

# Australian government defies the law to block access to “National Cabinet” documents

Mike Head  
7 December 2021

The Liberal-National Coalition government is unlawfully continuing to deny access to documents from the “National Cabinet” that it formed with state and territory government leaders last year to control the official response to the COVID-19 disaster.

Prime Minister Scott Morrison’s government is defying a definitive ruling on August 5 by the Administrative Appeals Tribunal (AAT) that the self-titled National Cabinet is not a genuine subcommittee of the federal cabinet and thus its minutes and records are not exempt from release under the Freedom of Information (FOI) Act.

For weeks Morrison’s government has been flatly rejecting all applications by journalists, politicians and members of the public for copies of the records of this unelected body, including about its pandemic failures and misleading information on the public health crisis. So far, more than 50 applications have been filed.

Such open rejection of a legal ruling sets an extraordinary precedent for illegal methods of rule in the face of deepening social and political discontent.

Opposition Labor Party leader Anthony Albanese last week made a show of objecting to the government’s stand, describing it as “extraordinary.” He told the *Guardian* that Morrison’s “obsession with secrecy has undermined the law that protects all Australians’ right to know and, if left unchecked, threatens other fundamental rights.”

The Coalition is not acting alone, however. It has the backing of all the state and territory governments, the majority of which are led by the Labor Party. In September, as members of the National Cabinet, they responded to the AAT ruling by unanimously reasserting that disclosure of the documents would “undermine the trust between the commonwealth and the states and territories” and “prevent full and frank

discussions.”

This bipartisan stand reveals the desperation of all the governments involved to cover up the misleading claims they have made throughout the pandemic about acting on health advice when refusing to take the necessary safety measures, including effective workplace and school closures. That has resulted in the ongoing Delta variant wave, which has already killed more than a thousand people, and the emerging spread of the highly-infectious Omicron mutant.

These governments are now determined to lift every remaining limited safety restriction and force the population to “live with the virus,” regardless of how many infections and deaths are caused by Omicron and future variants.

The implications of such government secrecy and cover-up go beyond the pandemic. The National Cabinet can make decisions covering a wide range of developments, including so-called national security, as well as healthcare, education and housing.

In August, Federal Court Justice Richard White, a presidential member of the AAT, issued an unequivocal judgment. He ruled: “The mere use of the name ‘National Cabinet’ does not, of itself, have the effect of making a group of persons using the name a ‘committee of the Cabinet.’ Nor does the mere labelling of a committee as a ‘Cabinet committee’ have that effect.”

The decision underscored the lack of any constitutional, let alone democratic, basis for this body, which functions as a de facto national coalition government that has laid down the economic reopening “roadmap” demanded by the corporate elite.

The AAT decision potentially cleared the way for members of the public to apply to obtain the documents of this body and also those of a medical sub-committee

that provides the “health advice” that government leaders have invoked to justify decisions to reduce safety restrictions.

Rather than abide by the ruling, or appeal against it, the Morrison government brought forward a bill to seek to overturn it by explicitly declaring that the National Cabinet was exempt from FOI requests.

Far from opposing the government’s bill, the Labor leadership agreed to refer it for inquiry by the government-controlled Senate finance and public administration committee.

Predictably, that committee backed the bill in October, despite numerous legal and other expert witnesses describing it as “untenable,” “incompatible with democratic principles” and “highly dangerous to the rule of law.”

Labor members of the committee issued a dissenting report, which only objected to the ban on FOI access because it was not necessary. They said other exemptions in the FOI Act, covering “Commonwealth-state relations” and “deliberative processes,” would “provide more than adequate protection” for the closed-door discussions.

The Greens filed their own dissenting report, largely along the same lines. They cited legal opinions given to the committee that “existing exemptions were sufficient to prevent inappropriate disclosure of Federal-State negotiations or matters affecting national security.”

The Greens’ main concern was that the government was further undermining trust in the existing political order, of which they have become a key part over the past two decades. “Public confidence in government is at an all-time low, at a time when public trust has never been more important,” the Greens warned.

In a further dissent, independent Senator Rex Patrick, who had taken the legal challenge to the AAT, said it was “most disturbing” that the government had decided to “ignore Justice White’s ruling” and embark on “politically driven obstruction” designed to “subvert the application of Australia’s FOI law.”

None of these dissenting reports referred to the obvious connection between the bill and the raging global pandemic.

The National Cabinet was formed by Morrison and the state and territory government leaders in March last year, just as demands emerged among teachers, industrial workers, health workers and other working

people for shutdowns and other essential safety measures to protect public health and lives.

At the body’s inaugural meeting, the Labor representatives all agreed with Morrison to cloak their proceedings in secrecy. They adopted “longstanding conventions” of “collective responsibility and solidarity” and “strictly confidential” discussions and documents, essentially forming a bipartisan front.

They also agreed to extend this secrecy to the Australian Health Protection Principal Committee (AHPPC), led by the federal, state and territory chief medical officers, that supplies the official health advice for the government leaders to invoke to justify their edicts.

Now these governments are facing deepening hostility over their “reopening” of schools and all workplaces for the sake of corporate profit.

The federal government’s brazen efforts to keep the National Cabinet records hidden from public view are part of a broader assault on basic democratic rights to stifle dissent. This includes the ramming through parliament in August of anti-democratic laws to de-register all political parties without a member in parliament unless they submitted a list of 1,500 members—treble the previous requirement—in just three months.

These laws could strip the Socialist Equality Party (SEP) and 35 other registered parties of the right to stand candidates under their party names in the looming federal election. The National Cabinet cover-up underscores the necessity for the SEP’s campaign against these anti-democratic laws. We urge workers and youth to become electoral members of the SEP to ensure our party retains its registration in order to advance the fight for a socialist program to end the pandemic and overturn the capitalist profit system itself.



To contact the WSWs and the Socialist Equality Party visit:

**[wsws.org/contact](https://www.wsws.org/contact)**