



**VICTORIAN GOVERNMENT
SOLICITOR'S OFFICE**

Your reference:

Our reference: 942607

Contact details: David Ryan
[redacted] (direct line)
PII [redacted]

All correspondence to:
PO Box 4356
Melbourne 3001 Australia
DX 300077 Melbourne

10 February 2010

Mr Mark Waters
Piper Alderman
DX 30829
MELBOURNE

By email: PII [redacted]

Dear Mr Waters

Witness F

We refer to your letter dated 8 February 2010.

We confirm that the Chief Commissioner has been recently served with a Witness Summons issued in the Magistrates' Court on behalf of Mr Paul Dale. The Witness Summons was listed for mention before Magistrate Reardon on 1 February 2010 and has been adjourned for a further mention on 22 February 2010.

We have been instructed to provide you with a copy of the Witness Summons and we enclose a copy with this letter. We also enclose a copy of a letter from our office to Mr Dale's solicitors dated 8 February 2010 which sets out the Chief Commissioner's response to the Witness Summons.

No documents relating to your client have yet been produced to the Court. However, as you will see from our letter to Mr Dale's solicitors dated 8 February 2010, there are documents relating to your client that the Chief Commissioner proposes to produce to the Court by 22 February 2010. Where appropriate, our client will be objecting to production of certain documents relating to your client on the ground of public interest immunity.

In your letter, you assert that the evidentiary protections otherwise afforded by the *Witness Protection Act 1991* "have now been irretrievably lost" as your client "was not granted access" to the witness protection program (the Program) prior to the service of the Witness Summons. We confirm that your client has been invited to join the Program but your client was unable to agree to the conditions of entry sought to be imposed by the Chief Commissioner. We advise that we have instructions to continue negotiations in relation to your client's possible entry into the Program.

In any event, we consider that there are no documents that are proposed to be produced to the Court without objection which would have been "protected" from production by operation of the *Witness Protection Act 1991*. We again refer you to the Supreme Court case of Osborn J in *R v Condello (Ruling No 2)* [2006] VSC 27.

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Our client does not consider that any of the documents that are proposed to be produced to the Court without objection will compromise your client's safety.

We advise that Greg Elms from our office is handling the Chief Commissioner's response to the Witness Summons. Mr Elms has briefed Mr Ron Gipp of counsel. After considering the Witness Summons and the Chief Commissioner's proposed response, please contact Mr Elms if you have any remaining concerns about the documents that are proposed to be produced to the Court. Mr Elms' contact number is [REDACTED]. Alternatively, you may contact Mr Ryan.

Yours faithfully
Victorian Government Solicitor's Office



David Ryan
Managing Principal Solicitor

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