Dear Mr Willis

INQUIRY INTO VICTORIAN GOVERNMENT DECISION MAKING, CONSULTATION AND APPROVAL PROCESSES

I refer to your letter to Ms Peta Duke dated 9 March 2010 which was faxed to her at the Office of the Premier. Ms Duke has provided me with a copy of that fascimile. I refer also to my letters of 9 March 2010 in which I informed you of the directions that I had given to advisers not to attend before the Committee in response to invitations that had been given to them.

Your letter attaches a document titled “Summons to Witness” which you say is a copy of the formal summons which was being sent by registered post. I understand that no such summons has been received by Ms Duke, nor has it arrived in the Office of the Premier. That document seeks her attendance before the Committee at 1.00 pm today.

The Standing Committee, which is a creature of the Parliament, and which gains its powers and privileges from the conventions of Parliament, is also bound by those conventions. Further, the Committee should abide by the Parliament’s own Guidelines for the Rights and Responsibility of Witnesses (the Guidelines).

The Committee has breached the procedures in the Guidelines in a number of respects:

- Ms Duke has not been given adequate notice of the meeting (see paragraph 2). This is well illustrated by the fact that she has not yet even received the formal summons;

- Ms Duke has not been given a sufficient outline of the matters expected to be dealt with in her appearance (paragraph 2). Your letter refers to the Windsor Hotel redevelopment process but states that this is in addition to the terms of reference of the Committee itself. Merely referring to the terms of reference of a Committee – particularly where those terms include all Victorian Government decision making,
consultation and approval processes since 1 December 2006 – provides her with no assistance in identifying the questions for which she should prepare herself;

- Ms Duke has not been given the opportunity to make a submission in writing before her appearance (paragraph 6); and
- Ms Duke has not been given any opportunity before the meeting to raise any matters of concern relating to the evidence she is being asked to give (paragraph 7).

These matters, taken together, constitute a substantive denial of natural justice to Ms Duke; she has not been afforded procedural fairness.

As well as denying Ms Duke natural justice, the approach taken by the Committee has breached Constitutional convention. My letters of 9 March 2010 refer to the convention known as the McMullan Principle. The application of Constitutional convention in this case is bolstered by the fact that Ms Duke was employed as a media adviser in the Premier’s Office and allocated to the office of the Minister for Planning. This relationship between Ms Duke and the Premier is acknowledged in the addressing of your letter and was accepted by the Leader of the Opposition in the Council in debate on Wednesday 9 March 2010. As the Committee is aware, members of each House are immune from the process of the other. As my letter of 9 March 2010 states, that immunity extends to advisers to members of another House.

In these circumstances, I have reiterated my direction to Ms Duke not to attend before the Committee.

Appropriately, and as ministerial advisers are only accountable through their Ministers, I am advised that the Minister for Planning, the Hon. Justin Madden will be available to answer questions from the Committee today.

Yours sincerely

ROB HULLS MP
Attorney-General