

25 August 2015

Honourable Bernard Teague
Chair
Mine Fire Inquiry
Hazelwood Mine Fire Inquiry
PO Box 24
Flinders Lane VIC 8009

Dear Hon. Teague

Latrobe City Council thanks you and the Board for the generous way in which you have sought feedback from Council and the broader Latrobe City community.

In seeking to provide the following inputs into the Inquiry's considerations regarding mine rehabilitation, Council acknowledges that it has no official role in mine rehabilitation. It is not the regulator.

Council further acknowledges that it has little expertise in the scoping, planning and implementation of mine rehabilitation activities.

Council's input is largely in service of Council's Annual Action Plan which contains the theme, *Advocacy for and consultation with our community*. Within this theme is encapsulated an ongoing commitment to speak to and to speak up on behalf of our community. It is through this theme that Council makes its comments regarding mine rehabilitation.

Latrobe City Council's community has had a long association with the brown coal mines and its associated power generation activities. Throughout this association, there have been various challenges and opportunities for the community including the highway closure, extension of the mine closer to Morwell, dust impact of mine operations and the mine fire.

During the Mine Fire, the community endured 45 days of smoke – smoke which impacted their short term health and wellbeing and potentially their long term health and wellbeing.

Council's position on mine rehabilitation is that a rehabilitated mine should be established to serve as a long term asset for the community. Rehabilitation of the mine has the potential to build the capacity and resilience of the community. It could act as an opportunity for the community to craft a positive and compelling vision for the future. In supporting such an outcome, the community of Morwell and Latrobe City more broadly, deserve to be active participants and partners with the regulator in establishing a collective view of what constitutes a successful mine rehabilitation.

The community has broad and diverse views on mine rehabilitation and it is important that these views are captured and analysed before action is taken.

It will be important to be active in listening to these views and in refining these views into cohesive community expectations. The State, as the regulator of the mine, must then respond to and be cognisant of these expectations when considering and crafting the State's requirements for the mine rehabilitation.

Latrobe City Council remains concerned about the short, medium and long-term remediation plans that are in place for the brown coal mines generally in the Latrobe Valley. This is not limited to the Hazelwood Brown Coal Mine but also includes the Yallourn and Loy Yang coal mines.

This is particularly relevant for those citizens who reside and work in the area of Morwell south of Commercial Road. It is Council's strong belief that the liveability of the town of Morwell must be prioritised over coal extraction when considering remediation plans and the future plans for the extraction of coal from land in the Latrobe Valley. Of particular concern is:

- Stabilisation of batters and mine walls
- Maintenance of the Morwell main drain
- Remediation generally
- Noise and dust reduction
- Proximity to existing settlements and residential areas
- Risk of emissions in case of fires
- Fire hazard reduction

The northern batters of the Hazelwood Mine, the Princes Freeway and private residential properties are in extremely close proximity to one another. Council believes that it should be involved in any future discussions regarding remediation and coal planning to ensure it is well informed when planning the future of the municipality, especially in terms of fire prevention. To date, Council is not generally part of these discussions.

There are a range of areas within Latrobe City that have previously been identified as potential operating brown coal mines that should be reconsidered following this fire event. This includes the areas to the west of Traralgon known as Area H. They should be reconsidered as they do not currently prioritise the liveability of the towns in the Latrobe Valley. The creation of a new coal mining pit in area H west of Traralgon, or any further extension on the land west of Morwell, would create significant dust and noise issues for these towns, not to mention smoke and ash issues in the event of a fire.

There are significant long term implications for towns in the Latrobe Valley, particularly Morwell, if liveability is not considered to be a priority.

Land Use Planning

The *Framework for the Future Final Report (1987)* remains the definitive study in the establishment of current policy guidelines for the protection and sequential development of brown coal in the Latrobe Region, and articulation into local Planning Schemes including the Latrobe Planning Scheme. Using a thirty year timeframe of consideration, the study provides the context for protecting the

major physical resources, the natural environment and the social planning of the occurred, however there has been no review of the methodology used in the establishment of buffers and no update of the nomenclature used to align with current land use planning conventions.

As reflected in the Municipal Strategic Statement of the Latrobe Planning Scheme (Clause 21.07-3), and being advocated by Latrobe City Council, there is a need for co-operation between all levels of government, the private sector and the community with regard to the development of the coal resource. In the last two Planning Scheme Reviews of 2008 and 2014, Latrobe City Council has approached the State of Victoria to review the adequacy and accuracy of the coal planning and policy provisions, but has received no support for such a review.

The Latrobe Planning Scheme includes a Special Use Zone – Schedule 1 relating to Brown Coal. This applies to brown coal mining and power stations. There are a large number of exemptions under clause 52.08 of the Latrobe Planning Scheme in relation to Earth and Energy Resources. As such, it is rare for Council to consider planning applications regarding development within the power stations and mining areas across Latrobe City.

Introduced shortly after 1987, an Environmental Significance Overlay or similar planning scheme provision was introduced to the relevant Planning Scheme that applied to the Latrobe Valley area. Currently, the legacy is the Environmental Significance Overlay – Schedule 1 (ESO1) ‘Urban Buffer’ which is incorporated into the Latrobe Planning Scheme to spatially represent the buffer areas required to protect communities from any adverse effects of future coal mining and to protect the open cut mines from fire hazard. The ESO1 (‘buffer’) was designed to provide protection for existing settlement, extending 1000m from the brown coal mines.

Mine stability uncertainty

The effect and extent of the Environmental Significance Overlay – Schedule 1 has come under recent scrutiny during Planning Scheme Amendment C87 Traralgon Growth Areas Review Framework. AGL Loy Yang lodged a submission to C87 and presented planning and geotechnical evidence at the Planning Panel which has created uncertainty regarding the level of destabilisation that is occurring between the Loy Yang Open Cut and the Traralgon Township. The evidence also raised concerns about the interaction between the open cut mines, and potential instability occurring under the Latrobe Valley townships.

In preparing for the Planning Panel, Council made a number of attempts to meet with AGL Loy Yang to discuss the concerns raised in the submission but were unable to do so. AGL Loy Yang chose to lodge their late evidence via their legal representatives Ashurst Australia leaving Council with insufficient time to consider resolution of the submission. Council received the C87 Planning Panel Report on 22 June 2015 and the report was made public on 20 July 2015. Council requests that the Inquiry consider the content of the C87 Planning Panel Report and associated evidence, to appreciate the potential impact the Latrobe Valley coal mines are having on existing and proposed areas of development.

Council is currently grappling with the recommendations of the C87 Planning Panel Report, particularly the recommendation to remove any strategic reference to the future land use and staging that support land use intensification in the south-eastern portion of the Traralgon Township;

and the recommendation to include a strategy to increase the width of the Environmental Significance Overlay Schedule 1 to from 1,000 metres to 2,000 metres east and south of the Traralgon township from the boundary of the Loy Yang mine open cut until a more specifically defined risk mitigation width is defined. The possibility of expanding the ESO 1 buffer in other areas relating to the other mines has been raised by the Planning Panel for consideration of the Technical Review Board (convened by the Energy and Earth Resources Branch). Latrobe City Council has formally written to the relevant Ministers and Department to have this issue clarified, and as yet have received no response.

Mine rehabilitation

With all of the Latrobe's main towns constrained by coal resources, Council is of the view that the rehabilitation of the mines needs to consider the stability and environmental degradation that is reportedly occurring both within and beyond the mine licence limits. The future beneficial use of the land areas impacted by the mines both directly and indirectly is of paramount importance in the long-term economic viability of Latrobe City.

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. Council submits that increased monitoring of mining impacts within and beyond the mining licence boundary needs to occur to inform future decisions regarding the use of land impacted by mining activity.

Given the recent evidence submitted to Planning Scheme Amendment C87, Council seeks consideration of the implementation of rehabilitation that restores the stability of natural landform beyond the limits of the mining licence. This needs to be considered both in the rehabilitation strategies, and also in the funding allocation for rehabilitation. The effect of mining needs to be assessed to the extent necessary, rather than consideration of the effect ceasing at the mining licence boundary. Implementation of rehabilitation must ensure that all land (outside the special use zone) is able to realise its full development potential consistent with the Latrobe Planning Scheme. The land zoned Special Use Zone should be rehabilitated to the extent necessary to mitigate further damage to natural landform within and beyond the mines open cut activity area, and to ensure that future valuable use of the mined land can occur. Perhaps based on the new information coming to light, a revised Environmental Effects Statement should be undertaken?

The Regulator

Latrobe City Council has no power to require the power generators to alter their operations, the workings of their mines or halt any action deemed to have a detrimental effect on the community and its liveability. These responsibilities rest with the state's regulator, the Department of Economic Development, Jobs, Transport and Resources particularly the Energy and Earth Resources Branch. With most of Victoria's coal located in the Latrobe Valley being exempt from the normal exploration and mining licence procedures, the relationship between the operators and the state is in many ways an exclusive one subject to little influence from Council or the community. The cloistered nature of this relationship from a community perspective appears to be at times impenetrable.

Council's recent interactions with AGL Loy Yang regarding Planning Scheme Amendment C87 demonstrates a lack of regard for the community and the potential negative impact that the mine's workings may have on residents and landowners. Similarly, in lodging a submission opposing AGL Loy Yang's current application to vary their Work Plan by expanding their extraction limit (albeit within their mining licence) to bring the northern batter closer to the Traralgon Township, Council has had no ability to consult with its ratepayers and there is no statutory requirement for the Department to take on board Council's comments. Actions, such as these, only serve to strengthen community scepticism regarding operator's commitment to the long term viability, sustainability and liveability of our community.

Due to the matters raised above, the expansion of land requiring rehabilitation, a change in the extent of rehabilitation required, and the encroachment of mine crests towards townships and land in private ownership should require statutory referral (and response) to the Responsible Authority and statutory notification to the affected landowners where there is an ability for an independent review of any issues of conflict before a final decision is made.

Ultimately, the power of influence rests in the regulator – a regulator based in Melbourne, geographically disconnected from our community – a community which lives with the impacts of any decisions made by this city centric bureaucracy, be they good or bad. It is Council's view that this physical distance between the regulator and the community has allowed cynicism, mistrust and anger to flourish in some parts. Council believes that there is a response which could provide greater credibility, transparency and secure community confidence in both the state regulator and generators. Council's approach acknowledges that the power and brown coal mining industry has largely grown and found its strength over the years through technical proficiency. So to, the operating conditions for generators have been established in a technical paradigm, by state bureaucrats who are technical specialists.

While adequate in past years, this technical strength no longer secures the confidence of the community. Social skills, engagement and community relations are now needed to re-establish trust in the regulation of these operations. Council's view is that this trust is best gained by a regulator who is a visible, engaged and a meaningful partner with the community.

Council's request to the Board of Inquiry is that a recommendation be developed to relocate the Department's entire Earth and Energy Resources Branch to the Latrobe Valley.

Council believes that such a move would be advantageous for the following reasons:

- The Branch would be co-located with the generators and mine operators. This will provide the Branch with the ability to provide constant surveillance and monitoring of the generators and mine operators. Such proximity allows for proactive engagement and intervention by the regulator, providing the opportunity for stronger partnerships which are visible to the community.
- Relocating the Branch to the Valley will require decision makers to live with the impacts of their decisions. There is incredible integrity in such a move. Communicating to the community, that the people who make the decisions live amongst them is very powerful.

- Accountability – the Branch would be placed within the community and accessible by the community. This would build community confidence in being able to raise issues as they arise.
- Authenticity and strength in decision making. The regulator plays a powerful role in the long term health and wellbeing of our community. We believe that a regulator co-located in the community where those impacts are realised, is more likely to make decisions grounded in good community engagement. Staff at the regulator would be ultimately held to account by the community, their families and their neighbours. Having to be present and interact with the community on a daily basis is a position of integrity and strength.
- Accessibility – incidental engagement, engagement which occurs beyond the professional parameters of the working week are valuable in building community understanding of mine operations and power generation regulation. Staff employed by the Branch living and working in the Valley provides an opportunity to informally enhance community knowledge and understanding of the work and actions of the regulator through casual engagement – engagement that occurs in social settings eg. Sporting clubs, school parent meetings, social clubs, neighbourhood conversations. Such engagement would be enormously valuable in enrolling the broader community in the work of the regulator.

Finally, Council commends the work of the Inquiry. It applauds the opportunities that have been provided for community engagement and acknowledges the availability and generosity of the Inquiry's members and staff.

Yours sincerely

Cr Dale Harriman, Mayor.