

IN THE MATTER OF THE HAZELWOOD MINE FIRE INQUIRY**STATEMENT OF JASON JON PULLMAN**

I, **JASON JON PULLMAN**, Coordinator of Strategic Planning of the Latrobe City Council, state as follows:

WITNESS BACKGROUND**Qualifications and experience**

- 1 I have resided in Sale, Victoria, since 1997 from the time I began working for Wellington Shire Council and now the Latrobe City Council (**the Council**). I am based in the Council's offices at 141 Commercial Road, Morwell.
- 2 My role at the Council is Coordinator of Strategic Planning.
- 3 I have also held roles within the Council as the Acting Manger of City Planning, Acting Manager of Urban Growth and the Coordinator of Environmental Planning and Recreation Planning.
- 4 From 1999 to 2007, I worked for the Wellington Shire Council as a statutory planner and co-ordinator of strategic planning
- 5 I hold the following formal qualifications:
 - 3.1 a Bachelor of Arts (Urban Planning) degree specialising in town planning, economics and geography; and
 - 3.2 a Masters degree in Social Science. My research thesis examined the role of regional economics, housing and town planning in regional Australia post World War II.

My role with the Council

- 6 In my role as the Coordinator of Strategic Planning, I am responsible for:
- 6.1 the management of five strategic planning staff, project consultants and the associated strategic planning budget;
 - 6.2 urban land use policy formulation and review (including stakeholder engagement) principally relating to the built environment, environmental, economic and social issues that affect Latrobe City;
 - 6.3 facilitation of planning scheme amendment proposals and consideration of associated planning permit applications;
 - 6.4 council representation at planning panel hearings, advisory committee hearings, Victorian Civil and Administrative Tribunal (VCAT) hearings and council and community meetings; and
 - 6.5 reviewing and writing council reports, submissions and research documents in relation to strategic planning.

OUTLINE

Introduction

- 7 I have been asked to make this statement by counsel assisting the Hazelwood Mine Fire Inquiry Board (**the Board**). I make this statement in my capacity as the Coordinator of Strategic Planning for the Council.
- 8 These matters are outlined in items 21 to 26 of a letter from counsel assisting the Board to the Council dated 16 May 2014. A copy of this letter is annexed and marked "**JP-1**".

Item 21

- 9 There are several timber plantations located to the north and west of the mine. The map annexed and marked "**JP-2**" shows those plantations located within 1km of the Hazelwood open cut mine.
- 10 The Council is unaware of when the plantations outlined in the maps marked "**JP-2**" were first established. However, I understand that:

- 10.1 the property (PN 21510) containing a plantation to the immediate north-west of the mine is owned by Gippsland Water;
 - 10.2 the property (PN 19969) containing a plantation to the west of the mine is owned by Grand Ridge Plantations and currently known as Hancock Victoria Plantations; and
 - 10.3 the property (PN 19894) to the south-west of the mine is owned by Grand Ridge Plantations and is currently known as Hancock Victoria Plantations.
- 11 The Council maintains both electronic and hard copy registers of planning permits dating back to 1969.
 - 12 I understand that the Council's registers have recently been searched for the purposes of preparing this statement and I believe that no planning permits have been issued from 1969 onwards in relation to the timber plantations shown on "JP-2".

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- 13 A large part of the Council's role involves town and statutory planning, which may include the assessment of timber plantation planning permit applications.
- 14 Under the current "*Latrobe Planning Scheme*", a planning permit is not required for both the use and development of land for a timber plantation (which can be subject to conditions) in the following zones and overlays:
 - 14.1 Industrial 1 to 3 zone(s);
 - 14.2 a Farming zone;
 - 14.3 a Special Use (brown coal) zone;
 - 14.4 a Public Conservation and Resource zone;
 - 14.5 an Environmental Significance (urban buffer) overlay; and
 - 14.6 the State Resource (Gippsland brown coalfields) overlay.

- 15 Under the current "*Latrobe Planning Scheme*", a planning permit is required for either the use or development of land for a timber plantation (which can be subject to conditions) in the following zones and overlays:
- 15.1 Residential 1 zone;
 - 15.2 a Public Use zone;
 - 15.3 a Public Park and Recreation zone;
 - 15.4 a Road zone;
 - 15.5 an Urban Floodway zone;
 - 15.6 a Low Density Residential zone;
 - 15.7 a Mixed Use zone;
 - 15.8 a Township zone;
 - 15.9 Commercial 1 to 2 zone(s);
 - 15.10 a Rural Living zone;
 - 15.11 Special Use 3 to 7 zone(s);
 - 15.12 an Urban Floodway zone;
 - 15.13 a Heritage overlay;
 - 15.14 a Design and Development 1 to 9 overlay(s);
 - 15.15 a Floodway overlay;
 - 15.16 a Land Subject to Inundation overlay; and
 - 15.17 a Bushfire/Wildfire Management overlay.
- 16 Under the current "*Latrobe Planning Scheme*", the use or development of land for a timber plantation is prohibited in the Special Use (Urban Gateway) zone.
- 17 A table showing the "*Latrobe Planning Scheme*" zones and the requirements for a planning permit for timber production is annexed and marked "**JP-3**".

- 18 The zones and overlays that predominantly apply to, or immediately adjoin, the mine do not trigger the need for a planning permit for either the use or development of land for a timber plantation. These zones and overlays include a Special Use (brown coal) zone, a Farming zone, an Environmental Significance (Urban Buffer) overlay and the State Resource (Gippsland brown coalfields) overlay.
- 19 A map outlining existing zones and overlays that apply to or adjoin the mine is annexed and marked “**JP-4**”.
- 20 The current “*Latrobe Planning Scheme*” at clause 21.07 (Economic Sustainability) seeks to ensure that timber production takes into account the need for effective fire protection for a coal resource. Clause 21.07 is annexed and marked “**JP-5**”.
- 21 The current “*Latrobe Planning Scheme*” at clause 52.18 (Timber Production) includes an exemption from requiring a planning permit for timber production on Crown land managed and controlled by relevant Ministers. However, Crown land that has been leased is subject to the “*Latrobe Planning Scheme*”. Clause 52.18 is annexed and marked “**JP-6**”.
- 22 While not all timber plantations are required to have a planning permit, all timber production activities (except agro-forestry, windbreaks and plantations less than 5 hectares in size) must comply with the *Code of Practice for Timber Production 2007 (the Code)*. The Code was prepared by the Department of Sustainability and Environment.

Item 23

- 23 As I have said earlier in this statement, the Council maintains both electronic and hard copy registers of planning permits dating back to 1969.
- 24 I understand that the Council's registers have recently been searched for the purposes of preparing this statement and I believe that no planning permits have been issued from 1969 onwards in relation to timber plantations located within 1 kilometre of the mine.

Item 24

- 25 The Council did not have any involvement in the variation of work plan or the rehabilitation plan for the Hazelwood Mine West Field Expansion Project (**the West Field project**) which was dealt with by Federal and State government regulatory processes.
- 26 The West Field project principally concerned Federal and State government regulatory approvals and assessments with respect to
- 26.1 an Environmental Effects Statement (**EES**);
 - 26.2 a proposed new mining licence;
 - 26.3 a Work Authority and Environment Protection Authority Works Approval;
 - 26.4 a biodiversity assessment under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*; and
- 27 The West Field project did, however, involve proposed changes to the “*Latrobe Planning Scheme*” and four planning permit applications associated with the relocation of existing roads, rivers and creeks, as well as associated works. This required the Council to consider and adopt Planning Scheme Amendment C32 (**C32**).
- 28 C32 included four planning permit applications and a planning scheme amendment for the following:
- 28.1 one planning permit application for works outside a mining licence area to accommodate the diversion of the Morwell River and two creeks;
 - 28.2 three planning permit applications for subdivision to accommodate land acquisition for road deviations and river and creek diversions;
 - 28.3 rezoning of the Strzelecki Highway and local roads to a Special Use zone and a Road Closure overlay; and
 - 28.4 applying the Public Acquisition overlay to the new alignment of the Strzelecki Highway and deleting the Land Subject to Inundation overlay over the Morwell River.

- 29 The C32 application was jointly exhibited with the West Field project EES. Both matters were heard concurrently by a panel appointed by the Minister for Planning (**the Panel**). The Council, as part of its planning authority responsibilities, primarily focused on the proposed planning scheme amendment changes and planning permit applications.
- 30 This process involved:
- 30.1 the then Acting CEO, Paul Buckley, and Planning Manager making a written submission in relation to both the EES and C32 proposals and appearing at the Panel hearing in 2004; and
 - 30.2 Councillors considering the Panel's ESS/C32 report at Council meetings held on 26 April 2005 and 19 September 2005. The Council resolved on 19 September 2005 to adopt the C32 planning scheme amendment changes, and three of the four planning permit applications, and to further investigate the provision of vehicle laybys/stops on the Strzelecki Highway.
- 31 The Council subsequently notified the Minister for Planning of its resolution and requested that the Minister approve C32.
- 32 C32 was gazetted by the Minister for Planning on 9 March 2006 and then formed part of the Latrobe Planning Scheme.

Item 25

- 33 The Council believes that the southern part of Morwell's ongoing urban development is very challenging in terms of liveability in light of the limited buffer separating the town and the mine. It is noted that the Environmental Significance (Urban Buffer) overlay (with a recommended separation distance of 1,000m) was introduced in around 1987 and was applied to the planning scheme after the existing development of the Hazelwood mine and the southern part of Morwell.
- 34 A number of the Council's key strategic policy documents identify the need to strengthen the liveability of Latrobe City's main towns. The following are a non-exhaustive list of such documents, which are available on the Council's website:

- 34.1 Latrobe 2026;
- 34.2 Latrobe City Council Plan 2013 – 2017; and
- 34.3 the “*Latrobe Planning Scheme*” – and in particular, clause 21.04 (Built Environment Sustainability), clause 21.05-5 (Specific Main Town Strategies – Morwell), clause 21.07-3 (Coal Resources), clause 21.07-4 (Coal Buffers) and clause 21.08 (Liveability).
- 35 The Council believes that improved remediation and protection of the northern face and batters of the mine by the mine’s operators is important. Further, the Council believes that strategies regarding the mine’s activities, particularly around the southern part of Morwell, should be considered in greater detail.
- 36 The Council is of the view that any future approvals for coal mining need to be balanced against the liveability of the town of Morwell. In particular, significant consideration needs to be given to any development of mines to the west of Morwell, including Yallourn and Hazelwood mine open-cuts, in circumstances where westerly winds prevail which could potentially see the town at risk of further dust, ash and smoke in the event of another significant fire event.
- 37 Under the current “*Latrobe Planning Scheme*”, some of the objectives and strategies of clause 21.07-3 (Coal Resources) and clause 21.07-4 (Coal Buffers) include to:
- 37.1 “*..ensure that coal resource development and use takes into account the interests of the existing and future Victorian community, the needs and views of the local community, equity in the provision and distribution of employment, housing and community services and the likely social and environmental impacts of development.*”;
- 37.2 “*...ensure that the use and development of land overlying the coal resources recognises the need to conserve and utilise the coal resource in the context of overall resources, having regard to social, environmental, physical and economic considerations in order to ensure a high quality of life for residents.*”; and

37.3 “...ensure that adequate spatial separation is provided between existing and proposed urban and industrial uses and existing or proposed coal development so as to reduce the likely effects of earth subsidence, the emission of noise, dust, fire hazard and visual intrusion.”

A copy of clause 21.07 is annexed and marked “JP-5”.

Item 26

- 38 The Council is restricted in its ability to use its planning authority powers in relation to the operations of the Hazelwood open cut mine.
- 39 This is because the Federal and State government regulatory framework allows for exemptions from applying for planning permits and planning scheme amendments for mineral exploration and coal mining in Victoria.
- 40 The approval processes for plans, EESs, works approvals, licenses, permits and exemptions by the Federal and State government currently does not make provision for local government to influence the approvals and conditions imposed by Federal and State government in relation to mineral exploration and coal mining in Victoria.
- 41 By way of example, the Council is limited in its powers as a result of the application of section 42 of the *Mineral Resources (Sustainable Development) Act 1990 (Vic)* which exempts the need for a planning permit for mining under local planning schemes on land covered by an existing mining or prospecting licence and for new works associated with existing approvals already considered in an EES.
- 42 Section 43 of the *Mineral Resources (Sustainable Development) Act 1990 (Vic)* exempts the need for a planning permit for mineral exploration and enables the Minister for Planning to prepare and approve amendments to any planning scheme to facilitate the carrying out of mining exploration on land covered by a licence. Parties and agencies involved in an application pursuant to sections 42 and 43 are not required to involve the Council in the process.
- 43 Under the current “*Latrobe Planning Scheme*”, clause 52.08 (Earth and energy resources industry), mineral extraction is exempt from requiring a

planning permit if section 42(7), section 42A of the *Mineral Resources (Sustainable Development) Act 1990* or section 47A of the *Electricity Industry Act 1993* can be complied with.

- 44 Under the current "*Latrobe Planning Scheme*", clause 52.08 (Earth and Energy Resources Industry), mineral exploration is exempt from requiring a planning permit if section 43(3) of the *Mineral Resources (Sustainable Development) Act 1990 (Vic)* can be complied with. Clause 52.08 is annexed and marked "**JP-7**".
- 45 The Minister for Planning is the only authority able to modify the State planning policy, zones and overlays.
- 46 The Council is able to modify the local section of its planning scheme, including local planning policy framework and schedules to zones and overlays. However, the Minister for Planning and the Minister for Energy and Resources have in the past been resistant in approving any significant changes to the existing coal provisions contained in State and local sections of the Gippsland planning schemes.
- 47 The Council is aware that Clean Coal Victoria and the Department of State Development, Business and Innovation have prepared a Coal Strategic Plan (**the Plan**) which includes the Gippsland area.
- 48 I understand that the Plan will identify actions to address issues associated with the long-term development of Victoria's coal from an economic, community and environmental perspective. Further, I understand that the Plan will cover issues such as land use planning, infrastructure planning, resource conflict issues and best-practice mine rehabilitation options.
- 49 The Council is yet to be provided with a copy of the Plan and is keen to understand the recommendations of the document to help plan for the future development of Latrobe City and the region.

Dated: June 2014

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Signed by Jason Jon Pullman

ANNEXURE INDEX

Tab	Outline reference	Date	Document
1.	JP-1	16.05.14	Letter from the Hazelwood Mine Fire Inquiry to the Latrobe City Council
2.	JP-2	05.2014	Map identifying the location of timber plantations to the north and west of the mine
3.	JP-3	Current	Table showing the Latrobe Planning Scheme Zones
4.	JP-4	04.06.2014	Map outlining existing zones and overlays that apply to or adjoin the Hazelwood mine
5.	JP-5	Current	Clause 21.07 of the Latrobe Planning Scheme
6.	JP-6	Current	Clause 52.18 of the Latrobe Planning Scheme
7.	JP-7	Current	Clause 52.08 of the Latrobe Planning Scheme