiry and report.<sup>27</sup>

**1.24** In correspondence to the Privileges Committee dated 30 September 2024, the Chair of the Select Committee provided a copy of the 12 August letter on a confidential basis.<sup>28</sup>

### **Further correspondence with Racing NSW**

**1.25** On 24 September 2024, following the tabling of the Special Report, the Select Committee received a further letter from Dr Saranne Cooke, Chairman of Racing NSW, regarding the contents of the Special Report.<sup>29</sup> At a deliberative meeting on 26 September 2024, the Select Committee resolved to keep this letter confidential as it also contained identifying or sensitive information and potential adverse mention. The Select Committee further resolved to provide a copy of the letter to the Privileges Committee on a confidential basis and was thus included in the Chair's correspondence of 30 September 2024.<sup>30</sup>

**1.26** Additionally, on 14 October 2024 the Select Committee resolved that the Hon Mark Latham MLC, a participating member of the committee, be permitted to refer a letter from Mr Michael Cleaver, Operations Manager – Integrity at Racing NSW, dated 15 August 2024 and received 26 August 2024, to the Privileges Committee on a confidential basis. The Privileges Committee received Mr Cleaver's letter on 24 October 2024.<sup>31</sup>

**1.27** The Privileges Committee notes that the information contained in the following three pieces of correspondence to the Select Committee is of a highly sensitive nature and contains adverse mention and has therefore also resolved to keep them confidential:

- Mr Graeme Hinton, Chief Operating Officer, Racing NSW – dated 12 August 2024
- Mr Michael Cleaver, Operations Manager – Integrity, Racing NSW – dated 15 August 2024

<sup>26</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*, p 3.

<sup>27</sup> *Minutes*, NSW Legislative Council, 25 September 2024, pp 1565-1566.

<sup>28</sup> Correspondence from the Hon Scott Farlow MLC, Chair, Select Committee on the Proposal to Develop Rosehill Racecourse, to Chair, Privileges Committee, 30 September 2024.

<sup>29</sup> Correspondence from Dr Saranne Cooke, Chairman, Racing NSW, to Chair, Select Committee on the Proposal to Develop Rosehill Racecourse, 24 September 2024 (cited by resolution of the committee).

<sup>30</sup> Correspondence from the Hon Scott Farlow MLC, Chair, Select Committee on the Proposal to Develop Rosehill Racecourse, to Chair, Privileges Committee, 30 September 2024.

<sup>31</sup> Confidential attachment to confidential correspondence from the Hon Mark Latham MLC to Chair, 24 October 2024 (cited by resolution of the committee).

- Dr Saranne Cook, Chairman, Racing NSW – dated 24 September 2024.<sup>32</sup>

- 1.28** References to these pieces of correspondence in this report will be of a general nature, without revealing the contents of the allegations, particularly against third party individuals.
- 1.29** The committee invited submissions from the Select Committee regarding the alleged contempt. The committee received one confidential submission to the inquiry from the Hon Mark Latham MLC. This submission was considered at a meeting held on 2 December 2024. At the meeting, the committee resolved to write to Racing NSW, giving it an opportunity to respond to the allegations of possible contempt as well as to provide an explanation of its actions.<sup>33</sup>
- 1.30** A response was received from the Chairman of Racing NSW on 24 January 2025.<sup>34</sup> While the committee has resolved to also keep this correspondence confidential, as it refers in detail to the 12 August letter, certain excerpts are included in chapter 2.
- 1.31** Chapter 2 considers the principles of contempt as well as whether Racing NSW's actions, as described in its correspondence to the Select Committee, would constitute a contempt of Parliament.

### **Unauthorised disclosure of confidential committee proceedings**

- 1.32** In a separate matter to the possible interference with witnesses detailed above, the Privileges Committee received additional terms of reference for its existing inquiry into possible contempt, following an unauthorised disclosure of confidential proceedings of the Select Committee. These additional terms of reference were provided in correspondence from the President of the Legislative Council on 6 December 2024. The committee's investigation into the unauthorised disclosure does not have any bearing on the findings with regard to Racing NSW, and will be reported on at a later date, as Part 2 of this inquiry's report.

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<sup>32</sup> Cited by resolution of the committee.

<sup>33</sup> Correspondence from Chair, to Dr Saranne Cooke, Chairman, Racing NSW, 11 December 2024.

<sup>34</sup> Confidential correspondence from Dr Saranne Cooke, Chairman, Racing NSW, to Chair, 24 January 2025 (cited by resolution of the committee).

## Chapter 2      **General principles relating to contempt of Parliament and the allegations against Racing NSW**

This chapter explores the concept and principles of contempt of Parliament, and the approach of the Privileges Committee when dealing with cases of possible contempt thus far. The chapter also considers parliamentary practice concerning cases involving possible interference with committee witnesses, highlighting two relevant examples of where this has arisen in the Legislative Council.

The chapter then examines the actions of Racing NSW, as detailed in correspondence, and considers whether it meets the threshold of a contempt of Parliament.

### **What is a contempt?**

- 2.1**      Unlike some other Australian jurisdictions, the Parliament of New South Wales does not have a statutory definition of what constitutes a contempt of Parliament, nor is it defined in the standing orders. It is therefore a matter for the Legislative Council to determine whether or not a particular act or omission constitutes a contempt, and the Legislative Council may declare a particular act or omission to be a contempt without any antecedent inquiry into it.<sup>35</sup>
- 2.2**      Generally, a contempt is any act or omission which obstructs or impedes the House or its committees in the performance of their functions, or which obstructs or impedes any member or officer of the House in the discharge of their duty, or which has a tendency, directly or indirectly, to produce such a result.<sup>36</sup>
- 2.3**      Additionally, for an act to constitute contempt, it need not be intentional – a contempt may be intended or unintended.<sup>37</sup>
- 2.4**      A contempt may be committed by both members of Parliament and non-members, including organisations, committee witnesses and members of the public. However, it is rare for a person or body other than a member of Parliament to be accused of contempt.
- 2.5**      When contempts occur, the Legislative Council does not have a punitive power to punish, at least not according to a conventional reading of the common law test of necessity deriving from *Kielley v Carson*.<sup>38</sup> The courts have found that such a power is not necessary to the existence and proper exercise of the functions of the Houses of the Parliament of New South Wales.<sup>39</sup>
- 2.6**      Therefore when contempts occur, the House may only take action in accordance with what is 'reasonably necessary' for the existence of the House and the proper exercise of its functions,

<sup>35</sup> Stephen Frappell and David Blunt (ed), *NSW Legislative Council Practice* (Federation Press, 2021), 2nd ed, p 151.

<sup>36</sup> *NSW Legislative Council Practice*, p 151, quoting *Erskine May*, 25th ed, para 15.2.

<sup>37</sup> *NSW Legislative Council Practice*, p 168.

<sup>38</sup> (1842) 13 ER 225; *NSW Legislative Council Practice*, p 151.

<sup>39</sup> *Doyle v Falconer* (1866) 16 ER 293 at 298 per Sir James Colvile; *Willis and Christie v Perry* (1912) 13CLR 592 at 598-599 per Barton J.

which encompasses action which is protective and defensive of the House and its procedures, but does not extend to the punishment of offenders.

2.7 The only exception is that, under the *Parliamentary Evidence Act 1901*, the Parliament of New South Wales has the power to punish for contempt for failure to answer any 'lawful question'.<sup>40</sup>

### **Approach of Privileges Committees to contempt**

2.8 When dealing with contempt, successive Privileges Committees in the Legislative Council have taken the approach that:

- for a contempt to be found, the matter must be of such seriousness that it could have a substantial and detrimental impact on the ability of the House, its committees or the member concerned to function
- a finding of contempt should be used as sparingly as possible, and only when the House is satisfied that to do so is necessary to provide reasonable protection from improper obstruction or substantial interference with the performance of the functions of the House or a member
- a finding of contempt should not be made in respect of matters which appear to be of a trivial nature or unworthy of the attention of the House
- the exercise of contempt power must be protective and self-defensive only, not punitive
- encompasses preserving and safeguarding the dignity and honour of the Parliament, the House and its committees
- an action may not be intended to have a detrimental impact on the House or a committee for a finding of contempt to be made.<sup>41</sup>

2.9 Contempt encompasses conduct which has a tendency to obstruct the performance of functions. Where a tendency for substantial interference is found, an intended act of contempt that does not, in fact, produce the intended effect can still constitute contempt. Equally, a threat that is not acted upon can constitute a contempt for the reason that the original threat may still have a tendency to substantially obstruct or interfere with the performance of functions.<sup>42</sup>

2.10 The Legislative Council's use of the power to deal with contempt is also discretionary.<sup>43</sup>

2.11 In most of the cases where it has been asked to consider a possible contempt, the Privileges Committee has concluded that no contempt or other offence has occurred.<sup>44</sup> Even where it has found that a contempt has occurred, consistent with the common law principles laid down in

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<sup>40</sup> *Parliamentary Evidence Act 1901*, s 11(1).

<sup>41</sup> *NSW Legislative Council Practice*, p 167; Standing Committee on Parliamentary Privilege and Ethics, NSW Legislative Council, *Possible intimidation of witnesses before General Purpose Standing Committee No 3 and unauthorised disclosure of committee evidence* (Report 13, November 2001).

<sup>42</sup> *NSW Legislative Council Practice*, p 168.

<sup>43</sup> *NSW Legislative Council Practice*, p 168.

<sup>44</sup> *NSW Legislative Council Practice*, pp 154-161.

relation to the powers of the Council, the committee has been extremely circumspect in its responses.<sup>45</sup>

## Interference with committee witnesses

**2.12** In the United Kingdom House of Commons, any conduct calculated to deter prospective witnesses from giving evidence before either House or a committee is a contempt. Threats against those who have given evidence before a House or committee will also be treated as a contempt and under the *Witnesses (Public Inquiries) Protection Act 1892*, a person found to have punished or injured witnesses on account of their evidence are liable on conviction to be fined or imprisoned.<sup>46</sup>

**2.13** Similarly, the Senate has passed resolutions to deal with the improper interference with witnesses as a contempt:

### 36 Interference with witnesses

The Senate –

- (a) reaffirms the long-established principle that it is a serious contempt for any person to attempt to deter or hinder any witness from giving evidence before the Senate or a Senate committee, or to improperly influence a witness in respect of such evidence; and
- (b) warns all persons against taking any action which might amount to attempting to improperly influence a witness in respect of such evidence.<sup>47</sup>

**2.14** There are also provisions in the *Parliamentary Privileges Act 1987* (Cth) which establish criminal offences in respect of certain conduct, including the influencing of a witness by improper means in respect of evidence given or to be given before a House or a committee.<sup>48</sup>

**2.15** In October 2018, the Legislative Council also adopted a procedural fairness resolution to provide 'proper process and fair treatment' for inquiry participants. One of the provisions specifically relates to the improper treatment of inquiry participants, which could be reported to the House:

### 20. Improper treatment of inquiry participants

Where a committee has reason to believe that a person has been improperly influenced in respect of the evidence they may give to a committee, or has been penalised, injured or threatened in respect of evidence given, the committee will take all reasonable steps to ascertain the facts of the matter. If the committee is satisfied that such action may have occurred, the committee may report the matter to the Legislative Council.<sup>49</sup>

<sup>45</sup> *NSW Legislative Council Practice*, p 166.

<sup>46</sup> *Erskine May*, 25th ed, para 15.1.

<sup>47</sup> Senate, Procedural Orders and Resolutions of Continuing Effect no 36 (13 September 1984 J. 1126. See also the Senate Privilege Resolutions, 25 February 1988, no 6, paragraphs (10) and (11).

<sup>48</sup> *Parliamentary Privileges Act 1987* (Cth), s 12.

<sup>49</sup> *Minutes*, NSW Legislative Council, 25 October 2018, pp 3244-3246.

- 2.16** As noted in earlier sections, while the Legislative Council has not enacted legislation or standing orders relevant to the issue of contempt in general, and in particular of interference with witnesses, the Houses do have the power to deal with such matters by virtue of their inherent or implied powers. The following sections look at two previous cases involving potential interference with committee witnesses in the Legislative Council.

### **The Hon Dr Andrew Refshauge MP (1998)**

- 2.17** In March 1998, during evidence before General Purpose Standing Committee No. 2 (GPSC2), a member of the Board of Directors of the New England Health Service claimed that, in a conversation before the hearing, the Minister for Health, the Hon Dr Andrew Refshauge MP, had attempted to persuade him not to attend the hearing and give evidence.
- 2.18** GPSC2 raised the matter in a special report to the House, which referred the matter to the then Standing Committee on Parliamentary Privilege and Ethics. The committee found that, while Dr Refshauge had made comments critical of GPSC2, he had not attempted to intimidate the witness or coerce him into attending the hearing, and that therefore no contempt had occurred.
- 2.19** However, the committee advised that 'caution should be exercised by Ministers and Members when in discussion with witnesses before parliamentary committees'.<sup>50</sup>

### **NSW Police Service (2001)**

- 2.20** In April 2001, during an *in camera* hearing before General Purpose Standing Committee No. 3 (GPSC3) concerning policing at Cabramatta, four police officers tendered a written submission which included reference to the recruiting of school students by drug criminals in the Cabramatta area. The *Sydney Morning Herald* published details of the submission the next day. The four officers subsequently received written directions from their commanding officer requiring them to provide details of any information they had concerning the published allegations. Failure to respond to a written direction could result in disciplinary proceedings or dismissal.
- 2.21** GPSC3 raised the matter in a special report to the House, which referred the matter to the then Standing Committee on Parliamentary Privilege and Ethics. The committee concluded that the issuing of the written directions had resulted in the intimidation of the four officers, and that this had the potential to obstruct the committee in the performance of its functions.
- 2.22** However, the committee concluded that such a result had not been intended by Police management, which had not set out to penalise the officers for their evidence or deter other officers from giving evidence. In these circumstances, the committee found that a contempt, although unintended, had occurred, but recommended that no action be taken against the senior officers concerned.<sup>51</sup>

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<sup>50</sup> Standing Committee on Parliamentary Privilege and Ethics, NSW Legislative Council, *Report on inquiry on Special Report from General Purpose Standing Committee No 2* (Report 9, November 1998).

<sup>51</sup> Standing Committee on Parliamentary Privilege and Ethics, *Possible intimidation of witnesses before General Purpose Standing Committee No 3 and unauthorised disclosure of committee evidence*.

## Allegations of contempt against Racing NSW

**2.23** In its Special Report to the House, the Select Committee concluded that:

The committee is concerned that the possible actions inferred in Racing NSW's confidential correspondence dated 12 August 2024 could amount to an attempt to interfere with inquiry participants. **If this interpretation is correct**, this would have a substantial and detrimental impact on the ability of this committee to conduct its inquiry, and would be a matter of utmost seriousness.

... The committee therefore recommends that the House refer the correspondence dated 12 August 2024 to the Privileges Committee for inquiry and report on the basis that it may constitute a substantial interference with the work of the committee and therefore a possible contempt.<sup>52</sup> [emphasis added]

**2.24** Therefore, with the principles of contempt and improper interference with witnesses in mind, the questions before the Privileges Committee are twofold:

1. Is the Privileges Committee satisfied, based on the evidence, that the interpretation articulated in the Select Committee's Special Report – that the possible actions inferred in Racing NSW's confidential correspondence could amount to an attempt to interfere with inquiry participants – is correct?
2. If yes, does this amount to contempt in the circumstances, based on the principles articulated above?

These two questions are considered in the sections below.

**2.25** If a contempt is found, the committee would also need to recommend to the House what measures should be taken to redress the situation.

### Evidence in support of allegations of witness interference

**2.26** In a confidential submission to the Privileges Committee, the Hon Mark Latham MLC, a participating member on the Select Committee, asserted that the correspondence from Mr Hinton and Mr Cleaver, which named individuals who Racing NSW believed had made or encouraged negative submissions about Racing NSW, was 'part of a series of attempts by Racing NSW to identify and intimidate whistleblowers, interfering in the work of the Rosehill Committee'.<sup>53</sup>

**2.27** The member drew attention to the 'particularly personal and brutal' characterisations of the individuals identified by Racing NSW. The member stated that the people identified had not, in fact, provided information to the Select Committee and therefore Racing NSW was mistaken in its allegations.<sup>54</sup> The member also suggested that Racing NSW had provided the information

<sup>52</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, NSW Legislative Council, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse* (Report 1, 2024), pp 2-3.

<sup>53</sup> Submission 1, Confidential, p 1.

<sup>54</sup> Submission 1, Confidential, p 1.

to the committee in order to undermine the credibility of these individuals as potential witnesses.<sup>55</sup>

- 2.28** In addition, the member's submission advised that the names and personal circumstances of the individuals identified in Mr Hinton and Mr Cleavers' correspondence, had also been publicly broadcast on the Ray Hadley Morning Show on 2GB Radio. Mr Hadley accused those persons of being the likely complainants against Racing NSW and Mr V'landys. This segment was broadcast the day after the Legislative Council referred the inquiry into possible contempt to the Privileges Committee.<sup>56</sup>
- 2.29** The member alleged that the crossover of information and the connections between staff at Racing NSW and the Ray Hadley Show suggested that Racing NSW had prepared and provided material for the radio broadcast, attempting to publicly identify and shame individuals purportedly critical of Racing NSW.<sup>57</sup>
- 2.30** The member also expressed serious concern about the 'chilling' impact the series of events could have on others wanting to provide confidential evidence to the Select Committee.<sup>58</sup> The member stated that they personally knew of potential whistleblowers who had withdrawn from the inquiry process because 'they [didn't] want to receive the type of treatment on the Hadley Show' and feared of retribution from Racing NSW.<sup>59</sup>
- 2.31** The member strongly expressed that witnesses must be allowed to submit, appear and present evidence 'unencumbered' to a parliamentary committee and that this is 'one of the basic principles of a functioning parliament'.<sup>60</sup>
- 2.32** In making this submission, the member acknowledged that some of the allegations that had been raised against Racing NSW throughout the inquiry may have not been directly relevant to the Select Committee's terms of reference. However, the member commented that considering the seriousness of the allegations that had been raised, the Select Committee 'had no choice but to deal with [them]', which included allegations that the regulator held 'zero tolerance of criticism and an obsessive determination to know what is being said about it' and 'responds to criticism by shooting the messenger, creating a culture of fear and revenge'.<sup>61</sup>

### **Evidence against allegations of witness interference**

- 2.33** Racing NSW has denied all allegations of interference with inquiry participants, and has maintained to the Select Committee<sup>62</sup> and Privileges Committee that it did not investigate any person making a submission to the inquiry nor attempt to identify who they were:

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<sup>55</sup> Submission 1, Confidential, (cited by resolution of the committee).

<sup>56</sup> Submission 1, Confidential, p 1 (cited by resolution of the committee).

<sup>57</sup> Submission 1, Confidential, p 1 (cited by resolution of the committee).

<sup>58</sup> Submission 1, Confidential, p 1 (cited by resolution of the committee).

<sup>59</sup> Submission 1, Confidential, p 1 (cited by resolution of the committee).

<sup>60</sup> Submission 1, Confidential, p 2 (cited by resolution of the committee).

<sup>61</sup> Submission 1, Confidential (cited by resolution of the committee).

<sup>62</sup> Confidential correspondence from Dr Saranne Cooke, Chairman, Racing NSW, to Chair, 24 September 2024 (cited by resolution of the committee).

Racing NSW wishes to again stress to the Privileges Committee that it did not try to investigate any person making submissions to the Select Committee or try to identify who they are. Neither Mr Hinton nor any other representative of Racing NSW made any contact, or attempted to make contact, with any of the persons named in Mr Hinton's confidential submission.<sup>63</sup>

- 2.34** Racing NSW explained that following the public hearing on 9 August, it was contacted by 'former staff members alerting Racing NSW to attempts by persons encouraging them to make submissions to the inquiry' which were critical of Racing NSW and Mr V'landys.<sup>64</sup>
- 2.35** Racing NSW emphasised that this information had been provided to them unprompted, spurred by 'concerned' and 'appalled' former staff members who 'believed that this campaign to cause damage was completely unfair, unwarranted and the allegations being made were entirely untrue'.<sup>65</sup>
- 2.36** Racing NSW acknowledged that the correspondence from Mr Hinton and Mr Cleaver had named the individuals who it suspected had encouraged others to make negative submissions. However, Racing NSW denied that it had made any contact, or attempted to make contact, with any of the persons named.<sup>66</sup>
- 2.37** Additionally, Racing NSW denied any attempts to 'identify or influence any third party that may have been contacted by those named persons in their efforts to encourage others to make negative submissions'.<sup>67</sup>
- 2.38** As noted in chapter 1, a number of the allegations put to Racing NSW at the 9 August hearing were informed by confidential submissions and evidence received by the Select Committee. Racing NSW argued that by being asked to respond to these 'broad' allegations 'lacking any evidence or detail' in the hearing, which it did not know the basis for or who the complainants were, it was denied 'proper procedural fairness and natural justice to respond'.
- 2.39** It therefore claimed that it was 'appropriate and necessary' for Mr Hinton and Mr Cleaver to provide this additional information to 'fully inform' and assist the Select Committee to assess and scrutinise the credibility of the evidence it had received:

As Racing NSW had not been provided with procedural fairness and natural justice during the Inquiry and because this information had been received immediately following the appearance of Racing NSW representatives at the Inquiry, the confidential submissions were both necessary and appropriate to forward on this information. There

<sup>63</sup> Confidential correspondence from Dr Saranne Cooke, Chairman, Racing NSW, to Chair, 24 January 2025 (cited by resolution of the committee).

<sup>64</sup> Confidential correspondence from Dr Cooke to Chair, 24 September 2024 (cited by resolution of the committee).

<sup>65</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee).

<sup>66</sup> Confidential correspondence from Dr Cooke to Chair, 24 September 2024 (cited by resolution of the committee).

<sup>67</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee).

was no other means available for Racing NSW to provide this information to the Select Committee.<sup>68</sup>

**2.40** It also argued that providing the information to the Select Committee on a confidential basis illustrated Racing NSW's intention to provide this information solely for the benefit of the Select Committee in scrutinising the evidence, and not to interfere with witnesses or to deter others from coming forward.<sup>69</sup>

**2.41** Regarding the problematic reference in Mr Hinton's letter to Racing NSW having 'investigated the issues raised with utmost urgency', Racing NSW explained that this has been misinterpreted by the Select Committee in its Special Report, and once again 'unequivocally' denied any investigation of inquiry participants. It clarified that the reference was to other general allegations raised in the hearing:

... what was being investigated was the "*the issues raised*". It was not an investigation into the identity of the persons raising any issues.

For example, one of the issues raised was that Racing NSW monitored web traffic. Accordingly, we investigated this issue to ensure that it was not the case. That type of investigation is what Mr Hinton was referring to ...<sup>70</sup>

**2.42** Racing NSW also argued that the allegations raised against it fell outside the inquiry's terms of reference, which was to primarily consider the proposal to develop Rosehill Racecourse.<sup>71</sup> It stated:

... if the Privileges Committee forms the view that the questions and issues do not relate to the Terms of Reference, then it seems difficult to conclude that Mr Hinton's submission did or could have caused a possible interference with the proper activities of the Select Committee.<sup>72</sup>

**2.43** In correspondence to Racing NSW, the Privileges Committee expressed its concern that the Ray Hadley Show had specifically referenced individuals and that there were striking similarities between the content of the broadcast and the information provided to the committee by Racing NSW. The committee asked whether Racing NSW had directly or indirectly provided the information to the broadcaster, which Racing NSW categorically denied. It stated that it had

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<sup>68</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee).

<sup>69</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee). We note that Racing NSW's 12 August correspondence to the Select Committee requests confidentiality to protect anonymity of former staff members and unrelated third parties, but it also states that 'should the Committee seek to make this part of the submission [related to a former staff member] public then we would not object'. (See confidential correspondence from Mr Graeme Hinton, Chief Operating Officer, Racing NSW to Select Committee on the Proposal to Develop Rosehill Racecourse, 12 August 2024 (cited by resolution of the committee).)

<sup>70</sup> Confidential correspondence from Dr Cooke to Chair, 24 September 2024 (cited by resolution of the committee).

<sup>71</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee).

<sup>72</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025, p 4 (cited by resolution of the committee).

had no involvement in the show, nor did it seek for Mr Hadley to run such a story or make those comments.<sup>73</sup>

- 2.44 Racing NSW also suggested that Mr Hadley was not accusing anyone of any specific actions, but rehashing information that he had previously shared on his show, including on these individuals and from media articles from several years prior:

It should be noted that Mr Hadley repeatedly states that he has no idea as to whom Mr Latham's sources may be and premises his comments in respect of [redacted] on the basis that he hopes it isn't them, given his knowledge of their credibility from those previous stories he has run on his show.<sup>74</sup>

## Committee conclusion

### **Did the actions of Racing NSW constitute with interference with witnesses?**

- 2.45 On the question of whether the actions of Racing NSW amounted to interference with witnesses to the Rosehill Racecourse inquiry, the committee has considered three main concerns.
- 2.46 First, the concern that Racing NSW sought to undermine the credibility of possible witnesses by providing material that cast aspersions on the character and motives of named individuals that it believed may have given evidence about it to the inquiry.
- 2.47 On this point, the committee notes that, whether or not the provision of such adverse information on named individuals was intended to deter potential inquiry witnesses, the material was provided with a request for confidentiality, and has been kept confidential by the committee. For this reason the committee does not believe the letter on its own had a substantial impact on witnesses to the inquiry.
- 2.48 Second, the concern that Racing NSW appears to have made its own inquiries as to who might be giving or intending to give evidence about it to the Select Committees. This could be perceived as a calculated move to deter potential witnesses from giving evidence to the Select Committee – even confidentially – for fear it could be detected by Racing NSW and lead to reprisals.
- 2.49 The committee notes Racing NSW's assertions that information about prospective inquiry witnesses was given to it in a way that was 'unprompted', and its denial that it had attempted to identify or influence prospective inquiry witnesses. The committee does not find Racing NSW's claim to have investigated 'issues raised' at the inquiry without attempting to discover the source of confidential evidence entirely convincing, noting the ambiguity of the phrase that Racing NSW had 'investigated the issues raised with utmost urgency'. However, there is no evidence before the committee that would allow us to conclusively determine that Racing NSW had in fact investigated those who had made submissions or provided evidence to the Select

<sup>73</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee).

<sup>74</sup> Confidential correspondence from Dr Cooke to Chair, 24 January 2025 (cited by resolution of the committee).

Committee to uncover their identity, or actively deterred others from giving evidence to the Select Committee, rather than investigating the matters raised at the hearing.

- 2.50** Third, the concern that a segment of the Ray Hadley Morning Show that was publicly aired on 26 September 2024, the day after this inquiry was referred to the Privileges Committee, contained material that bore striking similarity to Racing NSW's confidential correspondence to the Select Committee.
- 2.51** The committee has considered the possibility that Racing NSW may have provided information to the Ray Hadley Show with the intention for that information to be broadcast. The committee notes Racing NSW's categorical denials that it had any involvement in Mr Hadley's show. We do not have evidence that Racing NSW provided information to the Ray Hadley Show with the intention it be broadcast. The timing of the broadcast and the nature of the material covered is, however, very unfortunate, as it does raise suspicions.
- 2.52** Notwithstanding the lack of conclusive evidence, the committee is concerned that Racing NSW's behaviour may have had the effect of deterring potential inquiry witnesses from coming forward to give evidence about Racing NSW for fear of reprisal or repercussion, as discussed further below.

### **Did the actions of Racing NSW constitute contempt of Parliament?**

- 2.53** The second consideration in determining whether Racing NSW's actions constitute contempt is whether they could have caused substantial interference to the work of the Select Committee.
- 2.54** As outlined above, successive Legislative Council Privileges Committees have determined that, for a contempt to be found, the matter must be of such seriousness that it could have a **substantial** and detrimental impact on the ability of the House, its committee, or a member to function.<sup>75</sup>
- 2.55** In this instance, a question arises as to whether Racing NSW's actions had a substantial detrimental impact on the work of the Select Committee on the Proposal to Develop Rosehill Racecourse in obtaining the evidence it needed to report on the issues outlined on its terms of reference.
- 2.56** On the face of it, the Select Committee was able to complete its inquiry and report on the terms of reference. Its final report notes the committee received 127 submissions, and conducted 4 public hearings, and two *in camera* hearings. The Select Committee published its final report on the proposal to develop the Rosehill Racecourse on 6 December 2024.<sup>76</sup>
- 2.57** The Select Committee's final report stated that it had received a 'significant volume' of confidential evidence from whistleblowers within the industry, which raised serious concerns about Racing NSW. It noted that the committee had difficulty grappling with this material

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<sup>75</sup> NSW Legislative Council Practice, p 167.

<sup>76</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, NSW Legislative Council, *Proposal to develop Rosehill Racecourse* (Report 2, December 2024).

without breaching the confidentiality of those who came forward, many of whom feared retribution for giving evidence.<sup>77</sup>

**2.58** The Select Committee's report further noted that some of the matters raised regarding Racing NSW 'did not fall within the terms of reference' for its inquiry.<sup>78</sup> Nevertheless, the Select Committee believed the matters worthy of further investigation, and recommended that the Legislative Council give consideration to establishing an inquiry into the operations of Racing NSW.<sup>79</sup>

**2.59** Overall, the committee does not consider that the actions of Racing NSW meet the threshold for contempt, on the basis that:

- as stated above, we cannot conclusively find that Racing NSW did in fact investigate those who made submissions or provided evidence to the Select Committee to uncover their identity, or actively seek to deter others from giving evidence to the Select Committee
- the actions of Racing NSW did not in fact significantly limit or hamper the Select Committee from carrying out its inquiry and reporting on its terms of reference, including because of the limited relevance of the issues raised in this respect to the terms of reference of the Select Committee.

**2.60** However, the committee holds serious concerns with the conduct of Racing NSW, as revealed or alluded to in its correspondence to the Select Committee and Privileges Committee. We note Racing NSW's arguments that it was simply passing on information that it had received from its stakeholders to the Select Committee to assist it in its inquiry. As a committee, though, we are very concerned at the deeply personal characterisations and depictions of third-party individuals, some of whom we understand did not have anything to do with the inquiry. It is highly unusual for an organisation to take such steps against former employees. It may not amount to contempt, but it was deeply inappropriate to provide such detailed adverse allegations to the Select Committee, and it reflects poorly on Racing NSW as an organisation.

**2.61** Furthermore, the broadcast of similar material on the Ray Hadley Morning Show the day after this inquiry into possible contempt was referred by the House is concerning. While acknowledging Racing NSW's denial of any involvement in the broadcast, we consider it to be a significant and questionable coincidence.

**2.62** Beyond the Select Committee's inquiry, this committee has concerns about the potential for such behaviour if repeated to deter witnesses from coming forward to any future inquiry for fear of being targeted for adverse treatment.

**2.63** It is the committee's strong view that organisations and individuals must take extra care not to engage in any sort of conduct that may deter or have a 'chilling effect' on others from engaging in the parliamentary process. The Select Committee observed in its Special Report:

<sup>77</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Proposal to develop Rosehill Racecourse*, pp 37-8.

<sup>78</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Proposal to develop Rosehill Racecourse*, pp 37-8.

<sup>79</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Proposal to develop Rosehill Racecourse*, p 38.

Inquiries, and ultimately the committee system as a whole, depends on witnesses and other inquiry participants coming forward to give evidence without fear or favour, free from interference.<sup>80</sup>

- 2.64** This committee wishes to reiterate this fundamental principle and will continue to take extremely seriously any attempts by organisations or individuals involved in parliamentary inquiries to distort or influence the free flow of information to a committee.
- 2.65** These conclusions rest in part on the limited and exceptional nature of the Parliament's current power to regulate contempt. If interferences such as have occurred in this case reoccur, the parliament may need to consider expanding by legislation the circumstances which can give rise to a finding of contempt, and the sanctions available.

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<sup>80</sup> Select Committee on the Proposal to Develop Rosehill Racecourse, *Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse*, pp 2-3.

## Appendix 1 Submissions

No.	Author
1	Confidential

## Appendix 2 Minutes

### Minutes no. 18

22 October 2024, 3.07 pm  
Privileges Committee  
Room 1043

#### 1. Members

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Fang  
Ms Higginson  
Mr Murphy  
Mr Nanva  
Mr Primrose  
Mr Roberts

Secretariat in attendance: Steven Reynolds, Sharon Ohnesorge, Helen Hong and Robin Howlett.

#### 2. Previous minutes

Resolved, on the motion of Mr Murphy: That draft minutes no. 17 be confirmed.

#### 3. Correspondence

The committee noted the following items of correspondence:

##### **Received:**

- 3 September 2024 – Independent Complaints Officer quarterly report for June to August 2024.
- 30 September 2024 – Letter from Hon Scott Farlow MLC, Chair, Select Committee on the proposal to develop Rosehill Racecourse, to Chair, attaching confidential correspondence from Racing NSW for the committee to consider in the referral of its Special Report.

##### **Sent:**

- \*\*\*.

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Resolved, on the motion of Mr Roberts: That the committee keep the correspondence from Racing NSW addressed to the Select Committee on the proposal to develop Rosehill Racecourse, attached in the Chair's letter to the committee, dated 30 September 2024, confidential, as it contains significant adverse mention.

#### 4. Special report on a possible contempt in the inquiry into the proposal to develop Rosehill Racecourse

The committee noted that these terms of reference were moved by the Hon Mark Latham MLC and agreed to by the House on Wednesday 25 September 2024, as follows:

##### **'Terms of reference – Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse**

That the Special Report and recommendation of the Select Committee on the proposal to develop Rosehill Racecourse be referred to the Privileges Committee for inquiry and report.

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 25 September 2024.'

Noting that the Select Committee is due to table its final report in early December, the committee considered the timeline for this inquiry.

Resolved, on the motion of Mr Roberts:

- (1) That the Chair write to the Chair of the Select Committee on Rosehill Racecourse, providing an opportunity for members of the committee to make a submission, as requested in the Special Report.
- (2) Once in receipt of this further material, the committee meet again to consider whether it will seek a response from Racing NSW to the allegations made in the Select Committee's report and/or any submissions from that committee.

## 5. Next meeting

The committee adjourned at 3.18 pm, *sine die*.

Steven Reynolds  
Committee Clerk

## Minutes no. 19

2 December 2024, 4.33 pm  
Privileges Committee  
Room 1043 and via videoconference (Microsoft Teams)

### 1. Members

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Fang (until 4.56 pm)  
Mr Donnelly (substituting for Mr Nanva)  
Ms Higginson  
Mr Murphy  
Mr Roberts  
Ms Suvaal (substituting for Mr Primrose)

Secretariat in attendance: Steven Reynolds, Sharon Ohnesorge, Helen Hong and Robin Howlett.

### 2. Previous minutes

Resolved, on the motion of Mr Murphy: That draft minutes no. 18 be confirmed.

### 3. Correspondence

The committee noted the following items of correspondence:

#### **Received:**

- 24 October 2024 – Letter from Hon Mark Latham MLC, to Chair, raising issues related to the inquiry on possible contempt
- \*\*\*
- 29 November 2024 – Email from Office of the Government Whip, to secretariat, advising of substitution of Government members at the 2 December meeting
- \*\*\*

#### **Sent:**

- 23 October 2024 – Letter from Chair, to the Hon Scott Farlow MLC, Chair, Select Committee on the proposal to develop Rosehill Racecourse, inviting members of the Select Committee to make an individual submission to the inquiry on possible contempt

- \*\*\*

Resolved on the motion of Mr Fang: That the committee keep the correspondence from the Hon Mark Latham MLC, received 24 October 2024, confidential, as it contains significant adverse mention.

**4. Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse**

**1.1 Confidential submission**

Resolved, on the motion of Mr Murphy: That the committee keep submission no. 1 confidential, as per the recommendation of the secretariat, as it contains sensitive information and potential adverse mention.

**1.2 Future conduct of inquiry**

The committee considered the content of the submission received from a participating member of the Select Committee and the issues raised within it. The committee also considered and discussed the document circulated to them by the secretariat, which outlined the contempt issue and how it related to this inquiry, as well as the potential options for the committee to consider moving forward.

Resolved, on the motion of Mrs Maclaren-Jones: That the Chair draft and send a letter to Racing NSW, following the tabling of the Select Committee's report, giving Racing NSW an opportunity to respond to the allegations of possible contempt and to provide explanation on their actions.

**5. \*\*\***

**6. Next meeting**

The committee adjourned at 5.01 pm, *sine die*.

Steven Reynolds  
**Committee Clerk**

**Minutes no. 20**

19 February 2025, 12.36 pm  
Privileges Committee  
Room 1136

**1. Members**

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Fang  
Mr Donnelly (substituting for Mr Nanva for remainder of inquiry)  
Ms Higginson  
Mr Murphy  
Mr Roberts  
Ms Suvaal (substituting for Mr Primrose for remainder of inquiry)

Secretariat in attendance: Steven Reynolds, Sharon Ohnesorge, Helen Hong and Robin Howlett.

**2. Previous minutes**

Resolved, on the motion of Mr Roberts: That draft minutes no. 19 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

**Received:**

- 6 December 2024 – Letter from the Hon Ben Franklin MLC, President, to Chair, referring an unauthorised disclosure of confidential information of the Select Committee on the Proposal to Develop Rosehill Racecourse to the Privileges Committee as part of its inquiry into a possible contempt under paragraph 3(a) of the resolution establishing the Privileges Committee.
- \*\*\*
- 16 December 2024 – Letter from the Hon Scott Farlow MLC, Chair, former Select Committee on the Proposal to Develop Rosehill Racecourse, to Chair, attaching a copy of the email distributing the draft minutes that were subject to unauthorised disclosure.
- \*\*\*
- \*\*\*
- 24 January 2025 – Letter from Dr Saranne Cooke, Chairman, Racing NSW, to Chair, responding to letter regarding Racing NSW's actions.
- 5 February 2025 – Email from the Office of Hon Bob Nanva MLC, Government Whip, to secretariat, advising of substitution of Mr Primrose for the remainder of the inquiry into possible contempt.
- 6 February 2025 – Email from the Office of Hon Bob Nanva MLC, Government Whip, to secretariat, advising of substitution of Mr Nanva for the remainder of the inquiry into possible contempt.
- \*\*\*

**Sent:**

- \*\*\*
- 11 December 2024 – Letter from the Chair, to Dr Saranne Cooke, Chairman, Racing NSW, requesting a response to questions from the committee for its inquiry into a possible contempt.
- \*\*\*

#### 4. **Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse**

##### 4.1 **Reference of unauthorised disclosure from the Select Committee into the Proposal to Develop Rosehill Racecourse**

Resolved, on the motion of Ms Higginson: That the committee adopt the additional terms of reference from the Hon Ben Franklin MLC, President of the Legislative Council.

Resolved, on the motion of Ms Higginson: That the committee formally adopt the following resolution, which was previously agreed to by email:

"That the Chair write to all persons with access to the confidential minutes, requesting information as to whether the person was responsible for the disclosure is able to provide any information that could be of assistance in determining the source of the disclosure."

Resolved on the motion of Mr Donnelly: That the committee authorise the publication of correspondence from the Hon Ben Franklin MLC, President, referring the unauthorised disclosure of confidential information of the Select Committee on the Proposal to Develop Rosehill Racecourse to the Privileges Committee as part of its inquiry into a possible contempt under paragraph 3(a) of the resolution establishing the Privileges Committee, dated 6 December 2024.

##### 4.2 \*\*\*

##### 4.3 **Response from Racing NSW**

The committee considered correspondence from Dr Saranne Cooke, Chairman of Racing NSW, received 24 January 2025, responding to the committee's questions about the actions of Racing NSW.

Resolved, on the motion of Mr Donnelly: That the secretariat re-circulate the briefing note on contempt, previously sent on 29 November 2024, for members' information.

5. \*\*\*

6. **Next meeting**

The committee adjourned at 1.25 pm, *sine die*.

Steven Reynolds  
**Committee Clerk**

**Minutes no. 22**

18 March 2025, 3.05 pm  
Privileges Committee  
Parkes Room

1. **Members**

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Fang  
Mr Donnelly (substituting for Mr Nanva)  
Ms Higginson  
Mr Murphy  
Mr Roberts  
Ms Suvaal (substituting for Mr Primrose)

Secretariat in attendance: Steven Reynolds, Sharon Ohnesorge, Rhia Victorino, Allison Stowe, Peta Leemen and Robin Howlett.

2. **Apologies**

Mr Primrose

3. \*\*\*

4. \*\*\*

5. **Previous minutes**

Resolved, on the motion of Mr Murphy: That draft minutes nos. 20 and 21 be confirmed.

6. **Correspondence**

The committee noted the following items of correspondence:

**Received:**

- \*\*\*

**Sent:**

- \*\*\*

**7. Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse**

**7.1 Response from Racing NSW**

The committee considered correspondence from Dr Saranne Cooke, Chairman of Racing NSW, received 24 January 2025, responding to the committee's questions about the actions of Racing NSW.

Resolved, on the motion of Mr Donnelly: That the secretariat proceed to draft the Chair's report, together with a letter to Racing NSW outlining its conclusions in respect of the possible contempt.

**7.2 \*\*\***

**8. \*\*\***

**9. Next meeting**

The committee adjourned at 3.46 pm, *sine die*.

Steven Reynolds  
Committee Clerk

**Minutes no. 23**

Tuesday 27 May 2025  
Privileges Committee  
Room 1043, NSW Parliament House, 3.05 pm

**1. Members present**

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Donnelly (substituting for Mr Nanva)  
Mr Fang  
Ms Higginson  
Mr Murphy  
Mr Roberts  
Mr D'Adam (substituting for Mr Primrose)

Secretariat in attendance: Steven Reynolds, Stephen Frappell, Sharon Ohnesorge, Peta Leemen and Robin Howlett.

**2. Apologies**

**3. Previous minutes**

Resolved, on the motion of Mr Donnelly: That draft minutes no. 22 be confirmed.

**4. Correspondence**

The committee noted the following items of correspondence:

***Received***

- \*\*\*
- 6 May 2025 – Email from \*\*\* to the secretariat asking about timeframes for the inquiry into possible contempt arising from the Rosehill Racecourse inquiry
- \*\*\*

***Sent***

- \*\*\*
- \*\*\*
- \*\*\*

5. \*\*\*

6. **Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse**

**6.1 Drafting of report**

The committee discussed next steps to proceed to drafting the report.

\*\*\*

Mr Donnelly moved: That the Chair proceed to circulate the Chair's draft report to the committee.

The committee deliberated.

Question put.

Ayes: Mr D'Adam, Mr Donnelly, Mr Lawrence, Mr Murphy.

Noes: Mr Fang, Ms Higginson, Mrs Maclaren-Jones, Mr Roberts.

Question resolved in the affirmative on the casting vote of the Chair.

7. **Adjournment**

The committee adjourned at 3.22 pm, *sine die*.

Stephen Reynolds  
**Committee Clerk**

**Minutes no. 24**

Wednesday, 25 June 2025

Privileges Committee

Room 1254, NSW Parliament House, 1.34 pm

1. **Members present**

Mr Lawrence (*Chair*)

Mrs Maclaren-Jones (*Deputy Chair*)

Mr Donnelly (substituting for Mr Nanva)

Mr Fang

Ms Higginson

Mr Roberts

Ms Suvaal (substituting for Mr Primrose)

Secretariat in attendance: Stephen Frappell, Sharon Ohnesorge, Rhia Victorino, Peta Leemen, Robin Howlett.

2. **Apologies**

3. **Previous minutes**

Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes no. 23 be confirmed.

**4. Amendment to resolution establishing the committee and membership**

The Chair tabled the Minutes of the House of 28 May 2025 pp 2384-2385, noting the following resolution of the House amending the resolution establishing the committee:

That the resolution of the House of 10 May 2023 appointing the Privileges Committee be amended by omitting paragraph (5) and inserting instead:

"(5) The committee is to consist of seven members, comprising:

- (a) three government members,
- (b) two opposition members, and
- (c) two crossbench members."

The Committee noted that nominations for government membership of the committee were reported in the House on 5 June 2025, being: the Hon Stephen Lawrence MLC, The Hon Bob Nanva MLC and the Hon Peter Primrose MLC.

**5. \*\*\***

**6. Adjournment**

The committee adjourned at 1.50 pm *sine die*.

Sharon Ohnesorge  
**Committee Clerk**

**Minutes no. 25**

6 August 2025  
Privileges Committee  
Room 813, NSW Parliament House, 12.45 pm

**1. Members present**

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Donnelly (substituting for Mr Nanva)  
Mr Fang  
Ms Higginson  
Mr Roberts  
Ms Suvaal (substituting for Mr Primrose)

Secretariat in attendance: Stephen Frappell, Rhia Victorino, Peta Leemen, Robin Howlett.

**2. Previous minutes**

Resolved, on the motion of Mr Donnelly: That draft minutes no. 24 be confirmed.

**3. Correspondence**

The committee noted the following items of correspondence:

***Received***

- \*\*\*

***Sent***

- \*\*\*

4. \*\*\*

5. \*\*\*

6. **Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse**

**6.1 Proposal to report in two parts**

Resolved, on the motion of Ms Suvaal:

- (a) That the Committee's report for the inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse be tabled as two separate parts, with Part 1 focused on the alleged interference with witnesses by Racing NSW, and Part 2 on the unauthorised disclosure
- (b) That the Committee proceed to finalise the report Part 1 on the alleged interference with witnesses by Racing NSW.

**6.2 \*\*\***

7. \*\*\*

8. **Adjournment**

The Committee adjourned at 1.20 pm, *sine die*.

Rhia Victorino  
**Committee Clerk**

**Draft minutes no. 29**

8 October 2025  
Privileges Committee  
Macquarie Room, NSW Parliament House at 9.50 am

1. **Members present**

Mr Lawrence (*Chair*)  
Mrs Maclaren-Jones (*Deputy Chair*)  
Mr Donnelly (substituting for Mr Nanva)  
Mr Fang  
Ms Higginson  
Mr Martin (substituting for Mr Roberts)  
Ms Suvaal (substituting for Mr Primrose)

Secretariat in attendance: Stephen Frappell, Sharon Ohnesorge, Rhia Victorino, Peta Leemen, Robin Howlett, AVB services

2. **Previous minutes**

Resolved, on the motion of Mr Donnelly: That draft minutes no. 27 be confirmed.

3. **Correspondence**

The committee noted the following items of correspondence:

***Received***

- \*\*\*

***Sent***

- \*\*\*

4. \*\*\*

5. **Inquiry into possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse (alleged interference with witnesses)**

**5.1 Publication status of correspondence**

Mrs Maclaren-Jones disclosed that she had previously been given tickets to events by Racing NSW.

Resolved, on the motion of Mr Fang: That the committee keep confidential the letter from Dr Saranne Cook, Chairman, Racing NSW received 24 January 2024, with the exception of extracts included or referred to in the committee's report.

Resolved, on the motion of Mr Fang: That the committee authorise the inclusion of extracts from and/or references to the following material, which it has previously resolved to keep confidential, in its report:

- Letter from Mr Graeme Hinton, Chief Operating Officer, Racing NSW to the Select Committee on the Proposal to Develop Rosehill Racecourse, received 12 August 2024
- Letter from Mr Michael Cleaver, Operations Manager, Integrity Department, Racing NSW to the Select Committee on the Proposal to develop Rosehill Racecourse, dated 15 August 2024
- Letter from Dr Saranne Cook, Chairman, Racing NSW to the Chair of the Select Committee on the Proposal to develop Rosehill Racecourse, received 24 September 2024
- Submission no. 1 (from the Hon Mark Latham MLC)
- Letter from the Hon Mark Latham MLC to the Chair, received 20 January 2025

Resolved, on the motion of Mr Fang: That the secretariat notify Racing NSW of the committee's intention to quote from or refer to the following confidential correspondence as part of its report:

- Letter from Mr Graeme Hinton, Chief Operating Officer, Racing NSW to the Select Committee on the Proposal to Develop Rosehill Racecourse, received 12 August 2024
- Letter from Mr Michael Cleaver, Operations Manager, Integrity Department, Racing NSW to the Select Committee on the Proposal to develop Rosehill Racecourse, dated 15 August 2024
- Letter from Dr Saranne Cook, Chairman, Racing NSW to the Chair of the Select Committee on the Proposal to develop Rosehill Racecourse, received 24 September 2024
- Letter from Dr Saranne Cook, Chairman, Racing NSW, to the Chair of the Privileges Committee, received 24 January 2025.

**5.2 Consideration of Chair's draft report**

The Chair submitted his draft report entitled 'Possible contempt arising from the inquiry into the proposal to develop Rosehill Racecourse – Part 1', which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Donnelly: That:

The draft report be the report of the committee and that the committee present the report to the House

The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling

The report to be tabled in the House by the Chair on Wednesday 15 October 2025

The Chair to advise the secretariat and members if they intend to hold a press conference, and if so, the date and time.

**5.3 Correspondence to Racing NSW**

Resolved, on the motion of Mr Donnelly: That the committee authorise the Chair to send the proposed draft correspondence circulated with the meeting papers to Racing NSW on the tabling of the report, in accordance with its resolution of 18 March 2025.

**6. Adjournment**

The committee adjourned at 10.32 am until 12 noon, Wednesday 8 October 2025.

Sharon Ohnesorge  
**Committee Clerk**



