

Ref: A6179471

The Hon Scott Farlow MLC
Chair
Select Committee on the Proposal to Develop Rosehill Racecourse
Parliament House
Macquarie Street
Sydney NSW 2000

Re: Inquiry into the proposal to develop Rosehill Racecourse

Dear Mr Farlow,

I refer to your email dated 6 September 2024, inviting me to attend an upcoming hearing of the Select Committee on the Proposal to Develop Rosehill Racecourse, scheduled for 12 September 2024.

There are important reasons that Ministerial staff should not be compelled to appear before parliamentary committees, on the basis that it is Ministers, rather than their staff, who are accountable to the Parliament in a Westminster parliamentary democracy.

As noted in the *New South Wales Legislative Council Practice*, “it is generally recognised that ministerial staff should not be held accountable for the actions or policy decisions of ministers or their departments, and they are not frequently summoned as witnesses”.¹ This recognises the respective roles of Ministers and their staff and is consistent with the McMullan principle.²

While Parliamentary committees exercise extraordinary powers under the *Parliamentary Evidence Act 1901*, I note that the issuing of a summons is “an exercise of significant coercive power and should only occur after careful consideration of the repercussions and alternatives such as:

- a) whether the information can be obtained from another witness or by other means;
- b) whether the witness’s non-attendance will diminish the quality of the evidence obtained by the committee; and
- c) the political ramifications of summoning a witness, particularly if the witness is a public officer or ministerial adviser.” (emphasis added)³

¹ Frappell and Blunt, *New South Wales Legislative Council Practice (Second Edition)*, The Federation Press (2021) 804.

² Lorraine Finlay, *The McMullan Principle: Ministerial Advisors & Parliamentary Committees*, 35 U. Tas. L. Rev. 69 (2016) at 73.

³ Frappell and Blunt (above) 799.

I am keen to ensure that the Committee is able to obtain all information relevant to its Inquiry. However, I note that the Premier has already been questioned extensively in relation to this matter at the Budget Estimates hearing of Portfolio Committee No 1 on Wednesday 28 August 2024, and the transcript of that hearing is available. I also note that the Secretary and Deputy Secretary of the Premier's Department have been called to give evidence to the Select Committee on 12 September 2024. In these circumstances, I respectfully decline the Committee's invitation for my attendance at the upcoming Committee hearing.

Sincerely,


James Coulton
Chief of Staff
Office of the Premier of New South Wales