

REPORT ON PROCEEDINGS BEFORE

**SELECT COMMITTEE ON THE RELATIONSHIP BETWEEN
THE DURAL CARAVAN INCIDENT AND THE PASSAGE OF
RELEVANT BILLS THROUGH THE LEGISLATIVE
COUNCIL**

CORRECTED

At Macquarie Room, Parliament House, Sydney on Friday 20 June 2025

The Committee met at 10:45 am

PRESENT

The Hon. Rod Roberts (Chair)
The Hon. Susan Carter (Deputy Chair)
The Hon. Greg Donnelly
The Hon. Wes Fang
Ms Sue Higginson
The Hon. Bob Nanva
The Hon. John Ruddick
The Hon. Emily Suvaal

The CHAIR: Welcome to the third hearing of the Select Committee on the Relationship between the Dural Caravan Incident and the Passage of Relevant Bills through the Legislative Council. My name is Rod Roberts, and I am the Chair of the Committee. Today's hearing is scheduled for the Committee to hear from staff from the Premier's office and from the office of the Minister for Police and Counter-terrorism, who have been ordered to attend under summons. I ask if any of the following witnesses are present to give evidence: Mr James Cullen, Mr Edward Ovadia, Ms Sarah Michael, Mr Ross Neilson or Dr Tilly South? It appears, obviously, that those witnesses are not in attendance. However, to ensure procedural fairness to the witnesses, I ask a member of the Committee to move a motion to adjourn the hearing for 30 minutes to allow witnesses who may be running late—stuck in a lift, can't find this room in particular—giving them the opportunity to attend.

The Hon. WES FANG: So moved, Chair.

The CHAIR: So moved? All those in favour say "aye". I think the ayes have it. The ayes have it. In that case, we will adjourn for 30 minutes to afford procedural fairness to ensure that witnesses are available to attend if they so desire.

(Short adjournment)

The CHAIR: Welcome back to the third hearing of the Select Committee on the Relationship between the Dural Caravan Incident and the Passage of Relevant Bills through the Legislative Council. I ask again if any of the following witnesses are present to give evidence: Mr James Cullen, Mr Edward Ovadia, Ms Sarah Michael, Mr Ross Neilson or Dr Tilly South? The witnesses are not in attendance and have therefore failed to comply with the summons issued by the Committee, pursuant to section 4 (2) of the Parliamentary Evidence Act 1901. For any witness not a member of Parliament to decline to appear before a Committee, having been properly summoned to do so, is an extremely serious matter. I am disappointed in the Government's continued efforts to hinder and frustrate the work of this Committee and, ultimately, the role of the Legislative Council to scrutinise the actions of government.

The Committee will now consider further action in relation to these witnesses under sections 7 through to 9 of the Parliamentary Evidence Act 1901. For these reasons, the hearing today will not proceed. Before the hearing concludes, I would like to make a short statement about the Committee's inquiry and the events that led to today's hearing. This Committee was established to determine whether members of Parliament debated and passed hate speech and protest laws through Parliament in February 2025 based on misleading or incomplete information. In order to fully examine the Committee's terms of reference, the Premier, the Minister for Police and Counter-terrorism and the Attorney General were invited to attend and give evidence. All declined.

In the absence of hearing directly from the relevant Ministers, on 5 May 2025 the Committee invited the ministerial staff who were present when certain information was disclosed. Those invitations were declined on the grounds that ministerial staff should not be compelled to appear before parliamentary committees, as it is Ministers rather than their staff who are accountable to the Parliament in a Westminster parliamentary democracy. The Committee reissued the invitation to ministerial staff on 14 May, which was again declined on the grounds that to require their appearance would contravene the principles of comity and exclusive cognisance between the two Houses. In order to address some of the concerns raised by the Government, the terms of reference were amended by the House on my motion of 28 May.

The following day, 29 May, the Legislative Assembly resolved that the Standing Committee on Parliamentary Privilege and Ethics inquire into and report on whether the work of this Committee impacted upon those matters within the exclusive cognisance of the Assembly. On 10 June the Committee reissued the invitation to the ministerial staff, following the amendment of the Committee's terms of reference by the House. Once again it was declined. The correspondence from the invited witnesses noted the establishment of the Legislative Assembly inquiry and queried the implications of this inquiry for the exclusive cognisance of the Assembly.

The witnesses having repeatedly declined the Committee's invitation to appear, on Monday this week the Committee proceeded under section 4 (2) of the Parliamentary Evidence Act 1901 to summon Mr James Cullen, Mr Edward Ovadia and Ms Sarah Michael from the Premier's office, and Mr Ross Neilson and Dr Tilly South from the office of the Minister for Police and Counter-terrorism to attend to give evidence before the Committee today. Yesterday the Committee received correspondence from these five witnesses requesting that the Committee excuse them from appearing today. The correspondence outlined various arguments why there is just cause and reasonable excuse for them to not attend. The Committee has resolved to publish this correspondence, and I would like to respond to some of the arguments that were raised.

Firstly, as the house of review, it is a fundamental role of the Legislative Council to hold the government of the day to account. The principle of comity between the Houses has been cited by the Government in relation

to the scope of this inquiry. I fully reject those arguments. The inquiry seeks to examine the actions of the Executive, not members of the Legislative Assembly, and it is generally accepted that neither House may inquire into the internal operations of the other. However, these rules do not prevent reference to, or examination of, statements by Ministers in the Assembly in relation to Government policy. Were it to be otherwise, it would fundamentally undermine the system of responsible government in New South Wales.

Secondly, the Committee, contrary to arguments advanced, is not seeking to hold ministerial staff responsible for the actions of their Ministers, and this inquiry is not undermining the principles of accountability under the Westminster system. In order to examine the actions of the Executive Government in relation to the Dural caravan incident and the passage of hate speech and protest laws, the Committee seeks to question ministerial staff about who was present at the briefings held by the New South Wales police, what was discussed and what records were kept. The Committee is not seeking to sanction ministerial staff for their actions, only to shed light on the events in the lead-up to the passage of the hate speech and protest laws through Parliament.

Thirdly, the power of committees to summon witnesses and compel them to attend and give evidence is in black and white in the Parliamentary Evidence Act. It is not in doubt. It is not modified by convention as has at times been asserted by parties to this inquiry. The selective and at times inaccurate quotation of the *New South Wales Legislative Council Practice* in some of the correspondence that has been received by this Committee is not helpful. The practice of other parliaments is not relevant in the current circumstances. There is a well-established body of precedence of ministerial staff appearing before committees of this House either voluntarily or, if necessary, under summons. As mentioned earlier, the witnesses who were scheduled to appear before the Committee today have failed to comply with the Committee's summons, and therefore the hearing today will not proceed. I conclude today's proceedings.

The Committee adjourned at 11:30.