

MORRISON GOVERNMENT'S LAST SECRECY HURRAH Attorney-General Orders Tribunal Hearing On East Timor Documents To Be Held in Secret

Office of Senator Rex Patrick, 1 May 2022

In what could be the last secrecy hurrah in the reign of Scott Morrison, the Federal Attorney-General Michaelia Cash has issued a so-called 'public interest' certificate in an effort to suppress parts of a Howard Government Cabinet submission concerning East Timor and the Timor Sea boundary negotiations.

Independent Senator Rex Patrick is engaged in an appeal to the Administrative Appeals Tribunal to secure the public release of the Cabinet submission which is held by the National Archives of Australia (NAA). This is part of a wider effort to expose the Howard Government's approach to the Timor Sea boundary negotiations and the background to the illegal bugging of the Timorese Cabinet in 2004.

"Consistent with Scott Morrison's secrecy addiction, Michaelia Cash has both intervened in the case and issued a rare 'public interest' certificate to prevent disclosure of the Government's evidence as to why the Howard Government's strategy to steal Timor-Leste's oil and gas resources should not be released," Senator Patrick said. "The certificate also has the effect of closing the public from parts of the hearing into the matter".

"This AAT appeal deals with a very significant matter that goes to the heart of Australia's international reputation and our relations with our neighbour Timor-Leste."

"Prime Minister John Howard's approach to the Timor Sea negotiations remains a dark and ugly secret. It's so politically embarrassing to the Liberal-Nationals Coalition that in an extraordinary legal case lawyer and former ACT Attorney-General Bernard Collaery is currently defending criminal charges for allegedly revealing the discreditable truth of Australian espionage operations against Timor-Leste."

"In that case the ACT Supreme Court's Court of Appeal has rejected a similar claim for secrecy, although the Government has sought special leave for that transparency judgement to be examined by the High Court," said Senator Patrick.

"Now, in a separate but closely related legal matter, Michaelia Cash is trying to suppress the secret diplomatic strategy that led to those illegal and unethical spying operations against our friend and neighbour. Sadly, unlike in the courts, the certificates in the AAT are conclusive. Whatever the Attorney-General says, goes".

"This is the latest twist in a long campaign to extract these dirty secrets from the dark vaults of our National Archives."

"I first applied in January last year for access to the still classified Howard Government Cabinet submission JH00/0293 of September 2000 which sets out Australia's strategy at the beginning of the Timor Sea negotiations. The National Archives initially refused to release even one word from the document; [so in August 2021 I commenced action in the Administrative Appeals Tribunal.](#)"

“Some months after I had lodged my appeal in the AAT, the Department of Foreign Affairs and Trade belatedly advised NAA that some of the previously secret Cabinet submission was suddenly no longer security classified. However much remains redacted and those redactions are currently before the Tribunal for decision.”

“The Government has been quite inconsistent, indeed evasive, in identifying the international affairs or national security grounds it wishes to argue to justify the continuing suppression of information that is more than two decades old.”

“As recently as 16 March the Attorney-General’s Department advised that they were unable to say what the ground the Attorney-General proposed to rely in seeking to suppress the remaining information. As a consequence I was unable to respond to any arguments the Government wished to make because no arguments were made. It was only *after* I wrote to the Tribunal advising I would resist any secrecy request that the Australian Government Solicitor emailed me to provide a letter from the Attorney-General advising she has issued a public interest certificate. Even in her letter no detailed reasons are presented, only a blanket claim that the release of information would ‘prejudice the security, defence or informational relations of Australia’.”

Senator Patrick said: “This is just not good enough, and unsustainable in the light of evidence already presented to the AAT that includes [an affidavit in which former Timor-Leste President Xanana Gusmão says the release of the Howard Cabinet information would “be a positive outcome” for relations](#) between Australia and Timor-Leste and that ‘any continued secrecy relating to those events only serves to create a further sense of suspicion and impropriety between neighbours’.”

“These suppressed Howard Government Cabinet papers relate to a shameful episode in Australia’s diplomacy, a story that continues to this day with the unjust prosecution of Bernard Collaery.”

“After decades of controversy, revelations of Australian spying and highly secret criminal trials, it’s high time that the whole story is revealed so that Australian-Timorese relations can move forward on a new basis of trust and transparency.”

“It’s hard to see Senator Cash’s action as anything other than a political exercise to push off any further release of information until well after the election.”

"The Morrison Government has screwed up our foreign relationship with the Solomon, permitting the Chinese to establish a foothold in the South Pacific. have they not learnt anything".

“These Cabinet papers should not be left in the Government’s black hole of shameful secrets. Whist the open hearings are scheduled for the week before the polls, the secret hearings have been delayed until after the election. I strongly urge Mark Dreyfus MP QC to be prepared to reconsider this and revoke the certificate should he be appointed as Attorney-General.”

Senator Cash's public interest certificate and letter can be found [here](#).