LEGISLATIVE COUNCIL

PRIVILEGES COMMITTEE

Unauthorised disclosure of privileged information by the Honourable Mark Latham MLC – Part 1

Report 103

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Privileges Committee

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"November 2025"

Chair: Hon Stephen Lawrence MLC

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Terms of reference

That:

(a) the Privileges Committee inquire into and report on the unauthorised disclosure of privileged information by the Honourable Mark Latham MLC, including the contents of a privileged report returned to this House by the NSW Police Force pursuant to an order for papers under standing order 52 regarding police management and administration passed on 7 August 2024,

(b) the Privileges Committee inquire into and report on:
  (i) any threats made from members within Parliament towards other members or staff within Parliament,
  (ii) the progress made by the Government and political parties in implementing the recommendations of the Broderick Report and any changes since the review that have contributed to making NSW Parliament a safer and more respectful working environment,

(c) notwithstanding anything to the contrary in the standing and sessional orders, the Honourable Mark Latham MLC not serve as a substitute or participating member of the Privileges Committee for the purposes of this inquiry, and

(d) the committee report:
  (i) on matters referred in paragraph (a), and on the additional matters referred by the House on 9 September 2025, by 13 November 2025,
  (ii) on matters referred in paragraph (b), on a date to be determined by the committee.[1]

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 5 August 2025.[2]

On 9 September 2025, the Legislative Council adopted the following resolution referring additional matters to the committee for consideration as part of the inquiry:

(1) That this House notes that, under standing order 52:

  (a) a return to order is to include an indexed list of all documents tabled, clearly identifying which documents are subject to a claim of privilege,

  (b) where a document is considered to be privileged, the documents are made available only to members of the Legislative Council, and are not to be published or copied without an order of the House,

1 The original reporting date was 1 October 2025 (*Minutes*, NSW Legislative Council, 5 August 2025, pp 2579-2580). On 17 September 2025, the House resolved that the reporting date on matters referred in paragraph (a) and on the additional matters referred by the House on 9 September 2025 be extended to 13 November 2025, and that the reporting date on matters referred in paragraph (b) be determined by the committee (*Minutes*, NSW Legislative Council, 17 September 2025, p. 2743).

2 *Minutes*, NSW Legislative Council, 5 August 2025, pp 2579-2580.

(c) a member may dispute the validity of the claim of privilege in relation to particular documents by communication in writing to the Clerk, following which an Independent Legal Arbiter is appointed for evaluation and report as to the validity of the claim.

(2) That this House notes that:

(a) during debate on a condemnation motion regarding abuses of privilege by the Honourable Mark Latham MLC on 5 August 2025, Mr Latham revealed further information derived from a report delivered by the Law Enforcement Conduct Commission (LECC) in relation to Operation Askern,

(b) during an interview on 6 August 2025 on Sydney radio station 2SM the Honourable Mark Latham MLC repeated this information,

(c) the report in question was returned to this House by the NSW Police Force and remains subject to a non-publication order, as well as remaining subject to claims of privilege and personal information, the validity of which have not been challenged by any member of this House,

(d) the report in question has not been published under a subsequent order of this House and remains protected under the claims of privilege and personal information.

(3) That this House further notes that during debate in this House on 5 August 2025, the Honourable Mark Latham MLC stated that he:

(a) viewed the report in the Clerk's office,

(b) was aware that the report was subject to a non-publication order,

(c) formed a personal opinion that the report ought not to be subject to a non-publication order, and,

(d) would "do exactly the same thing" if he had the opportunity to do it again.

(4) That this House notes:

(a) on 26 August 2025 at the Portfolio Committee No. 1 – Premier and Finance budget estimates hearing for the portfolios of Aboriginal Affairs and Treaty, Gaming and Racing, Veterans, the Central Coast, and Medical Research, the Honourable Mark Latham revealed the private home address of a member of the public,

(b) that it was not necessary for Mr Latham to reveal this information to support his line of questioning,

(c) that although the committee resolved to redact this information from the record of proceedings, the incident was nonetheless broadcast to the general public during the livestream of proceedings, and

(d) such breaches of privacy could risk the safety and welfare of citizens and their families.

(5) That this House notes these further breaches of privilege by the Honourable Mark Latham MLC and refers them for further consideration as part of the inquiry into the breach of privilege by the Honourable Mark Latham MLC, referred to the Privileges Committee by this House on 5 August 2025.[3]

[3] *Minutes*, NSW Legislative Council, 9 September 2025, pp 2657-2659.

Committee details

Committee members

Hon Stephen Lawrence MLC	Australian Labour Party	*Chair*
Hon Natasha Maclaren-Jones MLC	Liberal Party	*Deputy Chair*
Hon Wes Fang MLC	The Nationals	
Sue Higginson MLC	The Greens	
Hon Bob Nanva MLC	Australian Labour Party	
Hon Peter Primrose MLC	Australian Labour Party	
Hon Rod Roberts MLC	Independent	

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Chair's foreword

This report examines two matters referred by the House. The first is the unauthorised disclosure by a member of privileged information obtained under standing order 52. The second is the abuse of the freedom of speech members enjoy under law by the same member of the House.

The inquiry has allowed the committee to closely consider not just the allegations, but important questions relating to the power and privileges of the House. The committee hopes the report will be useful guidance to the House and individual members in considering not just how members conduct themselves, but also how the House regulates the conduct of members and acts to preserve its proper operation and powers.

Chapter one sets out the events leading to this inquiry.

Chapter two of this report concerns the serious issue of a repeated breach of a claim of privilege made by the executive in respect of documents ordered to be produced by the House.

The power of the House to compel documents is a vital part of the armoury of powers that allows members to scrutinise executive government. This power however cannot exist without the related right of the executive to assert privilege in the public interest. This right is just one example of how the legal concept of privilege balances competing interests in our system of government.

The committee has found that the breach occurred, indeed on several occasions. While the committee has not recommended the suspension of the member it has no doubt that it could in an appropriate case.

The committee does wish to send a very clear message to members. Breaches of privilege over documents produced under compulsion is a very serious matter. It undermines the very basis on which the executive provides such documents. Should it become commonplace it is likely the power could ultimately be abrogated or otherwise cease to function. It cannot continue to occur.

The member concerned attended upon the committee and frankly admitted his breach and immediately agreed to make a statement in the House containing an undertaking there would be no repeat of the behaviour. I know as Chair that the committee appreciated the evidence and the immediate offer to publicly commit to no repeat of the behaviour.

This is the first time the committee has been tasked with investigating such a breach and hopefully it will be the last.

Chapter three of this report is concerned with an abuse of the same member's freedom of speech in the House, constituted by twice revealing, for no legitimate purpose, the private home address of a member of the community. It cannot however be said that the member demonstrated the same level of contrition in respect of this matter as he did regarding the first.

The committee has recommended that the House adopt a formal resolution setting out the matters a member ought to consider before exercising their freedom of speech in matters likely to negatively affect the rights or interests of other persons. This will provide a reference point or 'guardrail' for assessing future referrals in respect of allegations of an abuse of freedom of speech. Ultimately it is the House itself that must determine whether and to what extent, such abuses have occurred.

In all the circumstances, including that this is the first time the member has been called to account before the committee and the House in this way, no further sanction by way of suspension or other action is recommended. Members, however, should all reflect on the fact that the House has the undoubted capacity to protect itself from the consequences and effect of contempt and abuses of members' freedom of speech.

Hon Stephen Lawrence MLC
Committee Chair

Findings

- it was not necessary to the line of questioning to state the individual's home address, nor did the disclosure add anything of probative value to the line of questioning
- Mr Latham again stated the home address of the individual in debate in the House on 9 September 2025, despite having privacy and possible safety issues brought to his attention by the referral to this committee
- it was not pertinent to Mr Latham's contribution to the debate to re-state the individual's home address on the record
- Mr Latham's actions were inappropriate, and have a tendency to bring the House into disrepute.

Finding 7 **35**

That, in disclosing the private home address of an individual twice, without justification and in disregard of privacy and possible safety concerns, the Hon Mark Latham MLC has abused the freedom of speech available to members under parliamentary privilege.

Recommendations

That the House not suspend the Hon Mark Latham MLC for contempt, noting that:

- the committee cannot be certain that Mr Latham knew, at the time of the first breach on 8 May 2025, that the material was privileged
- this is the first time Mr Latham has been formally held to account by the committee and the House for such conduct, a process that should have a salutary effect on the member.

That following the tabling of this report, the House immediately adopt a resolution requiring the Hon Mark Latham MLC by the end of the 2025 sitting year to stand in his place and deliver the following statement:

> 'I acknowledge the disclosure by me of a Law Enforcement Conduct Commission report on Operation Askern that was the subject of a claim of privilege under standing order 52, including after I was aware of that claim of privilege.
>
> I believed at the time I was acting in the public interest and I was not aware of the claim of privilege when I first spoke in the House.
>
> Thereafter, I believed at the time I had the right to answer media questions about the matter and respond to motions about the matter.
>
> I am sorry for the way I handled this process. I intend to strictly follow the rules of privilege in future and not allow a similar thing to occur.'

That in the event that the Hon Mark Latham MLC fails to give the undertaking referred to in Recommendation 2 by the end of the 2025 sitting year, the President re-refer this matter to the Privileges Committee after the final sitting week of the year for inquiry and report as to the appropriate sanction to be enforced by the House.

That the Office of the Clerk review procedures for the viewing of privileged documents and consider making any changes that may be necessary.

That the House immediately adopt the following resolution setting out amongst other things the manner in which members of the House are expected to exercise their privilege of freedom of speech:

Exercise of Freedom of Speech

(1) That the Legislative Council considers that, in speaking in the House or in a committee, members should take the following matters into account:

(a) the need to exercise their valuable right of freedom of speech in a responsible manner befitting the high office they hold,

(b) the damage that may be done by allegations made in Parliament to those the subject of them and to the standing of Parliament,

(c) the limited opportunities for persons other than members of Parliament to respond to allegations made in Parliament,

(d) the need for members, while fearlessly performing their duties, to have regard to the rights and interests of others,

(e) the desirability of ensuring that statements reflecting adversely on persons are soundly based

(f) the importance of carefully assessing the purpose and necessity of making allegations, engaging in adverse reflections and in otherwise negatively impacting persons through the exercise of free speech in Parliament.

(2) That the President, whenever the President considers that it is desirable to do so, may draw the attention of members to the spirit and the letter of this resolution.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 5 August 2025. On 9 September 2025, the Legislative Council adopted a resolution referring additional matters to the committee for consideration as part of the inquiry.

The committee subsequently resolved to progress the inquiry in two parts, with Part 1 focused on the disclosure of privileged information by the Hon Mark Latham MLC (term of reference (a) and the additional matters referred by the House on 9 September 2025), and Part 2 focused on threats by members and the implementation of the Broderick report recommendations (term of reference (b)).

The committee received 3 submissions to Part 1 of the inquiry. The committee also held one hearing at Parliament House.

Inquiry related documents are available on the committee's website, including submissions.

Chapter 1 Background and referral

This inquiry was initially established to examine the alleged unauthorised disclosure of privileged information returned under standing order 52. Disclosure of information returned with a claim of privilege under standing order 52 is in breach of the confidentiality requirements of that standing order.

This inquiry is unprecedented in that it is the first time this committee has been asked to investigate an alleged breach.

Additionally, after the inquiry was referred, the committee was also asked to examine an incident involving disclosure under parliamentary privilege of the private address of an individual. This incident raises a different issue – alleged abuse of a member's freedom of speech. This has a number of precedents, however is not in breach of a particular standing order.

This chapter outlines the factual background that led to the referral of this inquiry. The alleged unauthorised disclosures and referrals are outlined in chronological order, noting that further disclosures were made during debate on and after the initial referral of this inquiry. The chapter concludes by noting that the issues examined in this report form 'Part 1' of the inquiry, while 'Part 2' will examine separate matters raised in the terms of reference.

The committee's consideration of the disclosure of privileged information returned under standing order 52 is found in Chapter 2. Issues concerning abuse of parliamentary privilege in relation to disclosing the private address of a citizen are considered in Chapter 3.

Chronology of events

Disclosure of privileged information in the House – 8 May 2025

1.1 On 8 May 2025, the Hon Mark Latham MLC rose to take note of the answer to question on notice no. 3061 asked by the Hon Rod Roberts MLC, regarding referrals to the Law Enforcement Conduct Commission (LECC).[4] In his speech, Mr Latham revealed the contents of the report on the LECC's Operation Askern.[5] As well as divulging the contents of the report in some detail, he asserted that: 'The LECC should lift its unnecessary and unexplained non-publication order on its Operation Askern report of August 2024…'. [6]

1.2 On 12 June 2025, Ms Natalie Marsic, General Counsel, NSW Police Force, wrote to the Clerk of the Parliaments. Her letter observed that the LECC report on Operation Askern, to which Mr Latham had referred in the House, was returned to the House on 21 August 2024 under a claim of privilege and personal information, in response to an order for papers relating to police

4 *Hansard*, NSW Legislative Council, 8 May 2025, p 21 (Mark Latham).

5 *Hansard*, NSW Legislative Council, 8 May 2025, p 21 (Mark Latham).

6 *Hansard*, NSW Legislative Council, 8 May 2025, p 21 (Mark Latham).

management and administration passed by the House on 7 August 2024. The letter also noted that, '[p]rivileged documents are not to be published except by an order of the House'.[7]

1.3 Ms Marsic's letter highlighted the NSW Police Force's written submission of 20 August 2024, which outlined reasons for the claim of privilege over the report in question, notably that disclosure would harm any further investigation by LECC, and would be contrary to both the NSW Police Force and LECC's ability to carry out their functions.[8]

1.4 Ms Marsic's letter further stated that 'under Standing Order 52, privileged documents are provided in a separate return and members may dispute the validity of a claim of privilege. Whilst aspects of the NSW Police Force's privilege claims were challenged by Mr Roberts, no challenge was made to the claims made over the report'.[9]

1.5 The Clerk forwarded Ms Marsic's letter to Mr Latham for response on 18 June 2025, advising that both his response and the original correspondence from Ms Marsic would be tabled in the House.[10]

1.6 Mr Latham responded by email on 18 June 2025 in the following terms:

> Thank you
>
> So LECC hasn't complained, only Police Legal.
>
> Obviously there was no point de-privileging a document that had a non-publication order on it.
>
> In truth, I didn't know it was privileged. I thought it was held in clerk's office as it was non-publication. It was clearly in the public interest for … [the contents of the LECC report] to be known. The letter asks for no action, so I have noted its contents.
>
> Mark Latham MLC[11]

1.7 The Clerk tabled both Ms Marsic's letter and Mr Latham's response in the House on 24 June 2025.[12]

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7 Letter from Ms Natalie Marsic, General Council, NSW Police Force to Mr David Blunt, Clerk of the Parliaments, 12 June 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

8 Letter from Ms Natalie Marsic, General Council, NSW Police Force to Mr David Blunt, Clerk of the Parliaments, 12 June 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

9 Letter from Ms Natalie Marsic, General Council, NSW Police Force to Mr David Blunt, Clerk of the Parliaments, 12 June 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

10 Letter from Mr Steven Reynolds, Clerk of the Parliaments, to the Hon Mark Latham MLC, 18 June 2024, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

11 Email from the Hon Mark Latham MLC to the Clerk of the Parliaments, 18 June 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

12 Tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

Motion to condemn disclosure of privileged information – 5 August 2025

1.8 On 5 August 2025, the Hon Penny Sharpe MLC, Leader of the Government in the House, moved two motions concerning Mr Latham's disclosure of privileged information: the first was to note and condemn Mr Latham's disclosure of privileged information, as well as unrelated material deemed confidential by the NSW Civil and Administrative Tribunal; the second was to refer the disclosure of privileged information to this committee.[13]

1.9 Introducing the first motion, Ms Sharpe stated: '[O]n 8 May the Hon Mark Latham revealed information contained within a document provided to this House under a claim of privilege and personal information that was subject to a non-publication order by the Law Enforcement Conduct Commission [LECC] due to concerns that its release may harm ongoing investigations'.[14] Ms Sharpe further stated that: 'The Hon Mark Latham even made specific reference to the non-publication order during this contribution, so it cannot be argued that he was unaware of it'.[15]

1.10 Ms Sharpe also noted that this was the second time Mr Latham had allegedly disclosed information contained in privileged returns, with the first time being the disclosure during a budget estimates hearing in 2024, which Mr Latham had explained as due to inadequate notetaking and apologised (discussed further below).[16]

1.11 Noting that there had been no breaches of confidentiality with respect to privileged documents since 1999, and that Mr Latham had now made two such references in the past year, Ms Sharpe suggested this second instance 'shows a pattern of disregard for the rules of this House and a lack of respect for the confidentiality of documents'.[17]

Further disclosure of privileged information in the House – 5 August 2025

1.12 Speaking to Ms Sharpe's motion on 5 August, Mr Latham referred multiple times, in detail, to the contents of the LECC report on Operation Askern.[18]

1.13 Explaining his reasons for not maintaining confidentiality with respect to the LECC report, Mr Latham suggested he did not know the report was privileged. Specifically, he said:

> … My staff asked the Clerk's office to present that report in the room that we fondly call the Mookhey Library. When I walked in, the LECC report was sitting there, and I worked on the assumption that it was furnished to the Parliament, as the reports of ICAC and other integrity institutions are furnished. The document had no privileged items or letter or material around it. All it had from LECC was a stamp on the front that said, "This document is subject to a non-publication order."

13 *Minutes*, NSW Legislative Council 5 August 2025, pp 2577-2580.

14 *Hansard*, NSW Legislative Council, 5 August 2025, p 36 (Penny Sharpe).

15 *Hansard*, NSW Legislative Council, 5 August 2025, p 36 (Penny Sharpe).

16 *Hansard*, NSW Legislative Council, 5 August 2025, p 37 (Penny Sharpe).

17 *Hansard*, NSW Legislative Council, 5 August 2025, p 37 (Penny Sharpe).

18 *Hansard*, NSW Legislative Council, 5 August 2025, pp 39-40, 51 (Mark Latham).

> You can imagine my surprise. When I read the document, I found it had nothing to do with national security, police surveillance techniques or policing methodology. Nothing in it warranted a non-publication order ….[19]

1.14 Mr Latham also suggested that, as a member of Parliament, it was appropriate for him to decide whether it was in the public interest to reveal the contents of the LECC report. He told the House:

> I took appropriate advice, as I should, that if a member of Parliament believes it is overwhelmingly in the public interest for facts to be known about a senior official in this state … the member of Parliament has the capacity to use parliamentary forums to make the information known.[20]

1.15 In a similar vein, Mr Latham later asserted:

> A parliamentarian, as part of a Parliament that created LECC, can make judgements about that organisation, having taken advice and having no knowledge of any order for privilege under Standing Order 52, and deem it necessary—as I think any rational and logical person from the crossbench would—that this material belongs in the public domain. It was not a State secret. … I do not resile from the fact that it was in the public interest. If I had the opportunity again, and did not know it was privileged under Standing Order 52, I would do exactly the same thing. [21]

1.16 After further debate, the House resolved to adjourn the debate on the motion of condemnation to a later date.[22]

First referral to this committee – 5 August 2025

1.17 After debate on the motion of condemnation was adjourned, Ms Sharpe moved a second motion to refer the matter to the Privileges Committee. The terms of reference asked this committee to inquire into and report on the unauthorised disclosure of privileged information by the Hon Mark Latham MLC, including the contents of a privileged report returned to the House by the NSW Police Force pursuant to an order for papers under standing order 52 of 7 August 2024, (i.e., the LECC's Operation Askern report). The motion was agreed to, with an amendment,[23] on the voices.[24]

1.18 In moving the motion, Ms Sharpe pointed to her earlier speech, in which she outlined the existing protections for confidential information provided by the House under a claim of privilege, and the importance of the House upholding and protecting the manner in which confidential information is provided to it.[25]

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19 *Hansard*, NSW Legislative Council, 5 August 2025, p 40 (Mark Latham).

20 *Hansard*, NSW Legislative Council, 5 August 2025, p 40 (Mark Latham).

21 *Hansard*, NSW Legislative Council, 5 August 2025, p 51 (Mark Latham).

22 *Minutes*, NSW Legislative Council, 5 August 2025, pp 2578-2579.

23 For further information, see the discussion later in this chapter under the heading 'Referral of Part 2 of this inquiry'.

24 *Minutes*, NSW Legislative Council, 5 August 2025, pp 2579-2580.

25 *Hansard*, NSW Legislative Council, 5 August 2025, p 56 (Penny Sharpe).

1.19 During debate on the referral, Mr Latham made further references to the contents of the LECC report, and repeated his earlier assertions to have acted in the public interest.[26] He also repeated his claim to have not known the document was privileged, suggesting that: 'Unless there is a letter of privilege on the document – which I would have respected – then I have the right to make the judgement I made'.[27]

Disclosure of privileged information in a radio broadcast – 6 August 2025

1.20 On 6 August 2025, the day after this inquiry was referred to the Privileges Committee, Mr Latham gave an interview with Chris Smith on 2SM.[28] In that interview, he was asked about the disclosures of privileged information that had led to the 'censure' motion that had been debated the previous day.[29] Responding to a question of Chris Smith related to the contents of the LECC's Operation Askern report, Mr Latham repeated his reasons for disclosing the report's contents, and went on to speak in some detail about the contents of the report, which, as noted in debate in the House the previous day, was still subject to an undisputed claim of privilege.[30]

1.21 On 11 August 2025, Ms Natalie Marsic, General Counsel, NSW Police Force, wrote again to the Clerk of the Parliaments, informing him that the NSW Police Force had become aware of a further disclosure of material in the LECC report in a radio broadcast on 6 August 'on 2GB Sydney'.[31] Ms Marsic's letter provided a link to the interview online, which (correctly) linked to the Chris Smith show on 2SM.[32]

1.22 Ms Marsic's letter further suggested that Mr Latham had knowingly revealed information that was privileged, noting:

> Although Mr Latham MLC acknowledged that the report is privileged and subject to a non-publication order imposed by the LECC, he revealed some of the contents of the report during the interview. We agree with Mr Latham MLC that it remains the case

26 *Hansard,* NSW Legislative Council, 5 August 2025, p 58 (Mark Latham).

27 *Hansard,* NSW Legislative Council, 5 August 2025, p 59 (Mark Latham).

28 Interview with Mark Latham, 'Chris Smith Across Australia' podcast, Radio 2SM, 6 August 2025, available online at: https://omny.fm/shows/chris-smith-across-australia/chris-smith-across-australia-6th-august-2025.

29 Interview with Mark Latham, 'Chris Smith Across Australia' podcast, Radio 2SM, 6 August 2025, available online at: https://omny.fm/shows/chris-smith-across-australia/chris-smith-across-australia-6th-august-2025.

30 Interview with Mark Latham, 'Chris Smith Across Australia' podcast, Radio 2SM, 6 August 2025, available online at: https://omny.fm/shows/chris-smith-across-australia/chris-smith-across-australia-6th-august-2025.

31 Letter from Ms Natalie Marsic PSM, General Counsel, NSW Police Force to Mr Steven Reynolds, Clerk of the Parliaments, 11 August 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 August 2025*, 9 September 2025.

32 Letter from Ms Natalie Marsic PSM, General Counsel, NSW Police Force to Mr Steven Reynolds, Clerk of the Parliaments, 11 August 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 August 2025*, 9 September 2025.

> that the information in the LECC report is privileged and subject to the LECC's non-publication order.[33]

1.23 The Clerk forwarded Ms Marsic's letter to Mr Latham for response on 12 August 2025, noting his response would be tabled in the House together with Ms Marsic's correspondence.[34]

1.24 Mr Latham's response read in full:

> My response:
>
> I conducted no such interview on Radio 2GB.
>
> Mark Latham MLC.[35]

1.25 The Clerk tabled Ms Marsic's letter and Mr Latham's response in the House on 9 September 2025.[36]

Disclosure of the private address of an individual in a budget estimates hearing – 26 August 2025

1.26 In a separate matter, in a budget estimates hearing for Portfolio Committee No. 1 – Premier and Finance on 26 August 2025, Mr Latham revealed the private address of a member of the public.[37] This was in the context of Mr Latham's questioning of Hon David Harris MP, Minister for Aboriginal Affairs and Treaty, Minister for Gaming and Racing, Minister for Veterans, Minister for Medical Research, and Minister for the Central Coast, about issues concerning gaming and racing. The line of questioning related to a development application at the person's address and an alleged conflict of interest. [38]

1.27 During the course of the questioning, the Committee Chair reminded Mr Latham of the need to avoid adverse mention of third parties during inquiries 'unless absolutely necessary'.[39]

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33 Letter from Ms Natalie Marsic PSM, General Counsel, NSW Police Force to Mr Steven Reynolds, Clerk of the Parliaments, 11 August 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 August 2025*, 9 September 2025.

34 Email from Mr Steven Reynolds, Clerk of the Parliaments, to the Hon Mark Latham MLC, 12 August 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 August 2025*, 9 September 2025.

35 Email from the Hon Mark Latham MLC to Mr Steven Reynolds, Clerk of the Parliaments, see tabled document, Clerk, *Correspondence – Police management and administration – 12 August 2025*, 9 September 2025.

36 Tabled document, Clerk, *Correspondence – Police management and administration – 12 August 2025*, 9 September 2025.

37 *Transcript of Evidence*, Portfolio Committee no. 1 – Premier and Finance, Examination of proposed expenditure for the portfolio areas aboriginal affairs and treaty, gaming and racing, veterans, medical research and the Central Coast, NSW Legislative Council, 26 August 2025, p 18 (Mark Latham).

38 *Transcript of Evidence*, Portfolio Committee no. 1, NSW Legislative Council, 26 August 2025, pp 17-19.

39 *Transcript of Evidence*, Portfolio Committee no. 1, NSW Legislative Council, 26 August 2025, p 19 (Jeremy Buckingham, Chair).

1.28 Soon after the disclosure was made, the committee resolved to redact the individual's address from the transcript.[40]

Second referral to this committee – 9 September 2025

1.29 On 9 September 2025, Ms Sharpe moved a further referral to the Privileges Committee, following on from the 5 August referral. The new referral added further particulars about the disclosure of privileged information by the Hon Mark Latham MLC, in that it:

- outlined procedures for handling privileged information under standing order 52
- noted Mr Latham's further disclosures of privileged information in the House during debate on 5 August 2025 and on radio 2SM on 6 August 2025
- noted Mr Latham's comments during debate that he had viewed the material in question in the Clerk's office, was aware the report was subject to a non-publication order, formed a personal opinion that the report ought not to be subject to a non-publication order, and 'would "do exactly the same thing" if he had the opportunity again'.[41]

1.30 The motion was adopted by the House on the voices.[42]

1.31 The further referral also added a new element to the terms of reference, namely the disclosure of the private home address of a member of the public during a budget estimates hearing on 26 August 2025.

Further disclosure of the private address of an individual in the House

1.32 During the debate on 9 September 2025, Mr Latham repeated the disclosure of the individual's address,[43] as well as naming two individuals he alleged were 'corrupt'.[44] He argued several times he had a right to divulge the personal information of a member of the public he considered corrupt:

> … I wonder if the Leader of the Government understands what she is actually saying. What she is presenting to this House is an argument that a corrupt public official has a right to privacy. A corrupt public official, […], is said to have a right to privacy. …[45]
>
> What is the limit for a member of Parliament who has whistleblowers coming to him with clear evidence of corruption? What is the limit for a member of Parliament who has clear evidence of impropriety put to him other than to raise it in the way I did at budget estimates and to work on the very clear principle that corrupt public officials do not have a right to privacy? Why would they have a right to privacy given what they have done? … [46]

40 *Transcript of Evidence*, Portfolio Committee no. 1, NSW Legislative Council, 26 August 2025, p 18.

41 *Hansard,* NSW Legislative Council, 9 September 2025, pp 34- 35 (Penny Sharpe).

42 *Minutes*, NSW Legislative Council, 9 September 2025, p 2659.

43 *Hansard,* NSW Legislative Council, 9 September 2025, p 37 (Mark Latham).

44 *Hansard,* NSW Legislative Council, 9 September 2025, pp 35-40 (Mark Latham).

45 *Hansard,* NSW Legislative Council, 9 September 2025, p 35 (Mark Latham).

46 *Hansard,* NSW Legislative Council, 9 September 2025, p 37 (Mark Latham).

> … I always stand by the principle that corrupt public officials forfeit the right to privacy. Why should they have a right to privacy given what they have done? It goes against accountability, transparency and disclosure. … [47]

Further disclosure of privileged information in the House

1.33 During the debate on 9 September 2025, Mr Latham also repeated privileged information from the LECC's report on Operation Askern.[48] He justified his further disclosures of that information with the suggestion that, once privileged information had been divulged, it is 'out there' and can be repeated:

> As for the first matter [further unauthorised disclosures of the LECC report on Operation Askern during debate], it begs the question—and people can write this up in standing orders and big red books and elsewhere—once someone has broken a non-publication order, can they break it a second, third and fourth time? I would have thought that once the information is out there, that is the end of the matter. The Leader of the Government made the referral to the Privileges Committee, and we will have that out at the committee.[49]

1.34 He suggested the matter of disclosing the contents of the Operation Askern report on radio was not to be taken seriously as the NSW Police Force had incorrectly named the radio station on which the broadcast was made in its letter:

> But to this second matter [disclosure of the Operation Askern report on radio], Natalie Marsic … said that I gave the radio interview on 2GB. She did not even get the station right, so I am not too sure she is a reliable source of information. The Leader of the Government has it right in the motion—radio 2SM—correcting the legal adviser at New South Wales police.[50]

1.35 Mr Latham further suggested that the LECC was content for the contents of the Operation Askern report to be disclosed publicly:

> … when this was discussed at the budget estimates hearing with the head of the Law Enforcement Conduct Commission [LECC], he did not seem too concerned about it. I have yet to receive any correspondence from LECC to say, "You breached the non-publication order. That was a bad thing."[51]
>
> In fact, at the budget estimates hearing, Mr Johnson concluded by saying that a second LECC report is coming concerning [Operation Askern] and that I should wait for it. That is all he said at the budget estimates hearing. He had no great problem with my actions. In fact, I got the impression that he did not mind the idea that this was public information—and it should be.[52]

47 *Hansard,* NSW Legislative Council, 9 September 2025, p 38 (Mark Latham).
48 *Hansard,* NSW Legislative Council, 9 September 2025, p 39 (Mark Latham).
49 *Hansard,* NSW Legislative Council, 9 September 2025, p 38 (Mark Latham).
50 *Hansard,* NSW Legislative Council, 9 September 2025, p 38 (Mark Latham).
51 *Hansard,* NSW Legislative Council, 9 September 2025, p 38 (Mark Latham).
52 *Hansard,* NSW Legislative Council, 9 September 2025, p 39 (Mark Latham).

1.36 Concluding the debate, Ms Sharpe called for all members to reflect on the importance of respecting confidentiality of privileged information, and the processes in place for public release, lest one member's 'unfettered' release of information should lead to all members' privileges being undermined.[53] Stating that the issue went beyond the member the subject of the motion, Ms Sharpe argued:

> It is about how if each and every member of this House does not follow the rules, then we have no rules and the system is ruined forever. What has been a carefully guarded process that all members have respected for a long time is being undermined by the Hon. Mark Latham. That is why I bring it to the House. It has nothing to do with him. If it was any other member, I would do exactly the same thing.[54]

Previous disclosure of privileged information in budget estimates – 28 August 2024

1.37 As noted above, the disclosure of the Operation Askern report in the House referred to in this inquiry's terms of reference was not the first time Mr Latham had disclosed privileged material obtained under standing order 52. There was a previous incident that was brought to the attention of the Clerk and the House in 2024.

1.38 On 4 September of that year, Ms Kate Boyd PSM, Secretary of The Cabinet Office wrote to alert the Clerk that a document subject to a claim of privilege, in this case legal professional privilege, had been referred to in a Portfolio Committee No. 1 – Premier and Finance budget estimates hearing on 28 August 2024 by the Hon Mark Latham MLC.[55]

1.39 The Clerk briefed Portfolio Committee No. 1 on the disclosure of information contained within a privileged document on 6 September 2024. The committee subsequently resolved that the Chair write to Mr Latham requesting that he respond to the concerns raised by The Cabinet Office.[56]

1.40 Responding to The Cabinet Office's concerns, Mr Latham wrote that:

- he had inspected the relevant material months previously and made notes
- when going back to those notes, he did not see any mention of the material being privileged
- the material in question 'was an internal memo about administrative process, the type of which is not normally afforded privilege'
- 'Just because someone works as a lawyer for government does not mean everything they say or write attracts legal privilege'

53 *Hansard,* NSW Legislative Council, 9 September 2025, p 40 (Penny Sharpe).

54 *Hansard,* NSW Legislative Council, 9 September 2025, p 40 (Penny Sharpe).

55 Letter from Ms Kate Boyd PSM, Secretary, The Cabinet Office, to Mr David Blunt AM, Clerk of the Parliaments, 4 September 2024, see tabled document, Clerk, *Correspondence – Racecourse housing development proposals – 4 September 2024*, 17 September 2024.

56 Letter from the Hon Jeremy Buckingham to the Clerk of the Parliaments, 9 September 2024, see tabled document, Clerk, *Correspondence – Racecourse housing development proposals – 4 September 2024*, 17 September 2024.

- Ms Boyd did not complain about references to privileged material during the estimates hearing.[57]

1.41 However, Mr Latham also acknowledged in his email that: 'Nonetheless, my notes were faulty, I made a mistake and I should now apologise to Ms Boyd and the Committee.' [58]

1.42 This correspondence was tabled in the House by the Clerk on 17 September 2024.[59]

Referral of 'Part 2' of this inquiry

1.43 During debate on the initial referral of this inquiry on 5 August 2025, the Hon Emma Hurst MLC moved an amendment to include a further reference to the Privileges Committee of 'any threats made from members within Parliament towards other members of staff within Parliament' and progress made by the Government and political parties in implementing the recommendations of the Broderick report.[60]

1.44 This amendment was passed by the House, and became part (b) of the inquiry terms of reference.[61]

1.45 Noting that the issues raised by part (b) are substantially different to those in part (a), this committee subsequently resolved to separate its inquiry into two parts – 'Part 1' examining the unauthorised disclosures, 'Part 2' the matters raised by Ms Hurst. The inquiry into the second part of the terms of reference will commence on completion of the first.

57 Email from the Hon Mark Latham MLC to the Hon Jeremy Buckingham MLC, 5 September 2024, see tabled document, Clerk, *Correspondence – Racecourse housing development proposals – 4 September 2024*, 17 September 2024.

58 Email from the Hon Mark Latham MLC to the Hon Jeremy Buckingham MLC, 5 September 2024, see tabled document, Clerk, *Correspondence – Racecourse housing development proposals – 4 September 2024*, 17 September 2024.

59 Tabled document, Clerk, *Correspondence – Racecourse housing development proposals – 4 September 2024*, 17 September 2024.

60 *Minutes*, NSW Legislative Council, 5 August 2025, pp 2579-2580.

61 *Minutes*, NSW Legislative Council, 5 August 2025, pp 2579-2580.

Chapter 2 Unauthorised disclosure of privileged information returned under standing order 52

This chapter considers the allegation that the Hon Mark Latham MLC disclosed the contents of a privileged report that had been returned to the House under standing order 52, in breach of the provisions for privileged documents in that standing order. It commences by outlining the importance of standing order 52 to the work of the Legislative Council, and the provisions contained in standing order 52 for the handling of privileged material. It then summarises the allegations about Mr Latham's disclosures and sets out the evidence before the committee about the status of the report in question, Mr Latham's awareness of that status, and Mr Latham's awareness about whether disclosing the report's contents was in breach of standing order 52. This chapter also considers evidence received about the consequences of such unauthorised disclosure of privileged information.

The confidentiality of privileged information under standing order 52

2.1 The power to order state papers is 'fundamental to the operations of the modern Legislative Council in holding the Executive to account'.[62] The common law power was confirmed by the High Court in *Egan v Willis*, and subsequently *Egan v Chadwick* established that the Executive is required to provide documents that in court would be the subject of claims of the various kinds of privilege recognised at law.[63]

2.2 As outlined in the Clerk's submission to this inquiry, the power to order state papers, including documents that in a court setting would be subject to claims of various grounds of privilege, is important for the House to undertake its constitutional role of holding the Executive to account.[64] The significant scrutiny process enabled by this power has 'led to this House being arguably the most successful and assertive of any upper House in Australia'.[65]

2.3 Since the *Egan v Chadwick* decision, orders for papers have resulted in two categories of returns to order – public documents able to be viewed by all members of the public, and privileged documents only available to be viewed by members of the Legislative Council in the Office of the Clerk.[66]

2.4 Standing order 52 is the way in which the House regulates the use of its power to order production of documents, including privileged documents.[67] Standing Order 52(6) provides a process to manage privileged returns. The standing order provides that, where a document is considered to be privileged:

62 Submission 2, Clerk of the Parliaments, p 1.

63 Submission 2, Clerk of the Parliaments, p 1, citing *Egan v Willis* (1998) 195 CLR 424 and *Egan v Chadwick* (1999) 46 NSWLR 563.

64 Submission 2, Clerk of the Parliaments, pp 1-4.

65 Submission 2, Clerk of the Parliaments, p 4.

66 Submission 2, Clerk of the Parliaments, p 1.

67 Submission 2, Clerk of the Parliaments, p 1.

- a return is prepared (in the form of an index), showing the date of the document's creation, a description, author, and reasons for the claim of privilege, and
- the documents are to be delivered to the Clerk and made available only to members of the Legislative Council and not published or copied without an order of the House.[68]

2.5 Standing order 52 also provides a mechanism to dispute claims of privilege made over documents, to establish a process by which a document can be made public. [69] This is set out in standing order 52(8)-(13). As described in the Clerk's submission, any member may dispute the validity of a claim of privilege over a particular document, whereupon an independent legal arbiter (who must be a Senior Counsel or retired judge) is given access to the document to evaluate and report on the validity of the claim. The independent legal arbiter prepares a report and lodges it with the Clerk, from where it is made available only to members of the House.[70]

2.6 The Clerk's submission emphasised that any subsequent decision to publish a document over which privilege has been claimed is made by the House:

> While the House ultimately makes the decision to publish a privileged document, it does so after receiving the recommendation of the arbiter. This means the House is able to make a collective decision informed by an independent view by an eminent legal mind on whether to uphold the Executive's claims on various grounds of privilege is in the public interest.[71]

2.7 The Clerk further stressed that the decision to publish a document does not rest with individual members:

> The standing order does not empower an individual member to publish a document. The publication of a privileged document from a return is a decision of the House having followed the steps detailed in SO 52 (8)-(13).[72]

2.8 Until recently, it is notable that members had, so far as is known, respected the requirements of standing order 52 regarding the confidentiality of privileged information, and the process set out in the standing order to dispute claims of privilege. The second edition of *New South Wales Legislative Council Practice*, published in 2021, notes:

> In exercising its powers to order the production of State papers since 1999, the House and members have been scrupulous in paying due regard to claims of privilege over returned documents. Where claims of privilege have been made over documents the confidentiality of these documents has never been breached.[73]

2.9 This is the first time a disclosure of a privileged document returned under standing order 52 has been referred to the Privileges Committee.[74]

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68 Standing order 52(6), See Submission 2, Clerk of the Parliaments, p 2.

69 Submission 2, Clerk of the Parliaments, p 2.

70 Submission 2, Clerk of the Parliaments, pp 2-3.

71 Submission 2, Clerk of the Parliaments, p 3.

72 Submission 2, Clerk of the Parliaments, p 3.

73 Submission 2, Clerk of the Parliaments, p 4, citing D Blunt and S Frappell (eds), *New South Wales Legislative Council Practice*, 2nd edition, Federation Press (2021), p 675.

74 Submission 2, Clerk of the Parliaments, p 4.

Summary of allegations against the Hon Mark Latham MLC

2.10 As outlined in Chapter 1, the initial allegation as referred to this committee on 5 August was that:

- on 8 May 2025 during a take note debate in the House, the Hon Mark Latham MLC made reference to the contents of a report by the Law Enforcement Conduct Commission (LECC) on 'Operation Askern'
- the Operation Askern report was returned to the House by the NSW Police Force pursuant to an order for papers under Standing Order 52 passed on 7 August 2024
- the report was subject to a non-publication order made by the LECC and returned to the House subject to claims of privilege and personal information, the validity of which had not been challenged by any member of the House, and
- the report had not been published under a subsequent order of the House, and remained protected under the claim of privilege.

2.11 In addition to the 8 May disclosure, and after this inquiry was referred to the Privileges Committee, Mr Latham made further disclosures of the contents of the Operation Askern report:

- during debate on the first reference to this committee on 5 August 2025
- in a radio broadcast on 2SM on 6 August 2025
- during debate on the second reference to this committee on 9 September 2025.

2.12 These later disclosures were noted in the second reference to this committee on 9 September 2025. The 9 September reference also noted that the LECC report remains subject to a non-publication order and claims of privilege, the validity of which has not been challenged by any member of the House, and that the report has not been published under a subsequent order of the House.

2.13 A further allegation is that disclosure of the LECC report was not the first time Mr Latham had revealed privileged information during parliamentary proceedings. Although not the subject of this inquiry, it is noted that Mr Latham had disclosed privileged information obtained under standing order 52 during a budget estimates hearing on 28 August 2024. When this was brought to his attention, he acknowledged he had made a mistake and should apologise. This earlier incident was raised in debate by the Hon Penny Sharpe MLC to support the proposition that Mr Latham had showed a 'pattern of disregard for the rules of this House and a lack of respect for the confidentiality of documents'.[75]

Evidence relevant to the allegations

2.14 As outlined in Chapter 1, Mr Latham's disclosures of the contents of the LECC report were public and well documented: *Hansard* transcripts are available for the disclosures in the House on 8 May, 5 August and 6 September. The 2SM radio interview was available online through

[75] *Hansard*, 5 August 2025, p 37 (Penny Sharpe).

the link provided by the NSW Police Force as of October 2025, and a transcript was made for this committee to consider.

2.15 This section therefore considers the evidence before the committee on the status of the LECC report, what Mr Latham understood of its status, and whether he was aware that disclosing its contents was in breach of standing order 52.

Status of the Law Enforcement Conduct Commission document

2.16 The Law Enforcement Conduct Commission (LECC) advised that the Operation Askern report was provided to the Minister and Police Commissioner under s 135 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act) on 6 August 2024.[76] As a s 135 report, it was not tabled in Parliament and was accompanied by a non-publication order.[77]

2.17 The LECC explained the statutory context in which the Commission makes its reports.[78] Of note, reports under s 135 of the *Law Enforcement Conduct Commission Act 2016* are in the nature of private reports to the Minister, the Commissioner of Police, the complainant and the affected police officer, and they are frequently accompanied by a non-publication order concerning their contents.[79] The LECC submission also noted that, while reports under other sections of the LECC Act are public, reports under s 135 are less common and are not made public.[80]

2.18 Explaining the reasoning for the confidential status of the Operation Askern report in August 2024, the LECC submission noted:

- the allegations considered in the report were not in the public domain, so there was no need to dispel rumour or innuendo
- a private report allowed for the full exposure and reasoning on the issues
- the commission did not need to alert those named in the report of its contents, which expedited providing the report
- the commission did not make any findings of serious misconduct.[81]

2.19 The LECC also advised that, when a Legislative Council call for papers in relation to the topic was made the day after the report was provided to the Minister (i.e., on 7 August 2024), the Commission issued a media release outlining the critical findings of its report.

2.20 In relation to the reasons for the original claim of privilege over the Operation Askern report, correspondence from Ms Natalie Marsic, General Counsel, NSW Police Force to the Clerk dated 12 June 2025, re-stated the reasons for the claim of privilege that had been outlined in the NSW Police Force's written submission of 20 August 2024, which read as follows:

76 Submission 1, Law Enforcement Conduct Commission, p 3.
77 Submission 1, Law Enforcement Conduct Commission, p 1.
78 Submission 1, Law Enforcement Conduct Commission, pp 1-3.
79 Submission 1, Law Enforcement Conduct Commission, p 1.
80 Submission 1, Law Enforcement Conduct Commission, p 2.
81 Submission 1, Law Enforcement Conduct Commission, p 4.

> 4.3 The NSWPF submits that the disclosure of one of the Privileged Documents would prejudice the proper functioning of government, including the NSWPF's ability to perform its functions outlined in the Police Act 1990 (NSW) (Police Act) as well as impact the Law Enforcement Conduct Commission (LECC) in performing their investigative functions pursuant to the Law Enforcement Conduct Commission Act 2016 (NSW) (LECC Act).
>
> 4.4 The document responsive to Category (a) of the Resolution is a LECC report made under section 135 of the LECC Act (LECC Report). The LECC Report relates to a LECC investigation into an anonymous complaint that a senior member of the NSWPF had failed to declare a conflict of interest. The NSWPF notes that the existence of this LECC investigation is public knowledge, however, the LECC Report itself is subject to a non-publication order made by LECC.
>
> 4.5 Part 8A of the Police Act outlines the obligations of the NSWPF to "working collaboratively" with the LECC in instances where LECC are investigating misconduct matters concerning the conduct of a member of the NSWPF.
>
> 4.6 By virtue of the fact that LECC has made a non-publication order over the LECC Report, the NSWPF submits that its release may harm any further and/or ongoing investigation by both LECC and the NSWPF into the matters that the LECC Report addresses. As such, the NSWPF submits that the release of the LECC Report would not only be in contravention of LECC's non-publication order, but would also be contrary to both the NSWPF and the LECC discharging their investigative functions under the Police Act and the LECC Act respectively.[82]

2.21 Ms Marsic's letter also noted that, while the Hon Rod Roberts MLC had challenged aspects of the NSW Police Force's claims of privilege with respect to documents returned on 20 August 2024, no challenge was made to the claim of privilege over the LECC report.[83]

2.22 From the perspective of the Clerk's office, the following were publicly available details about the Operation Askern report:

- The document was returned under a standing order 52 motion moved by the Hon Rod Roberts MLC, agreed to by the House on Wednesday 7 August 2024.
- A return was delivered by The Cabinet Office to the Clerk on Wednesday 21 August 2024.
- The document was referred to in the index as "Report under s 135 report in Operation Askern" with a claim of privilege based on PII [Public Interest Immunity] and personal information.[84]

2.23 The Clerk provided a copy of the relevant page of the index as an attachment to his submission.

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82 Letter from Ms Natalie Marsic, General Council, NSW Police Force to Mr David Blunt, Clerk of the Parliaments, 12 June 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025; see also, Submission 3, NSW Police Force, p 1.

83 Letter from Ms Natalie Marsic, General Counsel, NSW Police Force to the Clerk, 12 June 2025, see tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

84 Submission 2, Clerk of the Parliaments, p 4.

2.24 As the claim of privilege was not disputed, the Clerk also pointed out that the document remains a privileged document, and the only publication authorised by the House is in the published index reference.[85]

Mr Latham's understanding of the report's status

2.25 In debate in the House, correspondence, and evidence to this committee, Mr Latham has offered two main reasons for disclosing the contents of the LECC report: first, that he did not know the contents of the report were privileged; and second, that he believed disclosing the contents of the report was in the public interest.[86]

Mr Latham's awareness of the non-publication order

2.26 By his own statements in the House and to this committee, Mr Latham was aware of the LECC non-publication order, as it was stamped on the copy of the report which he viewed in the Clerk's office.[87]

2.27 Similar to what he said in the House, Mr Latham told this committee:

> I asked [one of my staff members] to go through the normal process of asking the Clerk's office to produce a copy of that report, which they did. It just sat there in the middle of the big table in what we call the Mookhey library [i.e. the Clerk's meeting room] as I entered. It didn't have any SO 52 or privileged material around it. It was just the report with a non-publication order stamp on the front of it, which seemed to me to be curious in itself because you would expect that a non-publication order should also have some reasons for why there is to be no publication.[88]

Mr Latham's awareness of the privileged status of the document

2.28 Mr Latham told this committee that had he been aware of the privileged status of the LECC report, he would not have divulged its contents in the House:

> If I'd known it was privileged and that was clear, what was in front of me, I wouldn't have done what I did and certainly wouldn't do that in the future – and I haven't in the past. I've never taken a privileged document, just stood up in the House and started talking about it. I would have regarded the privilege provided in our Chamber as more important than a LECC stamp on this document that didn't carry an explanation.[89]

85 Submission 2, Clerk of the Parliaments, p 4.

86 Some of Mr Latham's reasoning from the debate on 5 August and 9 September 2025 is set out in Chapter 1, similar reasoning was given in his *in camera* evidence to this committee, as included below, published by resolution of the committee.

87 *In camera* evidence, Hon Mark Latham MLC, 23 October 2025, p 1, cited by resolution of the committee.

88 *In camera* evidence, Mr Latham, 23 October 2025, p 1, cited by resolution of the committee.

89 *In camera* evidence, Mr Latham, 23 October 2025, p 4, cited by resolution of the committee.

> … where's the evidence I knew this was privileged? I just dealt with what was in front of me. If it was in a box and had a letter, then obviously I would have made a very different decision.[90]

2.29 As noted, Mr Latham's statements to the House and this committee indicate that he viewed the report in the Clerk's meeting room.

2.30 The Clerk gave a detailed account of the administrative process in place to maintain the confidentiality of documents that are subject to a claim of privilege, and the information provided to members regarding their responsibilities in viewing privileged documents.[91]

2.31 When the Clerk receives documents subject to a claim of privilege from The Cabinet Office:

- the documents are immediately placed in the Clerk's meeting room
- each box has 'privileged' written on a label on its side
- the room is locked and only opened when a member requests a viewing of the privileged documents
- an index is published online, which identifies each document and notes which documents are subject to a claim of privilege
- members are notified of the return with a link to the index in the Clerk's weekly report to members
- returns are reported in the House.[92]

2.32 When a member wishes to inspect a document:

- generally, the member or their staff will email or call to request an appointment
- staff of the Procedure Office ensure the box of documents or documents requested are taken off the shelves and placed on the meeting table
- upon entering the room, members sign an exercise book and identify which return they are examining, and the date.[93]

2.33 The Clerk also noted that the Clerk or Deputy Clerk advises members who are new to Parliament or to the process of viewing privileged returns that:

- they are able to take notes but may not photocopy or remove documents
- they may not discuss the documents with anyone other than other members of the Legislative Council
- since the process began, there has never been a leak of these privileged documents
- there is an arbitration process to make documents public (as outlined above).[94]

90 *In camera* evidence, Mr Latham, 23 October 2025, p 7, cited by resolution of the committee.

91 Submission 2, Clerk of the Parliaments, p 3.

92 Submission 2, Clerk of the Parliaments, p 3.

93 Submission 2, Clerk of the Parliaments, p 3.

94 Submission 2, Clerk of the Parliaments, p 3.

2.34 While experienced members who have previously viewed privileged returns are not given the briefing, the Clerk noted that since April 2025 there is a one-page document setting out the rules governing the viewing of the documents attached to the member's register.[95] This is attached as Appendix 1.

2.35 When asked about whether the usual arrangements were in place when he viewed the LECC report in the Clerk's meeting room (i.e. being asked to sign a book and then given the box with the material in it), Mr Latham said:

> There was no box. The box would have contained the letters normally associated with an SO 52 and privileged. There was definitely no box. Did I sign the book? I don't know. It was months ago. I can't remember. You can check the book and find out. I can't recall. I've got a clear recollection. There's a big, long table there. It was cleared. The LECC report was in the middle of it. Maybe I signed the book; maybe I didn't. You can check. It's a matter of fact whether or not I did on that date.[96]

2.36 Later in the hearing, Mr Latham said:

> It was just the report sitting in the middle of the table. If the book was there, I would have signed it. It's always my practice to sign the book, date it and to identify the document I'm looking at. They do leave you alone in there, as I suppose they need to, to get about your work. In the past, sometimes you'll see a box—"Oh, that looks interesting; I wonder what's in there"—and you'll have a bit of a squiz. It's sort of a research room for us, isn't it? It's a resource room that's available to us, sometimes bound by privilege, sometimes not. In this instance, a non-publication order stamp.[97]

2.37 Asked if he had ever viewed material that was not privileged material obtained through standing order 52 in the Clerk's meeting room, Mr Latham responded:

> Maybe, I've looked at a lot of documents in that room over the last six years … I've got no clear recollection, but I wouldn't be surprised if the answer is yes. I've looked at scores of documents – hundreds of them I suppose…[98]

2.38 Mr Latham was also asked whether his earlier unauthorised disclosure in 2024 – which he had also attributed to lack of awareness of the document's privileged status – had not alerted him to the need to be careful with taking notes and avoiding disclosure of privileged information, having viewed documents in the Clerk's meeting room. He similarly suggested that when he viewed the document in question in that case:

> I didn't see any mention of it being privileged. Some of those boxes in there get pretty messy once a few members of Parliament have a look at them.[99]
>
> … Things are sometimes put back in the wrong box and you take your notes and you go away and deal with the information.[100]

95 Submission 2, Clerk of the Parliaments, p 3.

96 *In camera* evidence, Mr Latham, 23 October 2025, p 3, cited by resolution of the committee.

97 *In camera* evidence, Mr Latham, 23 October 2025, p 4, cited by resolution of the committee.

98 *In camera* evidence, Mr Latham, 23 October 2025, p 3, cited by resolution of the committee.

99 *In camera* evidence, Mr Latham, 23 October 2025, p 5, cited by resolution of the committee.

100 *In camera* evidence, Mr Latham, 23 October 2025, p 5, cited by resolution of the committee.

2.39 As noted in Chapter 1, Mr Latham was alerted to the claim of privilege over the LECC report by means of correspondence from the NSW Police Force, forwarded to him by the Clerk on 18 June 2025. That letter outlined the NSW Police Force's claim of privilege over the document, reasons for the claim, and pointed out the claim was undisputed.[101] Mr Latham responded on 18 June by email, suggesting: 'obviously there was no point de-privileging a document that had a non-publication order on it', and: 'I didn't know it was privileged. I thought it was held in the clerk's office as it was non-publication'.[102]

2.40 When asked at the hearing about his subsequent disclosures of the contents of the LECC report on three occasions – twice during debate in the House, and once in a radio broadcast, Mr Latham said:

> The Leader of the Government moved a motion against me, and I wasn't going to stand there as her punching bag, defenceless. A motion invites a defence from the MP who's being pursued, and I gave my best defence to the House. …
>
> I didn't reveal anything new or additional, and this wasn't a complicated story.[103]

Mr Latham's awareness that disclosing the contents of the report would be in breach of standing order 52

2.41 It is evident from Mr Latham's account that he was aware that he was in breach of the LECC's non-publication order when he gave the take note speech in the House on 8 May 2025 and that he determined to use his freedom of speech notwithstanding that. The evidence as to whether Mr Latham was aware that disclosure of the information would be in breach of the rules of this House – standing order 52 – is more ambiguous.

2.42 Mr Latham indicated that he was well aware of the process set out in standing order 52 for disputing the privileged status of documents:

> As I say, I've always been careful. There'd be a fairly substantial list of SO 52s that I've tried to get deprivileged and I think I've had 95 per cent success in that over the years. I know the process and I've followed it as best I can.[104]

2.43 Questioned by this committee on whether he was aware of the other standing order 52 material provided with the LECC report, Mr Latham said:

> No. I had just been told that the LECC report was worthy of inspection. I still don't know what was in the rest of it. I assume it's about the gin bottles. I've never seen the SO 52 material or the letter of privilege in relation to it. I was after the LECC report. I read it and then spoke to the Clerk as to what I should do. I got some advice.[105]

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101 Letter from Ms Natalie Marsic, General Council, NSW Police Force to Mr David Blunt, Clerk of the Parliaments, 12 June 2025, see Tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

102 Email from the Hon Mark Latham MLC to the Clerk of the Parliaments, 18 June 2025, see Tabled document, Clerk, *Correspondence – Police management and administration – 12 June 2025*, 24 June 2025.

103 *In camera* evidence, Mr Latham, 23 October 2025, p 6, cited by resolution of the committee.

104 *In camera* evidence, Mr Latham, 23 October 2025, p 6, cited by resolution of the committee.

105 *In camera* evidence, Mr Latham, 23 October 2025, p 3, cited by resolution of the committee.

2.44 Asked about the advice he received from the Clerk, Mr Latham said:

> … I appreciated his advice. I suppose if he'd said to me, "No, that's ridiculous. Under no circumstances should you break the non-publication order," I think I'd discuss with him why don't they give some reasons? There's just a stamp on it. How about some reasons for the Parliament so we can understand why. I didn't see any reasons in the report why there should be a non-publication order on it. It had nothing to do with policing techniques, security issues or anything. I thought everyone knows this story …. What's the reason for secrecy here? I just didn't see it. The Clerk set the parameters for whether I thought it was in the public interest for people to know this. I made a judgement that, yes, it was very much.[106]

2.45 Mr Latham was asked whether, following his conversation with the Clerk, he had 'walk[ed] away with the assumption that you could use a member's parliamentary privilege, where you thought it was in the public interest and of public importance for the matter to be raised, to break the privilege of the document'. In response, Mr Latham reiterated that he didn't know the report was privileged, only that it was the subject of a non-publication order.[107]

2.46 The committee understood Mr Latham's evidence to be, in essence, that the Clerk did not disabuse him of his lack of knowledge of the report's privileged status, and that, after speaking to the Clerk, he believed that the only decision for him to make was whether he was justified in exercising his freedom of speech in breaching the non-publication order from the LECC.

2.47 The Clerk's submission, having set out the significance of the power to order papers and the administrative processes to maintain confidentiality of privileged documents, also indicated that the Clerk maintains strict confidentiality with respect to advice given to members:

> I do not wish to discuss the specifics of any advice or assistance provided to a member by myself or by other parliamentary staff. Communications with individual members are confidential and I would only disclose such details under compulsion or with the member's express permission.[108]

Consequences of unauthorised disclosure of privileged information

2.48 As noted above, the power to obtain state papers under standing order 52, including papers subject to a claim of privilege, has been fundamental to the role of the Legislative Council in holding the Executive Government to account. Unauthorised disclosures of privileged information could have serious consequences for the work of this House, and also for other parties, as noted in evidence to this inquiry.

Potential consequences for the Legislative Council

2.49 In moving the motion to condemn Mr Latham's unauthorised disclosure, the Hon Penny Sharpe MLC, Leader of the Government in the House, noted the potential that unauthorised disclosure of privileged information could undermine the standing order 52 system under which the

106 *In camera* evidence, Mr Latham, 23 October 2025, p 3, cited by resolution of the committee.

107 *In camera* evidence, Mr Latham, 23 October 2025, p 8, cited by resolution of the committee.

108 Submission 2, Clerk of the Parliaments, p 3.

Government provides documents that would otherwise be confidential to members of the Legislative Council to inform their work in scrutinising government. Noting that providing documents in compliance with orders of the House is an important part of responsible government, Ms Sharpe cautioned that unauthorised disclosures could lead to reluctance of governments to provide otherwise confidential information:

> The Executive Government spends thousands of hours and millions of dollars complying with orders of the House, as we must and as we should. The Government acknowledges that the power of this House to require documents to be provided is important and essential for this House to scrutinise the Government. While Government members often complain about being subjected to and having to stand up to that scrutiny, it is an important part of responsible government. That responsibility goes both ways. If the members of this House cannot be trusted to uphold the confidentiality of documents received under a claim of privilege, how can the Government provide information with confidence that it will not be inappropriately disclosed to the public. The true reality of this breach and this kind of behaviour is that the Government cannot. It is not the role of individual members of this Chamber to decide whether the confidentiality of documents should be protected. Doing so improperly undermines the parliamentary privilege held by all of us.[109]

Potential consequences to third parties

2.50 Ms Sharpe also highlighted the potentially serious consequences for individuals, and even the State, of unauthorised disclosure of documents subject to a claim of privilege:

> Parliamentary privilege enables us to reveal information and say things in this place that could potentially lead to legal action or even imprisonment if said outside of this Chamber. There is a reason that this kind of information receives protection: Words can hurt. Words can destroy people's lives. They can ruin reputations. They can destroy livelihoods, undermine someone's right to a fair trial, tear apart relationships. They also can provide the words that we need to do our jobs in this place. We have laws that exist to hold people accountable for the words that they say when they have these kinds of consequences.[110]

> Members will be aware of the important Egan cases in the late 90s that, amongst other things, established a pathway for confidential documents to be provided to the House by the Executive Government under a claim of privilege. Those documents might attract privileged protections for a range of reasons, an unauthorised disclosure of which would have very serious consequences, including revealing information that could inappropriately breach privacy protections for individuals, undermining commercially sensitive agreements, undermining legal professional privilege and revealing information that could risk the security of the State.

Consequences reported by the Law Enforcement Conduct Commission

2.51 The LECC submission noted the importance of the Commission being able, from time to time, to report on its investigations formally but confidentially to the Minister and the Commissioner. It noted that Parliament has made express provision for private reports in s 135 of the LECC

109 *Hansard*, NSW Legislative Council, 5 August 2025, p 37 (Penny Sharpe).

110 *Hansard*, NSW Legislative Council, 5 August 2025, p 36 (Penny Sharpe).

Act, which provides the statutory avenue for the Commission to communicate with the Minister on certain matters, and that providing a report under s 135 allows the Commission to include more information about its investigation, more quickly, to the Minister.[111]

2.52 The LECC further noted that:

> There are a range of reasons why the Commission may decide that it is appropriate to report under s 135 only [ie, confidentially to a limited audience]. Not all of these reasons involve human sources or high-level confidentiality. In any event, the reasons why the report should be kept confidential may not be spelt out explicitly, given the expectation that the report will not be made public as provided for by Parliament in enacting s 135 [of the] LECC Act.[112]

2.53 The LECC submission indicated that the breach of confidentiality with respect to the Operation Askern report had in fact already had an impact on the information included in its reports:

> …the issues with preserving the confidentiality of the Operation Askern report have prompted the Commission to revisit the information included in some s 135 reports, because it can no longer be confident that those reports will remain confidential. This has an impact on the Commission's capacity to raise issues of concern in a full and frank manner with the Minister and Commissioner.[113]

2.54 The LECC further called on this committee to stress to members the importance of maintaining strict confidentiality with respect to documents over which privilege is claimed, noting that the capacity of members to view such material carries a corresponding responsibility to follow the applicable rules of Parliament:

> Apart from any other action that the Committee sees fit to take, the Commission requests that the Committee emphasise to all Members of Parliament the great importance of strict compliance with the terms on which Members of Parliament have access to classes of documents (such as s 135 LECC Act reports) which are not otherwise intended to be made public. The important capacity of Members of Parliament to view such material, in the public interest, carries with it the corresponding responsibility, also in the public interest, of dealing with the material strictly in accordance with the applicable rules of Parliament.[114]

Committee conclusion

Committee findings in relation to the allegations

2.55 On the basis of the evidence before it, this committee concludes that Mr Latham has breached standing order 52(6) on no less than four occasions by publicly revealing information obtained from a document returned under standing order 52 with a claim of privilege that had not been challenged. While there is an issue as to Mr Latham's state of knowledge on the first occasion,

111 Submission 1, Law Enforcement Conduct Commission, p 4.

112 Submission 1, Law Enforcement Conduct Commission, p 4.

113 Submission 1, Law Enforcement Conduct Commission, p 4.

114 Submission 1, Law Enforcement Conduct Commission, p 4.

this is, in the committee's view, not pertinent to the question of the breach of the standing order, but rather to the response to be recommended.

2.56 Several elements are indisputable based on the evidence before this committee, namely:

- The LECC's report on Operation Askern was returned to the House with a claim for privilege pursuant to a call for papers under standing order 52. That claim for privilege was not disputed by any member.
- Mr Latham viewed the report in the Clerk's meeting room (which houses privileged returns under standing order 52) and noted the LECC's non-publication order stamped on the document itself.
- On 18 June 2025, Mr Latham was alerted to the undisputed claim of privilege over the LECC report, through correspondence from the NSW Police Force.
- Despite being made aware of the privileged status of the report, Mr Latham subsequently repeated the disclosure of its contents during debate in the House on 5 August and 9 September 2025, and on Radio 2SM on 6 August 2025.
- While a media release issued by the LECC dated 7 August 2024 had outlined the topic and key findings of the report, Mr Latham's disclosures in the House went beyond what was public knowledge.
- Separately, Mr Latham had disclosed privileged material returned under standing order 52 in a budget estimates hearing in August 2024, and had this breach brought to his attention through correspondence from The Cabinet Office.

2.57 The only element open to doubt is whether Mr Latham fully understood the claim of privilege over the document, meaning he would be in breach of standing order 52, in addition to the non-publication order, when he revealed its contents during his take note speech in the House on 8 May 2025. On this issue, the committee notes:

- Mr Latham's evidence that he had viewed the document in the Clerk's meeting room without any accompanying material
- Mr Latham's evidence that he was aware of the LECC non-publication order stamped on the document and did not agree with it
- the Clerk's evidence that members viewing privileged returns under standing order 52 in the Clerk's meeting room are given a briefing about the confidentiality requirements with respect to documents viewed there, and provided with an information sheet setting out the rules governing the viewing of the documents at the time they sign to view a document
- Mr Latham's evidence that he had viewed hundreds of documents in the Clerk's meeting room, and was familiar with the process for disputing the claim of privilege over a document
- the evidence (correspondence tabled in the House) that Mr Latham had revealed privileged information under standing order 52 in 2024, and, when the breach was drawn to his attention, similarly said he did not know the document was privileged.

2.58 The committee is ultimately not well placed to make a firm finding as to Mr Latham's state of mind on the first occasion he revealed the privileged material. There is significant evidence

tending to suggest advertence, not least the subsequent knowing disclosures, but Mr Latham's clear evidence is to the contrary. The committee was not minded to examine the Clerk for obvious reasons arising from the important role of the Clerk as an impartial adviser to all members.

2.59 Ultimately the committee feels it unnecessary to make a firm finding on Mr Latham's state of mind. The subsequent breaches make clear in any event that there has been a series of contempts of the Parliament.

2.60 It is also significant that this is the first occasion Mr Latham has been formally brought to account by the House and the committee for such breaches of privilege. The committee believes that this has been a salutary experience for Mr Latham and that if its recommendations are adopted and adhered to by Mr Latham then further breaches are unlikely.

2.61 The committee therefore makes the following factual findings.

Finding 1

That:

- the Hon Mark Latham MLC disclosed privileged information obtained under standing order 52 in debate in the House on 8 May 2025, but the committee is not certain that he knew at that time the material was privileged
- Mr Latham then deliberately disclosed the privileged information obtained under standing order 52 in debate in the House on 5 August 2025
- Mr Latham again deliberately disclosed the privileged information obtained under standing order 52 in debate in the House on 9 September 2025
- Mr Latham again deliberately disclosed the privileged information obtained under standing order 52 in a radio broadcast on 6 August 2025.
- the privileged material disclosed on each occasion was the contents of a Law Enforcement Conduct Commission (LECC) report on Operation Askern, that had a non-publication order from the LECC, and was provided to the House by the NSW Police Force with a claim of privilege pursuant to standing order 52 in August 2024
- Mr Latham was alerted in writing to the undisputed claim of privilege over the LECC report on Operation Askern on 18 June 2025 and then made the further disclosures of its contents in the House on 5 August 2025 and 9 September 2025, and in a radio broadcast on 6 August 2025.

2.62 The committee does not accept Mr Latham's argument that further disclosures after the initial one are not important because the information had already been disclosed. The subsequent disclosures exposed the information to more people and each constituted an improper and contemptuous use of the privileged material deliberately undertaken after Mr Latham was made aware of the status of the material. The committee finds that the disclosure of the contents of the LECC report on Operation Askern on all four separate occasions were in breach of standing order 52(6).

Finding 2

That the Hon Mark Latham MLC's disclosures of information from the Law Enforcement Conduct Commission report on Operation Askern made in the House on 8 May, 5 August and 9 September 2025 and on Radio 2SM on 6 August 2025 were in breach of standing order 52(6).

2.63 Further, the committee finds that Mr Latham's repeated disclosures during debate in the House, and to a potentially wider audience on radio, even after the report's privileged status was brought to his attention, suggest a pattern of disregard for the rules of the House as set out in its standing orders.

2.64 Disclosure of documents over which a claim of privilege has been made under standing order 52 is undoubtedly a contempt of Parliament. The committee finds that Mr Latham's repeated disclosure of privileged information from the LECC report constitutes such a contempt.

Finding 3

That the Hon Mark Latham MLC's repeated disclosure of privileged information from the Law Enforcement Conduct Commission report on Operation Askern, after the privileged status of the report was drawn to his attention, constitutes a series of contempts of Parliament.

Recommendation as to sanction

2.65 The power of the House to order the production of state papers is fundamental to the operation of the Legislative Council and the role of the Council in holding the government of the day to account, in accordance with the system of responsible government in place in New South Wales.

2.66 The House regulates its power to order the production of state papers through standing order 52. Standing order 52 sets out rules regulating the return of documents to the House by the Executive Government, the claiming of privilege over those documents and rules for disputing a claim of privilege.

2.67 These processes are of long-standing and have served the House well. Since the *Egan* decisions in the late 1990s, members of the House from all sides of politics have been scrupulous in observing the requirements for confidentiality under standing order 52(6). As already noted, this is the first occasion of which the committee is aware on which a member has not respected a claim of privilege.

2.68 Given the significance of the processes under standing order 52 to the House and its members, it is fundamental to the interests of all members that the integrity of the processes under standing order 52 are upheld. It is simply not open to a member to arbitrarily breach those rules without sanction.

2.69 The privilege of freedom of speech enjoyed by members of the House is subject to the rules of the House itself. The rules of debate are an obvious example. Another example is the rules adopted by the House in relation to the disclosure and non-disclosure of documents returned

to the House under standing order 52. Members of the House are subject to those rules, and the House has the right to sanction members who disregard them.

2.70 In terms of available sanctions, as has been noted in previous reports of this committee, the Legislative Council does not have a 'punitive' power to punish contempts, for example by fine or imprisonment, at least on a traditional reading of the law.

2.71 However, under s 15 of the *Constitution Act 1902*, the House may adopt standing orders regulating, amongst other things, the 'orderly conduct' of business. Accordingly, the House may adopt standing orders in respect of members which are of a sanctioning effect, where they are for the 'orderly conduct' of the House. This in the committee's view encompasses 'punishment' of members for obstructing the House, for example by way of suspension, in order to protect the House from the conduct. By contrast, punishment of members for actions outside the chamber would likely be beyond power.[115]

2.72 In this regard, standing order 198 provides that a member found guilty of an offence under the standing orders may be suspended from the service of the House by motion moved without notice for any period of time that the House decides. Such a suspension may have effect until the House terminates the suspension, until submission of an apology by the offending member, or both.

2.73 It is notable that there are previous examples where a breach of standing order 52 – in this case failing to table documents pursuant to an order of the House – has resulted in suspension of a member.[116]

2.74 Also of note is an instance in 1996, in which the House required a member to apologise for and withdraw within five sitting days certain imputations she had made in the House, and stipulated that if she failed to comply she would be suspended until she did.[117] In that case, the House later accepted a statement of regret from the member, with the result that the suspension did not take effect.[118]

2.75 The committee also notes that the capacity of the House to adopt standing orders under s 15 of the *Constitution Act 1902* which are punitive in effect is separate from the common law power of the House, based on the principle of reasonable necessity, to regulate the conduct of its members and to protect itself from contempts committed by members. As indicated, this has traditionally been thought of as a protective and self-defensive power, but the committee notes that there is no simple dichotomy between punishment and protection. This is seen in the criminal law for example where protection of the community is a vital component part of the overall purpose of punishment.

115 D Blunt and S Frappell (eds), *New South Wales Legislative Council Practice*, 2nd edition, Federation Press (2021), p 142.

116 S Want and J Moore, *Annotated Standing Orders of the New South Wales Legislative Council*, Federation Press (2018), p 627.

117 S Want and J Moore, *Annotated Standing Orders of the New South Wales Legislative Council*, Federation Press (2018), p 627.

118 S Want and J Moore, *Annotated Standing Orders of the New South Wales Legislative Council*, Federation Press (2018), p 627.

2.76 The committee has no doubt that in an extreme case the House has the common law power to suspend a member for contempt and for conduct which brings the House into disrepute, and while this could not be done for a punitive purpose, it could be done to protect the House from the misconduct and its consequences. The fact it may resemble 'punishment' and even feel for the suspended member like punishment, does not render its purpose truly punitive.

2.77 Ultimately, the committee is of the view, unequivocally, that it would be open to this committee to recommend to the House that a member be suspended under standing order 198 for contempt, or by reference to the broader protective power of the House, for wilfully, knowingly or recklessly publicly revealing information obtained from a privileged return under standing order 52, and to do so for increasingly longer periods for further contempts, in order to protect the functioning of the House.

Finding 4

That it would be open to the House, as an incidence of its protective powers, to suspend a member for contempt for publicly revealing information obtained from a privileged return under standing order 52 and to do so for increasingly longer periods for further contempts.

2.78 Mr Latham is the only member of the Legislative Council known to have breached the privilege of a document in this way.

Finding 5

That the Hon Mark Latham MLC is the only member of the Legislative Council known to have breached the privilege of a document returned under standing order 52.

2.79 That said, noting this is the first case of its kind, the committee is not recommending suspension on this occasion. In not recommending suspension, the committee notes: first, that it cannot be certain that Mr Latham knew, at the time of the first breach on 8 May 2025, that the material was privileged; and second, that this is the first time that Mr Latham has been held formally to account by the committee and the House for such conduct, a process which should have a salutary effect on the Member.

Recommendation 1

That the House not suspend the Hon Mark Latham MLC for contempt, noting that:

- the committee cannot be certain that Mr Latham knew, at the time of the first breach on 8 May 2025, that the material was privileged
- this is the first time Mr Latham has been formally held to account by the committee and the House for such conduct, a process that should have a salutary effect on the member.

2.80 It does, however, expect Mr Latham to offer in the House a statement apologising for the public disclosure on multiple occasions of a document subject to a claim of privilege under standing order 52, and expressing his intention to strictly follow the rules with regard to claims of privilege over documents returned under standing order 52.

2.81 In the event that Mr Latham fails to give this statement of regret and undertaking by the end of this sitting year, the committee recommends that the President re-refer this matter to this committee after the final sitting week of the year for inquiry and report as to the appropriate sanction to be enforced by the House.

Recommendation 2

That following the tabling of this report, the House immediately adopt a resolution requiring the Hon Mark Latham MLC by the end of the 2025 sitting year to stand in his place and deliver the following statement:

> 'I acknowledge the disclosure by me of a Law Enforcement Conduct Commission report on Operation Askern that was the subject of a claim of privilege under standing order 52, including after I was aware of that claim of privilege.
>
> I believed at the time I was acting in the public interest and I was not aware of the claim of privilege when I first spoke in the House.
>
> Thereafter, I believed at the time I had the right to answer media questions about the matter and respond to motions about the matter.
>
> I am sorry for the way I handled this process. I intend to strictly follow the rules of privilege in future and not allow a similar thing to occur.'

Recommendation 3

That in the event that the Hon Mark Latham MLC fails to give the undertaking referred to in Recommendation 2 by the end of the 2025 sitting year, the President re-refer this matter to the Privileges Committee after the final sitting week of the year for inquiry and report as to the appropriate sanction to be enforced by the House.

2.82 In addition, the committee suggests that it would be opportune for the Office of the Clerk to review the procedures for viewing privileged documents returned under standing order 52 and consider making any changes that may be necessary.

Recommendation 4

That the Office of the Clerk review procedures for the viewing of privileged documents and consider making any changes that may be necessary.

Chapter 3 Use of parliamentary privilege to disclose an individual's private address

This chapter considers the disclosure by the Hon Mark Latham MLC under parliamentary privilege of the private home address of an individual. It commences by outlining the freedom of speech available to members by virtue of parliamentary privilege, noting that the only limits on use of freedom of speech are those set by the House itself, and that the Legislative Council, unlike the Senate, has never adopted specific guidelines setting parameters for members' use of the privilege of freedom of speech. Next, noting that the disclosures themselves were publicly recorded, it considers Mr Latham's evidence as to why he thought the disclosure of the individual's home address was justified. Finally, it considers the ability of the House to sanction an abuse of freedom of speech, where there are no guidelines in force to guide the committee or President.

Parliamentary privilege and the ability of the House to regulate members' freedom of speech

3.1 A key aspect of parliamentary privilege is that members enjoy 'freedom of speech', meaning there is no legal liability in the courts for words spoken by members of the Legislative Council in the courses of parliamentary proceedings, except insofar as the protection may be abrogated by statute.[119] As noted in the second edition of *New South Wales Legislative Council Practice*:

> Properly conceived and exercised, the privilege of freedom of speech afforded to members of Parliament is to allow them to raise matters in the public interest and to allow parliament to debate those matters, whilst granting members an appropriate level of protection against threats or reprisals.[120]

3.2 Whilst immune from being questioned or impeached in a court, the exercise of free speech by members is subject to control by the House itself to prevent the privilege from being abused.[121]

3.3 However, unlike other Parliaments, the Legislative Council has never adopted principles for the exercise of freedom of speech by its members, nor are there standing order or guidelines on what can be said in debate.[122] This was highlighted in a statement by the President on 5 August 2025:

> I note that the Legislative Council has never adopted any further rules or resolutions setting out, amongst other things, the manner in which members are expected to exercise their privilege of freedom of speech. Other parliaments have. The Privileges Committee of the Legislative Council has on many occasions recommended that the House act in that area. Of note, in 1996 the committee recommended adoption of a

119 D Blunt and S Frappell (eds), *New South Wales Legislative Council Practice*, 2nd edition, Federation Press (2021), p 89.

120 D Blunt and S Frappell (eds), *New South Wales Legislative Council Practice*, 2nd edition, Federation Press (2021), p 91.

121 D Blunt and S Frappell (eds), *New South Wales Legislative Council Practice*, 2nd edition, Federation Press (2021), p 91.

122 Submission 2, Clerk of the Parliaments, p 5.

draft code of conduct for members, which included the following clause relating to the exercise of freedom of speech:

> Members should be mindful of the privileges conferred when speaking in the House and should seek to avoid causing undeserved harm to any individual who does not enjoy the same privileges.[123]

3.4 There are a number of previous instances where members have been referred to the Privileges Committee for alleged abuse of their freedom of speech in statements made in the House, as noted in the Clerk's submission.[124] Notable instances are:

- the Hon John Martin who in 1936 made statements alleging conspiracy and corruption in the election of another member,
- the Hon Franca Arena who in 1997 made allegations of a high-level political cover up of paedophiles,
- the Hon Michael Gallacher and the Hon John Hannaford who in 1999 raised allegations of sexual harassment against the then Lord Mayor of Sydney, and
- Mr David Shoebridge who in 2011 was referred to the Privileges Committee for criticisms he made of the Police Commissioner's prevention of release of information concerning a serial predator.[125]

3.5 The Clerk's submission further noted that, other than the Franca Arena matter, which went to a Special Commission of Inquiry, the inquiries concluded without any consequence to the member, or indeed any clear finding that there had been an abuse of freedom of speech.[126] Lack of adoption of principles governing the exercise of freedom of speech has been an issue for the Privileges Committee in considering such referrals.[127]

3.6 The Clerk noted that this is a difficult issue, as:

> … any principles have to consider that in some instances the freedom of speech in the House is the only safe option to highlight corruption or misbehaviour by powerful individuals who would otherwise be able to use their financial resources to silence a member. On the other hand the freedom of speech in the House also can be used for unfounded attacks by a member on individuals who have little opportunity to respond except through a limited Citizen's Right of Reply process.[128]

3.7 The Clerk noted that the 'procedural fairness resolution', adopted by the House for committee proceedings following a Privileges Committee inquiry, provides some guidance to members when considering an issue such as this, though the resolution concerns rules for 'witnesses', and the incident referred to this committee concerns an individual who was not a witness.[129]

123 Submission 2, Clerk of the Parliaments, p 5, cites *Hansard*, 5 August 2025, (Ben Franklin).

124 Submission 2, Clerk of the Parliaments, pp 4- 5.

125 Submission 2, Clerk of the Parliaments, p 5.

126 Submission 2, Clerk of the Parliaments, p 5.

127 Submission 2, Clerk of the Parliaments, pp 4-5.

128 Submission 2, Clerk of the Parliaments, p 6.

129 Submission 2, Clerk of the Parliaments, p 6.

However, when matters are raised in the House, there are no guidelines or standing orders on what can be said, other than standing orders concerning reflections on other members.[130]

The allegation against the Hon Mark Latham MLC

3.8 As outlined in Chapter 1, it is alleged that:

- on 26 August, during a Portfolio Committee No. 1 budget estimates hearing, Mr Latham revealed the private home address of a member of the public,
- it was not necessary for Mr Latham to reveal this information in support of his line of questioning,
- although the committee resolved to redact the address from the record, it was nonetheless broadcast live as part of the committee webcast, and
- such breaches of privacy could risk the safety and welfare of individuals and their families.

3.9 In addition to disclosing the address during the budget estimates hearing, Mr Latham also disclosed the address in the House during debate on this referral on 9 September 2025. The address was similarly redacted from the Hansard record by order of the President, however had been aired during the livestream of proceedings.

3.10 In general terms, citizens of New South Wales expect the right to privacy, which a layperson would normally take to include their home address. However, contrary to what might be expected, that right is not a broad, enshrined right at law but is instead a more limited protection. Of note, the *Privacy and Personal Information Protection Act 1998* (PPIP Act) regulates how public sector agencies manage personal information. Other state and federal legislation such as the *Privacy Act 1988* (Cth) do the same. However the common law does not have a comprehensive common law tort for invasion of privacy, and New South Wales courts have not definitively recognised one.

Evidence to this inquiry

3.11 As outlined in Chapter 1, it is not in dispute that Mr Latham twice disclosed the address of a member of the public during parliamentary proceedings: on 26 August 2025 and on 9 September 2025.

3.12 This section outlines the context in which Mr Latham publicly disclosed the individual's address, and Mr Latham's reasoning, as expressed to this committee, for considering it appropriate to reveal information that would otherwise be considered a breach of privacy.

3.13 The first occasion was during questioning of the Minister for Gaming and Racing, the Hon David Harris MP, at a budget estimates hearing on 26 August 2025. The line of questioning related to alleged conflict of interest involving a development application at the home address of the Chief Executive Officer of Racing NSW. After the Minister indicated that he 'had no knowledge' of related issues, Mr Latham went on to ask:

130 Submission 2, Clerk of the Parliaments, p 6.

> Are you aware of a DA approval by Hunters Hill Council in 2021 for major renovation and landscaping work at Peter V'Landys' home at [EVIDENCE OMITTED BY RESOLUTION OF THE COMMITTEE] and the free work that Evergreen undertook for V'Landys on that project and other work at his personal residence?[131]

3.14 The second occasion on which Mr Latham revealed the address of the individual was in the House on 9 September 2025 when Mr Latham said:

> As I pointed out to the hapless Minister at budget estimates, every race club thinks that the racing regulator is endorsing Evergreen Turf as the turf supplier. … That is the background to the point I am making. I am supported by documents that I will be revealing to the House. Graeme Colless, who runs Evergreen Turf, is a close, personal friend of Peter V'Landys. He has conducted an act of corruption at [address redacted].[132]

3.15 The main reason given by Mr Latham as to why he considered it justified to breach the privacy of the individual concerned is that he believed him to be a 'corrupt public official'.[133]

3.16 This committee has not sought nor received any evidence regarding the substantive allegations of corruption Mr Latham has pursued both in budget estimates and in the House.

3.17 When asked by this committee to explain his reasoning for putting the individual's address on the public record, Mr Latham said he had received a whistleblower story detailing alleged corruption: specifically, that the head of Racing NSW had been a referee for a turf company that had done work for racecourses, and that the same company had done free landscaping work at his private address.[134] Mr Latham suggested that putting the address on the public record was relevant to airing the corruption allegations:

> Sometimes whistleblower stories are detailed, and this is one. This is not a simple set of incidents. It turns out, according to the whistleblower—and he has given me everything accurately so far—that Peter V'landys is very good friends with Graeme Collis, the head of Evergreen. Evergreen did a free job at V'landys' home—landscaping and other works. That's publicly available. If you want to go to that address and look up the real estate sites, you can see the pergola and the landscaping and the work that was done around the car access, which I'm told was done for free.[135]

3.18 Mr Latham then repeated his reasoning expressed in the House that individuals engaged in corruption are not entitled to privacy:

> As I said in the House, if you're engaging in corrupt conduct, why have you got rights of privacy? The act of corruption—the free work, from which V'landys then acts as a referee for Evergreen, and they get all these turf contracts at the racecourses—occurred at that particular address.[136]

131 *Transcript of Evidence,* Portfolio Committee no. 1 – Premier and Finance, 26 August 2025, p 18.

132 *Hansard*, NSW Legislative Council, 9 September 2025, p 37.

133 *Hansard*, NSW Legislative Council, 9 September 2025, pp 35, 37, 38.

134 *In camera* evidence, The Hon Mark Latham MLC, 23 October 2025, p 8, cited by resolution of the committee.

135 *In camera* evidence, Mr Latham, 23 October 2025, p 8, cited by resolution of the committee.

136 *In camera* evidence, Mr Latham, 23 October 2025, p 9, cited by resolution of the committee.

3.19 Mr Latham also argued that the address was publicly available, noting that it was subject to a development application, and he had obtained information about that from the local council. He added that, if the address is typed into Google, a lot of information is publicly available:

> Yes, you plug that into Google and real estate sites—there are six or seven of them—and they will show you the back of his house, the side of his house, the top of his house, the front of his house and street views where you rotate around. … I'm not a real estate person myself, but none of this is a state secret.[137]

3.20 Asked whether it was really necessary to state the exact address publicly, Mr Latham suggested it was justified because 'that's where the corruption occurred'.[138]

3.21 Mr Latham dismissed safety concerns for the individual resulting from having his address on the public record, saying: 'I think the V'landys thing – he's got some police report that he is in danger and all that—is baloney. I just think it is untrue.'[139]

Committee conclusion

Committee findings in relation to the allegation

3.22 It is undisputed that Mr Latham twice stated the address of a private individual during parliamentary proceedings: on 26 August 2025 during a Portfolio Committee No. 1 budget estimates hearing, and again on 9 September 2025 during debate in the House. Although in both instances the address was redacted from the record by order of the committee and President respectively, it had already been aired publicly on the webcast of proceedings.

3.23 The question for this committee to consider is whether the disclosure was a justifiable use of the member's freedom of speech, such that the public interest in making the disclosure outweighed the right to privacy of the individual concerned. As indicated, the right to privacy is not a broadly enshrined right either in legislation or at common law. Nevertheless, citizens would generally expect the privacy of their residential address to be respected. It might also generally be thought that the higher and more controversial the profile of a person, the more they might be impacted by such a disclosure, though this will not always be the case.

3.24 The committee is not persuaded by Mr Latham's assertion that disclosing the individual's residential address was essential to pursuing the line of questioning in budget estimates on 26 August 2025. Even if the line of questioning had merit – an issue about which this committee makes no judgement – stating the exact home address of the individual was in no way necessary to question the witness, the Minister for Gaming and Racing, the Hon David Harris MP.

3.25 Nor does the committee accept that disclosing the individual's address was of no serious consequence to them: as Mr Latham himself pointed out, typing an address into an internet search engine will reveal a great deal of information about that property. It will not normally, however, reveal who lives at the property.

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137 *In camera* evidence, Mr Latham, 23 October 2025, p 9, cited by resolution of the committee.

138 *In camera* evidence, Mr Latham, 23 October 2025, p 9, cited by resolution of the committee.

139 *In camera* evidence, Mr Latham, 23 October 2025, p 9, cited by resolution of the committee.

3.26 Mr Latham's decision to repeat the individual's residential address during debate on 9 September 2025, even after the privacy and safety concerns were drawn to his attention through the motion to refer the matter to this committee, was deeply inappropriate. Also notable is that this second occasion occurred barely a month after the President had made a statement in the House in which he reminded members to be mindful of the privileges conferred when speaking in the House and to avoid 'causing undeserved harm to any individual who does not enjoy the same privileges'.[140]

3.27 Even if Mr Latham sincerely believed the allegations and material provided to him by a 'whistleblower' were important to air in Parliament – and again, the committee makes no judgement about the merits of the allegations – stating the address of the individual had no value to making the case. Mr Latham's actions, and his evidence to this committee, show a disregard for the privacy and possible safety of others.

3.28 Further, the committee rejects Mr Latham's assertion that it is acceptable for a member of Parliament to breach the privacy of an individual because that individual 'is corrupt', or, more accurately, because the member believes the individual to be corrupt on the basis of undisclosed material provided by a 'whistleblower'. It is incumbent on all members to use the freedom of speech in the House in a responsible manner, with due regard to possible harm caused to others, including by possibly unfounded allegations, or through breaches of their privacy.

3.29 In this context there is no possible place for statements suggesting any person has 'lost their right to privacy', not least where a member has no apparent rational legitimate purpose for disclosing the information in question. The committee notes that in some circumstances courts grant privacy protections to accused persons and even convicted persons. Categorical approaches such as the one taken by Mr Latham are dangerous and can have serious consequences for members of the community. The powers of the House are the only way in which the community can be protected from such risks given the unique privileges members enjoy.

3.30 The committee therefore makes the following finding.

Finding 6

That:

- the Hon Mark Latham MLC revealed the private home address of an individual during a Portfolio Committee No. 1 budget estimates hearing on 26 August 2025
- it was not necessary to the line of questioning to state the individual's home address, nor did the disclosure add anything of probative value to the line of questioning.
- Mr Latham again stated the home address of the individual in debate in the House on 9 September 2025, despite having privacy and possible safety issues brought to his attention by the referral to this committee
- it was not pertinent to Mr Latham's contribution to the debate to re-state the individual's home address on the record
- Mr Latham's actions were inappropriate, and have a tendency to bring the House into disrepute.

140 *Hansard*, NSW Legislative Council, 6 August 2025, p 61,

3.31 Further, the committee considers that the use of freedom of speech to disclose the private home address of an individual without justifiable cause constitutes an abuse of that freedom of speech.

Finding 7

That, in disclosing the private home address of an individual twice, without justification and in disregard of privacy and possible safety concerns, the Hon Mark Latham MLC has abused the freedom of speech available to members under parliamentary privilege.

Recommendation as to sanction and further steps

3.32 Although the committee finds that Mr Latham's revealing of the private home address of an individual in parliamentary proceedings twice was an abuse of members' freedom of speech, this committee is hampered in recommending any sanction by the lack of guardrails or guidance adopted by the House to inform members' exercise of their freedom of speech.

3.33 As outlined above, and as this committee has stated previously in past reports, the privilege of freedom of speech is fundamental to the work performed by members of Parliament. In the Westminster system, the privilege of freedom of speech is considered to be an absolute privilege, such that, subject to the rules of debate, a member may say whatever they see fit, protected from any external action arising therefrom.[141]

3.34 Members' freedom of speech is limited to an extent by rules the House itself imposes, such as the rules of debate.[142] However, as noted by the Clerk, the only limitation formally imposed by the Standing Orders of the Legislative Council concern reflections on other members. Despite a recommendation in 1996 and subsequent reports by the Privileges Committee,[143] the House has never adopted a resolution to put parameters around the use of members' freedom of speech, leaving it to the President and this committee to rule on individual circumstances.

3.35 In this case, given there has been no specific breach of the rules of debate, or even the committee procedural fairness resolution, the committee is somewhat hampered in recommending any sanction, even if self-protective only. This does not mean that in future, even in the absence of a clear breach of a rule or standard, the committee might not recommend specific protective action.

3.36 In this context, the committee notes the Clerk's submission, which highlighted:

141 Standing Committee on Parliamentary Privilege and Ethics, NSW Legislative Council, *Report on inquiry into the conduct of the Honourable Franca Arena MLC*, (Report no. 6, June 1998), p 50.

142 Standing Committee on Parliamentary Privilege and Ethics, NSW Legislative Council, *Report on inquiry into the conduct of the Honourable Franca Arena MLC*, (Report no. 6, June 1998), pp 50-51.

143 Standing Committee on Parliamentary Privilege and Ethics, *Report on inquiry into the establishment of a draft code of conduct for members*, Report No 3, October 1996, Appendix 1, p 6; Standing Committee on Parliamentary Privilege and Ethics, *Report on inquiry into statements by Mr Gallacher and Mr Hannaford, Report No 11*, November 1999, pp 18-19. The matter was also addressed in Privileges Committee, *Statements made by Mr David Shoebridge*, Report No 57, November 2011, p 7.

- this committee's proposal in 1996 that the House adopt guidelines concerning the use of freedom of speech, 'to encourage Members to make use of that right in a responsible manner with due regard to the damage which may be caused by unfounded allegations', and
- the Senate's Privileges Resolution no. 9, which provides guidelines for senators to consider when speaking in the Senate or committees, and provides a reference point for the President in drawing members' attention to parameters for use of freedom of speech.

3.37 As indicated by the Clerk, it is now almost 30 years since the Privileges Committee first proposed that the House take action in this space and it is almost 40 years since the Australian Senate adopted a resolution setting out amongst other things the manner in which senators are expected to exercise their freedom of speech. That resolution provides:

> **9 Exercise of Freedom of Speech**
>
> (1) That the Senate considers that, in speaking in the Senate or in a committee, senators should take the following matters into account:
>
> (a) the need to exercise their valuable right of freedom of speech in a responsible manner;
>
> (b) the damage that may be done by allegations made in Parliament to those who are the subject of such allegations and to the standing of Parliament;
>
> (c) the limited opportunities for persons other than members of Parliament to respond to allegations made in Parliament;
>
> (d) the need for senators, while fearlessly performing their duties, to have regard to the rights of others; and
>
> (e) the desirability of ensuring that statements reflecting adversely on persons are soundly based.
>
> (2) That the President, whenever the President considers that it is desirable to do so, may draw the attention of the Senate to the spirit and the letter of this resolution.

3.38 The committee notes that this resolution does not limit the freedom of speech of senators, but does state the view of the Senate that the freedom of speech should be exercised by members in a responsible manner, with due regard to possible damage to persons the subject of allegations, the limited opportunities for those persons to respond, and the desirability of ensuring that statements reflecting adversely on others are soundly based.

3.39 In its 2011 report on statements made by Mr David Shoebridge, this committee observed:

> While the Council has not adopted similar guidelines governing the exercise of the privilege of freedom of speech, it is nevertheless understood that it is the responsibility of members to ensure that their privilege of freedom of speech is used responsibly and is not abused. A member should take steps before making a potentially damaging accusation against an individual in Parliament to ensure not only that evidence exists to

> support the accusation but that it comes from a reliable source. Members should also consider the basis, cogency and responsibility of statements they may make.[144]

3.40 More recently, on 6 August 2025, the President gave a ruling in the House as follows:

> Whilst the immunity attaching to speech and debates in the Legislative Council is absolute in the courts, the exercise of free speech by members in this Chamber is still subject to control by the House itself. The House is responsible for regulating members' use of the freedom of speech that they enjoy. The rules of debate are one aspect of that; the sub judice convention is another. But more generally, I note that the Legislative Council has never adopted any further rules or resolutions setting out, amongst other things, the manner in which members are expected to exercise their privilege of freedom of speech. Other parliaments have. The Privileges Committee of the Legislative Council has on many occasions recommended that the House act in that area. …
>
> In the absence of the House having acted, it is very difficult for me as President to take any further action in relation to the spoken words of members in notices.[145]

3.41 In light of this committee's latest finding that Mr Latham abused the privilege of freedom of speech available to him and that his actions were both inappropriate and have brought the House into disrepute, the committee believes it is high time that the House act in this area, and provide some guidance to members, the President and this committee as to the appropriate use of the privilege of freedom of speech. The committee therefore recommends that the Legislative Council immediately adopt an equivalent (with some small variations) of the Senate privileges resolution on the exercise of freedom of speech.

144 Privileges Committee, *Statements made by Mr David Shoebridge*, Report No 57, November 2011, p 7.

145 *Hansard*, NSW Legislative Council, 6 August 2025, p 61,

Recommendation 5

That the House immediately adopt the following resolution setting out amongst other things the manner in which members of the House are expected to exercise their privilege of freedom of speech:

Exercise of Freedom of Speech

(1) That the Legislative Council considers that, in speaking in the House or in a committee, members should take the following matters into account:

(a) the need to exercise their valuable right of freedom of speech in a responsible manner befitting the high office they hold,

(b) the damage that may be done by allegations made in Parliament to those the subject of them and to the standing of Parliament,

(c) the limited opportunities for persons other than members of Parliament to respond to allegations made in Parliament,

(d) the need for members, while fearlessly performing their duties, to have regard to the rights and interests of others,

(e) the desirability of ensuring that statements reflecting adversely on persons are soundly based

(f) the importance of carefully assessing the purpose and necessity of making allegations, engaging in adverse reflections and in otherwise negatively impacting persons through the exercise of free speech in Parliament.

(2) That the President, whenever the President considers that it is desirable to do so, may draw the attention of members to the spirit and the letter of this resolution.

3.42 Should such a resolution require further review in the future, the committee would be willing to look at the matter further. But in light of recent events, it is the committee's view that it is high time for the House to take action in this space.

Appendix 1 Rules for viewing privileged documents

LEGISLATIVE COUNCIL D25/016543

RULES FOR VIEWING DOCUMENTS WITH CLAIMS OF PRIVILEGE OR PERSONAL INFORMATION

1. To ensure the availability of the conference room and the documents to be viewed, members are requested to make a booking to view returns whenever possible. Bookings can be made with the Office of the Clerk on 9230 2773.

2. Before examining documents all members are required by standing order to sign a register.

3. Documents subject to a claim of privilege or personal information can only be **viewed** by current Members of the Legislative Council.

4. Documents cannot be photographed, copied or scanned. Brief note taking is appropriate, however any notes must be to inform the member in the course of their parliamentary duties only, and also cannot be disclosed.

5. Members should not discuss the contents of the documents with any persons except with other current Members of the Legislative Council. To do so may constitute a contempt.

6. Standing order 52 provides a process to members to dispute claims of privilege via evaluation by an Independent Legal Arbiter. Members should lodge a dispute in writing with the Clerk. Disputes should not disclose privileged information, but address the basis of the claim. Following evaluation by the Arbiter, a resolution of the House is required to implement any recommendations, including that any documents be made public, either in full or with certain redactions.

7. Standing order 52 also provides a process for members to request redacted versions of personal information documents. Occasionally agencies proactively provide redacted personal information documents in the public return. When this does not happen, members may write to the Clerk requesting documents be provided with personal information redacted.

8. Please take due care when viewing documents by keeping documents in order and in the condition received, including any dividers or clips. To assist in maintaining the documents in an organised and orderly manner, we request that documents be returned to the box from which they were taken and in the order they were found. Documents and boxes must not be marked.

9. No documents may be removed from the conference room, and the door must remain open.

10. In accordance with relevant resolutions and memorandum concerning the Records of the House, returns not viewed for over 12 months may be transferred to State Archives for storage. Members will be consulted should storage needs necessitate the transfer of recently viewed returns. Members may request the retrieval of transferred returns at any time.

Clerk of the Parliaments
Approved: April 2025

Appendix 2 Submissions

No.	Author
1	Law Enforcement Conduct Commission
2	Clerk of the Parliaments
3	NSW Police Force

Appendix 3 Hearings

Date	Name
Thursday 23 October 2025 Macquarie Room Parliament House, Sydney *(In-camera hearing)*	The Honourable Mark Latham MLC

Appendix 4 Minutes

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)

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. ***

7. Inquiry into unauthorised disclosure of privileged information by the Hon Mark Latham MLC

7.1 Terms of reference

The committee noted the following terms of reference referred by the House on 5 August 2025.

That:

(a) the Privileges Committee inquire into and report on the unauthorised disclosure of privileged information by the Honourable Mark Latham MLC, including the contents of a privileged report returned to this House by the NSW Police Force pursuant to an order for papers under standing order 52 regarding police management and administration passed on 7 August 2024,

(b) the Privileges Committee inquire into and report on:

(i) any threats made from members within Parliament towards other members or staff within Parliament,

(ii) the progress made by the Government and political parties in implementing the recommendations of the Broderick Report and any changes since the review that have contributed to making NSW Parliament a safer and more respectful working environment,

(c) notwithstanding anything to the contrary in the standing and sessional orders, the Honourable Mark Latham MLC not serve as a substitute or participating member of the Privileges Committee for the purposes of this inquiry, and

(d) the committee report by 1 October 2025*

* Legislative Council Minutes No. 110—Tuesday 5 August 2025, pp 2579-2580.

8. Adjournment

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

Rhia Victorino
Committee Clerk

Minutes no. 26

Thursday 11 September 2025
Privileges Committee
Room 1136, Parliament House, Sydney, 12.46 pm

1. Members present

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

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

2. Previous minutes

Resolved, on the motion of Mr Roberts: That draft minutes no. 25 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received

- ***

4. Inquiry into the disclosure of privileged information by the Honourable Mark Latham MLC

4.1 Addition to terms of reference

The committee noted the resolution of the House of 9 September 2025 referring additional matters to the committee for consideration as part of the inquiry.

(1) That this House notes that, under standing order 52,

(a) a return to order is to include an indexed list of all documents tabled, clearly identifying which documents are subject to a claim of privilege, (b)where a document is considered to be privileged, the documents are made available only to members of the Legislative Council, and are not to be published or copied without an order of the House,

(c) a member may dispute the validity of the claim of privilege in relation to particular documents by communication in writing to the Clerk, following which an Independent Legal Arbiter is appointed for evaluation and report as to the validity of the claim.

(2) That this House notes that:

(a) during debate on a condemnation motion regarding abuses of privilege by the Honourable Mark Latham MLC on 5 August 2025, Mr Latham revealed further information derived from a report delivered by the Law Enforcement Conduct Commission (LECC) in relation to Operation Askern,

(b) during an interview on 6 August 2025 on Sydney radio station 2SM the Honourable Mark Latham MLC repeated this information,

(c) the report in question was returned to this House by the NSW Police Force and remains subject to a non-publication order, as well as remaining subject to claims of privilege and personal information, the validity of which have not been challenged by any member of this House,

(d) the report in question has not been published under a subsequent order of this House and remains protected under the claims of privilege and personal information.

(3) That this House further notes that during debate in this House on 5 August 2025, the Honourable Mark Latham MLC stated that he:

(a) viewed the report in the Clerk's office,

(b) was aware that the report was subject to a non-publication order,

(c) formed a personal opinion that the report ought not to be subject to a non-publication order, and,

(d) would "do exactly the same thing" if he had the opportunity to do it again.

(4) That this House notes:

(a) on 26 August 2025 at the Portfolio Committee No. 1 – Premier and Finance budget estimates hearing for the portfolios of Aboriginal Affairs and Treaty, Gaming and Racing, Veterans, the Central Coast, and Medical Research, the Honourable Mark Latham revealed the private home address of a member of the public,

(b) that it was not necessary for Mr Latham to reveal this information to support his line of questioning,

(c) that although the committee resolved to redact this information from the record of proceedings, the incident was nonetheless broadcast to the general public during the livestream of proceedings, and

(d) such breaches of privacy could risk the safety and welfare of citizens and their families.

(5) That this House notes these further breaches of privilege by the Honourable Mark Latham MLC and refers them for further consideration as part of the inquiry into the breach of privilege by the Honourable Mark Latham MLC, referred to the Privileges Committee by this House on 5 August 2025.*

* Legislative Council Minutes No. 113 —Tuesday 9 September 2025, pp 2657-2659.

4.2 Approach to the inquiry

Resolved, on the motion of Mr Nanva: That:

- the inquiry into the disclosure of privileged information by the Honourable Mark Latham MLC be progressed in two parts:
    - Part 1 – Disclosure of privileged information by the Hon Mark Latham MLC (including the additional matters referred to the committee by the House on 9 September 2025)
    - Part 2 – Threats made by members and progress implementing recommendations of the Broderick Report
- a statement be included on the inquiry webpage advising of the committee's approach to the inquiry, including inquiry timelines.

4.3 Conduct of inquiry for Part 1 – Disclosure of privileged information by the Hon Mark Latham MLC

Submission invitations and closing date

Resolved, on the motion of Mr Roberts: That the closing date for submissions be Friday 26 September 2025, and that submission invitations note that the committee has agreed to progress the inquiry in two parts, with submissions for Part 2 to be invited at a later date.

Stakeholder list

Resolved, on the motion of Mr Roberts: That the following stakeholders be invited to make submissions:

- Hon Mark Latham MLC
- Clerk of the Parliaments and Clerk of the Legislative Council
- Leader of the Government in the House
- All members of the Legislative Council
- The Law Enforcement Conduct Commission (LECC), noting the committee's interest in any further information they are in a position to provide in relation to the reasons for the non-publication order referred to in the inquiry terms of reference.
- NSW Police Force, noting the committee's interest in any further information they are in a position to provide in relation to the reasons for the claim of privilege over the LECC report referred to in the inquiry terms of reference.

Hearings
Resolved, on the motion of Mr Roberts: That the need and timeline for hearings be considered by the committee following the receipt of submissions.

4.4 Conduct of inquiry for Part 2 – Threats against members and progress implementing recommendations of the Broderick Report
Resolved, on the motion of Mr Nanva: That the committee determine the conduct of Part 2 of the inquiry, including the inquiry timeline, following the tabling of the report for Part 1.

4.5 Extension of reporting date
Resolved, on the motion of Mr Nanva: That the Chair, in the next sitting week:

- notify the House of the committee's intention to progress the inquiry and report in two parts
- seek an extension from the House until Thursday 13 November 2025 to report on Part 1, and to report on Part 2 on a date to be determined by the committee.

5. ***

6. Adjournment
The committee adjourned at 1.06 pm until Wednesday 8 October 2025.

Sharon Ohnesorge
Committee Clerk

Minutes no. 30
Wednesday 8 October 2025
Privileges Committee
Macquarie Room, NSW Parliament House, 12. noon

1. Members present
Mr Lawrence *(Chair)*
Mrs Maclaren-Jones *(Deputy Chair)*
Mr Fang
Ms Higginson
Mr Martin (substituting for Mr Roberts)
Mr Nanva
Mr Primrose

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

2. Previous minutes
Resolved, on the motion of Mrs Maclaren-Jones: That draft minutes no. 26 be confirmed.

3. Correspondence
The committee noted the following items of correspondence:

Received
- ***

Sent

- ***

4. ***

5. Inquiry into the unauthorised disclosure of privileged information by the Hon Mark Latham MLC

5.1 Amendment to terms of reference (extension of reporting date)

The committee noted the resolution of the House on 17 September 2025 extending the reporting date:

> That the resolution of the House of 5 August 2025 relating to the reference to the Privileges Committee for its inquiry into the unauthorised disclosure of privileged information by the Honourable Mark Latham MLC be amended by omitting paragraph (d) and inserting instead:
>
> (d) the committee report:
>
> (i) on matters referred in paragraph (a), and on the additional matters referred by the House on 9 September 2025, by 13 November 2025,
>
> (ii) on matters referred in paragraph (b), on a date to be determined by the committee.

5.2 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 1, 2 and 3.

5.3 Proposed in-camera hearing

The Chair noted that no submission had been received from Mr Latham.

Resolved, on the motion of Mrs Maclaren-Jones: That Mr Latham be invited to give evidence at an *in camera* hearing to be held on Thursday 23 October 2025 at the commencement of the dinner break at 6.30 pm, or at the adjournment of the House, whichever is earlier.

6. ***

7. ***

8. ***

9. Adjournment

The committee adjourned at 12.53 pm until 6.45 pm Thursday 23 October 2025.

Sharon Ohnesorge
Committee Clerk

Minutes no. 33
Thursday 23 October 2025
Privileges Committee
Macquarie Room, NSW Parliament House, 6.43 pm

1. Members present

Mr Lawrence *(Chair)*
Mrs Maclaren-Jones *(Deputy Chair)*
Mr Fang
Ms Higginson (from 6.46 pm)
Mr Nanva
Mr Primrose
Mr Roberts

Secretariat in attendance: Stephen Frappell, Sharon Ohnesorge, Rhia Victorino, Peta Leemen, Angeline Chung

2. Correspondence

The committee noted the following items of correspondence:

Received

- ***

Sent

- 8 October 2025 – Email from secretariat to the Hon Mark Latham MLC, inviting him to give evidence at an *in camera* hearing on 23 October 2025 regarding the inquiry into the disclosure of privileged information by the Hon Mark Latham MLC.
- ***

3. Inquiry into the disclosure of privileged information by the Honourable Mark Latham MLC

3.1 Transcript of 2SM radio interview with Mr Latham

The committee noted the transcript of an interview with Mr Latham on Sydney radio station 2SM on 6 August 2025 referred to in the terms of reference.

3.2 In camera hearing

Resolved, on the motion of Mrs Maclaren-Jones: That the committee proceed to take evidence from the Hon Mark Latham MLC in camera.

The committee proceeded to take in camera evidence.

Persons present other than the committee: Stephen Frappell, Sharon Ohnesorge, Rhia Victorino, Peta Leemen, Angeline Chung, and Hansard reporters.

Mr Latham was examined under his oath as a member of Parliament.

The evidence concluded and the witness withdrew.

The *in camera* hearing concluded at 7.25 pm.

4. *

5. Adjournment
The committee adjourned at 7.29 pm until 10 November 2025 at 10.00 am.

Sharon Ohnesorge
Committee Clerk

Draft minutes no. 34
Monday 10 November 2025
Privileges Committee
Room 1254, NSW Parliament House, 10.07 am.

1. Members present
Mr Lawrence *(Chair)* (*by videoconference*)
Mrs Maclaren-Jones *(Deputy Chair)* (*by videoconference*)
Mr Fang (*by videoconference*)
Ms Higginson
Mr Nanva (*by videoconference*)
Mr Primrose
Mr Roberts

Secretariat staff in attendance: Stephen Frappell, Sharon Ohnesorge, Rhia Victorino, Madeleine Dowd, Peta Leemen.

2. Previous minutes
Resolved, on the motion of Mr Primrose: That draft minutes no. 32 and 33 be confirmed.

3. Correspondence
The committee noted the following items of correspondence:

Received
- ***

Sent
- ***

4. ***

5. Inquiry into the disclosure of privileged information by the Honourable Mark Latham MLC – Part 1

5.1 Circulation of Chair's draft report
Resolved, on the motion of Mr Fang: That the Chair's draft report be circulated to the committee less than seven days prior to the date scheduled for the report deliberative.

5.2 References to in camera transcript in draft report

Resolved, on the motion of Ms Higginson: That:

- the committee authorise the publication of quotations and references to the *in camera* hearing transcript from 23 October 2025 in its report
- the Chair write to Mr Latham to advise of the committee's intention to quote from and refer to the *in camera* hearing transcript from 23 October 2025 in its report, noting the report is due to be tabled on 13 November in the House.

5.3 Consideration of Chair's draft report

The Chair submitted his draft report entitled *Unauthorised disclosure of privileged information by the Honourable Mark Latham MLC*, which, having been previously circulated, was taken as being read.

Chapter 1

No amendments.

Chapter 2

Mr Roberts moved: That paragraph 2.77 be amended by:

a) omitting 'Mr Latham be suspended' and inserting instead 'a member be suspended'

b) inserting 'wilfully, knowingly or recklessly' before 'publicly revealing information obtained under standing order 52'.

Question put and passed.

Mr Roberts moved: That:

a) paragraph 2.78 be amended by omitting ', and has done so on repeated occasions. Mr Latham should consider himself on notice that any subsequent breaches by him found by this committee would likely lead this committee to recommend a significant suspension from the House and/or to consider other protective sanctions.' after 'a document in this way'.

b) Finding 5 be amended by omitting ', and as done so on repeated occasions. Any subsequent breaches by him found by this committee would likely lead this committee to recommend a significant suspension from the House and/or to consider other protective sanctions' after 'standing order 52'.

Question put and passed.

Mr Roberts moved: That the following new recommendation be inserted after Recommendation 3:

'**Recommendation X**

That the Clerk's office review procedures for the viewing of privileged documents and consider making any changes that may be necessary.'

Question put and passed.

Chapter 3

Mr Roberts moved: That:

a) paragraph 3.31 be amended by omitting 'an abuse of that freedom of speech' and inserting instead 'a misuse of that freedom of speech'

b) Finding 7 be amended by omitting 'has abused the freedom of speech' and inserting instead 'has misused the freedom of speech'.

Question put.

The committee divided.

Ayes: Mr Fang, Mrs Maclaren-Jones, Mr Roberts.

Noes: Ms Higginson, Mr Lawrence, Mr Nanva, Mr Primrose.

Question resolved in the negative.

Mr Roberts moved: That paragraph 3.32 be amended by omitting 'an abuse of members' freedom of speech' and inserting instead 'a misuse of members' freedom of speech'.

Question put.

The committee divided.

Ayes: Mr Fang, Mrs Maclaren-Jones, Mr Roberts.

Noes: Ms Higginson, Mr Lawrence, Mr Nanva, Mr Primrose.

Question resolved in the negative.

Mr Primrose moved: That:

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

The submissions and correspondence relating to the inquiry be tabled in the House with the report

> Upon tabling, all unpublished attachments to submissions be kept confidential by the committee

Upon tabling, all unpublished submissions and correspondence related to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee

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

The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee

Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting

Chair to table the report in the House on Thursday 13 November 2025.

Question put and passed.

6. Inquiry into unauthorised disclosure of privileged information by the Hon Mark Latham MLC – Part 2 (threats against members and implementation of the Broderick report recommendations)

Resolved, on the motion of Ms Higginson: That Part 2 of the inquiry into unauthorised disclosure of privileged information by the Hon Mark Latham MLC (concerning threats against members and implementation of the Broderick report) not commence until after the inquiry into potential breach of the privileges of the Hon Mark Latham MLC by Racing NSW is completed.

7. ***

8. ***

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9. Adjournment

The committee adjourned at 10.53 am *sine die*.

Sharon Ohnesorge
Committee Clerk