

Barriers to Growth in Latrobe City

Absence of Energy and Coal Policy impeding Economic Diversification of the Latrobe Valley

March 2017

INTRODUCTION

The following summary was prepared in an environment of uncertainty surrounding future coal mining and energy sectors; with council, community and industry awaiting clear direction from the Victorian State Government regarding future coal and energy investment direction.

While the broader community understands the economic importance of the coal resource to the State and region, there is a high degree of sensitivity and uncertainty amongst the community. This is largely the result of existing and future land use conflicts, ongoing community health and safety concerns resulting from coal mining and conversely the stability of future employment associated with energy and mining industries.

This uncertainty has been significantly aided by consecutive events occurring over recent years including the ongoing investigation two mine collapses (resulting in the Princess Freeway and local road closures), Hazelwood mine fire and subsequent health inquiry, lingering questions over mine rehabilitation and the imminent closure of the Hazelwood Power Station. Each of these factors constrains the way in which the Latrobe City can plan for future growth.

The lack of government investment in new energy generation and absence of policy direction for the future utilisation of the coal resources has and continues to be strategically and economically crippling for the Latrobe City community and local industry, as we have remained in a reactionary space which now spans several decades.

Whilst we wait, the long term preservation of coal resources must not continue to prevent more immediate opportunities for investment and job creation.

The State Resource Overlay, Environmental Significance Overlay and Special Use Zone significantly limit opportunities for the use and development of land across large, and strategically significant, areas of Latrobe City. Should interim industrial and agricultural uses and development be enabled on land over coal (namely with the State Resource Overlay), it is believed that this would 'open up' significant investment and job creation opportunities for Latrobe City.

COAL IN CONTEXT

The Latrobe Valley hosts one of the world's largest deposits of lignite (brown coal); representing hundreds of years of supply. Coal was first mined for large scale electricity production in the 1920s and has since remained the predominant employer and economic multiplier in the region.

Research undertaken as part The Latrobe Valley Industry and Employment Roadmap and the policy Positioning Latrobe for a Low Carbon Emissions Future articulates the significance of the direct and indirect employment provided by the electricity and coal sector in Latrobe City (and the broader Latrobe Valley region). As such, the significance of this industry to the local economy is paramount and cannot be overstated.

Council adopted its policy - *Positioning Latrobe for a Low Carbon Emissions Future (2010)* and with this aligned resources to support the pursuit of alternative and new format uses of the resource.

More recently, in response to the recent announcement of the Hazelwood Power Station closure Council endorsed its positioning paper "*A Strength-Led Transition*" which outlines an economic development and transition platform developed in collaboration with community.

Council has also remained an active participant in numerous inquiries and investigations into coal resource planning, including the *Supplementary Inquiry into the Traralgon Bypass*, *State Government Coal Planning Provisions Review Project* (since deferred), the *Latrobe Valley 2100 Coal Resources Project (LV2100)* report (not endorsed) and numerous planning panels and other attempts by State Government to provide direction. Despite past attempts coal policy has not been updated since 1987.

Despite numerous past attempts by government, it appears that clear policy direction for future coal utilisation and new format energy generation from coal resources will remain in a reactionary, opportunistic

space as governments wish to 'keep options open' to emergent prospecting and changing market preferences.

This was recently demonstrated by government's stated 'surprise' at the announcement of Hazelwood Power Station closure and lack of preparation for its replacement.

A summary of key policy reviews, and recent events influencing the current and future utilisation of coal resource planning within Latrobe City is provided below:

A POTTED POLICY HISTORY

Land over Coal and Buffer Area Study (1988) - current

This project fulfilled one of many tasks required to implement the policies contained in the *Latrobe Region Framework for the Future Report (1987)*. While this document is reasonably old, it continues to be a reference document within the State Planning Policy Framework (SPPF) - *Clause 14.03 Resource Exploration and Extraction*, and it provides state level direction as to land uses for land on or around identified coal resources.

It is relevant to note that coal resources within the Latrobe Valley have been protected since 1978 by the introduction by the State Government of the Brown Coal Interim Development Order (IDO). This Order restricted land use and development on land which identified deposits of economically winnable brown coal. These controls were translated into planning controls in 1980.

Essentially, this seeks to protect the ability for coal within the identified area to be won with minimal impacts from the previous land use or from surrounding land uses. It also seeks for the land within buffers to be used in a manner which will both protect the process of winning coal and also protect the urban areas from detrimental amenity impacts caused by the coal activities.

Anecdotal evidence suggests that finding uses which meet the requirements of this document has been a challenge for land owners and the community. This is particularly the case for land owners who are located on land within the identified coal resource areas, but who have limited certainty as to the timing of extraction. Meeting these requirements continues to be a challenge for the municipality, noting the protection of the coal resources is managed at a State level rather than a local level.

Finally, it is noted that other attempts by the State Government to rationalise the coal policy and zoning have been initiated, although none are formally endorsed or have been adopted into the Latrobe Planning Scheme.

Latrobe Valley 2100 Coal Resources Project

The Latrobe Valley 2100 Coal Resources Project (LV2100) identifies possible coal requirements to 2100 and provides a strategy to guide land use planning and sustainable mine development practices for brown coal in the Latrobe Valley.

LV2100 examines, identifies and evaluates the following:

- The likely sequence and extent of development of brown coal.
- Infrastructure requirements for the optimum development of the brown coal resource.
- Likely infrastructure requirements for service industries and the community to support development of the brown coal resource.
- Options, strategies, guidelines and recommendations within a planning framework to optimise the placement of new and existing infrastructure.
- Potential conflicts, constraints and barriers between the environment, infrastructure or land use in coal resource and associated development.
- Existing principles in the Latrobe and Wellington Planning Schemes and recommends amendments in relation to brown coal mining and mining infrastructure.
- Likely impacts of mine, industry, urban growth and infrastructure on the natural environment.

LV2100 has no statutory status particularly in relation to statutory planning controls and the associated zone and overlay boundaries. Further, the State Government has previously advised (during the Traralgon By-Pass Supplementary Advisory Committee), that it should not be relied upon.

Developing the Latrobe Valley Resources Future - Coal Resources Planning Provisions Review (2007)

Whilst not formally adopted by the State Government, work undertaken as part of *Coal Planning Provisions Review Project* provides a comprehensive overview of the current regulatory and planning framework which applies to coal mining and to the potential impacts of mining.

The draft report identifies and summarises key regulatory and policy documents that underpin the SPPF and the other policies relevant to coal mining in the Latrobe Valley. The report identifies gaps, discrepancies or outdated approaches in policy and recommends a process to develop a new planning reference document for the SPPF Clause 17.08 - Mineral resources.

The Traralgon Bypass Supplementary Inquiry - Traralgon-Morwell Southern Corridor Advisory Committee Report (July 2007) was released on 11 January 2008.

The principal recommendation of the report was the adoption of the northern most alignment for the Traralgon Highway Bypass. The decision of the Minister to subsequently implement the committee's recommendations to the Latrobe Planning Scheme, removed the future development potential of approximately 508 hectares of land which had previously been forecast for urban expansion.

The change in direction was justified on the basis that the previously approved highway alignment may impact on the potential to access commercially valuable coal reserves.

The 2007 Supplementary Advisory Committee decision represented a significant shift in planning direction and challenges for Latrobe City. While the decision not only removed the opportunity for an additional 10,000 homes, the decision highlighted the importance given to securing coal interests, whilst highlighting that State Government participation and support in the preparation of long term urban planning strategies would be essential to providing certainty to community, industry and potential investors.

While council recognises the growth potential of other townships for future urban development, council's position remains that long term sustainable growth requires the use of the Traralgon-Morwell Corridor.

Hazelwood Mine Fire Inquiry

When fire broke out in the disused northern batter of the Hazelwood open cut coal mine, the resulting coal smoke impacted Morwell and surrounding towns. The following six weeks became a daily challenge for the community, businesses and the agencies and volunteers who were called to respond to what unfolded as an unprecedented event.

The local communities' experience with the recent Hazelwood mine fire has heightened concern regarding how rehabilitation of the disused areas of mines can be better managed to mitigate against fire risk.

The Hazelwood Mine Fire Inquiry was reopened on 26 May 2015 with a new Terms of Reference that establish the parameters of any investigation. Under its new terms of reference the Board is examining:

- Whether there were any increases in the rates of death in the Latrobe Valley as a result of the Hazelwood Mine Fire, comparing data from 2009-2014
- What measures are available to improve the health of the Latrobe Valley communities in relation to any health impacts identified by the Board as being associated with the Hazelwood Coal Mine Fire
- Mine rehabilitation options for the three Latrobe Valley coal mines; and
- Whether the rehabilitation liability assessments are adequate and whether the current rehabilitation bond system is effective.

The Board's report into mine rehabilitation in Latrobe City was delivered to the Governor-in-Council during March 2016.

Latrobe City Council highlighted the need for improved information sharing and collaborative planning in their submission to the Hazelwood Mine Fire Inquiry, stating that:

"As reflected in the Municipal Strategic Statement of the Latrobe Planning Scheme...there is a need for cooperation between all levels of government, the private sector and the community with regard to the development of the coal resource [...] Council requires greater clarity and involvement in coal allocation and mine planning to ensure Council can plan for orderly and safe development of the municipality both now, and in the future as the mines are rehabilitated."
(Latrobe City Council, 2015)

The planning system does not provide an obvious link to the consideration of fire risk associated with coal mines. The inquiries to the recent Hazelwood mine fire (Hazelwood Mine Inquiry 2015/2016 and

Hazelwood Mine Enquiry 2014) illustrated that buffer distances established for mining operations are not effective in managing impacts on the community associated with fire in these circumstances (Hazelwood Mine Fire Inquiry, 2014 and Hazelwood Mine Fire Inquiry, 2015).

These issues and associated implications will need to be considered and addressed by each of the three strategies to be completed as part of Stage 2; whilst acknowledging the significance of coal resources to the Latrobe City economy and extensive opportunities for the exploration, development and investment in new and cleaner coal resource technologies in the future.

State Government Coal Review Announcement – November 2015

On the 18th November 2015, the State Government announced its commitment to the completion of review of previous coal development programs and policy to provide greater certainty to the community and industry going forward.

As part of the announcement the Government stated that the review of coal development programs will include targeted consultation with industry, environmental groups and the community. Further it would develop a framework for decision making and consideration of future coal projects. The findings of this review will also feed into the Government's new coal policy, which will consider the economics, social and environmental factors.

The new coal policy was to be released in 2016 and will incorporate findings from the Government's climate change review and the Hazelwood Mine Fire Inquiry recommendations. This policy has not been forthcoming however remains highly anticipated by the community and council.

Coal Mine Rehabilitation

For the last 60 years the Latrobe Valley has known expanding operational coal mines that provide local employment and electricity for a growing Victoria. More recently, the local communities experience with the recent Hazelwood mine fire has heightened concern regarding how rehabilitation of the disused areas of the existing coal mines can be achieved to better mitigate the present fire risk.

The future however appears to be very different, with the three coal fired energy generators potentially ceasing operations in relatively close succession from 2032 (Yallourn 2032, Hazelwood 2033 and Loy Yan 2048). As identified within the report produced by Jacobs in support of the Hazelwood Mine Fire Inquiries (*Review and Analysis of potential coordination and planning models for the Latrobe Valley brown coal mines*), effective solutions to the rehabilitation of the associated coal mining operations will be required, with each mine presenting unique rehabilitation and transition challenges.

Market demand and the advancement of clean coal technologies will also be a key determinant for the on-going viability of the mines and will be heavily influenced by the pace of change in the composition of Victoria's energy mix. Monitoring of the factors that may lead to one or more of the coal mines choosing to bring forward or delay ceasing of mining operations will be essential to achieving the desired community safety, economic, environmental and community outcomes in a manner acceptable to all key stakeholders (community, mine operators, governments etc.).

Current coal mining operations are a significant user of surface water and groundwater. The current planned "pit water body" landform proposed as part of the possible long term rehabilitation will require significant, on-going, access to Gippsland's highly sought after water resources, noting no licences have been granted for this water. Consequently a better understanding will be required of the relationship between water use and impacts across the Gippsland region to inform any future request for on-going water allocations required as part of possible mine rehabilitation.

PROTECTION OF COAL RESOURCES

Latrobe City's association with coal mining has delivered economic benefit, but has also constrained the way in which land can now be used and developed.

State Planning Policy requires the protection of State resources. A number of controls exist within the Latrobe Planning Scheme which restricts land use and development within vicinity of mines, airports, and industry. These include:

- Special Use Zones (SUZ)
- State Resource Overlay (SRO)
- Environmental Significance Overlay Schedule 1 – Land Use Buffer (ESO1)

The extent of these controls is shown.

Of particular significance for Latrobe City are the controls relating to the protection of coal resources. These controls are significant due to the constraints they place over the land and also the extent to which they apply. Protection of coal resources have long been recognised as significant for Victoria. Along with policies, much of the identified coal resources are afforded recognition in the Planning Scheme through the State Resource Overlay 1 (SRO1). Land already assigned for coal uses is identified within the Special Use Zone 1 (SUZ1)

The purpose of the SRO is as follows:

"To protect areas of mineral, stone and other resources, which have been identified as being of State significance, from development that would prejudice the current or future productive use of the resource."

The local Statement of Resource Significance states:

"The Gippsland Coalfields provide a secure long term energy source for base load power generation in Victoria, as well as providing an unique opportunity for other related significant developments".

The local management objective is:

"In order to ensure the medium to long term extraction and use of the coal resource for power generation, building, works and subdivision of land over the resource should be of a type that will not inhibit, by way of community significance or cost of removal, the eventual productive use of that resource."

There is also a recognised need to protect the urban areas from amenity and adverse impacts associated with the coal industry. This is formally recognised in the Latrobe Planning Scheme through the Environmental Significant Overlay 1 (ESO1).

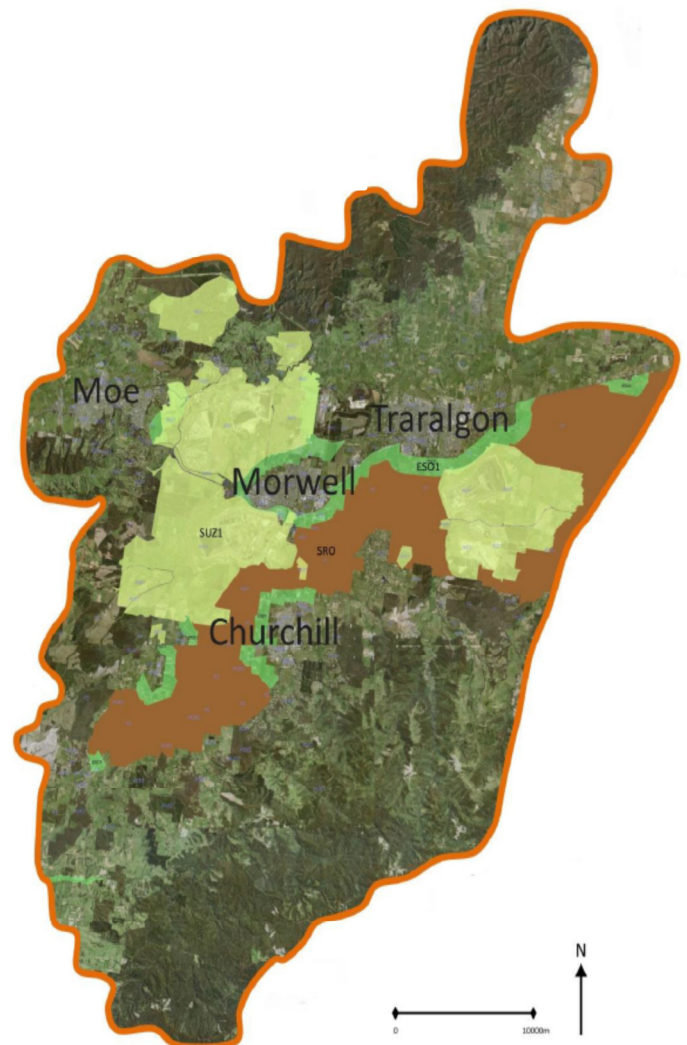
The purpose of the ESO1 is as follows:

"The coal industry is of national and State importance due to its use as the primary energy source for the electricity generating industry in Victoria. The impact on the environment is radical. Buffers protect those elements of the Coal Buffers Policy Area such as urban settlements from the impact of the radical change to the environment from the coal industry."

These planning controls establish significant constraints on the availability of land within Latrobe City, as land uses within these areas need to meet a range of criteria.

It should be recognised that the State Government (who are responsible for policy directions relation to the SRO and ESO) have undertaken work to review the coal policy and zoning on a number of occasions. However to date there have not been meaningful changes that alter the current coal policies across the Gippsland area Planning Schemes.

Some community members identified an opportunity to seek complementary and beneficial land uses for land currently within buffer areas and land over coal to allow for the better utilisation of land. Significantly, the State Government are responsible for the policy directions of the SRO and the *Land Over Coal and Buffer Area Study*. These policies generally discourage more intensive uses of this land, to reduce future hindrances to extraction of the underlying coal resource. This is also relevant for land within the ESO1.



A VIEW TO THE FUTURE

Traditionally, the Latrobe City has benefited from its association with energy production, owing to the existence of state-significant brown coal resources which exist within the Latrobe Valley. Significant shifts in world energy markets and changing environmental standards are impacting the broader region. Through the development of its Economic Development Strategy, Latrobe City Council, in conjunction with key stakeholders, are currently considering ways in which the unique mix of skills and infrastructure within the municipality may deliver future benefit in a transitioning energy economy.

The timing of these projects presents an opportunity for future work, particularly the Industrial Land Use Strategy, to provide land use expression to the directions of the Economic Development Strategy.

The Gippsland Regional Growth Plan has identified that the region has aspirations to diversify from a coal region to a region that produces low emissions energy resources and technology; and from an agricultural commodities region to a region that increasingly value-adds to its commodities for domestic and export markets. In particular, the region wants to grow its food production capacity. These regional opportunities may present rural and industrial opportunities within Latrobe City.

With changes in the utilisation of coal resources likely to be experienced across Australia over the next 10 to 15 years, there remains a need for well-defined government policy and clear direction regarding the future utilisation of the region's brown coal resources.

This will greatly assist council, community, investors and the broader Gippsland region to understand the State Government's preferred future, allowing all stakeholders to plan accordingly. Latrobe City Council holds the strong view that the consideration of the coal resource policy and planning should not occur without appropriate engagement with the Latrobe City community to which we are yet to see from the State Government.

In this absence, Council is currently preparing an Industry and Employment Land Use Strategy that will, amongst other things, identify opportunities for the interim use and development of land over coal..

Council has initiated an internal review of the coal related planning controls within Latrobe City. The objectives of this review will be to identify opportunities for and submit amendments to current land use zones that will:

- Enable new (interim) industrial and agricultural investments on land over coal:
- Establish enabling planning policy and provisions for the co-location of complementary and beneficial land uses and developments within mine and heavy industry buffer areas to allow for the better utilisation of land; and
- Remove limitations of the types of industry that can be supported within the State Resource Overlay, in particular valuable yet underutilised, areas of Industrial 2 Zoned land.

These changes will then be incorporated into the Latrobe Planning Scheme, subject to State Government support.

SUMMARY OF STRATEGIC AND STATUTORY PLANNING DIRECTIONS FOR LAND OVER COAL

Traralgon - Morwell Corridor Structure Plan. In 2007 plans were prepared for a new urban growth front that would join the towns of Morwell and Traralgon. Thirty five years of urban land on the south of the Princes Highway (i.e. known as Rural Outlook and Area H) was removed due to the state government objecting to any development over a future coal resource (despite the close proximity of this land to existing urban areas).

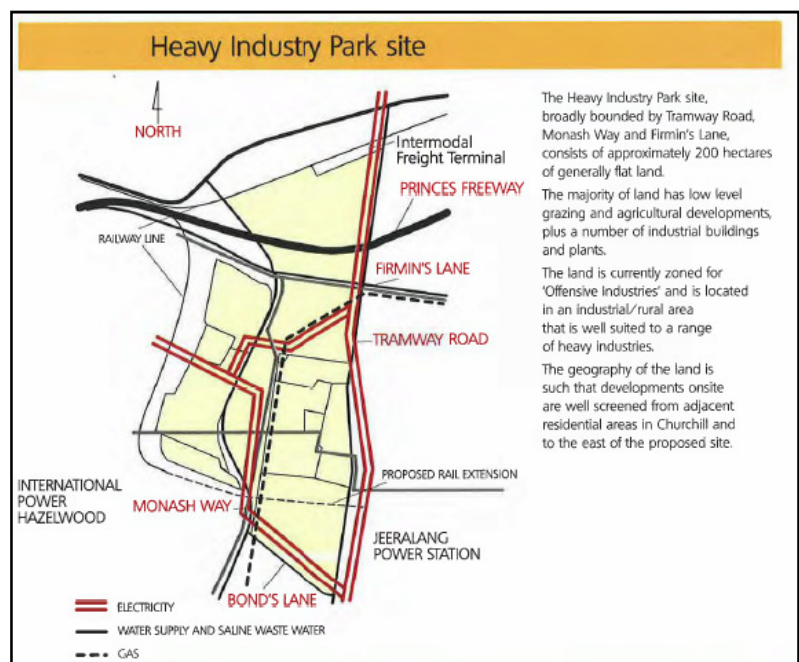
The Traralgon Princes Highway bypass has been moved on a number of occasions (most recently in 2007) due to the state government objecting to previous alignments over a future coal resource, whereby a State Government appointed Advisory Committee determined that the most northern alignment should be secured.

Morwell West urban growth front was originally covered by a Environmental Significance Overlay (coal buffer) that discouraged any future urban development. The coal buffer was removed after years of lobbying for its removal.

Traralgon South East urban growth front future development objected to by AGL Loy Yang due to the perceived need for an extended Environmental Significance Overlay (coal buffer) that would move further towards the centre of town. Issue is still partly unresolved.

Gippsland Heavy Industry Park

This area comprises approximately 500 hectares south-east of Morwell, with access to all services including major highways and rail. The land contains Industrial 1 and Industrial 2 Zones and is covered by the State Resource Overlay (SRO). Despite independent advice being provided to the State Government acknowledging that the underlying coal in this location is 'too deep for open cut mining in the foreseeable future', the wish to retain the SRO in place for possible future mining of the resource in situ was supported and the SRO retained. The effect of this decision was to effectively sterilise other non-coal or energy related investments in this location.



Examples of inconsistency in the advice of the State Department under the provisions of the SRO.

Planning Permit Application for the Use and Development of a Dwelling at Lot 2, Hazelwood Road, TRARALGON. (VCAT reference P2578/2015).

Permit Application Summary:

- Planning Permit Application 2015/130 was received by Council on 15 June 2015 for the construction of a single dwelling and outbuilding. The land is located within the Farming Zone, is irregular in shape with an area of 24.07 hectares.
- The application was considered by Council at its Ordinary Meeting on 16 November 2015. Council resolved to issue a Notice of Decision to Grant a Planning Permit, pursuant to Section 64 of the Planning and Environment Act 1987.
- The Department of Economic Development, Jobs, Transport and Resources (DEDJTR) later appealed Council's decision at VCAT, considering that the proposal:
 - *is incompatible with the adjacent coal mining activities;*
 - *may prejudice the future development of a state significant coal resource;*
 - *is incompatible with future brown coal mining and industry;*
 - *would adversely affect the future development of an identified coal resource by increasing both the social and economic cost of its development;*
 - *does not support the purpose of the State Resources Overlay (SRO1);*
 - *Does not support the local or state planning policy objectives for the protection of coal resources or the interim use of land over coal resources in the Latrobe Valley;*
 - *The proposed use and/or development is not a temporary use of the land which will adversely affect the future development of the coal resource;*
 - *The proposed use and/or development is incompatible with future brown coal mining.*

NOTES:

- Within Council's submission to VCAT (see attached to email), it was noted that the subject site is classed as Category C coalfields in Framework for the Future (1987), where development is scheduled as being more than 60 + years away, in other words, in the long term future. It is also noted that the use and development of land for a dwelling does not trigger a permit under the SRO nor does it is listed as a use requiring a referral to the State Department; inferring that the development of a single dwelling is not deemed to be of significant State importance.
- Previous appeal decisions (Groves v Latrobe SC [2015] VCAT 891 (19 June 2015) – refer to Attachment T, Goldie v Latrobe CC [2013] VCAT 172 (19 February 2013) refer to Attachment U, IA & LE Goldie v Latrobe CC [2001] VCAT 1493 refer to Attachment V) have identified that the weight given to the location of a site within the State Resource Overlay is limited, as there is no trigger for a permit for a dwelling or for the use of the land. Whilst some weight can be given to the objection to the proposal by DEDJTR, Council considers that in this instance the
- development of the land for coal production is in the long term (more than 60 years away). The provision of a single dwelling on the land in connection with an alpaca farm will not conflict with the purpose of the Farming Zone or the State Resource Overlay.
- The permit was ultimately refused by VCAT on grounds of the Farming Zone.

Permit Application for two lot subdivision of Industrial Zoned Land, Hazelwood Drive Morwell (Council reference 2016/120).

- The site is located on the east side Hazelwood Drive, Morwell and approximately 60 metres south of the T-intersection with Miners Way. The land is approximately 1 ha in size.
- The site is located within an establishing Industrial Estate that is located approximately 1.4 kilometres south-east of Morwell's central activity district and adjacent to the east side of the Hazelwood open cut coal mine. The estate has been slowly developing over the past few decades and the site is one of several remaining vacant allotments in its southern portion.
- Surrounding land is characterised by a range of industrial businesses, along with vacant allotments yet to be developed. The site is provided with direct access to the full suite of reticulated services (including electricity, sewerage, water, telecommunications and underground stormwater drainage infrastructure that are available within Hazelwood Drive.
- The proposal was to subdivide the land into two lots with an area of 5018sq/m and 4983 sq/m.
- The application was referred to DEDJTR under the requirements of the SRO. DEDJTR subsequently objected to the proposal on the following grounds (copy of DEDJTR correspondence attached):

- The application is inconsistent with the 'buffer' provisions, particularly Clause 21.07-4
- The application does not indicate how the lots are intended to be used
- No assessment of State coal policies at Clause 14.03 or coal buffer policies at Clause 21.07-4 has been provided
- More intensive subdivision and development of this site, combined with its proximity to the Hazelwood Mine may contribute to fire related issues with the Mine

ADDITIONAL APPLICATIONS:

Planning Permit Applications for a two lot subdivision and subsequent use and development of a dwelling at 665 Hazelwood Road, Traralgon (Council reference 2003/409 & 2010/253).

- A permit was issued for a two lot subdivision 665 Hazelwood Road, Traralgon, (immediately north of the subject land) which lies just to the north of the site.
- The application was referred to DPI (previous name for DEDJTR) under Section 55 of the Act, due to the proposed lot size being less than 20 hectares as specified in the Schedule to the Overlay. No objection was raised by DPI.
- A planning application was subsequently submitted in 2010 for 'Use and Development of the same Land for a Single Dwelling and Associated Outbuilding; DPI later objected.
- This objection was then withdrawn when it was shown that the Department had not objected to the original subdivision to create the rural residential allotment.

Second Dwelling' at 270 Clarkes Road, Hazelwood North (Council reference 2008/347)

- The subject site is zoned Farming Zone with a State Resource Overlay. It is approximately 2.8 hectares in size. No objection was raised by DPI to this application to provide a second dwelling on the lot subject to a Section 173 agreement preventing any further subdivision of the land.

Subdivision of land at Nuttalls Road, Yinnar (Council reference 2007/419/A).

- DPI did not object to an application in 2007 for subdivision of the land and use and development of the land for a dwelling in Nuttalls Road, Yinnar. No objection was raised either to the subsequent amendment to the application which amended the lot sizes.
- However, an objection was raised by DEDJTR to a more recent application on the Nuttalls Road site for 'use and development of the land for a dwelling and ancillary outbuilding (**council reference 2015/181**).

Use and development of the land for a dwelling and ancillary outbuilding (2015/181)

- Application was referred to DEDJTR under Section 52(1)(d) of the Act. An objection was received raising the concerns similar to above permit application number P2578/2015.
- Council considered that as for the first example, the intent was always to develop the land, and a permit was subsequently granted.
- Council issued a Notice of Decision to Grant a Planning Permit. No application for review was lodged with the Tribunal and a planning permit subsequently issued.