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BCC Parties: according to the distribution list

Dear Chair,

**Fishermans Bend Planning Review Panel  
Draft Planning Scheme Amendment GC81**

We refer to the request by Norton Rose Fulbright Australia ('NRF'), dated 29 March 2018, for 'a ruling'.

The Minister notes the request does not specify:

1. the ruling specifically sought; or, more importantly,
2. the basis on which it is said that the ruling sought should be made.

It is submitted that the onus lies on the party seeking a ruling to establish that the ruling should be made. In the absence of any identified basis for the ruling, it is submitted that the request cannot be sensibly entertained by the Review Panel. Further, the failure of the request to identify the matters identified above means that other interested parties cannot fairly be expected to respond to it. This raises obvious procedural fairness issues.

These concerns are heightened when it is asserted that the ruling has some unspecified bearing on the legality of the Review Panel proceedings. If the Review Panel is being asked to make a legal determination, it is imperative the basis of the request and the alleged unlawfulness are identified with precision including by reference to any relevant legislation so that the Minister and other parties can properly evaluate them.

Accordingly, it is respectfully submitted that the Review Panel make directions giving the NRF landowners an opportunity to make a properly founded request, including identifying the alleged unlawfulness that is said to arise. The Minister and other parties should then be given an opportunity to respond in due course. If, as foreshadowed at the hearing, the NRF landowners choose not to put in a further request, then they may be taken to accept the risk that their submissions and evidence may be found to be irrelevant.

Yours faithfully,



**HARWOOD ANDREWS**

