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Subject: Amendment C258 Melbourne Planning Scheme [RCL-Documents.FID1184059]
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Attachments: [image001.png](#)
[image002.png](#)
[image003.jpg](#)
[image004.jpg](#)
[Letter submission to Amendment C258.pdf](#)

Dear Madam

Please see attached correspondence in relation to the above matter.

Kind regards
Donna

Donna Bilke

Legal Assistant/Paralegal

Assistant to Rhodie Anderson & Gemma Robinson



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26 November 2018

Jenny Moles
Panel Chair
Planning Panels Victoria
1 Spring Street
MELBOURNE VIC 3000

By Email: planning.panels@delwp.vic.gov.au

Dear Madam

Amendment C258 Melbourne Planning Scheme Submissions by Bennett's Lane Custodians

We continue to act for a group of companies described to the Panel for convenience previously as Bennett's Lane Custodians (**BLC**).

We write in response to the Panel's letter dated 14 November 2018 directing each late submitter to advise the Panel as to whether they agree to the alternative course suggested by the Panel in Part 3 of its letter.

We note that the Panel's letter makes reference to document 105, which is correspondence from this office. With respect, the Panel has misunderstood the intention of our letter – that letter states that until Amendment C328 is resolved, the Heritage Policies (read plural as compared to what is understood now to be the Council officer's submission to the Panel advocating for a singular policy) should not be applied to BLC's land.

We advise that it may be possible to explore the process of Amendment C258 if clause 22.04 is removed from consideration in the Amendment – but it is not entirely clear what the Panel's direction was in this respect noting that the 'suggested alternative way' states:

... This might be done by a clause of the policy itself referring to certain properties being excluded from its operation, or by application of a Specific Controls Overlay under Clause 45.12 of the Planning Scheme. ... and

... There may be some variation to this course as suggested in outline by the Panel

Subject to the leave given, we are happy to attend a further directions hearing on a suitable date to make submissions in respect of the Panel's alternate course.

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As to the suggestion that certain properties be excluded from the application of policy, this raises two concerns:

- The question of how it would be proposed that clause 22.04 (or clause 45.12 or any other variation of the Panel's suggested alternative course) would continue to have operational effect; and
- The implication that the Panel has formed a view that clause 22.04 ought be amended.

As to the second of these concerns, it is submitted that this should be included in the Panel's deliberations as to recusal, because however well intended, it creates an undeniable perception that the Panel's timetabling/desire to continue to hear this matter is standing before the Panel's full and independent consideration of all submissions and is seeking to constrain those who have only recently had an opportunity to join.

Whatever outcome is reached, BCL strongly rejects any suggestion that there ought be any further hearing dates in this matter this year, by this, or with respect upon recusal, an alternate Panel.

Yours faithfully

A handwritten signature in blue ink that reads "Rigby Cooke". The signature is written in a cursive, flowing style.

Rigby Cooke
Lawyers