



24 June 2025

Ms Kate Plowman
MinterEllison
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Ms Plowman

Select Committee on the relationship between the Dural Caravan incident and the passage of relevant bills through the Legislative Council

I refer to your correspondence of 20 and 23 June 2025 concerning the Select Committee on the relationship between the Dural Caravan Incident and the passage of relevant bills through the Legislative Council. I understand you act for the five individuals who failed to appear before the Committee on Friday, 20 June 2025.

As you indicate in your correspondence, I have before me whether to certify under section 7 of the *Parliamentary Evidence Act 1901* to a judge of the Supreme Court that the non-attendance of your clients is 'without just cause or reasonable excuse', with a view to the apprehension of the individuals concerned for the purpose of bringing them before the committee.

I have taken further legal advice concerning this matter.

At the outset, I indicate that it is currently my intention to proceed with the relevant certification to a Judge of the Supreme Court, following which, the Judge is to issue a warrant for the apprehension of the individuals for the relevant purpose. I will, however, give notice to the House before doing so to allow your clients to consider their positions.

With regard to the matters raised in your correspondence, the advice I have received, contrary to your correspondence, is that:

- a) should they be challenged, sections 7-9 of the *Parliamentary Evidence Act 1901* would likely be held to be constitutionally valid; and
- b) the summonses were validly issued and were not otherwise affected by jurisdictional error.

In particular, the advice before me is that it is entirely appropriate that each House of Parliament should be able to engage the machinery of the Supreme Court to enforce the House's power regulated by s 4 of the Act to compel the attendance of witnesses before committees.

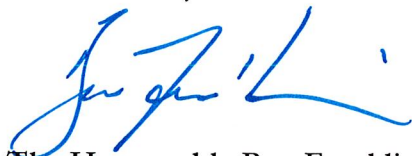
The proposition that key provisions of the *Parliamentary Evidence Act 1901*, of almost 125 years standing, which are fundamental to regulating the inquiry powers of the Houses of Parliament in New South Wales, are invalid is not supportable.

It follows that there is no legitimate basis upon which the Supreme Court could restrain either me from supplying my certificate to a Judge of the Supreme Court, any such Judge from issuing the warrants, or any authorised officer from executing those warrants. The powers and duties in question are not suspended because your clients foreshadow litigation to challenge the validity of these provisions of the *Parliamentary Evidence Act 1901*.

I note that you also raise in your correspondence the issue of procedural fairness. The five individuals you represent failed to appear at a hearing at which they were due to be heard. They have been given ample opportunity to make representations in writing to the committee in relation to why they need not comply with the summonses issued to them, and they have done so. They have also, through you, provided to me their reasons for their non-attendance before the committee. The advice I have received is that, in the circumstances, the dictates of procedural fairness referred to in your correspondence do not apply to fetter my power to certify the relevant facts. Nevertheless, I make available this final opportunity for the individuals involved, through you, to make further representation to me in writing as to why their non-attendance before the committee is 'without just cause or reasonable excuse', if they so wish.

Any such representation should be made urgently by 6.00 pm today. I will then make my determination in this matter.

Yours sincerely



The Honourable Ben Franklin MLC
President