

LATROBE SHIRE

NEW FORMAT PLANNING SCHEME

**REPORT OF THE PANEL AND ADVISORY
COMMITTEE**

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REPORT OF THE PANEL AND ADVISORY COMMITTEE

1. Introduction

1. The Panel

The Panel and Advisory Committee appointed under sections 151 and 153 of the Planning and Environment Act 1987 to hear submissions and consider the new format LaTrobe Planning Scheme comprised Egils Stokans (Chairman) and Christopher Banon.

The Panel's Terms of Reference are included in Appendix 1. All references in this report to the Panel also include reference to the Advisory Committee.

2. Panel Hearing and Inspections

The Panel held a Directions Hearing at the Council Chambers at Traralgon on 17 July 1998. The Panel hearing was held at Traralgon on 17, 18, 19 and 20 August 1998. The Panel inspected various parts of the Shire on 20 and 21 August 1998 as it deemed necessary.

A total of 63 written submissions were received in response to exhibition, as well as a number of late submission. A list of submitters is included in Appendix 2.

Twenty-three parties, including the Shire of LaTrobe (the Planning Authority), and the Department of Infrastructure appeared at the Panel hearing. They are listed in Appendix 3.

The Panel has considered all material put before it by the Planning Authority and other parties. It has considered all submissions made in response to exhibition, and during, or following the public hearings.

3. Municipal Overview

LaTrobe Shire is in the Gippsland region approximately 150 kilometers east of Melbourne and has an area of approximately 1,405 sq kilometers with a population of 67,444 (1996 census).

The LaTrobe Shire Council was created on 2 December 1994 from an amalgamation of a number of surrounding municipalities.

The Shire is bounded to the south by the Strzelecki Ranges, and to the north by the Great Divide. Tributaries from both ranges form the LaTrobe, Thomson, McAlister and Avon rivers, all of which discharge into lake Wellington, a valuable wetland and part of the Gippsland Lakes system, the largest estuarine lagoon system in Australia.

Clearing the catchments, draining swamps, damming rivers, cropping and grazing, have all contributed to stream degradation, increased erosion and increased flooding.

The Strzelecki Ranges, the Great Divide, Tyers Park, Morwell National Park and scattered areas of remnant natural vegetation are valuable ecological resource.

The LaTrobe Valley contains extensive brown coal reserves of state and national significance. The Victorian Brown Coal Council has assessed the total brown coal resources as 202,000 million tons or approximately 2 million petajoules of energy, of which 31,000 million tons is regarded as readily accessible. There are currently open cut coal mines operating at Loy Yang, Morwell and Yallourn.

The LaTrobe Valley has more than 60,000 ha of softwood and hardwood plantations and the amount of land under plantations is projected to increase.

These plantations supply the paper mill at Maryvale and elsewhere. Amcor has undertaken a \$50 million expansion program to its Maryvale plant.

The Shire contains 47,394 ha of farmland, and agriculture is an important economic activity.

The LaTrobe valley between the Strzelecki Ranges and the Great Divide provides an important transport and urban corridor. The Princess Highway, and the rail line are major arteries linking eastern Gippsland with Melbourne. The LaTrobe valley also contains the main urban centers in the Shire - Traralgon, Morwell, Moe and Churchill and a number of smaller townships including Boolarra, Glengarry, Toongabbie, Tyers, Yallourn North and Yinnar.

The existence of this corridor has influenced the Shire's development patterns. The LaTrobe Valley coal fields have been extensively developed for electricity generation. As a consequence, secondary industries have developed in the region. This in turn has led to the expansion of towns to service industry and agriculture.

Housing patterns have paralleled, and been primarily driven by development and employment patterns in the brown coal/power generation industry. In recent times employment has decreased in this sector.

The forecast number of occupied private dwellings in 2021 is 29,323. This is an increase of only 1,600 dwellings over a 25 year period, which averages out to only 64 new dwellings required per annum. Despite this Council is under considerable pressure to rezone additional areas for residential and rural living purposes.

Rural residential living is recognised as a valid land use and a significant lifestyle asset for the area. The Planning Authority's desire to provide for a

diversity of housing choices within the Shire is constrained by the need to protect brown coal reserves and to prevent the fragmentation of quality agricultural land, and areas with the potential for timber production.

LaTrobe Shire has several areas with high bush fire potential which is exacerbated by nearby rural living land use. Of considerable concern is the possibility of fire in the open cut brown coal mines.

A distinguishing aspect of urban development in the LaTrobe Valley is that no one town is clearly dominant in terms of its range of services, level of functions, or size. The function of the towns, and the services provided are to a large degree duplicated. At the same time, the clustering of Moe, Morwell and Traralgon has not facilitated the supply of a wide range of higher order facilities such as a full department store and services which are attracted by a clustering of tertiary functions.

3.1. *Demographic Characteristics*

Up to 1991 population within the Shire increased due to increased economic opportunities in the LaTrobe Valley, and a boom in rural residential living. By the late 1980's employment reductions associated with the restructure of the electricity industry had resulted in population decreases in the LaTrobe Valley.

Population projections for LaTrobe Shire between 1996 and 2021 indicate an overall decrease in population. Estimated population is expected to decrease by an average annual change of between - 0.15% to 0.03%.

Demographic distribution within the LaTrobe Shire is uneven. Churchill, due to the presence of Monash University's Gippsland campus has a greater proportion of younger people in the 18-24 cohort. Moe, Morwell and Yallourn have a higher percentage of persons 60 years and above, than other

towns in the Shire. Population growth is likely to occur in Traralgon whereas Morwell and Moe are expected to have minimal growth.

Current projections indicate that there will be a demand for only 64 new dwellings per annum.

3.2. *Regional Context*

LaTrobe is bounded by the municipalities of Baw Baw to the west, Wellington to the east, and South Gippsland to the south west.

Access through the LaTrobe Valley is an important regional issue. The Princes Highway, the railway, gas transmission pipelines, water supply, and many utilities utilise the LaTrobe corridor.

LaTrobe Shire is also significant as being one of Victoria's largest population concentrations.

It is the interface with these three adjoining Shires and regional importance of LaTrobe's brown coal reserves, power generation plants, timber plantations, paper mill and transport corridor which require a regional focus to ensure that an integrated response is achieved.

4. Preparation of the Planning Scheme

The process leading up to the preparation of the Municipal Strategic Statement commenced with an analysis of the Shire which included a review of existing and past strategies, and consultation with the Shire's residents, business sector and relevant government authorities.

In 1996, Council commenced the preparation of a Strategic Plan. The public was consulted to identify key issues affecting the Shire. Various working

papers were prepared and submissions from the public were invited. This led to the preparation of a draft municipal strategy which went out to the public for comment, and ultimately resulted in the preparation of the LaTrobe Strategy Plan. The LaTrobe Strategy Plan has informed the preparation of LaTrobe Shire's new format planning scheme in accordance with a number of principles outlined by Council in its submission to the Panel.

The LaTrobe Planning Scheme was placed on exhibition from 18 December 1997 to 20 February 1998 and sixty-three submissions have been received as well as a number of late submissions which have also been considered and referred to the Panel.

The Panel is satisfied that the public has been provided with ample opportunity for involvement with the development of the Municipal Strategic Statement and the new format planning scheme.

5. Structure of the Local Planning Policy Framework

5.1 Municipal Strategic Statement (MSS)

The MSS contains the following:

- A brief introduction outlining the processes leading up to the MSS.
 - An overview of the Shire describing its location, urban settlement pattern, goals for urban areas, demographics, opportunities, and strengths.
 - Reference to the Shire's Corporate Plan including LaTrobe's mission statement, goals and the LaTrobe Strategy Plan vision.
 - An overview of the key strategies identified in the LaTrobe Strategy Plan.
 - A justification for, and description of "the networked city" concept to be pursued by Council.
 - A commitment to a sustainable environment.
 - A commitment to protecting heritage assets.
 - A commitment to the provision of diversity in housing choices.
-

- A description of economic development opportunities especially brown coal/energy generation, information processing, industry, and timber production, and tertiary education.
- A description of the retailing hierarchy in the four major retail centres within the Shire.
- An analysis of industry and industrial opportunities within the Shire.
- Tourism opportunities.
- Analysis of agricultural opportunities and key issues affecting agriculture in LaTrobe.
- A description of brown coal resources and the significance of key issues affecting the brown coal industry;
- An explanation of coal related buffer areas indicating their general location, the need for such buffers, and their purpose.
- A section on the Shire's stone resources.
- A section on the Shire's main infrastructure including high pressure gas pipeline, regional outfall sewer, transport network (road and rail) LaTrobe regional airport, and community facilities and services.

The only map contained in the MSS is of the Gippsland Coalfields Policy Area.

5.2 Local Planning Policies

The Local Planning Policy Framework includes a suite of 21 policies including policies relating to urban form, the environment, heritage, housing, retail and activity centres, economic development, natural resources including agriculture, coal, stone, timber production, and infrastructure.

6. Overall Assessment of LaTrobe Planning Scheme

The LaTrobe Planning Scheme is based on the LaTrobe Strategy Plan 1997. As such, it is based on a thorough evaluation of the Shire's physical characteristics, major opportunities, and key issues needing to be addressed.

The research and data are there to be translated into an effective planning scheme.

The planning scheme is a land use activity framework, whereas the LaTrobe Strategy Plan includes economic, social and political influences as well as the physical land use dimension. These elements do not lend themselves to a structured spatial framework and should not be included in the MSS.

The translation from the LaTrobe Strategy Plan could, without too much effort be improved to make the Local Planning Policy Framework (LPPF) an effective planning tool.

The Municipal Strategic Statement adequately identifies the major land use planning issues in the Shire, but at present it is not an effective statutory document. Rather than being a clear and concise statement of key land use and development issues and directions for the Shire, it is too descriptive and too long. It contains matters which are not land use related and some issues need strengthening. The Planning Authority in other areas has not taken up the opportunity of incorporating into the LPPF various strategies and implementation actions set out in the LaTrobe Strategy Plan. In essence, the Planning Authority has not used the wealth of data found in the LaTrobe Strategy Plan to the best advantage.

The cause of most of the problems with the Municipal Strategic Statement is that it lacks a logical structure and does not comply with Section 12A(3) of the Planning and Environment Act 1987.

The Panel considers that the Municipal Strategic Statement would benefit from a more concise and coherent structure which leads from background to analysis, through to objectives, onto strategies and controls.

The Municipal Strategic Statement does not clearly articulate the Planning Authority's land use objectives. The Shires objectives are stated in many different ways in many sections of the MSS which is confusing. The MSS contains a Mission statement from the Shire's Corporate Plan as well as the LaTrobe Strategy Plan's vision. Strategies for achieving these objectives are also scattered throughout the MSS and need to be pulled together. The Strategies however do not indicate how they are to be implemented. The LaTrobe Strategy Plan on the other hand contains a list of action statements which could be used to implement the strategies listed in the MSS.

- The MSS would be improved and clarified by deleting those parts of it that have no specific identified actions for implementation.
- Restructuring a form and content in such a way that general objectives are identified together with strategies for achieving these objectives, preferably followed by action plans. The linkages between objectives, strategies and finite actions should be readily apparent.

If an objective is not accompanied by clearly identified strategies and actions which specifically identify what is to be done, who will do it and when, then it would be preferable to omit the objective.

In the future when appropriate actions, necessary for attainment of the objective, have been identified and committed to, the objective becomes realistic they could be included.

The Municipal Strategic Statement, in contravention of Section 12A(3)(c) of the Act does not adequately explain the link between its objectives strategies and the application of zones, overlays and schedules, and where appropriate, particular local policies. Nor does it list actions to implement the strategies by which it seeks to achieve its objectives.

The restructuring of the Municipal Strategic Statement will not be too difficult, because the material is already there. This is not a fatal flaw, but is an issue which must be rectified prior to the adoption of the scheme. Restructuring the Municipal Strategic Statement in the way the Panel has suggested will further improve the scheme and make it more workable.

The Panel is satisfied that, apart from the use of the Public Conservation and Resource zone and Public Park and Recreation zone, the rationale underlying the selection of zones, overlays and schedule is correct. The zones, overlays and schedules are all appropriate responses to the development constraints and opportunities identified in the Municipal Strategic Statement. However the links between these and the Municipal Strategic Statement needs strengthening. In its submission to the Panel, the Planning Authority provided a good assessment of the relationship between the Municipal Strategic Statement and the zones, schedules and overlays, but this assessment needs to be incorporated into the Municipal Strategic Statement.

The MSS articulates the environmental qualities of the Shire, especially in the Strzelicki Ranges and the Great Dividing Range and a number of rivers but this has led to few environmental controls in the planning scheme.

The Planning Authority can be questioned on its sparing use of overlays, especially those designed to protect the natural environment. The Shire contains areas of native vegetation, areas of landscape significance, areas of steep slopes which are erosion prone and threaten water quality, potential wildfire areas, yet no use is made of Vegetation Protection, Significant Landscape, Erosion Management, Salinity Management or Wildlife Management overlays.

The Panel accepts that the Planning Authority requires to do more strategic work in these areas to identify environmentally significant or sensitive areas, and establish precisely why they are significant. The Panel is not convinced

however that the Planning Authority has exhausted its access to information which is readily available from Government Agencies. For example the Department of Natural Resources and Environment can provide basic biodiversity mapping and land capability data. The Country Fire Authority is currently preparing maps of wildfire areas. Council should source such data and translate it into controls where appropriate. Any gaps in the data can be the subject of further study at a later date.

The Planning Scheme maps only show two areas zoned Urban Floodway zone. The remainder of the area within the active flood plain of the Traralgon Creek should be included in the Land Subject to Inundation overlay.

Similarly the area around the LaTrobe River that floods should be shown on the planning scheme maps as being an active flood plain. The land should be included in either the Rural Floodway overlay or Land Subject to Inundation overlay.

There is very little mentioned in the MSS about flooding problems and what strategies the Planning Authority will be undertaking to reduce the impact of flooding throughout the municipality. Parts of the Shire (eg Traralgon) have good documented evidence of flood heights and the extent of inundation by floodwaters. These have not been translated into Urban Floodway zones or Land Subject to Inundation overlays, despite parts of the existing residential and commercial development being susceptible to flooding.

The infrequent use of environmental overlays in the LPPF was the result of a conscious decision by the Planning Authority. The Planning Authority submitted that the criticism at the lack of overlays or application of the environmental rural zone is misplaced because zone and overlay controls are no longer “the sole or even the most important basis for guiding decision making”, and that it is policy which will be the principal guide in decision making. This is a simplistic interpretation of the Minister’s statement. This

interpretation of the new planning system must be put into its proper context. Whilst it is true that zone controls provide the Responsible Authority with greater discretion to refuse permits or section 2 uses through the application of local policy, it is ultimately the zone and or overlay controls that trigger the use of discretion. Therefore, zone and overlay controls and local policies must be used in conjunction with each other to achieve an optimum outcome. It must be remembered that a local policy is a guide to decision making, it is not a control. In general zones control use, overlays control development and policies guide decision making.

By way of example the LaTrobe LPPF seeks to minimise land slips and erosion through the Hill areas policy. This policy applies to the areas identified on Map 3 but would not apply to the erection of a dwelling in a Rural zone. Use of the Erosion Management Overlay on the other hand would require a permit to construct a dwelling, and hence any guidelines additional to those specified in the overlay could be invoked via the use of the Hill areas policy.

The West Gippsland Catchment Management Authority administers the West Gippsland Regional Catchment Strategy, which will be a blue print for achieving effective integration and delivery of the land and water management programs in the West Gippsland Region. The LaTrobe Planning Scheme should place greater emphasis on catchment management.

Population is expected to decline in the forecast period. Previous strategic planning identified more than sufficient land exits to accommodate future urban development in towns, yet the Planning Authority has not formulated urban development boundaries around settlements. Under the circumstances the MSS should make a firm statement that urban growth outside these urban growth boundaries will be strongly opposed.

Local policies should assist Council in achieving local strategic land use planning objectives by providing guidance in the assessment of planning permit applications and rezoning requests. They must have a local focus. A number of the policies in the exhibited LaTrobe Planning Scheme do not have a local focus, and are simply a duplication of what is found in the SPPF. In some instance the policies are drafted as prescriptive controls. As part of the review of this scheme prior to exhibition, the Panel recommends that the policies be reconsidered in the light of the Panel's comments in a later section of this report.

The existence of the nearby brown coal reserves which are of national and international significance is strongly acknowledged in the MSS. The need to consolidate development within and around existing towns and villages, and avoid unnecessary urban expansion and rural subdivision is recognised because of the need for efficient provision of infrastructure, and to protect the coal resource. Despite this, the potential for rural subdivision has not been effectively curtailed. Central to this issue is the containment of urban and rural living development. This is sought to be achieved by the use of zone controls, supplemented by the Environmental Significance Overlay (ESO1 and ESO2) and a number of policies including clause 22.4-5 Rural, clause 22.4-6 Timber Production, clause 22.4-7 Coal Resources, clause 22.4-8 Coal Buffers, clause 22.4-98 Stone Resources.

As far as protecting the brown coal resource is concerned, the suite of controls contained in the exhibited planning scheme is an adequate framework for the short term. As it is based on Category A coal reserves which are capable of extraction within 10 to 30 years, identified in 1987, consideration should be give to extending the planning horizon further into the future. This will require extending buffer areas to preclude incompatible development from future coal extraction areas.

A related issue which is not adequately addressed by the exhibited planning scheme is the excessive supply of residential and industrially zoned land within the Shire.

The Planning Authority should consider drawing urban development boundaries around its towns and introduce a policy which would strongly discourage development outside such boundaries.

The issue of industrial zones is more complex. Strategic Planning has also identified a surfeit of industrially zoned land. Another problem is that industrial zones are scattered throughout the major towns, without one dominant industrial precinct. At the same time the MSS seeks to encourage industrial parks to locate near power generation plants, without clearly identifying where such industrial uses are to be encouraged. If Council is to realise its industrial objectives, it may have to reconsider its current industrial zones with a view to rationalising them.

To backzone these areas to residential uses would exacerbate the already excessive supply of residential land. There is clearly a need for further strategic work to be done in this area. This is a matter which the Planning Authority should prioritise after adoption of the planning scheme.

It is imperative to protect agricultural land, and prevent incompatible development on future coal extraction areas, the major threat coming from rural living subdivisions. The Planning Authority should resist pressure to zone additional areas rural living pending further strategic work to identify precisely where such development should be encouraged in the context of projected need, and to discourage such development elsewhere.

The exhibited planning scheme inadequately addresses the excessive areas of rural living land within the Shire, and without strategic justification proposes to zone additional extensive areas rural living. It was made clear to the Panel

by a number of submitters that although on a Shire wide basis there was an excessive supply, there was a shortage of “good” rural living land.

The Planning Authority’s response to requests for additional rural living areas is ad hoc, based purely on the ability of the land to be serviced, without due regard to the wider strategic issues.

LaTrobe Shire is an unusual regional centre in that it has four major urban areas (Moe, Morwell, Traralgon and Churchill), none of which dominate over the others. The former LaTrobe Regional Commission introduced a “functional specialisation strategy” by which the major activity centres were encouraged to build on their existing roles.

The LaTrobe Retail Strategy Study, 1995, supported the local centres model in which future floor space allocation is based on consolidation of the existing retail centres in the LaTrobe region. Each centre serves its local population base and has the option for future development based on local sustainable retail floor space development. This model facilitates equity in floor space distribution based on demand, and secures a sustainable retail role for township centres based on local economic conditions. The local centres model is a practical interpretation of the existing functional specialisation model.

This vision has been developed into the concept of the networked city which is promoted by the Municipal Strategic Statement. The networked city concept seeks to integrate the major towns in the Shire without duplicating their functions or the services they provide. The MSS does not clearly indicate the different functions performed by each of the centres. The Panel was advised by Ms Wood who represented the Planning Authority that Traralgon is the major commercial centre in the Shire. Morwell hosts many government offices and industries, Moe has an emphasis on community services whilst Churchill is largely a university town. If it is intended to build on the

strengths of these towns, the Municipal Strategic Statement should clearly articulate what those strengths are, and how such strengths are to be promoted.

Although integration of the major towns in a commendable objective, the networked city concept does not state clearly how this is to be achieved. Central to the concept is acceptance by the community that higher order services and facilities provided only in one location will benefit the whole community, not just the town in which they are located. To achieve this it will be necessary to overcome traditional rivalry between the towns which was fueled by the old local government structure, by which the towns were separately administered.

The networked city concept also gives rise to mixed messages. It seeks to strengthen and reinforce the role of the major towns, yet provides them with the flexibility for new development to locate according to market forces in any of the centres, provided it occurs in accordance with the structure plan for the particular urban settlement. The LPPF contains no such local structure plans and provides little guidance as to how policy is to be used to overcome market forces to achieve the networked city concept.

Despite a number of conservation studies which have identified many of the Shire's heritage assets, the Heritage overlay contains only five items. This has arisen from a misunderstanding by the Planning Authority of advice it received from the Department of Infrastructure. This is a matter which can easily be rectified prior to adoption.

The Planning Authority has elected not to use any reference documents in its scheme. Generally, relevant reports/policies are named in the policy or control. There is nothing wrong with this technique.

As a general observation, the maps in the Municipal Strategic Statement and Local Policies are inadequate. The Municipal Strategic Statement should

include a Strategic Framework Plan identifying the key elements of the strategy as well as illustrating the strategic directions of the Shire. The maps in the LPPF are of a scale which makes it impossible to identify the issues they are intended to illustrate.

The alterations proposed by the Panel do not require any change to the general thrust or direction of the Municipal Strategic Statement, but simply some restructuring and redrafting which will not require any further strategic work and can easily be achieved before adoption of the scheme.

7. Response to Terms of Reference

The specific issues to which the Panel has responded are taken from the Terms of Reference as provided in Appendix 1.

7.1 Consistency

The LaTrobe Planning Scheme is generally consistent with the Victoria Planning Provisions, and apart from a few exceptions follows the Ministerial Direction on the Form and Content of Planning schemes and the Manual for the Victoria Planning Provisions. The content follows plain English principles.

The Ministerial Direction on the Form and Content of Planning Schemes, and the Manual for the Victorian Planning Provisions (the Manual) were both revised in October 1997, a short time before LaTrobe exhibited its planning scheme. The exhibited scheme is generally consistent with the form and content recommended.

Changes to the Local Planning Policy Framework (LPPF) required for consistency with the Victoria Planning Provisions include;

- The following zones not used in the exhibited LaTrobe Planning Scheme should be deleted from the contents page; Residential 2, Business 3, Environmental Rural, Capital City and Docklands.
 - The contents section should list the various sections of the MSS and the Local Planning Policies.
 - The Planning Authority should ensure that the complete provisions of the VPP's are included in the LaTrobe Planning Scheme. The copy of the planning scheme provided to the Panel did not contain:
 - The User Guide
 - The schedule to the Rural zone.
 - The schedule to the Public Use zone.
 - Page 1 of the Urban Floodway zone.
 - Pages 1 and 2 of the Public park and Recreation zone.
 - Several pages of Schedule One and Schedule Two to the Environmental Significance Overlay
 - Clause numbering of the MSS should follow the form stated in the Manual eg. use 21.01 and 21.02 rather than 21.1 and 21.2.
 - For easier reading of the MSS the pages should be numbered or at least each page should indicate the clause number as some clauses run over many pages.
 - In the schedule to clause 52.02, clauses 2.0 and 3.0 should include the words "none specified".
 - Local policies should contain guidelines. The following policies do not contain guidelines.

Clause 22.1-1 Urban form, Clause 22.1-2 Corridors, Clause 22.4-4 Biodiversity conservation, Clause 22.4-1 Activity Centres, Clause 22.4-2.Retail, Clause 22.4-3 Industry, Clause 22.4-6 Timber Production, clause 22.5-2 Car Parking and clause 22.5-3 LaTrobe Regional Airport.
 - In Clause 22.5-3 LaTrobe Regional Airport, use of the name LaTrobe should be applied consistently throughout the policy. This applies generally to the use of the Shire's name throughout the LPPF.
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- Insert the footer to all policies as required by the Manual.
 - In the definition section of clause 22.5-2, Car Parking, the use as listed in the table should have an upper case letter for the first word and the following words for the same use must be in lower case eg Department store rather than Department Store. Also, for ease of reading uses should be listed alphabetically.
 - In the parking demand management section of the Car Parking policy the term “temporal” should be changed to “time sharing” to make it clearer for lay persons.
 - Under the first policy dot point, of the LaTrobe Regional Airport policy the word “must” must be removed, as this is a policy and not a control.
 - The Statements of Environmental Significance in the schedules to the Environmental Significance overlay need redrafting. It is not enough to state that the issue is important, it must state why it is important.
 - The Coal Buffers Policy should be set out in the format required by the Manual. The second, third, fourth and fifth dot points should change the words “allotment” and “allotments” to “lot” and “lots” to avoid confusion with terminology used in the Subdivision Act.
 - Clause 22.5-2 Car Parking policy should follow the format required by the Manual. It should also avoid use of prescriptive terms such as must or shall.
 - “Mining” and “search for stone” are included in section 2 of the use table, of Schedule Two to the Special Use zone - Urban Gateway. They both have a condition “If the Section 1 condition is not met”. This is not a condition, but must be placed immediately after the land use term under the Use column. See clause 36.04-1 for an example of land uses which are allowed if the condition isn’t met.
 - A number of grammatical, spelling and formatting anomalies in both the ordinance and maps require correction prior to approval. The submission by the Department of Infrastructure contains references to a number of these.
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There are two Ministerial directions which are relevant to the LaTrobe Planning Scheme:

- **Direction No 1, Environmental Audit Overlay**
The Potentially Contaminated Land Overlay has been applied to the LaTrobe Planning Scheme to meet the requirements of this Direction. The exhibited planning scheme and maps should note the change in the name of the overlay.
- **Direction No 6/6A, Rural Residential Development**
The basis of Council's decision to support such submissions seemed to the Panel to be ad hoc, and not based on any sound, enumerated principles, except that such land is capable of being serviced. Capacity of land to be serviced would apply to almost all land, and in the absence of sound strategic reasons is not an appropriate criterion by itself on which to rezone land to rural residential. The specific requests for rural residential subdivision are discussed in more detail in a later section of this report.

7.2. *Municipal Strategic Statement*

The Panel is satisfied that the MSS furthers the objectives of planning in Victoria as identified in Section 4 of the Planning and Environment Act 1987, and meets the requirements of the reform programme. Key issues are articulated, perhaps not as clearly as they could be, but the MSS provides the basis for the allocation of appropriate zones which in turn provides for the fair, orderly, economic and sustainable use and development of land. It seeks to protect LaTrobe's considerable brown coal and timber resources, and seeks an equitable distribution of facilities and resources between the four major settlements in the Shire.

Subject to its comments, the Panel considers that overall, the strategic planning, land use and development objectives are a reasonable response to the characteristics regional context, development constraints, and opportunities of the Shire. It brings together the Planning Authority's past strategic planning.

This is not to say that the MSS could not be improved.

7.2.1 Structure

The Manual for the Victoria Planning Provisions states that:

The Municipal Strategic Statement should be a clear, concise statement of the key land use and development issues and directions for the Municipality.

Although the exhibited MSS contains a lot of information, it is not in a form required to make it an effective statutory document.

The MSS is intended to form the basis of the various controls selected and justification for the local policies. In these circumstances it will be used in the Victorian Civil and Administrative Tribunal (VCAT) to either support or reject development applications, and therefore should be concise, preferably in dot point form, and numbered for ease of reference

7.2.1.1 Wordy and Repetitive

The MSS reads like a novel. It is too descriptive, contains too much background information, is not user friendly, and would be difficult to use in an Appeal situation.

A descriptive approach is appropriate for the introduction or background sections of the MSS, but dot points are more effective in identifying what, where, how and when an issue is to be addressed.

The LaTrobe Strategy Plan contains a lot of actions in dot point form. It would be appropriate for Council to include relevant Strategy Plan actions into the MSS.

The MSS is repetitive. For example it contains two introductions. Issues relating to urban settlement are dealt with in clauses 21.2-2 Urban Settlement, clause 21.5-1 Urban Form and clause 21.7.71 Housing. Clause 21.5-1 is background information and could be incorporated into the Introduction whilst clause 21.5-1 and 21.7-1 could be either amalgamated or follow on consecutively.

7.2.1.2 Contains Irrelevancies

The MSS contains a number of commendable social objectives, in clause 21.2.7, A sense of community, clause 21.2-8, Creating the Future, and clause 21.5-4 Community Facilities and Services. Unless they are linked to land use issues they can be omitted from the MSS.

Large sections of clause 21.2-5, Opportunities for the Future, and clause 21.2-6 Investing for the Future, have been lifted straight out of the LaTrobe Strategy Plan. Unless the MSS articulates how Council will promote clever, green and clean enterprise, or how and where it will assist business in exploiting the competitive advantage of being close to power generation facilities, there is little point in these sections being in the MSS.

The Economic Development section (clause 21.8-1) is a treatise on the importance of the region's energy resources and opportunities which arise from them. All this material is in the LaTrobe Strategy Plan and need not be included in the MSS. What this section should do is to state precisely how and where Council intends to encourage these commercial and industrial opportunities.

Clause 21.8-6 Agriculture encourages sustainable farm management practices and facilitates ongoing structural change in commercial agriculture, and promotes the image of rural industries. This goes beyond the scope of the planning scheme.

The only land use issue to come out of clause 21.9-2, Transport, is that the Highway to the east is to be upgraded. Unless the Planning Authority identifies what physical infrastructure will be required to develop an effective and efficient transport system this section adds little to the MSS.

The Planning Authority sets out a number of transport related land use issues in its Strategy Plan, for example, finalise the alignment and reservations for a Traralgon freeway by-pass. This strategy should be included in the MSS as it is a means of achieving the objective of upgrading the regional road links between Melbourne and the Shire, as well as links to East Gippsland.

It seems extraordinary that there is a need for the MSS to state that there will be a strong presumption against any proposals to sever a transport link within the coal buffer unless a satisfactory and reasonably direct alternative link can be provided.

The Planning Authority should critically re-examine the MSS and evaluate whether these (and other sections) are really necessary.

7.2.1.3 Omissions

The MSS contains only one map - showing the Gippsland Coal fields Policy Area. It is of limited use because of its scale.

A most glaring omission from the MSS is the lack of a Strategic Framework Plan for the Shire. A Strategic Framework Plan is a useful way of illustrating

in one simple picture the Planning Authority's overall plan for the Shire. LaTrobe's strategic position in relation to the LaTrobe Valley, key highway and rail facilities, four dominant towns, the presence of nationally recognised brown coal and timber reserves, and key environmental features lends itself to a clear visual presentation of the Shire's strategy. The Planning Authority should seriously consider preparing a Strategic Framework Plan to give the MSS greater visual impact.

The MSS seeks to reinforce the role of the four major activity centres in accordance with the structure plans of the individual urban settlements. Similarly it seeks to contain development within the minor settlements in conformity with local structure plans. No such structure plans have been prepared. The MSS should indicate that it is intended to prepare such structure plans in the future and nominate an appropriate time frame. In the meantime interim controls should be put into place.

Another problem with the MSS is that it identifies an issue but does not indicate how it proposes to address the issue. The following examples have been randomly selected and are not intended to be an exhaustive list.

- Clause 21.2-6, Investing In The Future, does not articulate how it will promote clever, green and clean enterprise, or how it will assist business in exploiting the competitive advantage of proximity to power generators. It is not clear where, or how energy parks are to be encouraged. Some of the answers are found in the LaTrobe Strategy Plan and should be incorporated into the MSS.
 - The section on Urban and Rural Settlement Strategies give no clue as to how the quality of the main town centres are to be enhanced.
 - The MSS does not adequately address the oversupply of retail floor space, industrial land or residential land in the LaTrobe.
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- No indication is given of how existing neighborhood and smaller town retail centres are to be supported, or what initiatives will be introduced to reduce escape expenditure in the non food category.

Again, some of the answers lie in the LaTrobe Strategy Plan and the relevant strategies and implementation actions should be incorporated into the MSS.

Clause 21.8-5 Tourism, does not indicate why Moe is particularly well placed to become a focal point for tourists, or where tourist infrastructure such as hotels, motels and restaurants are to be encouraged to locate. This clause does not specify what infrastructure will be put into place to foster tourism in the Shire. The Strategy Plan lists a number of infrastructure initiatives designed to facilitate tourism such as improvements to Moe-Walhalla Road, Grand Ridge Road and road links to Wilsons Promontory and the coast generally. If Council is committed to these projects they should be mentioned in the MSS.

The MSS states that existing infrastructure is to be maximised through limiting urban development and consolidating existing urban form. There is a requirement for development contributions, but the LPPF does not contain a development contributions policy. This problem could be solved by inserting into the MSS a statement to the effect that such a policy (is/will be) prepared, and when completed, development contributions will be required.

Clause 21.6-1, Environment, is a very general statement on the environmental values within the Shire, and provides no links to controls or policies. The LaTrobe Planning Scheme does not contain an Environmental Rural zone, despite the significance of the Strzelecki Range and Great Divide, as well as a number of areas of known significant native vegetation.

There is no indication in the MSS that the Planning Authority has utilised any biodiversity mapping, which is available through the Department of Natural Resources and Environment, in the preparation of this scheme.

The MSS is silent about what will happen to the land when coal extraction ceases at any of the existing brown coal mines. The MSS should indicate the possible uses that the mines could be put to when each area is no longer used for coal extraction. The MSS should also indicate how it proposes to deal with over-burden stockpiles.

The MSS does not contain a specific statement relating to the timber resource. In view of the importance of this resource not only the Shire, but to the State, this resources warrants specific mention and strengthening.

7.2.1.4 Issues which need strengthening

Understandably, the importance of protecting the winnable brown coal resource is highlighted by the MSS, and the schemes contains a number of controls including the Special Use - Brown Coal zone, Environmental Significance Overlay (ESO1) a Coal Resources policy, and a Coal Buffers Policy designed to keep inappropriate land uses away from mining operations. Both the Coal Resources policy and the Coal Buffer policy are based on an assessment of what brown coal is winnable in the next 30 years.

The Planning Authority could strengthen clause 21.8-7 of the MSS in relation to brown coal areas.

Framework for the Future (1987), is a long term framework for development of the LaTrobe Region. It endeavoured to find long term solutions to the competing demands for land, while promoting the LaTrobe Region as a diverse economy with a strong base in agriculture, forestry, manufacturing and service industries as well as coal based activities.

Framework for the Future adopted the work of the Interdepartmental Committee (IDC). The IDC recognised that it would be unrealistic to protect

the total extent of the Gippsland brown coal resource from any development that would prejudice the eventual winning of coal.

The IDC developed criteria that identified the more attractive coal deposits, and then sequenced areas where coal was to be extracted. It was thought that this would increase certainty for planning in the short term, whilst maintaining flexibility for the longer term.

The process involved nominating undeveloped brown coal reserves to one of three categories. These were:

Category A	Development Options Stage (development possible in 10 to 30 years)
Category B	Prospective Stage (development possible in 30 to 60 years)
Category B	Identified Stage (development possible in 60 years off)

These categories were incorporated into the regional section of the relevant planning schemes, and the boundaries of the various categories of coal were clearly identified under Amendment RL1. Category A reserves have been included in the exhibited Special Use Brown Coal zone. The land currently included in Category B, C and uncategorised coal areas (designated as “Other Coal Areas”) are proposed to be included in the Environmental Significance Overlay 1: Urban and Construction Buffer (ESO1). This material provides the strategic basis for the brown coal controls in the exhibited LaTrobe Planning Scheme. It should be referred to in the MSS.

7.2.1.5 Unclear Sections

Morwell, Moe, Traralgon - all serve a regional function. This results to some degree in duplication of services and facilities. At the same time it does not

facilitate the supply of a wide range of “high order” facilities such as department stores.

The MSS will have to articulate more clearly the existing role of each of the major towns and how each individual town will contribute to the range of choices and opportunities provided to the Shire as a whole. The MSS identifies that Traralgon is the main commercial centre, Morwell accommodates government offices, whereas Moe is the most “self contained”. The meaning of this is unclear. Churchill’s function is not mentioned. Ms Wood who represented the Planning Authority was adequately able to describe the function of each of the major towns in her submission to the Panel. In fact it mirrored the position of the Urban Settlements Study undertaken by the LaTrobe Regional Commission which promoted the encouragement of functional specialisation which had the greatest potential to stimulate economic growth, and provide for the equitable provision of social facilities.

The following specialisations were proposed and included in the Regional Section of the Moe, Morwell, Traralgon City and Traralgon Shire Planning Schemes.

- Churchill - regional tertiary education and research functions, local service function
- Moe - sub regional and some regional service functions
- Morwell - regional higher order retailing function
regional distributive function (warehousing and storage)
regional manufacturing function
- Traralgon - regional office functions
sub regional and some regional service functions.

It would be useful for this material to be included in the MSS to encourage the reinforcement of such roles.

The Retail policy is an important tool in achieving an integrated township concept, yet it fails to explain how this is to be achieved. On the one hand Retail policy seeks to integrate the established pattern of the four major retail centres. On the other hand it encourages diversity through dispersion of services and facilities. This is unclear and confusing.

Integration and diversity are not mutually exclusive, but as the LaTrobe Strategy Plan states, where a policy decision is taken to support a particular location over the market preference of the investor, for economic or other reason, a firm policy must be in place to justify such decision. Otherwise there is little point in the integrated township concept, because the market will prevail.

Is it the Planning Authority's intention to let market force determine which of the four major retail centres eventually achieves the preeminent retailing position? If that is not the intention, the MSS should articulate what actions Council intends to take to guide market forces.

Clause 21.5-2 Corridors - expresses the importance of the Moe/Morwell, Morwell/Churchill and the Morwell Traralgon Corridors. The MSS treats them with a broad brush approach as if they were the same. Although they each act as a transport corridor they each have different functions. The Moe Morwell corridor is primarily a transport corridor, whereas the Morwell Churchill corridor has an industrial function and the Morwell/Traralgon corridor is intended to be a green wedge. The MSS should recognise the distinction.

In the Morwell-Traralgon Corridor the policy is to accommodate high amenity industry which provides large, low density development. As there is a surfeit of industrially zoned land in the Shire these industries should be encouraged to locate in the towns. If ribbon development along the Highway is desired by

the Planning Authority, retail uses which require exposure to passing trade are more appropriate than industrial uses.

The Planning Authority should carefully reconsider its approach to Restricted retailing premises. (Clause 21.8-3). The Planning Authority proposes to encourage such uses within the CAD to act as major attractors, whilst carefully restricting such activities outside CAD areas. The reason such retailers seek to locate on Highway frontages is that such retailing is car based, requiring large areas for parking, easy access and lower rents than are normally available in the CAD. If the Planning Authority does not get this right, the community might miss out on this increasingly popular form of retailing.

Another potential inconsistency in the MSS is the intention to create new industrial zones to accommodate clever, green and clean industries, whilst at the same time having an existing oversupply of industrially zoned land. If the Planning Authority wishes to establish new industrial parks it should do so in the context of rationalising existing surplus industrial land.

7.2.1.6 Non compliance with Section 12A(3) Planning and Environment Act 1987.

Many of the MSS's deficiencies stem from its non compliance with section 12A(3) of the Planning and Environment Act 1987 (the Act) which provides as follows:

A municipal strategic statement must contain:

- (a) the strategic planning, land use and development objectives of the planning authority; and
 - (b) the strategies for achieving the objectives; and
 - (c) a general explanation of the relationship between those objectives and strategies and the controls on the use and development of land in the planning scheme; and
-

- (d) any other provision or matter which the Minister directs to be included in the municipal strategic statement.

The MSS does not clearly articulate Council's land use objectives. The MSS contains a Mission statement taken from LaTrobe Shire's Corporate Plan which is to be realised through a number of goals, most of which do not have a land use focus. The MSS also contains the LaTrobe Strategy Plan vision which is difficult to translate into a spatial framework. The objectives need to be reviewed to clarify, and tighten up, what the objectives are really trying to achieve, and provide a more specific focus to each objective.

The exhibited scheme does not comply with section 12A(3)(c) because the MSS does not articulate how the zones and overlays have been applied to support LaTrobe's objectives and strategies. Council's submission to the Panel enunciates the principles by which the zones and overlays have been selected. Generally the current zones and overlays have been selected to achieve the same or similar controls to existing ones. These principles should be included in the MSS. Whilst the Panel is satisfied that the application of zones overlays and schedules is generally correct, the MSS has not adequately explained the link between its objectives and strategies and the application of zones, overlays and schedules, and where appropriate, particular local policies. Nor does it list actions to implement the strategies by which it seeks to achieve its objectives. In addition, locations where for example further industrial uses are to be encouraged should be identified in the MSS.

Council's submission to the Panel clearly shows the links between identified issues and local policies, and an implementation of the rationale behind the allocation of planning controls. The analysis demonstrates that there are links between the strategies and controls, but these are not articulated in the Municipal Strategic Statement.

This is not a fatal flaw, but is an issue which must be rectified through a review of the MSS prior to adoption of the scheme.

7.2.1.7 Recommended Alterations

The Panel recommends that the MSS be reviewed to give it a clearer structure and consequently greater statutory strength.

The Panel recommends that the objectives in the exhibited MSS be redrafted to be generally consistent with the nine themes identified in the next section of this report.

The Panel recommends that the MSS be amended to explain the relationship between the scheme's objectives and strategies and the controls on the use and development of land in the LaTrobe planning scheme.

The Panel recommends that relevant action statements listed in the LaTrobe Strategy Plan to implement the objectives be included in the MSS. The MSS could also be strengthened by linking the strategies with the proposed policies zones, schedules and overlays as is required by section 12(A)(3) of the Act.

There appears to be no clear understanding of the meaning of the terms objectives, strategies and policies. For example;

“protect, improve and manage the air and water quality of the municipality.”

This is an objective not a strategy. Other strategies do not relate to land use issues. For example;

“create a stronger national and international focus in our rural and urban economies and our community.

There do not appear to be clear distinctions being made between those strategies that will be implemented through the application of zones, overlays, schedules and local policies, and those that will be implemented wholly or in part, through other activities of the Council.

Little guidance is provided as how strategies are to be implemented. For example how does Council propose to constrain development within and around existing towns and villages and avoid unnecessary urban expansion and rural subdivisions? The MSS states that local structure plans will be prepared, but there are no local structure plans.

7.3 Suggested Structure of Municipal Strategic Statement

The cause of most of the problems with the MSS is that the document lacks a logical structure. Whilst the Panel understands the intent of the MSS, it is nevertheless confusing because there is not clear and logical continuum of issues, objectives, strategies, controls or implementation actions. In the view of the Panel, the MSS would benefit from a more concise and coherent structure which leads from background and analysis through to objectives onto strategies and controls. This would follow the requirements of the Act, and the Manual for the preparation of new format planning schemes.

The Panel considers that the exhibited MSS identifies the important land use issues affecting the Shire, and is with some exceptions generally consistent with the Manual for the Victoria Planning Provisions. It is for the Planning Authority to determine the structure and content of its MSS, and the following is put forward by the Panel for the Planning Authority's consideration as one way to strengthen this important planning instrument.

This example is illustrative only and the Planning Authority may decide that another approach is more appropriate.

1. Introduction and Context
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An outline of the Municipality and its origins, and regional context. The MSS contains a vast body of information which would benefit from being reduced into a more concise form.

A Strategic framework plan would be a useful inclusion.

2. Key Issues

This section would utilise the material in the exhibited MSS and provide the basis and rationale for the objectives of the scheme.

3. Vision Statement and Objectives

The Municipal strategic statement should contain one Municipal vision statement setting out the Shire's land use and development objectives derived from the outline of key issues in the Shire.

The Panel accepts that it is for the Planning Authority to determine its objectives, but the Panel suggests that from the material in the exhibited Municipal Statement it is possible to extract the following themes around which objectives specific to LaTrobe could focus.

- To protect brown coal, timber, agriculture and water resources within the Shire in a sustainable way.
 - to protect the environmental values of the Strzelecki Ranges, the Great Dividing Range and other environmentally sensitive areas within the Shire.
 - To address the Shire's declining population by strengthening its economic base.
 - To contain urban and rural living opportunities to designated areas.
 - To protect and conserve buildings, places, trees, landscapes and other sites or features of identified historical architectural, cultural, aboriginal, social, scientific or environmental significance.
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- To provide an integrated network of efficient, high quality, safe living environments in LaTrobe with a greater diversity of affordable housing opportunities in appropriate locations.
- To provide for a diversity of high quality cultural, recreational, health educational, community and institutional uses located equitably throughout the Shire, responsive to the existing and likely future needs of the community.
- To provide a safe, efficient and effective integrated transport network.
- To consolidate, enhance and integrate the existing role of commercial centres in the Shire offering a range of retail, business, entertainment, community and tourist related goods, services and employment.

The above are to be taken as illustrative only, and the words are intended only to convey the general thrust of the objectives.

4. Strategies

Strategies should be grouped around the objectives identified earlier. By way of example, strategies to achieve the objective of;

“an integrated network of efficient, high quality, safe living environments in LaTrobe with a greater diversity of affordable housing opportunities in appropriate locations”.

could include;

- implementation of the networked city concept;
 - urban renewal projects;
 - application of Residential 2 zone;
 - urban containment within urban development boundaries around existing centres.;
 - CAD rejuvenation plans.
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The MSS should also demonstrate the link between objectives, strategies and outline the use of statutory and non statutory actions, and the linkages to local policies, zones, overlays and schedules in the planning scheme.

The material in the Planning Authority's submission to the Panel could easily be incorporated into the MSS in a form which would clarify the links between objectives, strategies, policies and the various controls. If this is applied to the structure of the MSS as suggested by the Panel, it would fully comply with section 12A(3)(c) of the Act. and greatly assist Council in exercising its role as the Responsible Authority, and the public using the scheme.

The alterations proposed by the Panel do not seek to change the fundamental objectives or the directions of the exhibited MSS, but merely involve some restructuring and redrafting of the MSS to ensure that it is logically structured and sufficiently precise to guide users of the planning scheme, as well as Council in its decision making role as the responsible authority.

7.4. The Corporate Plan

Section 12A(4) of the Act requires that the Municipal Strategic Statement must be consistent with the Corporate Plan, and be reviewed at least once every three years.

The MSS contains a section on the Corporate Plan and includes verbatim its mission statement, and goals. The MSS should indicate how it complements the Corporate Plan, particularly in regard to the Planning Authority's long term land use planning and development principles and objectives.

The Corporate Plan underpins the LaTrobe Strategy Plan which is the source document used for drafting the LPPF. As far as land use issues are concerned they are consistent with each other. The Corporate Plan requires preparation of town centre master plans for Morwell, Moe, Churchill and Traralgon. The MSS should specify a time frame in which these are to be prepared.

The MSS should include the following actions listed in the Corporate Plan;

- Following Urban Design Standards, develop and implement a landscape improvement programme of civic image works for urban centres to the value of \$460,000 to be completed by a specified date.
 - Together with appropriate agencies and interested parties develop and implement tourism signage for key tourist trails in the Shire.
 - Support the continued development of Gippsland Heritage Park in Moe.
 - Work with the Moe community to prepare a Tourism enhancement strategy for Moe as the tourist gateway to the Shire.
 - Prepare an Electronic Commerce Strategy including an indication where such activities are to be located.
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The Corporate Plan contains a number of “actions” which essentially implement strategies to achieve the Shire’s objectives. The ones relevant to land use issues should be included in the MSS.

7.5. Local Policies

The LPPF contains the following policies;

Urban form

Flooding

Hill areas

Fire safety

Biodiversity conservation

Heritage

Housing

Activity Centres

Retail

Industry

Tourism

Rural

Timber production

Coal resources

Coal buffers

Stone resources

Transport

Car parking

LaTrobe Regional Airport

High pressure pipelines

The Panel recommends that each of the local policies should have the word “Policy” included in the title so that the nature of the document is easily identified.

Local policies should assist the Planning Authority in achieving its strategic land use planning objectives by providing guidance in the application of controls to the circumstances prevailing in LaTrobe. Local policies should not simply repeat State planning policies, but should attempt to give them a local focus. This approach recognises that the SPPF is an integral part of the scheme, and avoids the problem of duplication between the SPPF and LPPF.

Although Local Policies use the same headings as used in the MSS, the MSS should specifically link issues with the local policy.

Policies should not be prescriptive controls, but should be aids to effective decision making. Some of the policies are very generalised and consist of parenthetical statements.

The Heritage Policy is simply a restatement of clause 15.11 of the SPPF and should be removed from the LPPF.

Without Local Structure Plans guiding the location of residential development, the Housing Policy does little more than reflect clause 16 of the SPPF. The structure plans referred to in clause 22.3 Housing policy, should be prepared.

The Tourism policy as it currently exists simply restates clause 17.04 of the SPPF. It does not have a local focus. It says that the region has an abundance of natural and heritage assets without identifying what they are. The LaTrobe Strategy Plan contains a number of initiatives to develop the local tourism industry. These should be written into the policy.

Clause 22.4-5, Rural, seeks to ensure that quality agricultural land is protected. Quality agricultural land could be defined by reference to “Assessment of Agricultural Quality of Land in Gippsland” by Swan and Volum 1984, Department of Agriculture and a map incorporated into the policy identifying quality agricultural land. The Decision Guidelines should

be expanded to include consideration of wildfire, flood, soil erosion and other hazards in rural areas.

The Rural policy does not have a local focus and as such is simply a restatement of clause 17.05 of the SPPF. Unless the Planning Authority gives it a local focus, it adds little to the LPPF.

The structure of the Retail policy could be made clearer by grouping together the objectives and policy for each of the three enumerated types of retailing centres.

The Stone Resource policy restates clause 17.09 of the SPPF, has no local focus and should be removed from the LPPF.

The High pressure pipelines policy should be removed from the LPPF as it is simply a restatement of clause 18.11 of the SPPF.

The policies that do not already do so, should clearly state the area to which they are to apply.

The Flooding policy should identify its policy area and indicate that it will be updated when floodway mapping is completed by DNRE. The last policy in the Flooding policy should specify the name of the guidelines referred to. The last decision guideline is a control not a policy. The Policy should apply generally as well as to rural areas.

The Biodiversity Conservation policy largely mirrors clause 15.09 of the SPPF, but it does have a local focus by referring to the Forest Red Gum Grassy Woodlands and the Central Gippsland Plains Grassland (which areas it does not identify). The policy also references the LaTrobe Valley, Special Investigation - Final Recommendations 1987. The significance of the abovementioned woodlands and grassland should be linked to some control

such as a Vegetation Protection Overlay or Environmental Significance Overlay.

The Activity Centres policy repeats much of clause 17 of the SPPF, but it also provides a local focus. As it is central to the success of the integrated township concept desired by the Planning Authority, the policy should be rewritten to make it clear precisely how the Planning Authority intends to process development applications in order to achieve its objective in this regard.

It is trite to say that in the case of Traralgon CAD, new retail and commercial development should be contained within the existing activity centre. Clause 17.01 of the SPPF requires this. Similarly clause 17.03 seeks to protect land in industrial zones from the encroachment of unplanned commercial uses. This would include restricted retail premises. Further, it is unnecessary to state that Restricted retail premises will be encouraged to develop in Business 4 zoned land. This zone is specifically designed to accommodate Restricted retail use.

The Industry policy would benefit from a Framework Plan showing the areas where the various types of industry are to be encouraged.

It should address the current excessive supply of industrially zoned land within the Shire. The policy should be linked to the various actions enumerated in the LaTrobe Strategy Plan. Many industrial areas seem to have grown in an ad hoc manner, with many being close to, or adjacent to sensitive uses. The MSS should indicate how it is intended to manage the interface with sensitive uses eg. buffers, landscaping etc.

The Industrial policy should use the terminology “It is policy that” to be consistent with the Manual for the Victoria Planning Provisions.

The CFA submission requests that a Wildfire Management Overlay, and an associated overlay map showing a shaded area where potential fire intensity exceeds 10,000 kilowatts per metre be included in the scheme.

The fire prevention guidelines referred to in clause 22.2-3 Fire Safety policy should be identified. The Planning Authority should apply the Wildfire Management Overlay to areas likely to pose a threat to life and property from wildfire rather than using the Fire Safety policy. The advantage of using the Wildfire Management Overlay is that it clearly identifies risk areas, whereas the policy applies to all development and use of land which may be too broad.

There are areas which are a fire risk at a lower level and magnitude than are addressed by the Wildfire Management Overlay. The Planning Authority should identify these areas and consider applying an Environmental Significance overlay or other appropriate control to require a permit for development in these areas. There is probably in existence a Fire Hazard map for the Shire which could be the basis for such a control. This would allow appropriate conditions to be imposed upon any development.

There is no Development Contributions policy included within the exhibited planning scheme and the Development Contributions Plan overlay has not been used. If the Planning Authority wants development contributions to be used as a source of funding, a Development Contributions Policy must be prepared.

The Urban Form policy (clause 22.1-1) will be of little use in the absence of local structure plans or a development contribution plan. One objective is “*to plan land uses within the corridors between urban settlements to retain a rural character in order to maintain high landscape qualities and to contribute to the individual character of each urban settlement*”. This objective appears to be contrary to one of the policies in clause 22.1-2, Corridors, which states that “*land within the Morwell Traralgon Corridor to*

the east of Morwell and north of the Highway may be developed and used to accommodate high amenity industry” Another Corridors policy which is contrary to an objective of the Urban Form policy is that *“the Morwell Churchill Corridor be retained and the development and use of heavy industrial industry be supported.”*

The map identifying the LaTrobe Regional Airport policy is of a scale which makes it impossible to define the precise policy area boundary. It shows two circular areas, one within the other, hatched in the same manner. There is no legend on the map indicating the significance of the two circles, nor any reference to them in the body of the policy. If they are not indicated in a legend on the map, and there is no difference in relation to the policy, the inner circular line should be removed to avoid any confusion in reading the map.

The noise impact of aircraft on sensitive uses and residential amenity is often a major issue around airfields. The Planning Authority should expeditiously require the Airport owner to prepare an Australian Noise Exposure Forecast on which to prepare controls to prevent inappropriate development around the airport which in the longer term could threaten the operation of the airport. Council has been unable to prevent the LaTrobe Regional Hospital from establishing virtually on the boundary of the airport. A Hospital is regarded as a sensitive use which is incompatible with an airport.

The map accompanying the Flooding policy is of a scale which is too small to identify relevant areas at the local level. The scale of Map 5 (1:200,000) is too small to properly identify the coal boundaries. The maps which are part of Amendment RL1 clearly define the boundaries of Category A, B and Category C coal and could be used. The DOI submission at page 26 and 27 highlights a number of problems associated with the mapping which includes the small scale of the maps lack of zone boundaries, inadequate road names and other

technical problems. The Planning Authority should have regard to these comments when it reviews the exhibited planning scheme prior to adoption.

The Activity centres policy applies to the “main” activity centres, however the first objective is to strengthen and reinforce existing “major” activity centres. The same terminology should be used so as to reduce any confusion. The third policy states that no new major freestanding retail or office development will be permitted. This is a control rather than a policy.

The Planning Authority’s objectives for retailing on the northern side of the railway line at Morwell contained in its Activity Centre’s policy require reconsideration. “Specialist retailing” requires definition, and consideration must be given to how Council intends to encourage specialist retailing to locate there because “shop” is an as of right use in a Business 1 zone.

In clause 22.4-2 Retail policy, the last objective is unintelligible. The Retail Policy needs to balance the need to redevelop and upgrade retail facilities within existing retail centres and allowing a new retail expansion.

The Retail policy on restricted retail premises is also unclear. The policy should specify what opportunities for restricted retail premises outside of Activity Centres will be provided. The second policy relating to neighbourhood and smaller town retailing centres is a duplication of the first. Neighbourhood and smaller town shops are most unlikely to significantly detract from the higher order facilities in the major retail centres.

Although the Coal Resources policy in effect restates clause 17.08 of the SPPF, it identifies the coal resource within LaTrobe Shire by a map and introduces some local policies relating to the treatment of excavations and overburden. Due to the importance of the brown coal resource to the Shire it is appropriate that the planning scheme contain a policy relating to this issue.

No doubt with time, other policy issues relating to the brown coal resource will be included in the policy.

It would be useful for the policy to state the basis on which the boundaries of the resource have been drawn. The Coal resources policy should also define what it means by “coal resources area” which presumably is other than the buffer areas.

The Coal Resources policy lists a number of land use issues affecting the Gippsland Coalfields Policy Area, but does not adequately tie them together in a way which makes it quite clear that they are to be subrogated to the interests of coal recovery.

The Coal resources policy does not provide any link with clause 17.08-3 of the SPPF, and states unambiguously that;

“Environmental quality and protection is a primary consideration”.

This means that environmental quality and protection, not the protection of the coal resource is the primary concern of the policy. This taken literally means that coal extraction is unlikely ever to satisfy that policy. The policy should be made consistent with clause 17.08-2 which requires mining to be within “acceptable environmental practice,”

The Coal resources policy, when analysed critically will be of little assistance in ensuring the optimal exploitation of the brown coal resource whilst at the same time minimising land use and environmental conflicts. It should be rewritten and include guidelines to be considered when dealing with applications within the policy area to ensure that recoverable coal reserves are not jeopardised.

Map 5, Coal Resources, appended to Coal Resources policy shows areas zoned Special use - Brown Coal zone, and other coal areas. It would be useful for the map to identify the category of coal indicated because this would indicate the time frame in which the coal will be exploited.

Under clause 22.4-8 Coal Buffers policy, it states that it “applies to the four identified coal related buffer areas shown on Map 6”. Map 6 however shows only three different areas of which only one of the three is indicated as being a buffer. Map 6 should only show the four buffer areas referred to in the text. It should not show the Special use - Brown Coal zoned land, nor the Other Coal areas which are already shown on Map 5.

The Coal Buffers Policy should clarify what it means by “settlement boundary”. Does this mean a residential or non rural zone boundary, or does it extend to any form of residential development on rurally zoned land? Similarly, the word “crest” should be defined.

The Coal Buffer policy should create a link with Framework For the Future which is its strategic origin. It should be a reference document.

The Planning authority should give serious consideration to whether it wishes to retain the section on social planning in the Coal buffers policy because it has the potential to make the exploitation of the brown coal resource more difficult.

The preamble to clause 22.4-6, Timber Production, needs to be redrafted to define precisely to what the policy applies. The definition of a plantation seems to be missing some wording.

Clause 22.4-9 Stone Resources policy should define the Extractive Industry Interest Area to which it applies. This could be effectively done with a map.

Clause 22.5-1 Transport policy adds little to clause 18.01 of the SPPF. It could benefit from an additional objective to encourage north south transport links to tourist destinations such as Baw Baw National Park to the north, and Wilsons Promontory National park to the south. The third policy could be expanded to include not only parking facilities for cars, but also for buses, trucks, motorcycles, bicycles and vehicles pulling trailers, caravans and boats.

The Department of Infrastructure has made a number of useful observations relating to the policy section of the LPPF. These matters should be considered when the Planning revises its new format scheme prior to adoption.

The local policies remaining after deletion of the policies which simply reflect the State policies found in the SPPF, are a local response to issues arising in LaTrobe, and will, after being rewritten, ultimately assist in decision making. The policies could be enhanced by articulating relevant implementation actions which are adequately set out in the LaTrobe Strategy Plan. The policies could be enhanced by the inclusion of clear linkages to the MSS by articulating the strategic directions which have given rise to them.

7.6. Zones, Overlays and Schedules

7.6.1 Zones

The LaTrobe Planning Scheme uses 19 zones and 4 overlays as listed below;

Zones	Overlays
Residential 1	Environmental Significance
Low Density Residential	Heritage
Mixed Use	Airport Environs
Township	Environmental Audit
Industrial 1, 2, 3	
Business 1, 2, 4, 5	
Rural	
Rural Living	
Public Use	
Public Park and Recreation	
Public conservation and Resource	
Road Zone	
Special Use Zone	
Comprehensive Development Zone	
Urban Floodway	

The Public Park and Recreation zone has been applied to significant open space resources. A distinction should be made between public open space which is used primarily for recreational purposes (both active and passive) for which the Public Park and Recreation zone would be appropriate, and public open space which has special environmental qualities which should be included in the Public Conservation and Resource zone. Prior to adoption of the planning scheme the Planning Authority should satisfy itself which of the two categories the various parcels of land fall into, and then allocate the appropriate zone.

In the case of the Special Use - Urban Gateway zone, the existing commercial ribbon development has occurred in a de facto way and the Planning Authority now seeks to regularise the situation. Although the Manual suggests that the Special Use zone be used sparingly, the Panel considers that the significance of the entry into Traralgon warrants the use of this zone. A Design and Development Overlay could not adequately control uses in this location, and the application of a Business 1 zone would permit a wide range of uses inimical to the precinct's objectives.

The two land uses carnival and circus are usually included in Section 1 of various VPP zones with the condition that each "Must meet the requirements of a *"Good Neighbour"* Code of Practice for a Circus or Carnival October 1997". These uses have not been included in any of the land use tables of the Special Use zone - Urban Gateway. These two uses would be an appropriate temporary use at the gateway of towns. Is it an oversight that they have been omitted? Schedule two should include in either section 2 or section 3 of the use table the innominate use clause.

With the removal of Ministerial Direction No 9, it is no longer mandatory to place brown coal reserves into a Special use - Brown Coal zone, but because of the special nature and magnitude of the use, it is highly desirable that the Special Use - Brown Coal zone is applied.

The Panel considers that the Gippsland Heritage Park at Moe is a special use which warrants a Special Use zone. There are numerous examples of Tourist facilities throughout the State to which a Special Use Zone has been applied. The purpose of Schedule Three to the Special Use zone should be amended to better reflect the current use of the site as the Gippsland Heritage Park.

The Panel considers that a Business 1 zone over the Mid Valley Shopping Centre site is appropriate in view of the fact that it is in one ownership and all

of the current uses can be accommodated within the Business 1 zone. The existing site specific controls over the site can be converted into permit conditions.

The location specified in the Schedule to the Mixed Use zone should define a boundary. The location is not justified in the MSS, nor is there any strategic justification for a nil combined leaseable floor area for office, shop or trade supplies. Does “the south side of Shakespeare Street” mean all the land to the south of Shakespeare Street, or does it refer to land which abuts the south side of Shakespeare Street? This should be clarified.

The MSS should provide strategic justification for requiring a minimum of 4000 sq m for lighting shops and 7000 sq m for restricted retail premises on all Industrial 1 and Industrial 3 land. Similarly, the MSS should provide strategic justification for the limits imposed by the schedule to the Business 4 zones on lighting shops and restricted retail premises.

At the request of the Panel the Planning Authority provided a map showing land proposed to be zoned Rural Living in addition to land currently in equivalent zones. These additional Rural Living areas are significant in area. The basis for the allocation of the Rural Living zone appears to be ad hoc, and is not supported by the MSS, and is therefore unjustified, especially as there is an excessive amount of residentially zoned land within the Shire and an expected decline in population over the forecasting period.

The minimum subdivision sizes or the minimum area for which no permit is required in the schedule to the Rural Living zone and Rural zone is not mentioned or justified in the MSS. If it is based on existing subdivisional patterns this should be stated.

The Planning Authority should justify its decision not to include in the schedule to the Rural Living zone a nominated capacity above which a permit is required to construct a dam.

The areas in the Rural Living zone to which the various subdivision minimum apply should be made more clear. The Planning Authority should refer to pages 17 and 18 of DOI's submission which sets out the difficulties in locating these areas.

In Schedule One to clause 37.01 Special Use zone, the table of uses refers to clause 2.2 and 3.1 of "this schedule". There are no such clauses in the schedule. Schedule one does not specify under what circumstances an application need not comply with the enumerated requirements.

The Planning Authority should indicate its reasons for requiring a planning permit in the Special Use - Brown Coal zone for agriculture, carnival and circus, when other zones do not require a permit. Prima facie these are all uses which are either temporary or require very little development which would affect the long term use of the land for brown coal extraction or electricity generation.

Schedule One incorporates an additional section "Referral of applications" which is not provided for by the Manual. The Panel can see no reason why clauses additional to the requirements of the Manual cannot be incorporated into the schedule. The introduction to the section Amenity of the neighbourhood in clause 2 of schedule requires redrafting.

The Comprehensive Development zone can be removed from the contents as the Mid Valley shopping Centre is now to go into a Business 1 zone and the Panel has recommended that the site specific controls contained in schedule one to the Comprehensive Development zone be translated into permit conditions.

The exhibited Urban Floodway zone does not match land that was previously covered by flood zones or overlays, but instead has been reduced in size. An example is Victoria Park, Traralgon, and the remainder of open space along Traralgon Creek which is proposed to be included in a Public Park and Recreation zone. It appears that the Planning Authority wishes only to include undeveloped urban areas within the Urban Floodway zone. If this is so, the remaining flood plain areas should be included in a land subject to Inundation Overlay.

It is regrettable that a draft of the proposed LaTrobe Planning Scheme was not submitted to DOI prior to it going on exhibition when many of these drafting matters could have been rectified.

Apart from the use of the Public Park and Recreation zone, the Planning Authority's selection of zones overlays and schedules generally accords with the Manual and is a reasonable reflection of the strategic intent set out in the Municipal Strategic Statement.

7.6.2 Overlays and Schedules

The four overlays included in the LPPF follow the format required by the Manual for the Victoria Planning Provisions and the Ministerial Direction on the Form and Content of Planning Schemes.

There is a need for greater environmental controls in the LaTrobe Planning Scheme. The LaTrobe Valley Special Investigation June 1987 (Land Conservation Council) identified a number of areas with significant flora and fauna and landscape values, and areas with environmental constraints. The report also recommended buffers, generally 40 metres wide on either side of major streams, and 20 metres along ephemeral water courses and hydrologically sensitive areas, which should not be logged. The report

provides the strategic basis for the Planning Authority to impose controls over these areas.

Schedule One to the Environmental Significance Overlay relates to Urban and Construction buffers, yet the planning scheme maps seem to indicate that this overlay has been used for more than just buffers. If this is so, either the text of the schedule should be expanded to reflect this, or alternatively the maps should be changed. Clause 2.0 of Schedule One should be linked with clause 2.1.8-7 Gippsland Coalfields Policy Area.

The Construction Buffer Environmental Significance Area referred to in clause 3.0 is not defined anywhere. Similarly, “the Policy Area” in the Permit requirements section is not defined.

It is assumed by the Panel that the Urban and Construction Buffer is contiguous with the proposed Morwell River Diversion. If this is not the case a map showing the Morwell River Diversion area should be included in ESO1.

The statement of environmental significance in Schedule One to the Environmental Significance overlay is inadequate. A statement of significance must say why the matter is significant, not merely that it is. Schedule Two to the Environmental Significance Overlay must be amended to include a statement of significance.

The requirement in Schedule Two to the Environmental Significance Overlay contains a requirement for a permit to remove, destroy or lop native vegetation. This same control is duplicated in the overlay itself. It should therefore be deleted from Schedule Two.

The schedule to the Heritage overlay incorrectly lists the Mechanics Institute and Library at Toongabbie, and the Court House and Post office building

complex at Traralgon as not being included on the Victorian Heritage Register.

The schedule to the Heritage Overlay contains only five places, despite a number of additional places being listed on the Victorian Heritage Register, and a number of significant places identified in the Traralgon Heritage Study 1992 as well as the LaTrobe Region Heritage Sites study 1989 by Janice Horsefield. Chris Johnston's LaTrobe Valley Heritage Study 1991 also provides a data base. All of these studies provide a sound basis for the Planning Authority to protect its heritage assets.

The buildings in the schedule to the Heritage overlay should be listed alphabetically by town and then by street.

The Panel recommends that the Planning Authority include in the schedule to the Heritage Overlay all of the Shire's heritage assets whose significance has been established to the Planning Authority's satisfaction.

7.7. Inconsistencies with adjoining Planning Schemes

LaTrobe Shire shares boundaries with the municipalities of Baw Baw to the west, south Gippsland to the south, and Wellington to the east.

7.7.1 LaTrobe and Baw Baw

The LaTrobe Shire and the Baw Baw Shire have treated the Strzelecki Ranges differently, with LaTrobe adopting a Hill Areas policy and Baw Baw adopting an Erosion Management Overlay. Whilst both techniques seek to achieve similar ends, the Erosion Overlay is a control in which a permit is required to construct a building or carry out work. The Hill Areas policy is essentially a set of decision guidelines which will not be activated if the proposed development is as of right under the zone control.

The Planning Authority should carefully examine the LaTrobe Valley Special Investigation Proposed Recommendation Report 1987 prepared on behalf of the Land Conservation Council which may provide sufficient strategic justification for the allocation of an Environmental Significance Overlay, Significant Landscape Overlay or Erosion Management Overlay to be consistent with the Baw Baw Planning Scheme. Given that the area is proximate to the Strzelecki Ranges it is likely that special qualities will be identified.

On the face of it, the Strzelecki Ranges would seem to qualify as a place of environmental significance which could justifiably be zoned Environmental Rural. The degree to which pine plantations and regrowth forest is present is clearly a matter which should be considered. If these uses are predominant, then the rural zone is appropriate. If native vegetation and environmental values dominate, then the Planning Authority should reconsider the exhibited zoning. It would be desirable for Council to consult south Gippsland Shire on this issue with the view of adopting a common position.

The Morwell-Thorpdale Road and the Moe-Rawson Road are correctly zoned RDZ1 in the LaTrobe Planning Scheme, but not in the Baw Baw scheme. That is a matter for Baw Baw to rectify.

Two areas of land north of the Moe North Road, and around Purvis Road are used as gas compression stations and are zoned PUZ1 (service and utility), however the abutting zone in Baw Baw is rural. If the facilities are in public ownership and are significant in size, they are appropriately zoned Public Use 1. If this is not the case, the underlying zone should be applied.

The land in the vicinity of Hunter Road is zoned Public Conservation and Resource, whilst in LaTrobe it is zoned Rural. The correct zone will depend on whether the land is in public/private ownership and whether there is any

strategic work available to show that the land has any identified environmental values which requires management and protection.

The LaTrobe Planning Scheme contains two Environmental Significance Overlays (Brown Coal Buffer and Water Catchment). To be consistent with the Baw Baw Planning Scheme, the Planning Authority should consider applying an ESO around Tanjil River and Tyres Park, and other water catchments.

7.7.2 LaTrobe and South Gippsland

In relation to the land adjacent to the Old Darlimurla Road reserve, and land east of the Darlimurla township whether the land should be PCRZ or PUZ will depend on the land is in public/private ownership and whether there is any strategic work available to show that the land has any identified environmental values which require management and protection.

The Department of Infrastructure should facilitate an agreement with the Shire of South Gippsland to apply an Environmental Significance overlay over the water catchment south of the Township of Boolarra, and north of the Grand Ridge Road.

The Department of Infrastructure should broker a common approach to various parcels of land where South Gippsland Shire has used ESO1 (Area of Natural Significance) ESO2 (Water Catchments) and ESO7 (Areas Susceptible to Erosion).

7.7.3 LaTrobe and Wellington

The Department of Infrastructure should liaise with LaTrobe Shire and the Shire of Wellington to seek a common approach to the allocation of zones for the areas mentioned in the Department's submission.

The Panel has previously commented on the need for the Planning Authority to consider using flood or inundation overlays to protect areas from the floodwaters of the LaTrobe and Thomson Rivers. Some flood maps are available and should be used to prepare the necessary overlays.

7.8 *Incorporated Documents*

The only incorporated document in the schedule to clause 81 of the LPPF in addition to those included in the VPPs was the Morwell Mid Valley Shopping Centre Development Plan. It is now proposed to remove this, and place the shopping centre in a Business 1 zone which will accommodate all of the current uses. Any site specific controls can be translated into planning permit conditions. The Panel endorses this approach.

Australian Standard As 2021-1994 Acoustics - Aircraft Noise Intrusion - Building Siting and Constructions and the Obstacle Limitation Surface Plan referred to in the LaTrobe Regional Airport policy should be incorporated into the schedule of clause 81 because they are required to decide whether a proposed development complies with the policy.

The second decision guideline in clause 22.2-5 Heritage policy states that regard will be made to Aboriginal Cultural Resource Management grid maps. As the map is essential for the exercise of discretion under the scheme it should be an incorporated document.

7.9 *Referrals*

The Department of Infrastructure has indicated that concurrently with the approval of the LaTrobe Planning Scheme the existing referral provision for subdivision in Category A Coal areas would be deleted and replaced with a new provision. In the case of proposed subdivision of land within the Gippsland Coalfields Policy Area, or an application for specified uses within the Gippsland Coalfields Policy Area, but outside of the Special Use Brown

Coal Area zone, a referral to the Secretary to the Department of Natural Resources and Environment will be required.

7.10. *Monitoring and Review*

Ms Wood advised the Panel that review provisions are built into Council's planning system, including the LaTrobe Strategy Plan, as well as annual action plans linked to the Corporate and financial plans. She also submitted a number of monitoring initiatives the Planning Authority proposed. Notwithstanding these comments, the Panel is concerned that no specific mechanisms have been established or articulated in the MSS.

Section 12A(5) of the Act requires that a municipal council must review its MSS at least once in every three years after it is prepared. The Panel considers that the lack of any formal mechanism to monitor the operation of the LPPF and facilitate a review of the MSS should be put into place prior to adoption of the scheme.

The Panel recommends that before the scheme is adopted, Council establish a system for monitoring decisions made under the planning scheme and for reviewing the planning scheme itself.

8. Submissions

LaTrobe Shire has provided a brief summary of each submission and its response to them. A full listing of all submissions considered in this section is contained in Appendix 4.

The Panel has adopted this material without alteration and appends its own commentary at the end of each submission.

Many submissions dealt with similar issues. The Panel has provided its comments and recommendations for one submission and then referred others to that submission.

SUBMISSION NO: 1

Submitter: Mr H J Boettcher

Location: Lot 8 LP 86033 Coonac Road, Traralgon

Existing Zone: Rural Residential, Traralgon (Shire) Planning Scheme

Exhibited Zone: Low Density Residential Zone

Requested Zone: Low Density Residential Zone

Submission:

Supports the proposed new zone.

Strategic assessment:

State policy

The following State policies are relevant:

Settlement policy advocates taking advantage of the opportunity for redevelopment and intensification of existing urban areas;

housing policy supports cost effectiveness in infrastructure provision and use and advocates taking advantage of opportunities to facilitate consolidation;

Minister's Direction 6 regarding rural living and rural residential development supports such development where it is located close to existing towns and urban centres and can be supplied with physical infrastructure. Such development is deemed appropriate where it does not encroach on high quality productive agricultural land nor environmentally sensitive areas nor compromise other natural resources;

Under Direction 6 rural residential development is identified as not being appropriate in the vicinity of feedlots;

Physical services such as water supply, sewerage and drainage are provided for with the performance requirement that urban development must be provided with sewerage at the time of subdivision or be able to contain on site effluent to prescribed performance standards.

Local policy

Broadly the Municipal Strategic Statement establishes that urban settlement policy is to build upon the existing structure of the towns and settlements. This accords with State policy.

Local policy seeks to ensure that there is adequate choice of residential land through the urban settlement policy as well as the housing policy with recognition that diversity in housing types contributes to lifestyle choices as well as the overall attractiveness of the municipality as a place to live and invest which is also a key element of the economic development paradigm of Council's Corporate Plan.

Council comment:

Supporting residential development may appear to be in contradiction with the low population forecast and the acknowledgment that previous planning studies and strategic planning has demonstrated that there is more than sufficient land to accommodate future urban growth. However, the MSS position seeks to redress the balance between supply and opportunity in terms of providing choice and opportunity in the market to enhance affordability.

State and local policy support the proposed zoning and submission request.

Recommendation:

Recommended that the proposed zoning be supported.

Panel comment

A decision on this request should not be made in isolation. Further study is required to establish the planning need for low density residential land, and decisions made as to the most appropriate location of such housing opportunity. In light of the fact that there is currently surplus residentially zoned land, and an expected fall in population over the forecast period, zoning further residential land should not be undertaken on an ad hoc basis, without strategic justification. The proposal does not comply with the provisions of Ministerial Direction No 6/6A.

Panel Recommendation

The land be placed in a Rural Living zone, with the same minimum lot sizes as exist in the current schemes.

SUBMISSION NO: 2

Submitter: A & O Paolini

Location: Lot 10 LP 86033 Coonac Road, Traralgon

Existing Zone: Rural Residential, Traralgon (Shire) Planning Scheme

Exhibited Zone: Low Density Residential Zone

Requested Zone: Low Density Residential Zone

Submission:

Support proposed zone.

Strategic assessment:

See submission 1.

Council comment:

This submission relates to land on the periphery of the Traralgon urban area and already enjoys low density residential development. It is in the same neighbourhood as submission 1 and the issues are identical.

State and local policy support the proposed zoning and submission request.

Recommendation:

Recommended that the proposed zoning be supported.

Panel Comment and Recommendation

As for submission No. 1.

SUBMISSION NO: 3

Submitter: Wolf & Ali Becker

Location: Lot 7 LP 86033 Coonac Road, Traralgon

Existing Zone: Rural Residential, Traralgon (Shire) Planning Scheme

Exhibited Zone: Low Density Residential Zone

Requested Zone: Low Density Residential Zone

Submission:

Live on rural residential land. Have inspected the drawings (proposed planning scheme maps) and read the comments relating to that land. Have no objection to Council adopting the proposed zone.

Strategic assessment:

See submission 1.

Council comment:

This submission relates to land on the periphery of the Traralgon urban area and already enjoys low density residential development. It is in the same neighbourhood as submissions 1 and 2 and the issues are identical.

State and local policy support the proposed zoning and submission request.

Recommendation:

Recommended that the proposed zoning be supported.

Panel Comment and Recommendation

As for submission No. 1.

SUBMISSION NO: 4

Submittor: Peter Vassilopoulos
Location: Lot 9 LP 86033 Coonac Road, Traralgon
Existing Zone: Rural Residential, Traralgon (Shire) Planning Scheme
Exhibited Zone: Low Density Residential Zone
Requested Zone: Low Density Residential Zone
Submission:

Agree with the proposed zone. Believe that the proposed provisions will serve to more effectively use the land considered to be outside the town's urban boundaries.

Strategic assessment:

See submission 1.

Council comment:

This submission relates to land on the periphery of the Traralgon urban area and already enjoys low density residential development. It is in the same neighbourhood as submissions 1, 2 and 3 and the issues are identical.

State and local policy support the proposed zoning and submission request.

Recommendation:

Recommended that the proposed zoning be supported.

Panel Comment and Recommendation

As for Submission No. 1.

SUBMISSION NO: 5

Submittor: W & L E Squires
Location: South west corner of Melrossa and Farmers Roads, Traralgon being land contained in Certificate of Title Volume 3762 Folio 752
Existing Zone: Rural General Farming, Traralgon (Shire) Planning Scheme and the Urban Buffer provision in relation to the open cut coal mine
Exhibited Zone: Rural Living Zone
Requested Zone: Rural Living Zone

Submission:

The Rural Living Zone minimum lot sizes are nominated in the schedule attached to the Zone and for land designated in the area of Laurina Drive and Tristania Drive.

Strategic assessment:

State policy

The following State policies are relevant:

settlement policy advocates taking advantage of the opportunity for redevelopment and intensification of existing urban areas;

housing policy supports cost effectiveness in infrastructure provision and use and advocates taking advantage of opportunities to facilitate consolidation;

Minister's Direction 6 regarding rural living and rural residential development supports such development where it is located close to existing towns and urban centres and can be supplied with physical infrastructure. Such development is deemed appropriate where it does not encroach on high quality productive agricultural land nor environmentally sensitive areas nor compromise other natural resources;

Under Direction 6 rural residential development is identified as not being appropriate in the vicinity of feedlots;

Physical services such as water supply, sewerage and drainage are provided for with the performance requirement that urban development must be provided with sewerage at the time of subdivision or be able to contain on site effluent to prescribed performance standards.

Local policy

Broadly the Municipal Strategic Statement establishes that urban settlement policy is to build upon the existing structure of the towns and settlements. This accords with State policy.

Local policy seeks to ensure that there is adequate choice of residential land through the urban settlement policy as well as the housing policy with recognition that diversity in housing types contributes to lifestyle choices as well as the overall attractiveness of the municipality as a place to live and invest which is also a key element of the economic development paradigm of Council's Corporate Plan.

Council comment:

The manual for applying the Victoria Planning Provisions under *'The VPP in detail'* directs that the Rural Living Zone *'provides for predominantly residential use in a rural environment provided appropriate land management is undertaken. This zone should only be used where this type of use exists or where such a use can be strategically justified. A schedule to the zone allows the lot size and a number of other matters to be specified. Refer to Ministerial Direction No 6 when considering this zone'*.

The general locality and the site in particular have been the subject of planning debate, AAT determinations and Panel recommendations. The issues relate to the existing rural residential development, the Traralgon by-pass road alignment and the constraint of the Loy Yang coalfield and associated buffer.

In 1972 the Report of the Ministerial Panel, appointed to consider submissions concerning Amendment No. 6, part 2 to the Traralgon (Shire) Planning Scheme being the Interim Development Order, 1972, considered this location in the context of strategic planning in relation to the freeway, coal buffers and general constraints and opportunities.

The submitter has brought to Council's attention the Panel's note that development and use matters have been delayed for a number of reasons principally the matter of the location of the Princes Freeway Reservation (Traralgon by pass road).

At the Panel hearing it was reported that the then Road Construction Authority in written and oral evidence was prepared to allow a degree of flexibility with regard to alternative freeway routes. Included was preparedness to investigate using the coal buffer zone land and thus reduce the limiting effects of the freeway and its structures upon the eastern urban settlement of Traralgon. The Panel considered that with a major coal resource located to its south and west and the flood plain of the LaTrobe River to the north clear limits to long term growth, that it be important that the limiting effects of a man made barrier like a freeway be carefully considered. The Road Construction Authority also recognised this problem and suggested a number of alternatives which the panel considered to be worthy of further consideration. In particular that the general aim be to make use of the buffer zone land, or its northern most extent where foundation conditions are appropriate and remove as far as possible the developable land demands of the freeway north of the existing Princes Highway alignment.

These general strategic principles were upheld in a subsequent AAT hearing (appeal no. 1991/10235) which addressed the submitter's land in particular. It was notable that the determination also stated that, *"The placing of uncertainty into the minds of landowners affected by a reservation proposal is well known as having the propensity to result in planning blight"*

The current advice from Vic Roads with regards to the by pass road alignment is that the alignment has not been determined and that in the course of such planning appropriate impact studies need to undertaken to assess the relevant matters.

State and local policy support the proposed zoning and submission request.

Recommendation:

Recommended that the proposed zoning be supported.

Panel Comment

Council has not provided sufficient justification for the proposed zone despite having demonstrated that the proposal is not inconsistent with some statements of State policy.

The Panel was not informed whether physical services are available, or whether there is a need in planning terms to alter the existing zone, or whether the land is or is not high quality productive agricultural land. No explanation was provided why Melrossa Road was not an appropriate boundary of the Rural Living zone.

The uncertainty concerning the possible alignment of the Traralgon By Pass Road should not be seen as an issue in the absence of any submission by Vic Roads to the contrary.

Panel Comment and Recommendation

The land be placed in the Rural zone pending the completion of further strategic assessment of housing requirements and compliance with Ministerial Direction No. 6/6A.

SUBMISSION NO: 6

Submittor: Leila Ethel Squires

Location: South west corner of Melrossa Road and Farmers Road, Traralgon being land contained in Certificate of Title Volume 3762 and Folio 229.

Existing Zone: Rural General Farming Zone, Traralgon (Shire) Planning Scheme and the Urban Buffer provision in relation to the open cut coal mine

Exhibited Zone: Rural Living Zone

Requested Zone: Rural Living Zone

Submission:

Register support of the proposed planning scheme control. Note that the schedule allows the land to be subdivided into a minimum of 2 hectare size lots.

Strategic assessment:

See submission 5.

Council comment and recommendation:

See submission 5.

Panel Comment and Recommendation

As for submission No.. 5.

SUBMISSION NO: 7

Submittor: Kluge Jackson Consultants Pty Ltd on behalf of **Mr R & B Farmer**

Location: Lots 1, 2, & 3 on LP221522B and CP174568 Parish of Loy Yang, County of Buln Buln and part Crown Allotment 14 G2, part Crown Allotment 14 G3 and Crown Allotment 14 F6, Parish of Loy Yang and County of Buln Buln.

Existing Zone: Rural General Farming under the Traralgon (Shire) Planning Scheme and Urban Buffer provisions from the Regional Section of the Planning Scheme.

Exhibited Zone: Rural Zone

Requested Zone: Part Low Density Residential Zone and part Rural Living Zone

Submission:

The subject land comprises three parcels of land on the south-east corner of Minniedale Road and the Princes Highway, Traralgon. The land is currently in 3 parcels with one developed as a house with ancillary farm buildings. The land is used for grazing.

The land is abutted on the west and the south sides by rural residential development (general density 2ha). Most of these lots are developed with substantial homes built on them. The land to the north across the highway is partly developed with rural residential lots of approximately 2 hectares with the balance of the land formed in larger holdings.

The Traralgon by pass alignment runs well to the west of the subject land joining up to the rural residential development to the north of the highway. Local concern at the proposed alignment arises from the close proximity to some expensive residential developments. An alternative alignment could be further east adjacent to Mr Farmer's next property and thereby serving as a buffer to the Category B Coal areas. It is relevant to point out that at the time of the creation of the 2 hectare lots in Minniedale Road, Widows Lane, Hourigan Drive, Farmers Road, Melrossa Road, Tristiana Drive, Laurina Drive, Melaleuca Way, Grevillea Way, Nicoli

Drive and Mahogany Drive the land was then zoned rural residential under the then Shire I.D.O. This rural residential zone then extended over all of the land which is the subject of this submission except Crown Allotment 14G2.

With regard to infrastructure servicing:

reticulated electricity is available;

telephone service is available;

reticulated water line runs along Minniedale Road and Widows Lane and are available to service the property; and

reticulated sewerage is not provided in the immediate area. It is envisaged that lots will be large enough to accommodate septic sewerage system in accordance with the EPA's Code of Practice.

The land is sound light grazing country capable of running 6 equivalent dry sheep to the acre provided it has fertiliser applied annually at 2 parts super and 1 part potash at the rate of 200kgs per hectare with some of the excess fertiliser ending up in the water system. Compared to good country such as Traralgon or Gormandale creek flats, some parts of LaTrobe River flats or areas of Yinnar, Boolarra or Tyers this land could not be classed as good country. Average rainfall recorded over a 28 year period (1/1/1970 to 31/12/1997) being annual average of 659mm (26.4 inches) about 4.5 inches less than the CBD of Traralgon and even less than the west side of Traralgon thus more suitable for septic tanks.

A letter of support for low density residential development from Leon Hammond of *Real Estate Traralgon Pty Ltd* states that in his experience there is a high level of retail demand and limited supply in the both the immediate area near Traralgon and the general locality between Traralgon and Morwell. A map of the locality shows that of existing subdivision there are only 6 lots remaining vacant. In support of the area for low density residential development Mr Hammond describes the attributes as follows:

Minniedale Road and Widows Lane area is in such high demand for these reasons:

North sloping land and northerly building aspect to enjoy the Baw Baw mountain views;

Easy access via Melrossa Road and Shakespeare Street to primary and secondary schools along with highway access;

Already a popular rural residential developed area;

A large variety of dwelling styles in the area;

It is no more than five minutes from the Post Office.

Strategic assessment:

State policy

The following State policies are relevant:

settlement policy advocates taking advantage of the opportunity for redevelopment and intensification of existing urban areas;

housing policy supports cost effectiveness in infrastructure provision and use and advocates taking advantage of opportunities to facilitate consolidation;

Minister's Direction 6 regarding rural living and rural residential development supports such development where it is located close to existing towns and urban centres and can be supplied with physical infrastructure. Such development is deemed appropriate where it does not encroach on high quality productive agricultural land nor environmentally sensitive areas nor compromise other natural resources;

Under Direction 6 rural residential development is identified as not being appropriate in the vicinity of feedlots;

Physical services such as water supply, sewerage and drainage are provided for with the performance requirement that urban development must be provided with sewerage at the time of subdivision or be able to contain on site effluent to prescribed performance standards.

Local policy

Broadly the Municipal Strategic Statement establishes that urban settlement policy is to build upon the existing structure of the towns and settlements. This accords with State policy.

Local policy seeks to ensure that there is adequate choice of residential land through the urban settlement policy as well as the housing policy with recognition that diversity in housing types contributes to lifestyle choices as well as the overall attractiveness of the municipality as a place to live and invest which is also a key element of the economic development paradigm of Council's Corporate Plan.

Council comment:

The strategic consideration needs to be preservation of the buffer to the coal mine to the south therefore larger lots need to be ensured closer to the buffer. To achieve this the Rural Living Zone and not the Low Density Residential Zone is considered appropriate. The current advice from Vic Roads with regards to the by pass road alignment is that the alignment has not as yet been determined and that in the course of such planning appropriate impact studies need to be undertaken to assess the relevant matters. The land parcels are 20.78ha, 25ha and 25ha.

Recommendation:

It is recommended that the Rural Living Zone be supported over this site.

Panel Comment

The subject site is proposed to be in the Environmental Significance overlay (ESO1) which raises concerns that any proposed development be of a low level of density to preserve the buffer to the coal mine to the south. On the face of it Council's recommendation seems inconsistent with this fact.

However land to the immediate west and south of the subject site is already zoned Rural Living with a minimum lot size of 2 ha. The surrounding land is already extensively developed with good quality housing. The subject site is logically the next stage of infill Rural Living development.

The effectiveness of the Urban and Construction Buffer has therefore been seriously compromised by previous planning decisions. Zoning the subject land Rural Living would be consistent with the zoning allocated to it by the former Shire of Traralgon's Interim Development Order, but would be inconsistent with the Planning Authority's desire to contain rural living opportunities.

The requirements of Ministerial Direction No. 6/6A have not been complied with, although it would not take much further work to comply with the direction. Following compliance with the Direction Council would be in a better strategic position to make an informed assessment of the proposal.

The Panel has previously indicated that the Planning Authority is currently making decisions on allocating additional rural living land on an ad hoc basis which is undesirable. The Panel therefore repeats its recommendation that further strategic work needs to be undertaken to establish the planning need for additional rural living land, and to identify the most appropriate locations for such zoning.

Panel Recommendation

The subject land be placed in the Rural zone until the Planning Authority develops a policy on rural living opportunities.

SUBMISSION NO: 8

Submitter: Beveridge Williams & Co Pty Ltd on behalf of **R and B Farmer**

Location: See attached table

Existing Zone: See attached table

Exhibited Zone: See attached table

Requested Zone: See attached table

Submission:

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
Ellavale Park Residential Estate, Traralgon	Residential Low Density Zone under the Traralgon (City) Planning Scheme	Part Residential 1 Zone and part Rural Zone	For that part proposed to be zoned Rural, it is submitted that it be Rural Living Zone
Milburn Grange Residential Estate, Traralgon	Part Residential Low Density Zone and part Residential Development Zone under the Traralgon (City) Planning Scheme	Residential 1 Zone	Residential 1 Zone

Ellavale Residential Estate is approximately 31 hectares in area and is an island of rural land bounded by the railway to the north, proposed Rural Living Zone to the east and south, and Residential to the west.

Access to the site is only available through the Rural Living Zone to the east via Mahogany or Nicoli Drive.

A deep gully to the east which is a proposed open space reserve forms a logical natural barrier and boundary to the urban form of the Traralgon settlement.

The subdivision into residential land is a long standing plan established in an Outline Development Plan which has governed sequential development in the past. With regard to supply and demand for this type of residential land in this locality it is submitted that only four vacant lots are available for development and that the rapid take up and development of land with the limited supply will provide only 2 or 3 years supply. With regard to the loss of rural land, the marginal agricultural value in conjunction with small lot size surrounded by non rural uses does not support viable agricultural activity.

It is submitted that it is appropriate to amend the schedule to the Rural Living Zone as follows, insert: *Mahogany/Nicoli Drive/Melaleuca Way/ Minniedale Road, 2 hectares*

Strategic assessment:

See submission 7.

Council comment:

Development of the estate is within the current timeframe and it is appropriate to consider appropriate residential zones. The variation to the exhibited zones is for the Rural Living Zone to be applied is an area which would be an uneconomic island of rural land surrounded

by residential development. The current advice from Vic Roads with regards to the by pass road alignment is that the alignment has not been determined and that in the course of such planning appropriate impact studies need to undertaken to assess the relevant matters.

Recommendation:

That the proposed Rural Living Zone in the submission be supported.

Panel Comment

Ellavale Park

This island of undeveloped land is an anomaly caused by the boundary between the former City of Traralgon and the Shire of Traralgon. It would serve no useful planning purpose to retain part of the site Rural zone.

It is inevitable that eventually the future of this land is rural living. The timing when this should happen will depend on the outcome of the strategic study on rural living opportunities recommended by the Panel.

Panel Recommendation

A decision on when the subject site is to become rural living should be deferred pending the outcome of the Rural Living study recommended by the Panel.

Milburn Grange

This proposal is part of a longstanding Outline Development Plan which has governed sequential development of the estate. It takes advantage of the opportunity for intensification of an existing urban area, is a natural extension of conventional residential development to the immediate west and can be serviced. Despite there being an excess of residentially zoned land in the Shire, residential development in this location has proceeded too far to be halted now.

Panel Recommendation

Support Residential zone as exhibited.

SUBMISSION NO: 9

Submittor:	Dell and Keith Consultants Pty Ltd on behalf of C & A Vellios
Location:	Frontage to both Bradys Lane and Boultons Crescent, Tyers being part Crown Allotment 16 ^A
Existing Zone:	Rural General Farming Zone, Traralgon (Shire) Planning Scheme
Exhibited Zone:	Public Use Zone – Services and Utility
Requested Zone:	Rural Living Zone

Submission:

There is a reservoir located to the north west of the Vellios property fronting Boulton Crescent. The exhibited map shows that both the reservoir and the Vellios property as being part of the Public Use Zone – Services and Utility.

The map zoning is believed to be incorrect and the Vellios property should be included as part of the adjoining Rural Living Zone which has a minimum subdivisional area of 4 hectares.

Strategic assessment:

Provision of alternative residential living environments in appropriate locations is recognised in the Strategy Plan and the Local Planning Policy Framework.

Council comment:

The application of the Public Use Zone is a drafting error. The land parcel is privately owned with a minor adjacent portion being a Gippsland Water reservoir.

The location of the land for low density rural residential living is considered appropriate.

Recommendation:

That the drafting error be corrected and the Rural Living Zone be supported.

Panel Comment

The submitter's land has been mistakenly included in a Public Use zone services and utility. This must be rectified.

Council does not have any policy in regard to the allocation of additional Rural Living zones, but advised the Panel that it uses the following principles in its decision making;

- Is the proposal infill Rural Living development or in physical association with similar Rural Living zoned land.
- Does it have access to infrastructure of nearby towns.
- Can it be provided with services.

In this case the land is wholly surrounded by land zoned Rural Living. The land is bush land and is not suitable for farming, and can be provided with services.

There has been no attempt to comply with Ministerial Direction No. 6/6A. In the absence of any policy in regard to the allocation of additional rural living zones, the land should remain in a Rural zone pending further work by the Planning Authority to establish the planning need for additional rural living land, and to identify the most appropriate locations for such zoning.

Panel Recommendation

The drafting error be corrected and the remaining portion of the subject land be placed in a Rural zone.

SUBMISSION NO: 10

Submittor: Dell and Keith Consultants Pty Ltd on behalf of **Mr Frank Peel**
Location: Off Brewsters Road, Yinnar South being Crown Allotment 19, Section A, Parish of Yinnar
Existing Zone: Rural B & C Zones, Morwell Planning Scheme
Exhibited Zone: Rural and Rural Living Zone
Requested Zone: Zone boundary realignment to achieve cadastral boundaries in favour of the Rural Living Zone.

Submission:

The proposed zone boundary between Rural and Rural Living Zones dissects the lot Title. It is submitted that this boundary alignment is considered inappropriate and should be located to the rear of the existing rural residential land use.

Strategic assessment:

Technical matter.

Council comment:

To the north the lot abuts the Morwell National Park which is proposed to be zoned Public Conservation and Resource Zone.

Mapping convention that zone boundaries encompass whole title parcels and that reservations should not encroach upon unclassified roads and should stay within their defined area. Zoning boundaries are joined down the centre of unclassified roads, except where they abut reservations, in which case they encompass the whole road.

Recommendation:

That the zone boundary realignment be adjusted to comply with the mapping convention.

Panel Comment

This is clearly a mapping error which must be corrected. The land is approximately 2 ha in size so it makes little sense to leave the land in a rural zone.

Panel Recommendation

The zone boundary follow the Title boundary within the Rural Living zone.

SUBMISSION NO: 11

Submittor: Dell and Keith Consultants Pty Ltd on behalf of **NJ & LOM Jones**
Location: Land fronting Tyers-Walhalla Road and Shekiniah Drive, Tyers, being part Crown Allotments 5D and 5E, Parish of Boola Boola.
Existing Zone: Rural General Farming & part Township, Traralgon (Shire) Planning Scheme
Exhibited Zone: Part Township Zone and part Rural Zone.
Requested Zone: Township Zone to be extended north Shekiniah Drive to enable lots similar to those on the south side (in Township Zone) to be created within the Township Zone.

Submission:

Extend the Township Zone north of Shekiniah Drive, Tyers to enable lots similar to those on the south side to be created.

Shekiniah Drive is a constructed bitumen road and reticulated water and power is available to the lots.

It seems reasonable that the Township Zone should extend along both sides of Shekiniah Drive and not just the southern side.

Strategic assessment:

The proposal would support the strategic objective of maximising existing urban infrastructure.

Council comment:

The proposed extension of the Township Zone would maximise the existing infrastructure

Recommendation:

That the proposed extension of the Township Zone by realignment of the zone boundary be supported.

Panel Recommendation

One lot of approximately 400 sq m has already been excised from the submitters land on the north side of Shekiniah Drive. It would be good planning to extend the township zone to the northern boundary of the newly created allotment to maximise existing infrastructure within the Township zone.

SUBMISSION NO: 12

Submitter: Brian Walton
Location: See attached table
Existing Zone: See attached table
Exhibited Zone: See attached table
Requested Zone: See attached table
Submission:

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
South east corner of Wirraway and Borrmans Streets, Moe being lot 1 on LP23936	Rural Residential Zone under the Narracan Planning Scheme	Rural Living Zone	Low Density Residential Zone
Scrubby Lane, Traralgon being lot 1 on LP133286 being part CA 35A, Parish of Traralgon, County of Buln Buln	Rural General Farming Zone under the Traralgon (Shire) Planning Scheme	Rural Zone	Low Density Residential Zone

With regard to Scrubby Lane, Traralgon:
the allotment is of similar size to adjacent properties proposed to be zoned Low Density Residential.

originally created under the same provisions as adjacent lots which are proposed to be zoned Low Density Residential and all should be subject to the same future zoning
land in Ashworth Drive north of Cross's Road, Traralgon is similar to the subject site and proposed to be zoned Low Density Residential. No logical reason why the subject site should be treated differently the land is located closer to the city centre (Traralgon CAD) than other lots proposed to be zoned Low Density Residential the existing size of the land is not viable

for rural activities physical services exist for the land to be used at a higher density. With regard to Wirraway Street / Borrmans Road, Moe: located in close proximity to properties proposed to be rezoned to allow higher density residential development and use the disparity in lot sizes in Borrmans Road could be corrected through the application of the Low Density Residential Zone physical services exist for the land to be used at a higher residential density market research shows that there is a demand for lots of 4000m² in the Moe area.

Strategic assessment:

See submission 7

Council comment:

This submission relates to land on the periphery of the Traralgon urban area and already enjoys low density residential development. State and local policy support the proposed zoning and submission request.

Recommendation:

That the submission to allow low density residential development at Scrubby Lane, Traralgon be supported and that the submission to allow low density residential development at Borrmans Road, Moe also be supported.

Panel Comment

Re Lower Wirraway and Borrmans Streets Site

This site abuts a Residential 1 zone to its immediate west, on the periphery of Moe. Although LDRZ would be a sensible transition to the proposed Rural Living zone to the south and east, there is no strategic justification for further residential opportunities in this area.

Panel Recommendation

The site be zoned Rural Living.

Scrubby Lane Site

The subject site is within a planning unit currently zoned General Farming and proposed to be zoned Rural. The current use of the remaining land in the planning unit is for horse breeding purposes. Land immediately to the east is also proposed to be Rural.

There is no strategic basis for zoning this land Low Density Residential, except that it would be consistent with the zoning of the land south of Cross Road. It is just as legitimate to zone the land Rural to be consistent with the land to its immediate north which would include it in a discrete planning unit with natural boundaries. As there is an excess of residential land in the Shire, and no compelling strategic reason to zone the land Low Density Residential, the land should remain Rural.

Panel Recommendation

That the subject land remain in a Rural zone.

SUBMISSION NO: 13

Submitter: O'Halloran Davis, Barristers & Solicitors on behalf of **Mrs Angela Battista**

Location: Two Mile Road, Moe South being lot 2 on LP213130

Existing Zone: Agriculture

Exhibited Zone: Rural Living Zone

Requested Zone: Schedule variation to minimum lot size.

Submission:

In the schedule to the Rural Living Zone the minimum lot size is 8 hectares for this parcel. Under the former planning scheme the land could be subdivided to minimum lots of 2ha. It is requested that the 2ha minimum be maintained.

The site has frontage to Two Mile Road, Moe South. The site and adjacent land is located close to the Newborough residential area and enjoys easy access to the Newborough shopping centre.

It is speculated that services should be available to the land.

It is submitted that the description of land in the schedule to the Rural Living Zone is vague. That the Moe South area has a 2 hectare lot size nomination whereas the Tambo Road, Moe South, Coalville Road, Moe and Elswyk-Timmers Road are nominated for 5 hectare lot size. All these areas may be described as Moe South and all should be consistently nominated in the schedule for a lot size of 2 hectares.

Strategic assessment:

See submission 7

Council comment:

The schedule description is recognised as vague, however definition of the areas needs to be done in conjunction with consultation of the maps. By doing so the areas nominated in the Rural Living Zone schedule are clearly delineated.

The zone provisions require environmental, siting and design standards which would overcome any problems with the minor variation in the lot size in this Rural Living Zone.

Recommendation:

That the proposed variation in the schedule for a minimum lot size of 2 ha be supported.

Panel Comment

This submission raises the general issue of inadequate description of land in the schedule of the Rural Living zone which creates uncertainty as to what minimum subdivision size applies.

This problem can be easily solved by inserting areas A, B, C etc into the schedule and defining these areas in a map appended to the schedule.

In relation to the submission by Mrs Battista, no strategic reasons were provided why the existing 2 ha subdivision minimum was not carried forward into the exhibited planning scheme, nor was there any justification provided for changing the zone to Rural Living.

Panel Recommendation

The land be placed in a Rural Living zone with a minimum lot size of 2 ha pending the finalisation of Rural Living study to establish the need for, and preferred locations for rural living opportunities.

SUBMISSION NO: 14

Submitter: Gary Gilmour

Location: Stammers Road, Traralgon being lot 1 LP218153A

Existing Zone: Rural General Farming Zone, Traralgon (Shire) Planning Scheme

Exhibited Zone: Rural Zone

Requested Zone: Rural Living Zone

Submission:

Submit that the land is appropriate for rural residential development on the grounds:
proximity to the urban settlement of Traralgon;
location between previously granted rezonings;
excellent access from Stammers Road; and
provision of attractive small holdings to the east of the urban settlement of Traralgon (concept for development would entail larger subdivisions than allowed under Rural Living Zone with developed water bodies and appropriate landscaping of existing eroded gullies).

Also provided is supporting documentation for the proposed rural residential development.

Strategic assessment:

Strategy supports retention of agricultural rural areas.

Council comment:

The area is adjacent to the industrial area of Traralgon. The area is remote from other areas of residential development. The rural use potentially provides less conflict with the industrial activity than residential activity.

Recommendation:

Recommended that the proposed low density residential use not be supported.

Panel Comment

In this instance the submitter has not satisfied the general and inadequate criteria which Council informally uses in assessing this type of submission.

This submission highlights the problem of applying the policy of protecting high quality agricultural land found in Clause 17.05 of the SPPF in the absence of land capability data.

It is quite possible that the subject land is unviable farming land due to its quality, size, and aged owners as the submitter asserts. This begs the question of what is the best use of the land from the point of view of the present owners and the community.

The submitter indicated that if Rural Living was not appropriate, then Industrial or Industrial 3 should be considered. The Panel has no basis for making such an assessment. In the absence of any firm local policies to guide the Panel, the only course is to suggest that Ministerial Guideline NO. 6/6A be complied with which should provide the Planning Authority with sufficient information on which to make an informed decision.

The further decision on this land should be deferred pending the finalisation of a Rural Living study to establish the need for, and preferred locations for rural living opportunities.

Panel Recommendation

The land be zoned Rural as exhibited.

SUBMISSION NO: 15

Submitter: Dell and Keith Consultants Pty Ltd on behalf of **J & R McMillan**

Location: Lot 2 Laurina Drive, Traralgon

Existing Zone: Rural General Farming Zone, Traralgon (Shire) Planning Scheme

Exhibited Zone: Rural Living Zone

Requested Zone: Rural Living Zone with minimum lot size of 1 ha

Submission:

The site is in a proposed Rural Living Zone with a minimum lot size of 2 hectares. When the subdivision was created the minimum lot size was 2 hectares. Similar existing 2 hectare subdivisions west and north of the Traralgon Golf Course, in the vicinity of the Traralgon-Tyers Road and Grey Street extension and north of Cross's Road have all been included in the Low Density Residential Zone in the exhibited planning scheme with a minimum lot size area of 0.4 hectares. The Retreat Road area south west of the site is proposed to be included in the Rural Living Zone with a minimum lot size of 1.0 hectare.

The lots along the northern side of Laurina Drive abut the Ellavale Park Residential Estate to the north which has lot areas of approximately 1100m² – 1800m² in area.

It would appear that the lots in the Laurina Drive area are to be used as a buffer area between the Loy Yang Open Cut Coal Mine and the Residential 1 Zone which includes Ellavale Park.

VicRoads have routed the Traralgon by-pass road between the site and the open cut mine. It is contended that this future freeway would act as a natural buffer area and that all land to the north of the proposed freeway should be zoned Low Density Residential Zone with a minimum lot size of 0.4 hectares as in other parts of Traralgon, or at least the area could remain as a Rural Living Zone but with a minimum subdivision lot size of 1 hectare.

It is submitted that the lots in the vicinity of Retreat Road should not be treated any differently than the Laurina Drive lots, especially if the future freeway by-pass becomes the boundary between the 'residential' and the brown coal open coal mine buffer area.

Strategic assessment:

The Strategy Plan recognises the coal resource and establishes buffers to protect both the resource and adjacent land uses and development. The Local Planning Policy Framework supports the Strategy Plan.

Council comment:

A concern is that a buffer to the coal field to the south is required. The by pass route for the freeway has not been determined. The main concern is that it proposes an isolated rezoning which may change the existing character of the area.

Recommendation:

Recommended that the submission not be supported.

Panel Comment

Council's recommendation is inconsistent with its observation of low population forecast and the acknowledgment that previous strategic studies have demonstrated that there is more than sufficient land available. The stated strategic reason is insufficient to convince the Panel that more low density zoned land should be made available in this location which is in the vicinity of the buffer proposed by the Power generation companies.

Panel Recommendation

The subject site remain in a Rural zone, pending the finalisation of a Rural Living Study to establish the need for, and preferred locations for rural living opportunities.

SUBMISSION NO: 16

Submitter: R J & B J Johnson

Location: Silcocks Road, Churchill being land contained in Certificate of Title Vol 8990 Folio 649 being lot 1 on LP99151

Existing Zone: Rural A Zone, Morwell Planning Scheme

Exhibited Zone: Rural Zone

Requested Zone: State Urban Living Zone

Submission:

Under the Morwell Planning Scheme the site is bounded by Residential 3 Zone (1 acre subdivision) to the east and Industrial 5 Zone to the south. The site has two dwellings developed on it. The proposed rezoning of the land would be consistent with the new State Urban Living Zone and would not be detrimental to any adjoining properties. It is also consistent with the new zone as it is ideally situated adjacent to a city fringe and sporting facilities. The industrial land to the south does not interfere with this proposal, nor would future development and use facilitated by the rezoning be contrary to industrial use to the south.

Strategic assessment:

Minister's Direction 6 regarding rural living and rural residential development supports such development where it is located close to existing towns and urban centres and can be supplied with physical infrastructure. Such development is deemed appropriate where it does not encroach on high quality productive agricultural land nor environmentally sensitive areas nor compromise other natural resources;

Under Direction 6 rural residential development is identified as not being appropriate in the vicinity of feedlots;

Physical services such as water supply, sewerage and drainage are provided for with the performance requirement that urban development must be provided with sewerage at the time of subdivision or be able to contain on site effluent to prescribed performance standards.

Broadly the Municipal Strategic Statement establishes that urban settlement policy is to build upon the existing structure of the towns and settlements. This accords with State policy. Local policy seeks to ensure that there is adequate choice of residential land through the urban settlement policy as well as the housing policy with recognition that diversity in housing types contributes to lifestyle choices as well as the overall attractiveness of the municipality as a place to live and invest which is also a key element of the economic development paradigm of Council's Corporate Plan.

Council comment:

The Low Density Residential Zone or the Rural Living Zone with a lot size variation specified in the schedule may be the new zone being requested. Supporting residential development may appear to be in contradiction with the low population forecast and the acknowledgment that previous planning studies and strategic planning has demonstrated that there is more than sufficient land to accommodate future urban growth. However, the MSS position seeks to redress the balance between supply and opportunity in terms of providing choice and opportunity in the market to enhance affordability.

State and local policy support the proposed rezoning and submission request.

Recommendation:

That low density residential controls be supported to that portion of the land as requested.

Panel Comment

Council's recommendation that the subject land be zoned either Low Density Residential or Rural Living is inconsistent with Council's acknowledgment that there is more than sufficient land to accommodate future urban growth.

Apart from acknowledging that the proposal will provide choice and the opportunity in the market to enhance affordability (which could equally apply to any proposal) there is just no strategic justification for Council's recommendation.

This is one of three submissions relating to land in the general vicinity of Switchback Road and Birch Drive, Churchill which illustrates the need for Council to develop an overall strategic plan for Churchill indicating where future residential development is to be encouraged.

In the absence of such overall strategic plan the land should remain in a Rural zone, especially as Council has in Submissions No. 17 and 21 recommended that abutting land to the immediate south be zoned Rural!

Panel Recommendation

That the subject land remain Rural as exhibited.

SUBMISSION NO: 17

Submitter: Carstein Group Pty Ltd

Location: Corner of Switchback and Arnold Roads, Churchill being land described in Certificate of Title Volume 10322 Folio 995

Existing Zone: Part Future Urban Zone and part Rural Zone

Exhibited Zone: Rural Zone

Requested Zone: Residential 1 Zone or Low Density Residential Zone or Rural Living Zone

Submission:

The land adjoins the Churchill Township. It is necessary to provide for future residential and rural residential development to allow for expansion of the township. The township is growing rapidly with the continuing development of Monash University.

The application of Residential 1 Zone would enable the full economic use of existing public utilities and community facilities and services.

The land was purchased with a Future Urban Zone in 1995 with a view to developing the land for residential or rural residential use.

Strategic assessment:

The Strategy Plan and Local Planning Policy Framework advocate definite urban settlement boundaries. There is recognition that Structure Plans will be prepared to address these issues.

Council comment:

The VPP system does not provide for a future urban zone. The strategic paradigms underpinning the new system advocates that strategic structure plans accommodate these areas. The current process is not a mechanism for this type of rezoning and the submission is premature in the process. In preparing the structure plans need for additional land will need to be established. This submission does not demonstrate such need.

Recommendation:

That the submission not be supported.

Panel Comment

The Panel was advised that population projections for the township of Churchill were that population was expected to decline over the planning period, and that the town was not growing as asserted by the submitter. In the absence of any evidence of a planning need for residential or low density residential development in this location the Panel believes that the submitters request is premature.

Panel Recommendation

The subject land be zoned Rural as exhibited.

SUBMISSION NO: 18

Submitter: Chris & Yvon McConnell

Location: Coach Road, Newborough being Crown Allotment 9P2

Existing Zone: Proposed Public Purpose - SECV

Exhibited Zone: Rural Zone

Requested Zone: Rural Living or Low Density Residential Zone

Submission:

Approximately 35.6 hectares (88 acres), centrally situated between the residential town fringe of Newborough and the Yallourn housing estate. The Gippsland Water water and sewerage mains to Yallourn and Telecom cables run through the land. The Yallourn Bowling Club adjoins the property to the north and west respectively. Centrally situated relative to all local facilities including shops, TAFE College, medical centre, recreation centre, primary and secondary schools, kindergarten, churches and public transport. Sealed road frontage to both Coach and Monash Roads. Considered the next best available residential greenfields site.

Strategic assessment:

The Strategy Plan recognises the coal resource and establishes buffers to protect both the resource and adjacent land uses and development. The Local Planning Policy Framework supports the Strategy Plan.

Council comment:

The provision of an adequate buffer to the mine is paramount.

Experience of residents of the nearby Yallourn Heights is nuisance from the intrusive continual industrial hum of the lack of baffles at the power station. Future residential expansion in this area needs to be considered in this context and the future development of structure plans to guide residential development.

Recommendation:

That the submission not be supported.

Panel Comment

The MSS places a high priority on the protection of the coal resource and therefore an adequate buffer between coal mining activities and residential development is essential. Although the subject site is outside the minimum buffer distance required the area is said to experience intrusive continual industrial hum from the nearby power station. It is not unreasonable for Council to require the preparation of structure plans to guide future residential development in this area.

Panel Recommendation

Rural zone remain as exhibited.

SUBMISSION NO: 19

Submittor: M K Murray

Location: Quarry Road, Yallourn North being lot 1 on LP304632, CA 25B, Section A, Parish of Tanjil East

Existing Zone: Rural B Zone under the Morwell Planning Scheme

Exhibited Zone: Rural Living Zone with schedule specifying minimum 4 hectare lot size.

Requested Zone: Schedule to the Rural Living Zone to specify a minimum 2 hectare lot size.

Submission:

Objects to the proposed minimum subdivision size of 4 hectares in the Rural Living Zone schedule for this area.

The current control is an average of 2 hectares over a subdivision.

Submits that the minimum area should be maintained at an average of 2 hectares.

Strategic assessment:

See submission 9

Council comment:

The zone provisions require environmental, siting and design standards which would overcome any problems with the minor variation in the lot size in this Rural Living Zone. The existing character of the area has been predetermined by the 2 ha subdivision minimum.

The land is currently 38.78ha

Recommendation:

That the proposed variation in the schedule for minimum lot size in the Rural Living Zone from 4 ha to 2 ha be supported.

Panel Comment

No strategic reasons were provided why the existing 2 ha subdivision was not carried forward into the exhibited planning scheme. The proposed zone is equivalent to a direct translation.

Panel Recommendation

The land be placed in a Rural Living zone with a minimum lot size of 2 ha pending the finalisation of a Rural Living Study to establish the need for, and preferred locations for rural living opportunities.

SUBMISSION NO: 20

Submittor: Yvonne & Graham McKenzie

Location: Switchback Road, Churchill being lot D on LP 139396 in the Parish of Hazelwood, County of Buln Buln

Existing Zone: Industrial D Zone, Morwell Planning Scheme

Exhibited Zone: Industrial 3 Zone

Requested Zone: Part Rural Zone

Submission:

Request that part of the site be rezoned from Industrial to Rural. Submission 21 requests that the balance of the site also be zoned rural.

Strategic assessment:

The Strategy Plan and Local Planning Policy Framework recognises that industrially zoned land in Churchill provides for local needs and is in excess supply.

Council comment:

Given the context of the Strategy Plan and the Local Planning Policy Framework and the location of this land on the edge of the urban settlement the proposed rural zone is considered appropriate.

The submission is a redefinition of the boundary of the urban settlement.

Recommendation:

That the proposed VPP Rural Zone as requested in this submission be supported.

Panel Comment

The Panel agrees with Council for the reasons given.

Panel Recommendation

The subject land be zoned Rural.

SUBMISSION NO: 21

Submitter: Bob and Barbara Johnson

Location: Birch Drive, Churchill, being lot D on LP139396 in the Parish of Hazelwood, County of Buln Buln

Existing Zone: Industrial D Zone, Morwell Planning Scheme

Exhibited Zone: Industrial 3 Zone

Requested Zone: Rural Zone

Submission:

See submission 20

Strategic assessment:

See submission 20

Council comment:

See submission 20

Recommendation:

That the proposed VPP Rural Zone as requested in this submission be supported.

Panel Recommendation

As per submission No.. 20.

SUBMISSION NO: 22

Submitter: Ross & Worth Pty Ltd

Location: Whole of the Shire

Existing Zone: Not applicable

Exhibited Zone: Schedule to the Rural Living Zone

Requested Zone: Not applicable

Submission:

The Schedule to the Rural Living Zone is incomprehensible.

Strategic assessment:

MSS recognises that the municipality supports significant rural living environments, from traditional farming to low density rural residential development throughout the Shire (21.2-2 urban settlement).

The diversity in housing types available in the municipality contributes to the lifestyle choices and the overall attractiveness of the municipality as a place to live and invest. (21.7-1 housing statement).

Local policy (22.4-5 rural) recognises that more work needs to be undertaken on this area with the objective '*to further investigate, understand and plan for the rural area*'.

Council comment:

It is recognised that the description of land in the schedule is problematic. Clarity of definition through the maps and plotted zone boundaries is provided. However, direction is required from VPP guidelines.

Recommendation:

That a request for guidelines in drafting the description in the schedule be made to the Planning Reform Team.

Recommendation

Designations of A, B, C etc be given to the schedule of the Rural Living zone and defining these areas in a map appended to the schedule.

Urban development submissions

Issues raised in relation to urban development include:
providing for sites with an existing Outline Development Plan;
sites for renewal and transition from industrial to mixed use character;
conurbation of the Traralgon – Morwell Corridor; and
correction of an anomaly in the mapping with a boundary drawn to include residential sites in an adjacent school site.

SUBMISSION NO: 25

Submittor: Dell and Keith Consultants Pty Ltd on behalf of **Deanmac Constructions Pty Ltd**

Location: South side of Bank Street, Traralgon being land in Certificate of Title Volume 7751 Folio 014 being Crown Allotment 46, Parish of Traralgon

Existing Zone: Rural Zone, Traralgon (Shire) Planning Scheme

Exhibited Zone: Rural Zone

Requested Zone: Residential 1 Zone

Submission:

The land is west of the proposed Residential 1 Zone being the existing Erin Park Residential Estate (formerly Hazelbank Estate).

A long negotiated history with both the former City and Shire of Traralgon regarding this site becoming available for residential development.

In 1989 Amendment L11 to the Traralgon (Shire) Planning Scheme was considered at Panel who recommended that the Amendment not proceed until an appropriate zone had been established to allow such a development. At that time the Shire of Traralgon did not have an appropriate zone.

The Shire of Traralgon had no objections to the proposal.

An overall development plan which compliments the Erin Park Estate which is currently being developed has been prepared. All services are available to the property which has frontage to Bank Street and is a fully constructed bitumen road.

At 16.18 hectares in area the subject land is too small for any viable farming operation and because of its gently sloping nature with good drainage lines and availability of services, it is well suited to future residential development. It will complement the Erin Park Estate (which is in the same ownership).

Strategic assessment:

See submission 17

Council comment:

See submission 17

Recommendation:

That the submission not be supported.

Panel Comment

Land owned by the submitter immediately to the east of the subject land is currently being developed for individual use and Mr Dell acting on behalf of the submitter advised the Panel that it was anticipated that it would take approximately 5 years to complete the existing subdivision.

It is clear that the subject land is suitable for residential development some time in the future, but in the absence of any overall strategic plan for residential development in Traralgon, any isolated decision on this site would be ad hoc planning, and premature. The Panel agrees with Council's recommendation.

Panel Recommendation

That the land remain in a Rural zone as exhibited.

SUBMISSION NO: 26

Submitter: Greenslopes (Moe) Pty Ltd

Location: South of Newark Avenue and west of Old Sale Road, Moe

Existing Zone: Residential A Zone, Moe Planning Scheme

Exhibited Zone: Public Use Zone - Education

Requested Zone: Residential 1 Zone

Submission:

Relates to stage 8 of a subdivision. Already developed 8 residential and 1 commercial lot in this area and hold the necessary permits to do so.

Strategic assessment:

The Lowanna College development is a recently established post primary school facility in Moe. It is located in a developing residential area.

Council comment:

It is considered appropriate that the school site be rezoned to a Public Use Zone. As this zone clearly recognises the use of the land for a public purpose with the prescribed education category of public use. The inclusion of the nine lots adjacent and to the south of Newark Avenue is considered to be a drafting error. The Outline Development Plan for the staged residential subdivision clearly shows the residential intent of the land use with the subdivision of this land.

The Moe Planning Scheme contains a site specific clause (9(3)) relating to this land as follows:

'Despite any other provision in this Clause, the described as part lot 67 LP118479, CA 4L and part CA 4M, Parish of Narracan may only be used or developed subject to a permit from the responsible authority'

The proposed rezoning to Special Use Education is considered appropriate and that the intent of site specific clause has been utilised and the requirement for a planning permit is now redundant.

Recommendation:

That the school site north of Newark Avenue be zoned Public Use Zone – Education and the nine lots to the south of Newark Avenue be zoned Residential 1 Zone to be consistent with the residential neighbourhood.

Panel Comment

The Department of Infrastructure has directed that land used for schools be included in the underlying or surrounding zone.

Land to the south of Newark Road was included in a Public Use zone - Education, by error and is currently being developed for residential use.

Panel Recommendation

The whole of the subject land be included in a Residential 1 zone.

SUBMISSION NO: 27

Submittor: MCPS Development on behalf of the Department of Treasury and Finance

Location: 73-79 Church Street, Morwell being part CA69 Parish of Maryvale

Existing Zone: Industrial D Zone

Exhibited Zone: Residential 1 Zone

Requested Zone: Industrial 3 Zone

Submission:

The existing industrial use of the subject site which has been present for over 50 years should be recognised under the new planning scheme.

The subject site has been developed with an industrial shed with ancillary office and is currently partially occupied by a furniture manufacturer. The light industrial nature of on-site activities and established landscape buffers make it a 'good neighbour' with potential to continue the mixed use nature of the local area.

With regard to the land to the north and north west which is proposed to be zoned Industrial 3 Zone it should be noted that:

it is a precinct not a single site;

it enjoys good accessibility to a main road

it is relatively peripheral to the urban settlement area

it is not surrounded by more sensitive land uses.

Land to the north and north-west, similarly zoned Industrial D under the Morwell Planning Scheme are proposed to be included in the mixed use *Industrial 3 Zone* under the new planning scheme. These industrial activity areas are also located in proximity to residential areas. It is noted that the provision of VPP Industrial 3 Zone closely reflect those of the current Industrial D Zone.

It is submitted that the proposed Residential 1 Zone is inappropriate and that the Industrial 3 Zone is more appropriate.

Strategic assessment:

The Strategy Plan and Local Planning Policy Framework recognise that there are areas in the urban fabric which may be improved and that identification and further investigation is required.

Council comment:

Building approval was issued for a factory development on this site in August 1944. Subsequently, numerous approvals for extensions have been made. For many years it was used as *La Mode* undergarment factory until the mid 1960s. Valley Catering occupied the site from 1974 to 1978. Substantial improvements were made when L M Ericssons Pty Ltd ('Ericssons') occupied the building from 1978 to 1988 including loading and dock stores area, employee amenities, paint shop maintenance area and car park. Ericssons undertook the manufacture of racks which are components in cross-bar telephone exchanges. The Latrobe Regional Commission purchased the site from Ericssons in December 1988 and sold it to the Australian Industrial Computer Corporation (AICC) on a 5 year contract in February 1989. The LRC leased the building from AICC to temporarily accommodate the Australian Securities Commission, an office use, while they were based in Morwell for three years. Due to the AICC's financial difficulties the LRC at its December 1993 meeting resolved to release the parties and guarantors to the original contract of sale from future obligations and transfer ownership back to the LRC

In 1993 part of the building was used as industry for Aegean Furniture. The furniture manufacture in part of the building continues to the present by another operator.

The LRC ceased on the 15 August 1995 and as in accordance with the Latrobe Regional Commission (Repeal) Act, Clause 7, all property rights and assets of the LRC are vested in the State and therefore under the auspice of the Department of Treasury and Finance.

Consultation with the submitter has resulted in a request to change the proposed zone to Mixed Use. A Mixed Use Zone is expected to facilitate appropriate redevelopment of the site.

Recommendation:

That the Mixed Use Zone be supported.

Panel Comment

The subject site is an island industrial site surrounded by a well established residential area. In ideal circumstances an industrial use of the site would not be contemplated. However the reality is that it has been used for industrial purposes since at least 1944 and is currently zoned Industrial D.

Although the subject site is not specifically identified, the Strategy Plan and LPPF recognise that there are areas which may be improved. Council is therefore entitled to seek to convert this area to residential in conformity with its surrounds.

Unfortunately there is not much demand for residential development in Morwell, and to zone the land residential could result in planning blight. An acceptable alternative is to zone the land Mixed Use in conformity with land to the south of the site. This would allow market forces to determine the eventual future development of this land.

Panel Recommendation

That the subject land be zoned Mixed Use.

SUBMISSION NO: 35

Submitter: D J Bennett Holding Pty Ltd, McMillan Traders Pty Ltd
Location: Northern Avenue, Traralgon being land contained in Certificate of Title Vol. 8946 Folio 152 being lot 11 on PS94411 CA 58
Existing Zone: Rural Residential Zone subject to Airport Environment Policy Area, Traralgon (Shire) Planning Scheme
Exhibited Zone: Low Density Rural Residential
Requested Zone: 'Peripheral Sales'
Submission:

The land is strategically situated on the main arterial route between Morwell and Traralgon. These major Gippsland cities are destined to join and become one. This is evidenced by the locational decision of the hospital and National Foods. The site's locality will become the nucleus of the future major city. Any low density residential development would compromise this development pattern.

Strategic assessment:

Strategic framework for urban settlement is for an urban form characterised by consolidation and containment with corridor linkages.

The relevant strategic objectives to be considered include:

ecologically sustainable urban development form;
maximising the long term coal resource in balance with existing community and established patterns of settlement;
preservation of corridors for efficient linkages; and
maximising optimal sites for highly sensitive uses necessary for regional centres such as the airport.

The submission's proposed conurbation between Morwell and Traralgon is not planned for in the strategic plan and is diametrically opposed to the adopted strategic direction.

Generally the MSS recognises that there is a delicate balance between the supply and demand for retail activity in the local economy and policy has been framed to reflect this fragile state.

The relevant retail policy with regard to restricted retail premises has the objective: *'to provide opportunities for restricted retail premises in a manner which supports rather than weakens the effectiveness of the major retail centres'*.

Relevant policy for restricted retail premises includes the following:

Future restricted retail premises development should be assessed having regard to existing and likely future demand and supply within local and regional catchments;

Restricted retail premises will be encouraged to located within, or immediately adjacent to, major retail centres. Locations for these premises outside the major retail centres will be carefully controlled through the zoning of land specifically for this purpose by the application of the Business 4 Zone; and

Restricted retail premises will not be supported on industrially zoned land unless it can be demonstrated that no other viable alternative exists within major retail centres or Business 4 Zones.

Council comment:

Local retail policy is based upon a comprehensive analysis of the local economy and recognises the fine balance in sectoral retail markets (please see submission 16 for background relating to retail policy). Given the existing pattern of provision, interconnections with shopping centre types and the need to create economies of scale to support peripheral retailing the proposed 'peripheral sales' land use activity in this location is not supported by local policy within the proposed strategic timeframe.

Recommendation:

That the rezoning proposed in the submission not be supported.

Panel Comment

This submission is diametrically opposed to the adopted strategy of preserving a green wedge between Morwell and Traralgon. Although Council has compromised this objective in the past by allowing some development within the Corridor, it is still committed to keeping the two towns separate.

The requested "Peripheral Sales" zone in this location is also contrary to the objective of the Retail Policy which seeks to encourage restricted retail premises (peripheral sales) to locate within or immediately adjacent to major retail centres or on land zoned Business 4.

Panel Recommendation

The land remain zoned as exhibited.

SUBMISSION NO: 37

Submittor: William Millett

Location: 122 –132 Waterloo Road, Moe being lot 2 on LP99254, part Crown Allotment 5 in the Parish of Yarragon.

Existing Zone: Residential C Zone under the Moe Planning Scheme

Exhibited Zone: Residential 1 Zone

Requested Zone: Industrial

Submission:

Objects to the proposed residential zone. On the grounds that:
at public meetings the Council position has consistently been that it does not care what the zone is changed to as long as it is not *Res C*;
other municipalities are rezoning houses on their main road exits to industrial;
the success or failure of a town and its society is its industrial and commercial developments;
industry and commerce require land on or adjacent to traffic flow roads;
land is predominantly used as industrial;
land is adjacent to the railway line;
railway makes excessive noise and vibration unsuitable for residential development and use;
Moe has an oversupply of residential land which will not be required in the next 25 years;
Moe does not have a current supply of industrial land apart from a couple of small sites;
Moe Chamber of Commerce supports industrial use on this major road;
the road will become a heavy vehicle route;
there is no clear reason why the industrial boundary is located along the western boundary of the site and the site is residential;
if the property were destroyed by fire the insurance company would be unlikely to pay for rebuilding as the zoning not permit re-establishment;
this problem existed for sixteen (16) years, a third of a persons worklife, and is totally unfair;
and
an agreed contract exists to use the land of the property.

Strategic assessment:

The Strategy Plan and Local Planning Policy Framework recognises that there is a role for local industry in each of the urban settlements.

Council comment:

The existing industrial use rights remain with the land so long as the use does not stop for more than 2 years. A new owner continues to enjoy the existing use rights as they run with the land not the owner. Redevelopment opportunities within the existing use rights includes any non conforming use of equal or lesser intensity than that which operates under the existing use rights. Strategically, the land abuts a residential area and the long term amenity of this environment should be considered. The industry in this area is spot zoned and there is a predominantly residential character. It may be appropriate to apply the Mixed Use Zone which allows a graduation in intensity of use between residential and other land uses.

Recommendation:

That the submission proposal to include the land in an industrial zone is not supported, however, a Mixed Use Zone is supported.

Panel Comment

This has many parallels to submission No 27.

Panel Recommendation

As per submission No 27.

SUBMISSION NO: 39

Submitter:

Beveridge Williams on behalf of **VicRoads**

Location:

Land at Certificate of Title Volume 8062 Folio 634 being Crown Allotment 81^A and part Crown Allotment 81, Township and Parish of Traralgon, County of Buln Buln in Dunbar Road, Traralgon.

Existing Zone:

Public Purposes 6 – Road Construction Authority Reserve, Traralgon (City) Planning Scheme

Exhibited Zone:

Mixed Use Zone

Requested Zone:

Mixed Use Zone – amended schedule

Submission:

The site is the former VicRoads depot in Dunbar Road, Traralgon. The site was the subject of a re-zoning proposal changing its public purpose reservation to Industrial A Zone under the Traralgon (City) Planning Scheme. Amendment L69 was exhibited for the statutory period and two submissions were received, one was subsequently withdrawn. The matter was considered by a Panel which handed down the following recommendation in May 1997:

“(The Panel) recommend(s) the proposed Amendment Number L69 to the Traralgon (City) Planning Scheme, as exhibited, be adopted and proceeded”

Further progress on the amendment then stopped awaiting action from Council. Such action was held over pending the development of strategic planning and the new planning scheme.

Although the original submission was to place the land in the Industrial A Zone the proposed Mixed Use Zone is considered appropriate and acceptable by the proponent.

The purpose of the Mixed Use Zone is:

To provide for a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality

This is considered to be a perfect description for the current uses in the immediate area, which includes industrial to the south, the municipal depot to the west, residential to the east and to the north west and the north small scale industries.

However, the proposed zone is limited by schedule to the zone by prohibiting office, shop and trade supplies. This is considered inappropriate given the locality of the site in close proximity to the Traralgon CBD. In particular trade supplies should be allowed.

To enable this to occur Council could specify in the schedule a combined leasable floor area, for example, for a site area of 30,900m² the combined leasable floor area be set at 10,000m². This would represent about one third of the site leaving approximately two thirds for vehicle access, hard standing areas and landscaping.

If Council wishes to maintain the prohibition of these uses north of the site and south of Shakespeare Street, we suggest that the schedule be amended to grant an exception for the land contained in Certificate of Title Volume 8062 Folio 634.

Under the Mixed Use Zone *Industry* is allowed subject to a permit and conditional that it is not a land use listed in the table to Clause 52.10. A number of uses listed in that table, namely *Milk Depot*, *Joinery*, *Plaster* or *Plaster Articles Production* or *Panel Beating* are considered appropriate for this site with the 100m buffer rule applying. A plan has been provided showing that part of the site that could be used for these purposes, which whilst not large in the context of the area of the site itself, is still a substantial area and will greatly enhance the opportunity of using the site. The four listed uses are excellent examples of businesses run by small operators which service the immediate community. They are best described as 'service industries' which should be located in close proximity to the area that they serve.

Strategic assessment:

See submission 37

Council comment:

The proposed Mixed Use Zoning reflects the transitional change in the character of this area. Historically the area accommodated Traralgon's local industrial uses and since the establishment of the industrial estates to the east of the urban settlement the area has been in transition from predominantly industrial to residential. The Mixed Use Zone is applied across this locality to reflect the existing land use pattern, to make provision for both types of uses and allow the process of transition to continue.

The proposed schedule variation is not considered appropriate given the policy directions for retailing does not identify this locality.

Recommendation:

That the proposed schedule amendment not be supported.

Panel Comment

The area in the vicinity of the subject site is clearly a mix between residential and industrial and in the longer term should be given an opportunity to go in the direction which the market dictates.

As the retailing policy does not identify this locality there is no strategic basis to support the proposed variation to the Schedule to the zone to permit trade supplies. The Panel is not prepared to support such a variation in the absence of notice to enable other retailers to comment.

Panel Recommendation

No change to the Mixed Use zone has exhibited.

Heritage

A number of submissions from local residents in the Bridges Avenue Traralgon neighbourhood raised protection issues relating to recommendations arising from the Traralgon Heritage Study.

The relevance of the heritage overlay being applied to the Yallourn Industrial Estate has been questioned given that Heritage Victoria has issued a demolition permit.

The National Trust supports the positive policies proposed in the Local Planning Policy Framework. The Trust suggests that a clear statement of intent and need for the preparation of a heritage study for the whole of the Shire be prepared. The Trust requests that for heritage elements in which it has an interest it be consulted. Criticism of the lack of use of overlays other than the heritage overlay was submitted.

SUBMISSION NO: 28

Submitter: Mr John Alston

Location: Bridges Avenue, Traralgon

Existing Zone: Part Commercial B Zone and part Residential B Zone, Traralgon (City) Planning Scheme

Exhibited Zone: Business 5 Zone

Requested Zone: Residential 1 Zone

Submission:

Bridges Avenue was identified in the *Traralgon Heritage Study* as an area of significance and the former City of Traralgon canvassed the introduction of planning controls through community consultation.

Flats and offices are inappropriate encroachments on the residential nature of Bridges Avenue.

Change in land use should come no closer than the boundaries of the library/music centre.

The establishment of the consulting practice in the old house on the north west corner of Breed Street and Bridges Avenue has created traffic and parking problems in Bridges Avenue.

Strategic assessment:

Under the environment policy a specific heritage policy (clause 15.11) has the objective *‘to assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding and enhancing Victoria’s image and making a contribution to the economic and cultural growth of the State’*.

LaTrobe Strategy Plan

The *LaTrobe Strategy Plan* recognises heritage issues in Environment Strategy 1 which is to *‘conserve, manage and protect the natural and man-made heritage resources of LaTrobe’*. Objective 4 *‘to protect, manage and conserve places, buildings and relics of archaeological, cultural or heritage significance, both Koorie and European’* is relevant. The specific medium priority action is to *‘identify places, artefacts and items of heritage, archaeological and cultural significance and consider mechanisms for their conservation, including appropriate controls on adjoining land uses’*.

Local Planning Policy Framework

The MSS recognises that heritage is important in the strategic planning framework through clause 21.6-2. In particular it is pronounced that *the strategic direction is to learn more about our heritage and its significance, to protect and manage these assets and ensure that future generations can benefit from these actions.*

Heritage policy at clause 22.2-5 of the Local Planning Policy Framework provides ‘to promote the identification, protection and management of all heritage values and assets’.

Council comment:

Of the seven planning schemes being brought together under the LaTrobe Shire Council none had a complete heritage plan. The former City of Traralgon had an Heritage Study which was overtaken by greater priorities associated with the advent of local government and planning reform processes.

Some elements of the Shire’s heritage assets which are generally regarded as icons and included in previous planning schemes have been included in the proposed planning scheme with protection afforded by the Heritage Overlay. These elements have been fully documented and have been subject to public consultation, community participation and scrutiny processes. Attached is a list which details other candidate sites for inclusion in a planning scheme on the basis of heritage value. The candidate status has been established so that review of the status of the heritage asset, intrinsic to heritage values as well as community values, is an appropriate process rather than the wholesale translation and institutionalisation of possible assets. The strength of the heritage MSS statement and policy provisions as well as the in built review mechanism of heritage and community value is considered to provide sound protection in accordance with the Minister’s Directive that strategy is the more important component of the planning scheme.

Recommendation:

That the submission from the Traralgon residents be adopted to avoid compromising the recommendations of the Traralgon Heritage Study until a comprehensive review can be undertaken.

Panel Comment

The three most southern most allotments of the exhibited Business 5 zone facing Albert Street have been identified by the Traralgon heritage Study as having some heritage values worthy of further assessment. Council has indicated that it will undertake a heritage study.

The Panel considers that council’s recommendation is a reasonable response to this issue.

Panel Recommendation

That the three residential properties facing Albert Street be removed from the exhibited Business 5 zone and be zoned Residential 1.

SUBMISSION NO: 29

Submitter: Michael and Amanda Cameron

Location: Area bordered by Breed Street, Bridges Avenue, Albert Street and Henry Street, Traralgon

Existing Zone: Part Commercial B Zone and part Residential B Zone, Traralgon (City) Planning Scheme

Exhibited Zone: Business 5 Zone

Requested Zone: Not nominated

Submission:

Commercial development facilitated by the proposed commercial zoning would destroy the historic character of the area. Traralgon has very few older style residential areas.

Commercial development would devalue the area.

Current oversupply of commercial buildings in Traralgon's CBD demonstrated by high vacancy rates.

Traffic and parking problems would be generated in the residential area with commercial development creating a safety hazard for children.

Strategic assessment:

See submission 28

Council comment and recommendation:

See submission 28

Panel Recommendation

As per submission No.. 28

SUBMISSION NO: 30

Submitter: Robin and Ruth Widdowson

Location: Breed Street, Bridges Avenue, Albert Street, Traralgon

Existing Zone: Part Commercial B Zone and part Residential B Zone, Traralgon (City) Planning Scheme

Exhibited Zone: Business 5 Zone

Requested Zone: Business 5 Zone to the southern boundary of the Library site

Submission:

Bridges Avenue has a unique atmosphere as a result of the historical nature of the old but beautifully maintained houses, the curving and rising nature of the road and the lovely deciduous trees lining the road.

Commercial development would destroy the character of the street.

Additional commercial development is not required given low population forecasts and existing vacant commercial premises.

Strategic assessment:

See submission 28

Council comment and recommendation:

See submission 28

Panel Recommendation

As per submission No.. 28.

SUBMISSION NO: 31

Submittor: Dawn and Russell Wallace

Location: Breed Street, Bridges Avenue, Albert Street, Henry Street, Traralgon

Existing Zone: Part Commercial B Zone and part Residential B Zone, Traralgon (City) Planning Scheme

Exhibited Zone: Business 5 Zone

Requested Zone: Boundary of the Business 5 Zone should be on the south side of the Traralgon library complex from Albert Street to Breed Street.

Submission:

The former City of Traralgon undertook a heritage study which identified the Bridges Avenue area as a heritage precinct. The new planning scheme appears to disregard this matter.

To encourage the development of offices or multi-dwelling units is inappropriate for the area.

Strategic assessment:

See submission 28

Council comment and recommendation:

See submission 28

Panel Recommendation

As per submission No.. 28.

SUBMISSION NO: 32

NOTE: SUBJECT TO A FURTHER LATE SUBMISSION

Submittor: State Electricity Commission of Victoria, Office of the Administrator

Location: Crown Allotments 50H, 50J, 50K, 50L, 50M1, 50M2, 50N, 50P and 50R, Section A, Parish of Narracan

Existing Zone: Existing zone.

Exhibited Zone: Heritage Overlay

Requested Zone: Removal of Heritage Overlay

Submission:

The subject land is generally known as the Yallourn Industrial Estate, a collection of former SECV properties including power generation, distribution and transmission assets. The proposed heritage overlay would impact on SECV's property sales program and significantly limit the use of the sites, many of which contain substantial quantities of asbestos materials which require remediation and/or removal.

Strategic assessment:

See submission 28

Council comment and recommendation:

Under section 74 of the *Heritage Act 1995* a permit was granted for the demolition of all buildings, works and objects on 1 September 1997. The removal of the overlay control is therefore supported.

Panel Recommendation

That the Heritage overlay over the subject site be removed for the reasons given by Council.

SUBMISSION NO: 33

Submitter: National Trust of Australia (Victoria)

Location: Whole of Shire

Existing Zone: Not site specific

Exhibited Zone: Not site specific

Requested Zone: Not site specific

Submission:

The Trust wishes to provide support for a number of positive policies outlined in the LaTrobe Planning Scheme and to comment on a number of aspects which are considered to need strengthening or altering in order to fully achieve conservation of the built and landscape heritage and natural significance of the Shire.

In the MSS under the section dealing with heritage (21.6-2) the Trust recommends that a clear statement be made of the need to undertake a heritage study for the Shire.

In the local policy section the supports the inclusion of the policy (22.2-5). However, the Trust is keen to ensure that they are notified of any planning permit application which could have a significant impact on their Register. Therefore the Trust requests that council include in its heritage policy a statement to the effect that: *'Comment be sought from the National Trust on all planning applications which may have a significant impact (for example, demolition, major redevelopment, major alteration) on a place classified by the National Trust'*

The Trust was disappointed to see that the Vegetation Protection Overlay (VPO) and Significant Landscape Overlay (SLO) had not been utilised in the exhibited Scheme. A National Trust Landscape within in the Shire is the Bulga and Tarra Valley National Park. The maps appear to show this land as Rural Zone, however, we assume that this is an error and the land should be zoned PCRZ.

The Trust was disappointed to see that the majority of the very limited number of places (buildings and trees) classified by the Trust had not been included within the Heritage Overlay. The Trust requests that these places be included in the Heritage Overlay prior to the adoption of the Scheme.

Strategic assessment:

See submission 28

Council comment:

See submission 28

Recommendation:

That the submission be noted and that the submission for the Local Planning Policy Framework to be clarified be supported.

Panel Comment

Council advised the Panel that it acknowledged the need to undertake a heritage study for the Shire, but was not able at this time to give a firm commitment when this would be undertaken.

Council also indicated that it would work with the National Trust with the view of including within the schedule to the Heritage overlay all National Trust listed properties within the Shire, historic trees, and wooden bridges and would further investigate other places, and landscapes within the Shire with the intention of including them in the schedule if appropriate.

That National Trust listed landscape - the Bulga and Tarra Valley National Park is not within the Shire of LaTrobe, however Council indicated that it was prepared to consider applying a Significant Landscape Overlay over land within its Shire to protect this landscape.

Council has already prepared a list of assets which is far more extensive than the National Trust's listed properties which it will assess in the course of its proposed Heritage Study.

Panel Recommendations

1. Council include a statement in the Heritage policy that it will require a Section 52 Notice to the National Trust of all planning applications which may have a significant impact on any place classified by the National Trust.
 2. That Council consider making a commitment to undertake a Heritage Study of the Shire, and when this commitment is made include a reference to this in the MSS.
 3. That Council consider applying a Significance Landscape overlay to protect the National Trust's listed landscape of the Bulga and Tarra Vale National Park.
-

Retailing

Retailing Submissions

Highway based low density commercial activities were raised in submissions in relation to both the eastern and western entrances of the Traralgon urban settlement.

Mid Valley seeks recognition as a Central Activity District (CAD) and explores more appropriate controls under the VPP.

Horizon Petroleum submit that historically CAD planning provisions preserved land for retail, business/commercial, civic/administrative and community purposes and this should be retained in the new planning scheme in the MSS.

The Morwell Hotel sought a business rather than a residential zoning in the translation to the new scheme.

SUBMISSION NO: 23

Submitter: Peter F Wood and Associates, Management Consultants

Location: Coonac Road, Princes Highway and Bradford Drive area, Traralgon East.

Existing Zone: Rural Residential Zone under the Traralgon (Shire) Planning Scheme

Exhibited Zone: Schedule Two to the Special Use Zone

Requested Zone: Table of uses alteration

Submission:

Pleasing to note that the area has been removed from the corridor area and that a special use zone has been created. This meets the reality of the existing developments and whatever occurs in the future can be really regarded as in-fill development (subject to planning requirements).

In 1.0 Table of Uses – Section 2 – Permit Required it is noted that Motor Vehicle, Boat or Caravan Sales and Service Industry is included and definitions are provided. In examining this section it would appear that adequate scope is provided to cater for possible uses, however, further severe restrictions are provided for in 52.14 Motor Vehicle, Boat or Caravan Sales. It is submitted that the *Requirements to be met* almost preclude any worthwhile motor vehicle sales outlet and is contrary to the definitions already referred to. In particular these requirements are substantially different from those already in existence for other current occupiers and may place the owners of the remaining two parcels of land at a severe disadvantage, particularly if they wished to develop sites for motor vehicle, boat or caravan sales. Additionally, it is doubtful if the provisions of these requirements would enable operators to function under any franchise agreement with manufacturers or comply with the requirements of the Motor Car Traders Act. For example, the following dot points contained in this section:

‘No building other than an office with a floor area exceeding 19 square metres and toilet facilities may be built on the site’. This is extremely restrictive and does not take into account or provide for the size and scope of the sales facility, the number of vehicles that may be offered for sale or whether it is a new or used vehicle operation or a combination of both. Also, under this restriction, a showroom to house and display vehicles would not be permitted, again, precluding most prestigious operators from functioning, particularly new car dealerships and certainly many used vehicle operators as well as boat sales. It would appear

that this section would also preclude the construction of any storage facility for spare parts and accessories and certainly any repair facility.

'No vehicle may be repaired on site'. It would appear that this provision negates the definition on page 21, which states, *'It may include the minor repair or servicing of motor vehicles, boats or caravans, and the sale or fitting of accessories'*. Regardless of the type of operation, all dealerships must retain the ability to mechanically inspect product, carry out at least minor repairs and service and fit accessories. Again, it is seen almost as a prohibition, when compared to existing uses on adjoining developed land in the same zone.

'On a car sales or hire site, the number of cars for sale or hire must not exceed 1 to each 30 square metres of site area'. This is only a minor point, however, 30 square metres seems excessive and it is suggested that it could be reduced to around 25 square metres. This would certainly bring it into line with current practice in that zone.

It would seem appropriate to reconsider this entire schedule, taking into account existing permits and development.

Strategic assessment:

See comments on retailing in submission 35.

Council comment:

Some elements of the argument relate to the VPP provisions and as State controls are not the subject of the current process or consideration by Council.

It should be noted that the requirements can be varied by the planning permit application process.

The controls over this area were carefully drafted so that opportunity for restricted retail activity could not be opened up therefore the exhibited controls are considered appropriate.

Recommendation:

That the exhibited controls be unchanged and the submission not be supported.

Panel Comment

The Panel is unable to alter the VPP provisions as requested by the submitter. The submitter has misinterpreted the zone provision relating to the prohibition of on site vehicle repairs which may be effected with a permit. The submitters request to free up the opportunity for restricted retail sales on the subject site is contrary to the proposed restricted retail policy which encourages such activity to be located within, or immediately adjacent to major retail centres. In addition the Planning Authority has a policy to keep Traralgon and Morwell townships separate. Any development along the Highway between these two towns will be detrimental to such policy.

Panel Recommendation

No change to the exhibited control.

SUBMISSION NO: 24

Submittor: *'Traralgon Industrial Estate'* Kluge Jackson Consultants Pty Ltd on behalf of **Gippsland Boat Supplies Pty Ltd, Gippsland Bolts and Fasteners Pty Ltd, Jamar Properties Pty Ltd, Traralgon Motor Cycles Pty Ltd, and Maryvale Motors (Traralgon) Pty Ltd.**

Location: Princes Highway, Traralgon

Existing Zone: Industrial A Zone

Exhibited Zone: Industrial 1 Zone

Requested Zone: Business 4 Zone

Submission:

To overcome the oversupply of industrial land identified in the MSS (*Clause 21.8-4*) by existing industrial zoned land becoming a business zone with the introduction of the VPP planning scheme in accordance with local policy for restricted retail premises (*Clause 22.4-2 Retail*). It is submitted that parcels 1 (boat sales) and 5 (motorcycle shop) and the future use of parcel 6 (car sales) and that the change of zones should be consistent from industrial to business. The local planning policy framework industry policy (*Clause 22.4-3*) states that sufficient supply of industrial land exists to satisfy this objective with the exclusion of the parcels subject of this submission. There are limited development opportunity sites zoned Business 4 in the exhibited scheme. The subject sites enjoy a frontage to a safe service road and essentially are identical to businesses fronting Argyle Street to the west of the Traralgon-Maffra Road. It is submitted that conferring pre-existing use rights would be a tragedy.

Strategic assessment:

Local retail policy directs that rezoning applications to allow restricted retail premises will not be supported unless it can be demonstrated that no suitable alternative supply of such sites exists elsewhere in the municipality. It is submitted that a developer should have some discretion in choice of location say between Moe, Morwell and Traralgon.

Council comment:

Under the Traralgon (City) Planning Scheme the existing uses require a planning permit under the zone. Under the VPP the uses comply with the zone in that they can be defined as uses that require a permit.

Parcel 7 being Albroy's car sales was zoned Industrial 3 under the Traralgon (City) Planning Scheme not Industrial 1 Zone like the parcels being presented in this submission. The principle that the new planning scheme is generally a translation of existing provisions should be respected. Extensive research and strategic planning has been undertaken with regard to the retailing sector in the current economic environment.

Recommendation:

In those areas which support existing retailing, for example, the car yards etc west of Traralgon and the industrial sales to the east of Traralgon, it is recommended that local policy be amended so that there is greater clarity through specific reference to particular uses.

Panel Comment

The general locality to which this submission refers is currently an Industrial A zone in which Council has permitted ancillary sales to the extent that the area can now be characterised as predominantly restricted retail sales (peripheral sales).

To permit greater flexibility for retailing within the exhibited zone as proposed by the Planning Authority is contrary to its restricted retail policy which includes the following:

- Future restricted retail premises development should be assessed having regard to existing and likely future demand and supply within local and regional catchments;
- Restricted retail premises will be encouraged to be located within, or immediately adjacent to major retail centres. Locations for these premises outside the major retail centres will be carefully controlled through the zoning of land specifically for this purpose by the application of the Business 4 zone; and
- Restricted retail premises will not be supported on industrially zoned land unless it can be demonstrated that no other viable alternative exists within major retail centres or Business 4 zones.

The Planning Authority has no data on the current availability of land for restricted retail activity and the correlation between demand and supply. The subject site is on the eastern outskirts of Traralgon, and the Planning Authority seems to be encouraging restricted retail sales in an Industrial zone, all contrary to proposed policy.

The extensive ribbon development of restricted retail premises along the Highway attest to the popularity of this type of retailing, and it would be prudent for the Planning Authority to undertake a strategic study to guide future decision making.

From the Panel's inspection of the site and its environs and general observations of restricted retailing along the Highway it seems that the Business 4 zone is able to accommodate existing industries on the subject site. A Business 4 zone will legitimise existing use of the site.

Panel Recommendation

That the subject site be zoned Business 4.

SUBMISSION NO: 34

Submittor: Mid Valley Shopping Centre

Location: Princes Drive, Morwell

Existing Zone: Commercial 3 Zone, Morwell Planning Scheme

Exhibited Zone: Comprehensive Development Zone 1

Requested Zone: Business 1 Zone

Submission:

Local planning policy framework

Clause 22.4-2 (should be 22.4-1) should be amended to clarify the statement and reduce ambiguity to read '*restricted retail premises should be encouraged to remain and / or develop within the CAD's and the Mid Valley Activity Centre*'

The Business 1 Zone is the most appropriate zone. Specifically designed for major retail centres and has been applied to the majority of free standing sub regional and regional shopping centres throughout Victoria. It is suggested that the schedule provides the flexibility for specifying floorspace areas. In addition the application of the Development Plan Overlay control would meet the comprehensive planning requirements for the centre. This would also overcome the inflexibility associated with making the plan an incorporated document.

The proposed control limits restricted retail premises and trade supplies floorspace which is a direct translation of the existing site specific control and support from the strategic policy

base is not clear. Given that an area in Traralgon with highway frontage (Argyle Street near McNairn and Liddiard Roads) is proposed to enjoy controls which would allow such uses it is submitted that the floorspace limit applying to the Mid Valley site be removed.

Finally, it is noted that the expiry date needs to be amended to accord with a Ministerial extension.

The planning rationale for distinguishing Mid Valley from the other CADs is not apparent in the statutory sense.

Strategic assessment:

The Strategic Plan and the Local Planning Policy Framework recognise the Mid Valley Shopping Centre as an equal CAD with a focus on retail and entertainment activity.

Council comment:

In 1984 following the creation of the Latrobe Regional Commission (LRC) in 1983, consultants Wilson Sayer Core were commissioned to undertake the Latrobe Retailing Strategy Study. The major policy recommendation to emerge from the strategy was *'that no significant expansion in the amount of retail activity may be justified on the score of inadequate floor space supply for at least a decade and possibly until after 2001'*. The information and recommendations from that Study were used by a Latrobe Regional Retail Consultative Committee to prepare recommendations which eventually led to the LRC adopting a *'Provisional Latrobe Regional Retail Strategy'* in 1985. The major elements of this strategy were incorporated into the Latrobe Regional Strategy Plan entitled *'Steps Ahead'* which was published in 1989.

The Latrobe Regional Strategy Plan provides the basis for the Regional Section of the Planning Scheme and together they formed the major policy control on retailing in the Latrobe Region.

In late 1992, indications were given of possible proposals for some expansion to the Mid Valley Shopping Centre. This led to the LRC resolving to review *'whether or not a change in regional retail policies in the Latrobe Regional Strategy Plan would be likely to result in nett community benefits (including catering for products or retail types which either do not exist or are seriously under-supplied within the Region).'*

The LRC set up a sub committee called the Latrobe Regional Strategy Review Committee, which provided a Review Report to the LRC in March 1994. The review was adopted by the LRC and a request was forwarded to the Minister to utilise Section 36 of the LRC Act to amend the Regional Strategy Plan.

In January 1994 a request was lodged with the former City of Morwell to amend the Morwell Planning Scheme to enable a two stage expansion of the Mid Valley Shopping Centre.

The then proposal was that stage 1, to be commenced prior to 1 January 1998, proposed to increase the centre to 27,000m² GLFA, comprising:

Changes to the existing Target and McEwans stores
3,200m² mini-major store
2,030m² speciality shops
food court and adjoining courtyard

Stage 2, to be commenced prior to 1 January 2004, proposed to increase the Centre to 44,000m² GLFA, comprising:

12,500m² department store
3,500m² speciality shops

The amendment (L41) was exhibited in March 1994 and following a number of opposing submissions, was referred to a Panel appointed by the Minister for Planning. The Panel considered the amendment in October 1994 and recommended approval of a modified Stage 1 expansion of 5,000m² GLFA plus a further 1000m² floor area for non retail activities, giving a total centre of 26,000m², and that more detailed research should be undertaken to review the regional retail policy (as detailed in the Regional Section of the Morwell Planning Scheme) as well as a more detailed assessment of escape expenditure.

In December 1994 the City of Morwell requested the Minister for Planning to approve Amendment L41 contrary to the Panel recommendations.

In January 1995 the Acting Minister for Planning wrote to the newly constituted LaTrobe Shire Council rejecting the former City's request and suggested the following process:

That the Minister was prepared to consider a modified expansion of the Centre, in line with the Panel recommendations;

That Council undertake a further analysis of escape expenditure;

That Council resolve a regional retailing policy;

That Council prepare and exhibit a Regional Section amendment.

In response to the Minister's request, the LaTrobe Shire Council adopted a modified Stage 1 expansion of 26,000m² and commissioned USE Consultants Pty Ltd to prepare an independent assessment of escape expenditure and advise on the appropriate form of a retail policy.

The draft LaTrobe Retail Strategy Study was released for public comment on 25 July 1995 and examined regional retail issues which arise from:

The content of the existing Regional Strategy of the former Latrobe Regional Commission (LRC) as embodied in the Regional Section of municipal planning schemes in the former Commission's area;

On 28 July 1995 the Minister for Planning, Rob Maclellan, announced intention of approval of the modified stage 1 expansion of the Mid Valley Shopping Centre.

The Regional Retail Strategy contains a detailed analysis of escape expenditure from the region and how it relates to the proposed Mid Valley expansion. It formulates options for a regional retail strategy and recommends the adoption of local centres model.

The Study estimates that escape expenditure from the region is very low at less than 10 percent. This indicates that expansion of Mid Valley beyond that already proposed to be approved would see a further redirection of retail expenditure away from the existing centres, resulting in a downgrading of their retailing function, more shop vacancies and a reduction in community facilities.

The LaTrobe Retail Strategy was adopted by the Shire on 1 November 1995.

In line with the Minister's recommendation, the balance of the Mid Valley proposal was considered by the same Panel in the context of the proposed amendment.

In preparation of the Scheme for exhibition a Comprehensive Development Zone 1 was prepared to achieve a policy neutral translation of the current controls. The submission

provided indication that a similar result through application of the Business 1 Zone and Development Plan Overlay controls can be achieved.

Subsequent discussions with the submitter have been undertaken to resolve the proposed control so that State standard VPP controls can be applied.

Recommendation:

The proposed clarification to policy statement be supported.

The proposed application of a business zone with floorspace limits applied in the schedule together with the application of a development plan overlay be supported.

Panel Comment

The Mid Valley Activity Centre is an integral part of the Latrobe retail hierarchy and is currently undergoing both refurbishment and expansion. Its importance should be recognised in the LPPF as requested by the submitter. This would recognise the Planning Authority's statement in the MSS that the Mid Valley Shopping Centre is an equal of the other CAD's within Latrobe Shire.

Clearly the Business 1 zone is the most appropriate zone for the site.

The Panel considers that the most effective way to implement the current site specific controls is not by use of a Development Plan Overlay but by the grant of a permit.

Panel Recommendation

1. That Clause 22.4.2 of the LPPF be amended to include words to the effect of "... restricted retail premises should be encouraged to remain and/or develop within the CAD's and the Mid Valley Activity Centre".
2. That the subject site be zoned Business 1.
3. That the existing site specific control be translated into a permit.

SUBMISSION NO: 36

Submitter: Barnes Planning on behalf of **Horizon Petroleum**
Location: Moe and Traralgon Central Activity Districts
Existing Zone: Commercial B Zone under the Moe Planning Scheme; and Commercial A Zone under the Traralgon (City) Planning Scheme.
Exhibited Zone: Business 1 Zone
Requested Zone: Not applicable, requests change to local planning policy framework

Submission:

Horizon Petroleum owns, occupies and manages various sites throughout the LaTrobe Shire.

Under the Moe Planning Scheme service stations are prohibited from the Central Activity District (CAD). Suggests that the purpose of this clause (clause 12) is to preserve the land for retail, business/commercial, civic/administrative and community purposes.

Under the Traralgon (City) Planning Scheme service stations are prohibited in the Commercial A Zone. Suggests that this provision was historically derived from an objective to preserve the CAD for uses similar to those referred to in the case of Moe.

It is submitted that this planning objective should be retained in the new planning scheme in the MSS. Suggests that specific reference to particular uses be nominated as being appropriate or inappropriate within the CAD, for example, at clause 21.8-3 relating to retailing.

Strategic assessment:

The Local Planning Policy Framework provides detailed guidance on the role and function of CADs and includes description of activities deemed appropriate.

Council comment:

The submission is speculative about objectives in suggesting why service stations are excluded from areas in the Shire under existing planning schemes. Strategic planning on the basis of known fact needs to be maintained for integrity of the new scheme in terms of State policy as contained in the new VPP.

Recommendation

That the exhibited Local Planning Policy Framework be supported without change.

Panel Comment

To exclude service stations from Business 1 zones would require altering the VPP which this Panel cannot do. It also ignores the growing trend of combining service stations with supermarkets. The Panel does not support excluding service stations from the Business 1 zone.

Panel Recommendation

No change.

SUBMISSION NO: 38

Submittor: Corrs Chambers Westgarth, Lawyers on behalf of the ALH Group Pty Ltd, the operator of the Morwell Hotel

Location: 311-327 Princes Drive, Morwell

Existing Zone: Commercial A Zone, Morwell Planning Scheme

Exhibited Zone: Residential 1 Zone

Requested Zone: Business Zone

Submission:

Under the existing control a planning permit is required to use and develop the land as an hotel, motel, club or place of assembly.

Under the exhibited Residential 1 Zone a planning permit is required for a hotel, tavern, residential motel and motel and a nightclub is prohibited in this zone. It is submitted that the

VPP provisions appear to make the same provisions, however, the nightclub use is prohibited as well as engendering greater amenity expectations for the site.

It is requested that the site be zoned under a business zone in order that consistency is maintained and that the existing use and development is not adversely affected by the introduction of the new scheme.

Strategic assessment:

Exhibited zone aimed to provide policy neutral translation.

Council comment:

The proposed business zone with restrictions on floorspace for office, shop and trade supplies in the schedule to the zone could accommodate both the concerns of the submission and the local strategic planning concerns.

Recommendation:

That the submission be supported with a zero floorspace specification for office, shop and trade supplies in the schedule to the Business 1 Zone.

Panel Comment

The Panel cannot see how Commercial A to Residential 1 is a neutral translation as originally claimed by Council.

The Morwell Hotel is a major facility serving more than the local community and which dwarfs surrounding residential development. To include such a major facility in a residential zone, even if hotel is section 2 use, would be to ignore the primary purpose of the residential zone. The use is better accommodated by the purposes of the Business 1 zone.

Panel Recommendation

That the subject site be zoned Business 1 with a zero floor space specification for office, shop and trade supplies in the schedule.

Utilities and infrastructure

Submissions were received from the Public Transport Corporation (PTC), Transmission Pipelines Australia (TPA), Telstra, Vic Roads and Gippsland Water (GW).

The PTC submission addresses two issues. The first relates to a site in Lloyd Street Moe which is occupied by a service station. The proposed zoning reflects the land use activity rather than the status of a utility and/or infrastructure provider. The second relates to an Environmental Significance Overlay (ESO) and it is submitted that the ESO will impose operational constraints on the activities of the PTC.

TPA suggestion that pipelines be recognised in the planning scheme be addressed by introduction of a map in the Local Planning Policy Framework under the general infrastructure policy. Provision of data from the TPA will be pursued.

The Telstra submission relates to their facilities and sites and supports the proposed zonings which reflect the land use activity rather than the status of a utility and/or infrastructure provider.

Vic Roads offers technical corrections and is policy neutral.

Gippsland Water submitted that sites other than those identified as surplus to their requirements be zoned public use zone service and utility facilities. There are a number of unresolved issues with their submission, including:

their inventory does not reconcile with Council's rate base;

often their facility occupies only a minor part or easement of a larger privately owned parcel of land with a different primary land use; and

seeking exclusion from planning controls regardless of strategic framework or intent.

SUBMISSION NO: 40

Submitter: Public Transport Corporation (PTC)

Location: See attached table

Existing Zone: See attached table

Exhibited Zone: See attached table

Requested Zone: See attached table

Submission:

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
Rail land around and including the Morwell and Traralgon urban settlements	Land around the Morwell and Traralgon urban areas are not specifically defined and covers many zones.	Environmental Significance Overlay	Remove overlay
Land at the Moe railway station. (10	Land at the Moe railway station is	Business 1 Zone	Public Use – Transport

Lloyd Street, Moe)	currently zoned Commercial B Zone		
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1. Environmental Significance Overlay

The Environmental Significance Overlay will impose operational constraints on the activities of the PTC and is considered inappropriate given the development of the land.

2. Land at the Moe Railway Station

The parcel of land identified on the south side of the railway line with a road frontage to Lloyd Street. The basis of the removal of the zoning is that the PTC is seeking a consistent planning framework for its infrastructure across Victoria.

Strategic assessment:

1. Environmental Significance Overlay

The ESO applies only to the buffer areas described in the local policy. It is presumed that the PTC submission relates to that part of the ESO which falls within the buffer and includes the Melbourne-Sale railway line. Given that the ESO is proposed to protect settlement infrastructure from brown coal mining activities it is considered appropriate to remain.

Land at the Moe Railway Station

The land is located in a recognised commercial centre with an existing commercial development and use.

Council comment:

1. Environmental Significance Overlay

A drafting error with the application of the Environmental Significance Overlay exists. The ESO applies only to the buffer areas described in local policy (Clause 22.4-8). It is presumed that the PTC submission relates to that part of the ESO which falls within the buffer and includes the Melbourne – Sale railway line. Given that the ESO is proposed to protect settlement and urban infrastructure from brown coal mining activities it is considered appropriate to remain.

2. Land at the Moe Railway Station

The development and use of the site at 10 Lloyd Street, Moe is a Horizon petrol station and ancillary carwash.

The former City of Moe rate cards show the earliest recorded occupant in 1975 being Ampol. The carwash was added in 1991. P.T.C. own the land.

Recommendation:

That the proposed submissions not be supported.

Panel Comment

The Panel can see no reason why the PTC should not comply with the requirements of the Environmental Significance overlay. Panels have consistently recommended such a position.

The Manual for the Victoria Planning Provisions state that the Public Use zone recognises the use of land for a public purpose, and prescribes a number of categories of public use which can be shown on the planning scheme map. The service station at the Moe Railway Station

(10 Lloyd Street, Moe) is not public use, nor does it fall into any of the categories listed in clause 36.01-6

In the opinion of the Panel, the zone should reflect the real and substantial purpose of the use which is a service station and should therefore be Business 1.

Panel Recommendation

1. The Environmental Significance overlay be retained as exhibited.
2. That the subject site be zoned Business 1 as exhibited.

SUBMISSION NO: 41

Submitter: Transmission Pipelines Australia
Location: Gas transmission pressure pipeline system
Existing Zone: Traverses numerous zones
Exhibited Zone: Numerous zones
Requested Zone: Not applicable
Submission:

Request that pipelines be shown on planning scheme maps as a development constraint. Those applications within 100 metres from an identified pipeline requiring a planning permit or an amendment to the planning scheme be referred to *Transmission Pipelines Australia* for comment or approval.

Advice from *Transmission Pipelines Australia* is that the guidelines for the location of gas transmission pressure pipelines given to developers of future subdivisions is:

“the preferred location for a Transmission Pipeline in any development is in public open space. Where this is not practicable and where allotments are less than 1 ha., the next preference is within the frontage of allotment. If a public open space or frontage location is not possible for the Transmission Pipeline, then a location under road pavement is preferred. A location at the rear of allotments is last in preference, except where allotments are 1 ha. or larger.”

Further information provided are conditions applicable to *Transmission Pipelines Australia* easements detailed on the ‘*Conditions for Vegetation Growth and the Erection of Structures on the Easement in the Urban Area*’ and ‘*Conditions for Works near Gas Transmission Pipelines*’ which sets out the conditions and essential precautions to be observed when working in the vicinity of gas transmission pressure pipelines.

Strategic assessment:

Clause 18-11 establishes State planning policy for high pressure pipelines. Clause 22.5-4 establishes local planning policy. These policies are consistent with the requirements of *Transmission Pipelines Australia*.

Council comment:

The request for referral status has occurred during the exhibition period. The pipelines are existing and the State and local policy statements provide the essential decision making framework for the existing development therefore notification is not considered necessary.

Accommodating referral requirements would require a statutory provision ‘trigger’ mechanism not afforded in strategic or policy statements therefore it is recommended that a Design and Development Overlay be introduced.

In accordance with the requirements of the Minerals Development Unit of the Department of Natural Resources the following schedule is proposed to be introduced as schedule 1 to the Design and Development Overlay.

SCHEDULE 1 TO THE DESIGN AND DEVELOPMENT OVERLAY

Design objective

To ensure that all buildings and works and in particular buildings designed to accommodate people are sufficiently separated from high pressure pipelines to avoid a safety hazard.

Requirements

Except with a permit:

No buildings including a fence may be constructed within 3 metres on any pipeline.

No dwelling and no building designed to accommodate 20 or more people may be constructed closer than 200 metres from a Type C pipeline.

Decision guidelines

Before deciding on an application, the responsible authority must consider the views of the Secretary of the Department administering the Pipelines Act 1967.

Recommendation:

That the introduction of a design and development overlay schedule and map change for high pressure pipelines is supported and refer to the Panel for guidance of an appropriate introduction process.

Panel Comment and Recommendation

The question of how to deal with transmission pipelines is currently being examined on a State wide basis. The Planning scheme can be amended when the position is clarified.

Panel Recommendation

No. action is required.

SUBMISSION NO: 42

Submitter: R G Harvey Consultant on behalf of **Telstra**

Location: See attached table

Existing Zone: See attached table

Exhibited Zone: See attached table

Requested Zone: See attached table

Submission:

This submission relates to vital telecommunications facilities which service the LaTrobe Shire community.

It is noted that the status of the use of some Telstra land may be affected by the definition structure of the VPP which is under review by the Department of Infrastructure. If these changes to the VPP being sought by Telstra influence the planning status of the above properties, further submissions to the LaTrobe Planning Scheme will be made.

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
Morwell Operations Centre, 13-17 Catherine Street,	Part Public Purpose Reservation and part Industrial D Zone	Industrial 3 Zone	Zoning acceptable subject to confirmation of VPP definition issues.

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
Morwell	under the Morwell Planning Scheme		
Traralgon Operations Centre, 54-56 Eastern Road, Traralgon	Industrial A Zone under the Traralgon (City) Planning Scheme	Industrial 1 Zone	Zoning acceptable subject to confirmation of VPP definition issues
Morwell Exchange - 7 Victor Street, Morwell	Public Purpose Reservation and Residential B Zone under the Morwell Planning Scheme	Residential 1 Zone	Request for Mixed Use Zone to reflect the substantial size of the site, in intensive on-site development and non residential use, and adjacent Mixed Use Zone.
Morwell Exchange car park, Victor Street, Morwell	Public Purpose Reservation under the Morwell Planning Scheme	Mixed Use Zone	Zoning acceptable subject to confirmation of VPP definition issues
Traralgon Exchange – 7 Kay Street, Traralgon	Part Public Purpose Reservation and part Commercial 1 Zone under the Traralgon (City) Planning Scheme	Business 1 Zone	Zoning acceptable subject to confirmation of VPP definition issues

Strategic assessment:

The Strategy Plan and the Local Planning Policy Framework recognise the role of infrastructure in supporting urban settlements.

Comment:

The operations centres and exchanges are considered as land uses and developments which operate as activities within land use patterns to which planning principles such as orderly and proper planning apply. Tenure and ownership do not negate the need for ensuring good land use planning practice, an issue highlighted in recent years through the privatisation trend.

The submission in making provisional support subject to another external influencing event is problematic. However, the tentative support for exhibited zonings should be noted.

The suggested Mixed Use Zone for the Victor Street exchange is considered appropriate.

Recommendation:

That the support for the exhibited zones be noted and that the proposal for a Mixed Use Zone over the Victor Street exchange site be supported.

Panel Comment

A neutral translation has been attempted in respect of Telstra assets within Latrobe and generally has the support of the submitter. The exception is the Morwell exchange site at 7 Victor Street, Morwell. The site contains a multi storey facility surrounded by residential

areas to the North, east and west, and a low lying mixed use area to the south. It is proposed that the site be placed in the surrounding residential zone, although the submitter has requested a Mixed Use zone reflecting the zone to the south of the site.

The Manual for the Victoria Planning Provisions indicates that the character and extent of a utility installation, and the nature of the zoning in the area may suggest that Special Use zone is appropriate. The Manual cautions that a Special Use zone should only be used where the utility installation occupies such a large area that the adjoining zoning is inappropriate (such as a large site in a residential area).

The Telstra facility in terms of scale and height dwarfs surrounding uses, and the Panel considers it inappropriate to zone the site residential. Furthermore, as the site is discrete and separate from the nearby Mixed Use zone, it is inappropriate to zone the land Mixed Use.

The Morwell Exchange car park is opposite the exchange on the southern side of Victor Street and can form part of a larger Mixed Use zone.

Panel Recommendation

1. That Morwell Operations Centre, 13-17 Catherine Street, Morwell be zoned Industrial 3 as exhibited.
2. That Traralgon Operations Centre, 54-56 Eastern Road, Traralgon be zoned Industrial 1 as exhibited.
3. That the Morwell Exchange, 7 Victor Street, Morwell be zoned Special Use.
4. That Morwell Exchange car park, Victor Street, Morwell be zoned Mixed Use.
5. That Traralgon Exchange, 7 Kay Street, Traralgon be zoned Business 1.

SUBMISSION NO: 43

Submitter: VicRoads

Location: Various roads in Shire detailed in attached schedule

Existing Zone: See attached schedule

Exhibited Zone: See attached schedule

Requested Zone: See attached schedule

Submission:

See attached schedule

Strategic assessment:

The Strategy Plan and the Local Planning Policy Framework recognise the role of infrastructure in supporting urban settlement.

Council comment:

Procedural technical drafting matters.

Recommendation:

Recommendation to incorporate the identified procedural drafting matters into the LaTrobe Planning Scheme maps.

ATTACHED SCHEDULE

MAP	LOCATION	VIC ROADS COMMENT	COUNCIL COMMENT AND RECOMMENDATION
1, 13 & 27	Midland Highway	Change name to Monash Way and annotate RDZ1	Procedural change.
3	Old Sale Road between Moore Street & Thompsons Road	Annotate RDZ1	Procedural change
4	Thompsons Road east of Old Sale Road	Annotate RDZ1	Procedural change
4	Monash Road	Shown as RDZ1 but not a declared road	Procedural change
4, 15 & 25	Traralgon – Yarram Road	Change name to Hyland Highway	Procedural change
5	Southern end of Old Gippsland interchange	Declaration has been modified and now does not connect to Watsons Road	Procedural change
7	Monash Road	Shown as RDZ1 but not a declared road.	Procedural change
7	Freehold land on lot 251 LP67507	Shown as included in RDZ1 should not be shown as included in RDZ1	Procedural change
7	Freeway boundary	Not shown correctly	Mapping detail provided – procedural change
7	Government Road south of railway	Not a declared road and should not be shown included in RDZ1	Procedural change
12	Commercial Road	Shown as RDZ1 but not a declared road east of Jane Street railway crossing	Procedural change
13	Commercial Road	Shown as RDZ1 but not a declared road west of McDonald street railway crossing	Procedural change
14	Firmins Lane west of Tramway Road	Annotate RDZ1	Procedural change
14	Princes Freeway	Amend boundaries to include Tramway Road entry loop	Procedural change

MAP	LOCATION	VIC ROADS COMMENT	COUNCIL COMMENT AND RECOMMENDATION
15 & 20	Traralgon – Maffra Road south of Shakespeare Street	Annotate RDZ1	Procedural change
18	Tyers Road	Include recent land acquisition in RDZ1 Parcel 1 & 7 to be road, rescind 2, 3 & 6. Parcel 4 to be road. Rescind parcel 5	Procedural change
24	Traralgon Creek Road south of Shakespeare Street	Annotate RDZ1	Procedural change
30	Bastin Street	Annotate RDZ1 between Penaluna Street and Morwell River Road	Procedural change
31	Traralgon – Balook Road	Annotate RDZ1	Procedural change
31	Grand Ridge Road	Annotate RDZ1	Procedural change

Panel Comment

The Vic Roads submission seeks to rectify identified procedural drafting matters which have been agreed to by Council.

Panel Recommendation

That the drafting errors identified in the Schedule to the Vic Roads submission be rectified as indicated.

Vic Road made a supplementary submission in relation the former Vic Roads Depot site in Dunbar Road, Traralgon.

The Panel is not prepared to make any recommendations in relation to changes to the schedule to the Mixed Use zone, because it does not directly affect the submitters land. Further, Notice of such proposed changes would have to be given to shopkeepers in the area so that all of the impacts could be assessed.

Panel Recommendation

No change.

SUBMISSION NO: 44

Submitter: Gippsland Water

Location: See attached table

Existing Zone: See attached table

Exhibited Zone: See attached table

Requested Zone: See attached table

Submission:

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
11 Elizabeth Terrace, Morwell being LP50522	IN3Z	IN3Z	PUZ1
Latrobe Rd, Morwell being lot 1 on LP64704	R1Z	R1Z	PUZ1
Clarkes Rd, Yallourn North being pt CA 1, Parish of Tanjil East	RUZ	RUZ or PCRZ	PUZ1
Old Melbourne Rd, Morwell being pt CA 26	IN2Z	IN2Z	PUZ1
Old Melbourne Rd, Morwell being pt CA 86 ^B on LP169658	PUZ1 & RUZ	PUZ1 & RUZ	PUZ1
3 Savage St, Morwell CA 71 and pt CA 74	PUZ1	PUZ1	Agree with exhibited Zoning
Tolmie St, Morwell being lot 18 on LP 28022	PUZ1	PUZ1	Agree with exhibited Zoning
Churchill Rd, Morwell being lot 10 on LP 31915	PP12 Morwell PS	PUZ1	Agree with exhibited Zoning
Birch Drive, Churchill being pt CA 24	R3 Morwell PS	R1Z	PUZ1
Canterbury Way, Churchill being pt CA 35	PP12 Morwell PS	PUZ1 & R1Z	PUZ1
Glendonald Rd, Hazelwood South being pt CA 27	Not located	Not located	Not located
Brodribb Rd, Churchill being pt CA 8F	RU1 - Category C coal	PUZ1	Agree with exhibited zoning
Creamery Rd, Yinnar being pt CA77 ^C	PP12 Morwell PS	PUZ1	Agree with exhibited zoning
Koala Rd, Jeeralang Junction being lot 11 on LP136424	RU2 Morwell PS	RLZ	Public Use Zone 1
Morwell-Thorpdale Rd, Driffield being pt CA 48 ^B & SC49 ^C	PP20 Morwell PS	PUZ1	Agree with exhibited Zoning
Yinnar-Driffield Rd, Yinnar being lot 2 on LP43346	RU1 Morwell PS	RUZ	PUZ1
Breed St, Traralgon being lot 29 on LP4847	POS A Traralgon (City) PS	PPRZ	PUZ1
47-49 Davidson St, Traralgon	R1 Traralgon (City) PS	R1Z	No comment
68 Gilmour St, Traralgon	R1 Traralgon (City) PS	R1Z	PUZ1
55 Hazelwood Rd, Traralgon	PP12 Traralgon (City) PS	B5Z	Agree with exhibited

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
			Zoning
Park Lane, Traralgon being lot 2 on LP70266	RU Traralgon (City) PS	UFZ	No comment
Princes St, Traralgon	PP9 Traralgon (City) PS	R1Z	Land is a sewerage reserve.
Traralgon-Maffra Rd, Traralgon being lot 1 on LP116279	RU Traralgon (City) PS	RUZ	PUZ1
Princes Highway, East Traralgon	Rural General Farming Traralgon Shire PS	RUZ	PUZ1
Depot Rd, South Traralgon being pt CA 4 ^B lot 1-3 on 4372	Rural General Farming Traralgon Shire PS	RUZ	No comment
Boulton Cres, Tyers being pt CA 16 ^A	Rural General Traralgon (Shire) PS	PUZ1	Agree with exhibited Zoning
Cross's Rd, Traralgon being lot 13 on LP126409	Township Traralgon (Shire) PS	LDRZ	PUZ1
Cross's Rd, Traralgon being pt CA30	RD Traralgon (City) PS	RUZ	PUZ1
Old Melbourne Rd, Traralgon being pt CA 2	Rural General	RUZ & ESO1	PUZ1
Tyers Rd, Tyers being pt CA 5 ^B	Rural General Traralgon (Shire) PS	RUZ	PUZ1
Tyers Rd, Tyers being pt CA 6	Rural General Traralgon (Shire) PS	RUZ	No comment
Clarkes Rd, Hazelwood North being lot 1 on LP211217	Rural General Traralgon (Shire) PS	RUZ	PUZ1
Hazelwood Rd, Hazelwood North being pt CA 52	Rural General Traralgon (Shire) PS	RUZ	PUZ1
Cemetery Rd, Moe being pt CA 2-5	POS 2 Moe PS	R1Z	No comment
Moore St, Moe being a reserve easement	POS 2 Moe PS	R1Z	PUZ1
Candy St & Torres St, Newborough being pt CA5	PP8 Moe PS	PUZ1	Agree with exhibited zoning
Moe South Rd, Moe South being lots 2 & 6 on LP55896	Existing Pub.Purpose	PUZ1	Realign PUZ1 boundary to reflect Gippsland

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
			Water land (exclude private property)
	:-Local Govt Moe PS		
Nadenbousch's Rd, Churchill being CA K6	PP12 Morwell PS	SUZ1 & ESO1	PUZ1
Lawless Rd, Hazelwood South being lot 1 on LP334972W	PP1Z Morwell PS	RUZ	PUZ1
Clarks Rd, Hazelwood North being lot 1 on LP349082Y	Rural General Farming Traralgon Shire PS	RLZ	PUZ1
Penaluna St, Boolarra being lot 2 on LP334461	RU1, PPP26 and Stream Protection. Morwell PS.	RUZ	RUZ
Retreat Rd, Traralgon being lot 5- 9 on LP1532	PP9 Traralgon (City) PS	RLZ	No comment
55 McMillan St, Morwell being lot 2 on LP64270	R1 Morwell PS	R1Z	PUZ1

Submits that properties other than those identified as surplus to requirements be zoned Public Use Zone – service and utility facilities. A list is attached. The grounds are:
statutory powers and functions for the provision of water and sewerage services;
operates in a monopoly environment in recognition of an essential service; need to operate without administrative burden; and the properties contain water and wastewater facilities as such the submitted Public Use 1 Zone affords consistency with the objectives of the Planning Scheme as well as the primary purpose and use of the land.

It is further submitted that there are inconsistencies where like facilities have been given a different zone.

Where a facility is underground it should still be regarded as the primary purpose of the land, any other use, such as agriculture should be considered secondary.

Designation of Public Use Zone 1 on Gippsland Water facilities should remove any confusion for adjoining land owners and the community in general.

There is a discrepancy between Council's rate base identification of Gippsland Water sites and those managed by the Authority.

Strategic assessment:

The Strategy Plan and the Local Planning Policy Framework recognise the role of infrastructure in supporting urban settlement.

Council comment:

Section 16 of the *Planning & Environment Act 1987* provides that planning schemes are binding on government departments, statutory authorities and municipal councils except to the extent that the Governor in Council has, by Order, directed and all Orders are published in the *Government Gazette*.

Butterworth's commentary in *Planning and Environment – Victoria* provides background information.

There was no provision in the Town and Country Planning Act 1960 stating that the Crown was required to comply with planning schemes. The legal presumption at that time was that legislation does not apply to the Crown unless there is a statement or necessary implication to the contrary. Compliance by the Crown, therefore was purely voluntary. This sometimes had unfortunate results.

In order to overcome these problems, it was originally intended that the Planning and Environment Act 1987 should include a provision such as that in the Environment Protection Act 1970, s2(1) "This Act shall bind the Crown and every body (whether corporate or unincorporate) constituted under any Act for a public purpose". The government, however, decided not to include such a provision. Under pressure, it compromised by enacting s 16 which states that a planning scheme is binding on every minister, government department, public authority and municipal council except to the extent that the Governor in Council, on the recommendation of the minister directs by Order published in the Government Gazette. While s 16 does not overcome all the problems which arose from the exempt status of the Crown, it is an improvement on the previous situation

Commentary addressing the designation of land as being reserved for public purposes

It is intended that reservations of land for existing public purposes will progressively be converted to zones, such as a zone for municipal purposes or for water supply purposes. This will allow the application of more detailed controls and should help to avoid the problem of deciding what use should be made of public land. Some existing public purpose reservations, such as those for a town hall, could be merged with adjoining zones, such as commercial or office zones.

Council has not had the benefit of the memorandum dated and provided by Gippsland Water with their submission. However, the land use and development activities which operate within existing land use patterns should be subject to planning principles such as orderly and proper planning. Tenure and ownership should not negate the need for ensuring good land use planning practice, an issue highlighted in recent years through the privatisation trend.

Recommendation:

That land use activity be zoned to reflect the primary activity of the land.

Panel Comment

Gippsland Water essentially is seeking to have its assets other than those identified as surplus to its requirements included in a Public Use zone.

Council on the other hand had taken the view that land use activity be zoned to reflect the primary activity on the land. Whilst this may be preferable when the subject land is undeveloped, it may result in anomalies, when the land is developed for public purposes in the future. The community should be on notice that land owned by Public Utilities may be developed in the future, and Public Authorities should be as unfettered as possible to undertake their lawful activities.

The Panel considers that it is preferable that Gippsland Water's assets be zoned Public Use.

The purpose of the Public Use zone includes;

“To recognise public land use for public utility and community services and facilities.
To provide for associated uses that are consistent with the intent of the public land reservation on purpose.

In relation to the following sites the submitter agrees with Council's proposals

47-49 Davidson Street, Traralgon	R1Z
55 Hazlewood Road, Traralgon	B5Z
Park Lane, Traralgon	UFZ
Depot Road, South Traralgon	RUZ
Tyers Road, Tyres	RUZ
Cemetery Road, Moe	R1Z
Penaluna Street, Boolara	RUZ
Retreat Road, Traralgon	RLZ

Panel Recommendation

That the Gippsland Water assets be zoned Public Use 1 as requested in the table to their submission.

SUBMISSION NO: 62

Submitter: LaTrobe Regional Airport Management Committee

Location: Airport Road, Traralgon West

Existing Zone: Policy matter

Exhibited Zone: Policy matter

Requested Zone: Policy matter

Submission:

The proposed scheme should ensure that the airspace around the airport is protected as defined in the Obstacle Limitations Survey Plan.

Strategic assessment:

The Strategy Plan recognises the role and function of the Latrobe Regional Airport and supports its continuation in terms of a valuable asset. This is reflected in the Local Planning Policy Framework generally through the Corridor Policy and specifically through the LaTrobe Regional Airport Policy (22.5-3) specifically.

Council comment:

The basis of the LaTrobe Regional Airport Policy (22.5-3) is the Obstacles Limitations Survey Policy. The premise of protection through policy is the change in paradigm with the introduction of the VPP system, that is, that it is a strategically driven use and development control system. Review of the overlay to ensure that the overlay reflects the Obstacles Limitations Survey Plan should be undertaken.

Recommendation:

That the drafting of the overlay be amended to ensure coverage of the Obstacles Limitations Survey Plan and the matter of adequate protection be referred to the Panel.

Panel Comment

The Manual for the Victoria Planning Provisions stipulates that the Airport Environs overlay should only be applied to land specifically identified as subject to high levels of Noise.

Australian Standard AS2021-1994 states that Australian Noise Exposure Forecasts are the only basis on which planning controls can be based.

The Obstacles Limitations Survey Plan should be an incorporated document in the schedule to clause 81.

Panel Recommendation

Incorporate the Obstacles Limitations Survey Plan under clause 81.

Coal and Power Generation Industry

SUBMISSION NO: 60

Submittor: **Generator Companies** – Hazelwood Power, Loy Yang Power and Yallourn Energy Pty Ltd

Location: Coal areas

Existing Zone: Please refer to the submission

Exhibited Zone: Please refer to the submission

Requested Zone: Please refer to the submission

Submission:

The submission to the LaTrobe Planning Scheme seeks amendments to the planning scheme to ensure adequate protection of the coal resource, support for major industry development, appropriate controls to limit the risk of fire and the zoning of land to reflect existing and proposed land uses.

The Generation Companies therefore request the LaTrobe Planning Scheme Panel recommend the LaTrobe Shire Council amend the exhibited LaTrobe Planning Scheme to include the following amendments:

a development buffer for the reciprocal protection of the coal resource and existing industry and developments;

policy statements to encourage and support the establishment of new industry that is a high consumer of energy and/or power generation and /or coal mining products or by-products;

policy statements to encourage and support the establishment of industry set up in support of and to service major industrial developments;

a policy statement to promote the preparation of development strategy by the Generation Companies for the establishment of major industry adjacent to power generation facilities;

policy statements to ensure existing open cut coal mining operations and the proposed expansion thereof are protected from the impact of fire, and that a requirement for the development of plantations, agroforestry and hazardous or dangerous industry on and adjacent to the coal resource is the preparation of a fire management plan;

site specific planning amendments sought by Hazelwood Power to ensure zoning reflects the existing and proposed land use;

site specific planning amendments sought by Loy Yang Power to ensure zoning reflects the existing and proposed land use;

site specific planning amendments sought by Yallourn Energy Pty Ltd to ensure zoning reflects the existing and proposed land use; and

amendments to the LaTrobe Planning Scheme maps to reflect cadastral boundaries revised during the preparation of Crown Grants for the Generation Companies.

Strategic assessment:

The Strategy Plan recognises the role of the coal mining and power generation industry as well as the opportunities for associated industry seeking the unique competitive advantages afforded by the coal winning and processing sector.

The Local Planning Policy Framework has been constructed in accordance with Ministerial Direction of policy neutral translation of the existing provisions of the Latrobe Regional Section of Planning Schemes.

Council comment:

The Council notes that this was a late submission and wishes it to be noted that the short notice has made it relatively difficult for Council to consider the matter, particularly as the matters involve issues of magnitude.

The site specific rezonings are predominantly the completion of a process of removal of SECV reservations and replacement with zonings appropriate to the privatised industry. Issues related to the change of status of controls over the land need to be addressed by the State Government.

Amendment of the Local Planning Policy Framework statements to more clearly encourage and support the new industry in association with the existing industry is a departure from the policy neutral translation of the Latrobe Regional Section of planning schemes, however, it accords with the Strategy Plan.

The proposed amendments to reflect cadastral boundaries meet sound planning practice and mapping convention.

The proposed natural resource overlay is complementary to the controls for the regional industry and settlement pattern, however, it is a matter of the VPP framework rather than the current process. There is some concern that the submission may have some drafting inconsistencies in naming and tag naming the buffers. Similarly the issue of referral or notification of adjacent land use activity is a matter which needs to be addressed by the Planning Reform Team as a VPP matter.

It should be noted that the Department of Natural Resources and Environment, Minerals and Petroleum have also made a submission in support of the natural resource overlay.

Recommendation:

That the submission proposals be referred to the Panel and the VPP Planning Reform Team with the support of Council.

Hazelwood Power Planning Amendments.

Nadenbouschs Road Hazelwood

The Panel recommends that these two parcels of land be included in the Special Use - Brown Coal zone for the reasons given by the company.

Broadribb Road Hazelwood

The Panel recommends that Crown Allotment K7, Parish of Hazelwood be included in the Special Use - Brown Coal zone for the reasons given by the Company.

Princes Highway, Morwell

The Panel recommends that Crown Allotment 49D Parish of Maryvale be included in the Special Use - Brown Coal zone for the reasons given by the Company.

Loy Yang Power Planning Amendment

The Panel recommends that land marked 1 and 3 on Fisher Stewart Drawing No. LLGP02513B be included in the Special Use - Brown Coal zone for the reasons given by the Company.

Traralgon Creek Road

The Panel recommends land marked 2 on Fisher Stewart Drawing No. LLGP0251B be included in the Special Use - Brown Coal zone for the reasons given by the Company.

Shields Road

The Panel recommends that land marked 2 on Shields Road on Fisher Stewart Drawing LLGP025B be included in the Special Use - Brown Coal zone for the reasons given by the Company.

Yallourn Power Station - Heritage Overlay

The Panel recommends the removal of the Yallourn Power Station from the schedule to the Heritage overlay for the reasons given by the Company.

Yallourn Energy Pty Ltd Amendments

Witts Gully Reservoir, Hernes Oak

The Panel recommends that land marked 1A on Fisher Stewart Drawing LYGP004B adjacent to the Princess Freeway be included in a Special Use - Brown Coal zone. The remaining land marked 1A should be proposed to be included in a Special Use - Brown Coal zone, but only after all affected land owners and occupiers are Notified and any resulting submissions dealt with in the proper planning process.

Brown Coal Mine Road, Yallourn North

The Panel recommends that land marked 1B on Fisher Stewart Drawing LYGP004B east of Yallourn north township be included in Special Use - Brown Coal zone for the reasons given by the Company.

Newborough and Morwell Township Urban Buffer

The Panel recommends the reinstatement of the Morwell Township Urban Buffer and the Newborough Township Urban Buffer as indicated on Fisher Stewart Drawing LYGP004B for the reasons given by the Company.

Planning Scheme Map Anomalies

The Power Generation Companies alleged that zone and overlay boundaries relating to their holdings are Not concurrent with cadastral boundaries.

The Panel recommends that in consultation with the Power Generation Companies the Planning Authority review the zone and overlay boundaries to ensure that they follow cadastral boundaries.

Natural Resource Overlay

The issue of the need for a Natural Resource Overlay has been considered by the Advisory Panel reviewing the Victoria Planning Provisions, and is currently being investigated by Minerals and Petroleum Victoria, with some input from the Department of Infrastructure. The Panel does not intend intervening in a process which is currently underway.

SUBMISSION NO: 61

Submitter: State Electricity Commission of Victoria & Yallourn Energy Pty Ltd
Location: See table below
Existing Zone: See table below
Exhibited Zone: See table below
Requested Zone: See table below
Submission:

LOCATION	SUBMISSION	COUNCIL COMMENT AND RECOMMENDATION
Crown Allotments containing the Yallourn and Yallourn W Power Stations, Yallourn Power Station 220kV Switchyard, Yallourn GS Yard, Yallourn North Substation and associated infrastructure.	<p>The proposed heritage overlay appears inconsistent with the existing use of the land.</p> <p>The Yallourn Power Station which is located on CA 50R is subject to a demolition permit issued on 1/9/97 under section 74 of the <i>Heritage Act 1995</i>.</p> <p>The Yallourn W Power Station which is located on CA 50E is an operational power station which is constantly undergoing maintenance and refurbishment. The proposed heritage overlay is therefore inappropriate for this site.</p> <p>The other allotments subject to the proposed overlay contain buildings and infrastructure established to support and service the power</p>	Council recognise the demolition permit and support the removal of the overlay.

LOCATION	SUBMISSION	COUNCIL COMMENT AND RECOMMENDATION
	<p>generation and coal mining functions of the former SECV and now Yallourn Energy Pty Ltd. Many of the buildings and structures contain asbestos materials which will require stabilisation or removal and replacement with other materials.</p> <p>Those SECV properties affected by the proposed overlay have been sold and are now in private ownership. The proposed overlay is inconsistent with the existing and proposed uses of the land.</p>	
Moe Municipal Tip being part Crown Allotment 9L, Parish of Narracan	<p>The SECV has sold the tip site to the LaTrobe Shire Council and there is no longer a requirement for the land to be zoned for SECV purposes.</p> <p>It is submitted that the zoning of the land reflect the land use.</p>	Recommend that the zoning reflect the land use and the Public Use Zone- service and utility (PUZ1)
Yallourn Cemetery being part Crown Allotment 9L	<p>The SECV has sold the cemetery site to the LaTrobe Shire Council and there is no longer a requirement for the land to be zoned for SECV purposes.</p> <p>It is submitted that the zoning of the land reflect the land use.</p>	Recommend that the zoning reflect the land use and the Public Use Zone – Cemetery/Crematorium (PUZ5) be applied.
John Field Drive, Newborough being Crown Allotment 9R, Parish of Narracan.	This parcel is occupied by the Central Gippsland College of TAFE Driver Training Complex.	Recommended that the land be changed from Special Use – Brown Coal Zone (SUZ1) to Public Use – Education (PUZ2) to reflect existing land use.

Strategic assessment:

Addressed where applicable in table above.

Council comment:

Addressed where applicable in table above.

Recommendation:

Support as indicated in the table above.

Panels Comments and Recommendations

The State Electricity Commission of Victoria (SECV) submitted that in addition to the land actually overlying Category A coalfields, it is necessary to protect adjacent areas which may be required for coal related development, such as sites for power stations, overburden dumps and river diversions.

The Planning Authority acknowledges these opportunities and seeks to encourage the collocation of such industries with power generators. What is lacking is a clear statement as to how this is to be achieved.

Yallourn Power Station - Heritage Overlay

The Yallourn Power Station is currently being legally demolished and should be removed from the schedule to the Heritage Overlay.

Yallourn W Power Station

This is an operational power station which is constantly undergoing maintenance and refurbishment. It would not be practical for this building to be subject to heritage controls and therefore should be removed from the schedule to the Heritage overlay.

Sundry Buildings and Infrastructure

Crown allotments 50H, 50J, 50K, 50M1, 50M2, 50N, all of Section A Parish of Narracan contain buildings and infrastructure to support and service the power generation and coal mining functions of the former SECV and now Yallourn Energy Pty Ltd. Many of the buildings and structures contain asbestos materials which will require stabilisation or removal and replacement with other materials.

The Planning Authority agreed that the proposed Heritage overlay was inadvertently applied to this area. The Panel recommends deletion of these items from the schedule to the Heritage overlay.

Yallourn Cemetery and Moe Municipal Tip

These facilities are within the Special Use - Brown Coal zone and are surplus to SECV needs.

The Panel recommends the zoning be changed to Public Use - Service and Utility (PUZ1) for the Moe Municipal Tip, and Public use - Cemetery/Crematorium (PUZ5) for the cemetery reserve.

John Field Drive, Newborough

Crown allotment 9R Parish of Narracan is proposed to be zoned Special Use - Brown Coal. The land has been sold by SECV to the Central Gippsland College of TAFE and is used as a Driver Training Complex.

The Panel recommends that the land be zoned Public Use - Education.

The Panel is not prepared to recommend that a Special Use - Brown Coal zone be extended to apply to Category B and C Coalfields and associated development areas. “Framework for the Future” notes that the Interdepartmental Committee on Brown Coal Resource Boundaries recognised that *“it would be unrealistic to protect the total extent of the Gippsland brown coal resource from any development that would prejudice the eventual winning of coal”*.

More than 10 years have elapsed since the Framework for the Future report was published and parts of the Category B Coalfields are now within the 30 year development time frame and therefore could be considered Category A Coalfields.

It may be timely for the Department of Infrastructure to review the boundaries. This Panel does Not have the information upon which to form an opinion on the matter.

The Effect of Amendment S64

The Power Generation Companies submitted that Clause 17.08-3 of the SPPF states that planning authorities must act to protect the brown coal resource and should ensure that the use and development of land overlying the coal resource does not compromise the winning or processing of coal.

The Power Generation Companies contended that Amendment S64 significantly reduced the protection of the coal resource. Prior to Amendment S64, Timber production was only an as of right use if all the land is at least 1000 metres from land covered by a mining licence, or Order made by the Governor in Council under section 47A of the Electricity Industry Act 1993. The effect of Amendment S64 is to make Timber Production a section 1 use within a buffer area of a mining licence, after consultation with the holder of the mining licence.

The Amendment allows Timber production as of right following consultation with the holder of the mining licence rather than requiring a planning permit, and implements State Government policies of encouraging Timber production in appropriate areas.

The Department of Infrastructure should be made aware that a serious discrepancy exists between Amendment S64 which introduced the words;

“Following consultation with the holder of the mining rights under the relevant licence, all of the land, if used for timber production, must be used solely for the operation of the pulp and paper business in Gippsland”.

and what was gazetted in the Government Gazette which included the words;

“The amendment allows land to be used for Timber production within 1000 metres of land covered by a mining licence or Order by the Governor in Council without the need for a planning permit, provided written consent is obtained from the Country Fire Authority, the Department of Natural Resources and Environment and the holder of the mining rights under the relevant licence or Order.”

There is also a prima facie argument that Amendment S64 could potentially compromise the winning or processing of coal, contrary to Clause 17.08-3 of the SPPF.

The Panel recommends that the Department of Infrastructure seek legal advice as to whether Amendment S64 has been legally approved, and whether it is consistent with clause 17.08-3 of the State Planning Policy Framework.

The Power Generation Companies also sought amendments to Schedule One to the Special Use - Brown Coal zone to include;

Timber Production as a section 2 use;
the inclusion of agroforestry windbreaks and wood lots as section 2 uses where the total area of the plantation exceed ten hectares on any one lot;
the inclusion of schools and paper mills as section 3 uses in the special Use Brown Coal zone.

The Panel is not prepared to recommend that timber production becomes a section 2 use in light of State Amendment S64 which was approved as recently as 30 July 1998.

The LaTrobe planning scheme does not define agroforestry, windbreaks or wood lots, nor did the submitter, so it is not possible to make any definitive recommendation concerning these uses. In any event it would appear that they are innominate section 2 uses.

The Panel declines to act on the submission that schools and paper mills be included as section 3 uses in the Special Use - Brown Coal zone because no reasons were given.

The Panel understands the concerns of the Power Generation Companies about fire risk, and their desire to include the need for a Fire Prevention Plan when considering developments associated with specified section 2 uses. The Panel endorses such an approach. Ultimately the content of planning controls is a matter for the Planning Authority, and this is a matter which it could consider as it reviews the exhibited scheme prior to adoption.

Similar comments may be made concerning the suggested addition to clause 22.4-7 relating to matters to be taken into account when assessing development applications in the Coal Reserves policy area.

Coal Buffers

The map accompanying the Coal Buffers policy is difficult to read, but it would appear that the Power Generating Companies submission is correct when they say the Transport buffer has Not been implemented in the planning scheme. This should be rectified or alternatively reference to the Transport buffer should be removed from the Coal Buffers policy.

The APM Maryvale Paper Mill Buffer is redundant as schedule 1 to the Special Use Brown Coal zone requires a permit for mining within 1000 metres of a paper mill. It could therefore be deleted from the Policy.

The Power Generation Companies allege that not all Urban Buffer areas are shown on the planning scheme maps eg. Morwell Township (Northern) Urban Buffer, Newborough Township Urban Buffer. The Planning Authority should verify this and rectify it, if needed.

The Panel agrees with the Power Generation Companies that the Construction Buffer which protects the alignment and construction corridor of the Morwell River diversion be implemented as ESO 3. The Coal Buffers policy alone would not be able to control as of right uses in the policy area, and therefore an Environmental Significance Overlay would be preferable. A policy to guide decision making once the need for a permit has been triggered would be appropriate.

Industrial development adjacent to power generation facilities is currently limited under the Special Use Brown Coal zone to;

“industries directly associated with the mining, processing or treatment of brown coal, or the generation, transmission or distribution of electricity”.

This is unnecessarily restrictive and the Planning Authority should consider opening up the zone to a wider range of industries which could benefit from being proximate to an energy source.

The Panel considers it desirable that the MSS include a strategic direction statement that confirms the support for new industries to establish adjacent to power stations. The Planning Authority may have regard to the suggested additions to clause 21.8-4 of the MSS, and clause 22.4-3 Industry Policy.

Fire

Amendment S64 essentially provides for as of right use for Timber Production in the Rural zone with the condition that the applicant must consult with the holder of mining license rights. The Generation Companies have no right of objection or appeal, and will have to rely solely on the applicant to manage the plantation in a manner so as not to increase the risk of fire entering the open cut coal mines and therefore place at risk the State's electricity supply.

The Panel has previously stated that it is not prepared to recommend reverting to the position that prevailed prior to Amendment S64. Should the Planning Authority wish to strengthen its Coal Resources Policy in relation to fire risk, it could consider the suggestions made by the Power Generation Companies.

SUBMISSION NO: 45

Submittor: Loy Yang Power **NOTE: SUBJECT TO A FURTHER LATE SUBMISSION**

Location: Bartons Lane, Loy Yang

Existing Zone: Special Use Brown Coal Area

Exhibited Zone: Special Use Zone 1 – Brown Coal

Requested Zone: Industrial 1 Zone

Submission:

Loy Yang Power is interested in attracting major energy intensive business to co-locate adjacent to the Loy Yang site. This interest may lead to the development and implementation of a Business Attraction Strategy.

Strategic assessment:

The municipal *Strategy Plan* adopted on 1 December 1988 under Settlement Strategy 4, is the explicit objective ‘*To maximise the potential for new industry to locate in the municipality adjacent to or accessible to energy suppliers*’ which is scheduled as a high priority.

With energy suppliers and the State Government, Council will determine the land use, legislative, infrastructure, environmental and other requirements for the establishment of an ‘energy park’ in the municipality to:

Accommodate industrial uses within the boundaries of power companies to take advantage of lower energy supply costs; and

Provide sites for large energy consumers reliant on brown coal energy in forms additional to or alternative to electricity.

Develop a programme of investment to complement and support private investment in the ‘energy park’ and ensure that needed services and infrastructure can be provided in a timely and cost-effective manner.

In addition to the ‘energy park’, Council will maintain the option of having larger energy related industries locate on suitable and environmentally acceptable greenfields sites where servicing and related costs are principally met by the incoming industry.

The Strategy Plan (21.2-5) discusses ‘Opportunities for the future’ and makes the following statements:

The municipality has an abundance of assets which provide an excellent basis upon which to build a prosperous future and a cohesive community. These include skilled human resources, attractive lifestyles, a strong economic base with potential for diversification, and the attractive natural environment of Gippsland.

The restructuring, privatisation and downsizing of the electricity industry which has resulted in the restructure of the economic base was inevitable. It has caused pain and hardship. However, the municipality now has a viable and more competitive economic base upon which to build its future. It has new international companies which are eager to maximise the return on their investment. It has an emerging entrepreneurial spirit due to the privatisation of former government activities. It has a resilient community with many skills upon which to build a future. These basic ingredients complement the natural assets and attractions of the municipality.

Most importantly, we need to look beyond the municipality to gauge our place in Victoria, in the nation, and internationally. In this era of globalisation LaTrobe now has an international

role to play, as one of the major areas of domestic and international investment in timber production, paper products manufacture, mining and power generation, and educational services. Our international companies link us into the rest of the world in new and exciting ways and offer great potential to take LaTrobe into a new period of growth and prosperity.

Further comments in the Strategy Plan (21.2-6) around 'Investing for the future' make the following comments:

In identifying investments for the future, Council will seek to strengthen the existing major industrial base of the municipality, as well as to build on LaTrobe's competitive strengths to diversify the local economy.

*The economy must become more flexible and be able to respond to external influences. This will be achieved by changing the business culture of the municipality to focus on technology, knowledge, and the environment and by maintaining an outward looking approach to economic development. Diversification will occur by facilitating and promoting the **clever, green and clean** enterprises.*

Council aims to reduce its own costs to business and will lobby State and Commonwealth Governments to ensure that LaTrobe is a nationally and internationally competitive location for investment. In particular, it will assist business to exploit the competitive advantage of power generation in the LaTrobe Shire, with low cost energy production, through the facilitation of energy parks for electricity intensive industry to access the energy resource.

The Shire can benefit from an increase in tourism, not only within the municipality itself but within the wider Gippsland region. Basic infrastructure and promotion initiatives will be put in place to realise these opportunities. Moe is particularly well placed to take advantage of tourism and Council will seek to facilitate developments which can take advantage of this opportunity.

The strategic direction is to promote the Shire's profile as a leading advocate for regional economic development and work at convincing State and Commonwealth Governments of the benefits of investing in regions. It will strive for the reinvolverment of State and Commonwealth Governments in regional development and for a commitment from government to consider the impacts of their policy decisions on regional areas.

The first is the heavy industrial complex which is currently sustained by the coal and timber resources. The infrastructure investment is substantial and unique in rural regions in Victoria. It makes a significant contribution to the local economy. The main location of this industrial complex is in the South Morwell area and within the Special Use - Brown Coal zoned areas.

To retain the potential of the south Morwell industrial area and land within the Special Use - Brown Coal Area to function as some of a relatively small number of locations in the State which are suited to major heavy industry.

To maximise the potential for new industry to locate in the Shire by enabling it to establish outside the traditional industrial zone provided it is compatible with the character of the locality and will not cause detriment or loss of amenity to adjoining land.

It is policy to:

encourage the location of energy intensive industries on suitable sites adjacent to power generator companies where acceptable land use, environmental and amenity standards can be achieved;

Council comment and recommendation:

This submission has been addressed by a later submission from the Power Generators.

Construction of the Loy Yang Power complex began from a green fields site in 1977. The construction project included the extension of the existing regional infrastructure to service the two Power Stations each of four by five hundred mega watt units supplying the then expected electricity power requirements for the State of Victoria. The current installed capacity of Loy Yang is two thousand megawatts with another one thousand megawatts at Edison Mission's Loy Yang B plant.

Infrastructure services were installed locally at the complex and provided for the Power Station and Mine and were designed to provide for the requirements of a peak construction work force in excess of three thousand people. Many of the additional services provided for this workforce are still in existence or can be relatively easily extended. Given that the infrastructure services were designed for site installed capacity of four thousand megawatts, many of the existing services have surplus capacity.

The purposes of the *Special Use Zone – Brown Coal* are:

To provide for brown coal mining and associated uses;

To provide for electricity generation and associated uses; and

To provide for interim and non-urban uses which protect brown coal resources and to discourage the use or development of land incompatible with future brown coal mining and industry.

Extractive Industry is as-of-right conditionally on:

Must be directly associated with the mining, processing, or treatment of brown coal, or the generation, transmission, or distribution of electricity; and

All of the land must be at least 1000 metres from land (not a road) which is in a residential zone, business zone, land used for a hospital or school or land in a Public Acquisition overlay for a hospital or school.

Industry is as-of-right conditionally on:

Must be directly associated with the mining, processing, or treatment of brown coal, or the generation, transmission, or distribution of electricity; and

All of the land must be at least 1000 metres from land (not a road) which is in a residential zone, business zone, land used for a hospital or school or land in a Public Acquisition overlay for a hospital or school.

Panel Comment and Recommendation

See Panels comments Re Submission No 61.

SUBMISSION NO: 46

Submittor: Blake Dawson Waldron on behalf of **Edison Mission Energy Australia and Gippsland Power Limited**

Location: Loy Yang B Power Station, Bartons Lane, Traralgon South

Existing Zone: Loy Yang B Zone under the Traralgon (Shire) Planning Scheme

Exhibited Zone: Industrial 1 Zone

Requested Zone: Special Use Zone – Brown Coal

Submission:

Understand that the Special Use Zone – Brown Coal is intended to be applied to significant mining activities and electricity generation sites. Consider that both Loy Yang A and Loy Yang B Power Stations meet the Government's criteria for inclusion within this zone and submit that the Special Use Zone should also be applied to Loy Yang B.

It is contended that the Industrial 1 Zone was not drafted with the intention that it would control land uses of the size and significance of Loy Yang B. Suggest that Council considers that the activities conducted on the site can be characterised as manufacturing consequently accommodated by the proposed industrial zoning. Contend that these controls are inadequate for electricity generation industry. Furthermore for the Government to introduce a specific zone makes this contention implicit.

Strategic assessment:

The Strategy Plan recognises the coal mining and power generation industry. The Local Planning Policy Framework complements the Strategy Plan.

Council comment:

The submission to apply the Special Use – Brown Coal Zone does not conflict with the strategic framework.

Recommendation:

Support the submission to apply the Special Use – Brown Coal Zone over the Loy Yang B Zone.

Panel Comment

Electricity generation is the second purpose of the Special Use - Brown Coal zone, and the Loy Yang B Power Station meets this purpose. Zoning this facility Special Use - Brown Coal, would be consistent with the zoning applied to other power generators.

Panel Recommendation

The Panel recommends that the Loy Yang B Power Station be included in a Special Use - Brown Coal zone.

SUBMISSION NO: 47

Submitter: Beveridge Williams & Co Pty Ltd on behalf of **GPU Powernet Pty Ltd**

Location: See attached table

Existing Zone: See attached table

Exhibited Zone: See attached table

Requested Zone: See attached table

Submission:

LOCATION	EXISTING ZONE	PROPOSED ZONE	SUBMISSION
PN16 Jeeralang Terminal Station Part CA2F, Parish of Maryvale	PP7 – Public Purpose SECV under the Morwell Planning Scheme	SUZ1 – Brown Coal	SUZ1 – Brown Coal
PN12 Hazelwood Terminal Station Crown Allotment 2G, Parish of Maryvale	PP7 – Public Purpose SECV under the Morwell Planning Scheme	SUZ1 – Brown Coal	SUZ1 – Brown Coal
PN21 Morwell Terminal Station Crown Allotment 6N, Parish of Maryvale	PP7 – Public Purpose SECV under the Morwell Planning Scheme	Industrial 1 Zone	SUZ1 – Brown Coal
PN305 Jeeralang Radio Mast site Part CA 1C, Section B, Parish of Jeeralang	Part Rural Residential and part Rural General Farming under the Morwell Planning Scheme	Rural Zone	SUZ1 – Brown Coal
Yallourn Switch Yard		SUZ1 – Brown Coal	SUZ1 – Brown Coal
Loy Yang Switch Yard		SUZ1 – Brown Coal	SUZ1 – Brown Coal

The inclusion of the Jeeralang Terminal Station, Hazelwood Terminal Station, Yallourn and Loy Yang Switch Yards in the Special Use Brown Coal Zone is supported.

It is submitted that the Morwell Terminal Station should be included within the Special Use Brown Coal Zone rather than an Industrial 1 Zone to ensure consultation and notification for development and works.

With regard to the Jeeralang Radio Mast Site the proposed rural zoning is not appropriate as it does not facilitate the subdivision of utility service provider assets. It is submitted that a rural zoning would not adequately signal a future non rural activity on the site.

Finally, transmission lines and easements should be shown on the planning scheme maps to signal their existence and ensure that development and use accounts for this constraint and does not compromise the supply of electricity.

Strategic assessment:

The Strategy Plan recognises the coal mining and power generation industry. The Local Planning Policy Framework complements the Strategy Plan.

Council comment and recommendation:

The submission to apply the Special Use – Brown Coal Zone over the terminal stations and switch yards does not conflict with the strategic framework.

The radio mast site is a utility installation in an area characterised by rural land use activity and the zoning control should reflect the primary activity of the land.

Recommendation:

Support the submission to apply the Special Use – Brown Coal Zone over the terminal stations and switch yards. Not support the submission with regard to the radio mast site.

Panel Comment

Apart from the Jeeralang Radio Mast site, Council supports the submission to apply the Special Use - Brown Coal zone over the terminal stations and switch yards.

A minor utility installation is a section 1 use in the Rural zone and a utility installation (other than a minor utility installation is a section 2 use. There is No. reason why this land should be zoned Special use - Brown Coal.

Panel Recommendations

1. That the Special Use - Brown Coal zone be applied to the Jeeralang Terminal Station, Hazelwood Morwell Terminal station and Yallourn and Loy Yang switch yards.
2. That the Jeeralang Radio Mast site be zoned Rural as exhibited.

SUBMISSION NO: 48

Submitter: Yallourn Energy

Location: Coalfields

Existing Zone: Not applicable

Exhibited Zone: Not applicable

Requested Zone: Natural Resources Overlay & removal of Heritage Overlay

Submission:

Submits an objection to the following:

the application of an *Environmental Significance Overlay* to protect future coal field development rather than a *Natural Resources Overlay*;

the use of a coal policy statement to limit development on future coal fields and coal field buffers (urban, construction etc.) in lieu of overlay controls or specific zoning;

the omission of an *Environmental Significance Overlay* (or preferably *Natural Resources Overlay*) to protect the urban buffer north of Morwell township which appears contradictory to the protection afforded by the urban buffers elsewhere in the Shire;

the omission of an urban buffer and enforcement of the buffer by inclusion of *Environmental Significance Overlay* (or preferably *Natural Resources Overlay*) for the lands between Newborough township and Yallourn Energy freehold; and

the inclusion of the *Heritage Overlay* on CA's 50H, 50J, 50K, 50L, 50M1, 50M2, 50N, 50P, 50R and pt CA 50E all of Section A, Parish of Narracan.

Strategic assessment:

See submissions 60 and 61

Council comment and recommendation:

See submissions 60 and 61

Panel Comment and Recommendation

As for submissions 60 and 61.

Environment & conservation

Summary

Submissions were received from the Environment Protection Authority (EPA), the Department of Natural Resources and Environment (DNRE), the Floodplain Unit of DNRE, Country Fire Authority (CFA), Gippsland Farm Plantations and Boral Bricks.

Submissions which mainly related to conservation matter were received from Wally Anders on behalf of the Gumnut Haven Wildlife Shelter, the Victorian National Parks Association Inc., and the Friends of the Gippsland Bush.

Both the DNRE and EPA provided editorial type comments on the Local Planning Policy Framework.

DNRE also submit that protection of brown coal resources through policies rather than statutory controls is inappropriate and fails to recognise and protect the resource sufficiently.

The Floodplain Unit submits that given the level of current information available the treatment of issues related to flooding appears to be appropriate.

The CFA have provided information after commencement of exhibition.

Gippsland Farm Plantations supports the proposed MSS and Local Planning Policy Framework. Seeks clarification of a technical nature (definition of plantation establishment as works triggering need for a permit under the Environmental Significance Overlay).

Boral Bricks request that two sites providing a substantial resource be zoned *Special Use Zone – Extractive Industry* as this is a more appropriate zone for the long term use of the land.

Except for Boral Bricks these submissions are generally supportive of the exhibited planning scheme. Variations sought can be accommodated and consistency with the strategic framework maintained.

Submissions addressing conservation matters indicated that the MSS was not sufficiently precise with regard to the environment and in particular conservation. Submissions were critical of the lack of use of overlays and the Environmental Rural Zone. Particular issues included:

- need to protect genetically unique koalas;
- tighten remnant vegetation controls;
- declaration of College Creek as a permanent reserve.

SUBMISSION NO: 49

Submitter: Environment Protection Authority

Location: Whole of Shire policy matters and VPP matter.

Existing Zone: Not applicable.

Exhibited Zone: Not applicable.

Requested Zone: Not applicable.

Submission and comment:

The submission makes a number of comments concerning the Local Planning Policy Framework which are summarised below and commented upon.

The submission also includes a discussion concerning the nature of the VPP industrial zones and the interplay with residential zones. Two examples are given (it should be noted that the land south of Rose Avenue is actually currently zoned Residential Development not rural as stated mistakenly in the submission). This part of the submission is one which questions the terms of the State standard provision (VPP) and as such the current process is not appropriate.

SUBMISSION	COMMENT AND RECOMMENDATION
At 21.2-2 add dot point <i>'to maintain and protect the amenity of residents from industrial developments'</i>	Not appropriate at this level of the policy framework. If included would also have to make similar provisions for industrial, commercial, rural etc. Covered by residential policy statements and the objectives of the VPP zones themselves.
In 22.1-1 dot point 5 at the end of the sentence add <i>'as well as compromise the amenity of existing residents'</i>	At this level of the policy framework specifying residents is too detailed and inappropriate.
In 22.2 the issues of noise, waste management, litter, recycling and stormwater pollution management are not addressed at all. Planning to address these issues would provide significant direction, for example, by developing stormwater pollution prevention plans.	No head of power from either the Strategy Plan nor the MSS. Should be noted for review of Strategy Plan in the future.
In 22.2-2 under objectives the first dot point delete the word 'street'.	Typo, the word should be 'sheet' as noted elsewhere.
In 22.2-2 under decision guidelines and following <i>"particular requirements to be submitted with any proposal"</i> add <i>'sediment loss control structures'</i>	Constructive suggestion, however, already covered in the VPPs., The Department of Infrastructure have suggested that any decision guidelines within policy statements which are reiterated in the VPP controls should not be duplicated.
In 22.4-3 under policy add a further dot point <i>'ensure developments comply with EPA Publication no. TG 302/92 – Noise Control Guidelines, as amended from time to time.'</i>	As above

In 22.4-5 under decision guidelines add a further dot point <i>'the minimisation of sediment loss off site during any activity which causes soil disturbance'</i> .	As above
In 22.4-7 the third dot point under natural environment should read 'with State Environment Protection Policy'	Noted – however, the policy was drafted under Ministerial Direction and relates to the then Statement of Environment .Planning Policy.

Recommendation:

That the report be noted.

Panel Comment

The EPA has made a number of useful suggestion but the contents of the Municipal Strategic Statement and Local Policies is a matter for the Planning Authority who has nevertheless accepted some of the suggestions made by the Environment Protection Authority and these will be incorporated in the review of the planning scheme.

Panel Recommendation

That the MSS and LPPF be amended as agreed by Council.

SUBMISSION NO: 50

Submitter: Department of Natural Resources and Environment, Floodplain Management Unit

Location: Whole of the Shire

Existing Zone: Various

Exhibited Zone: Various

Requested Zone: Not applicable

Submission:

The VPP have introduced a State Flood Policy on flooding which can be activated by application of an Urban Floodway Zone, a Rural Floodway Overlay and a Land Subject to Inundation Overlay.

Where appropriate flood maps are available these can be incorporated into planning schemes by application of these controls.

It is noted that the Urban Floodway Zone has been applied in the LaTrobe Planning Scheme based on known flooding information and as used in previous planning schemes.

The Public Conservation and Resource Zone has been widely used along the Shire's waterways and provided that Council seeks appropriate advice when flooding issues are relevant and given the level of current information available, this appears to be appropriate at this stage.

The Department of Natural Resources and Environment, Floodplain Management Unit has commenced a mapping project, drawing together all available flood data and enhancing data where possible for all municipalities in Victoria outside the Melbourne Water area. This project will usually include definition of floodway areas. This is a major project which will take about three years to complete on a priority basis and it is expected that Councils will need to amend their schemes as improved data becomes available.

Strategic assessment:

The Strategy Plan and Local Planning Policy Framework provides a broad context for considering flooding issues in planning decision making processes. A complementary policy identifies areas subject to flooding and provides guidelines for the decision making processes.

Council comment:

It is recognised that further research is required and refinement of policy and controls is an on going matter.

Recommendation:

That the submission be noted.

Panel Comment and Recommendation

That the planning scheme be amended to include the results of the flood areas mapping project currently being undertaken by Department of Natural Resources and Environment when completed.

SUBMISSION NO: 51

Submitter: Country Fire Authority¹

Location: Whole of Shire

Existing Zone: Not applicable

Exhibited Zone: Not applicable

Requested Zone: Wildfire Management Overlay

Submission:

The enclosed transparent map overlays have been produced by CFA Risk Management Department for adoption by Council the LaTrobe Shire Planning Scheme as a Wildfire Management Overlay.

The maps depict the area within your municipality that has the potential to be subject to severe wildfire and has been developed utilising a suite of information, including satellite imagery of vegetation and weather data that provides the ability to estimate the potential fire intensity within the natural environment.

The point at which the CFA recommends the application of planning controls such as the Wildfire Management Overlay is when the potential fire intensity exceeds 10,000 kW/m (shown on the overlays as the shaded section). When the potential intensity exceeds 10,000 kW/m the fire is regarded as not being able to be controlled by direct attack and as such requires the strategic planning of preconstructed breaks and control lines. As fires develop they will require extensive planning of control lines and fallback positions that may result in substantial back burning, ultimately causing sacrifice of private property.

The application of suitable planning controls will allow Council to address the vital issues of public safety, cause development within the overlay area to be carried out in the full knowledge of the potential for uncontrolled severe wildfire behaviour, and allow for sensitive use of constraints that may assist in the protection of the natural environment and provide a greater level of safety for those that may choose to live or work in that area. It will also assist in making judgements on the type and level of development, if any, that would be appropriate within the overlay area.

¹ A second submission from the Risk Manager, Gippsland Area submitted that the CFA is satisfied with the reference given to fire hazard in the local planning policy framework and commends the Shire on its efforts.

It is imperative that this overlay is not confused with the *Bushfire Prone Area* (BPA) map which is only for the purposes of compliance with the *Building Control Act, Victorian Building Regulation 6.4* which applies specific requirements for the construction of dwellings in the declared area. The major difference is that the BPA map is produced from satellite imagery that shows significant stands of tall trees that are likely to subject buildings to heavy ember attack in the event of a wildfire and it will contain areas where the potential fire intensity will be significantly different from the Wildfire Management Overlay. The BPA map will in most cases be more extensive than the Wildfire Management Overlay map and was not designed to be used as a planning tool such as a planning scheme overlay.

CFA believes that it is essential that all municipalities and the public understand the implications of major wildfire events if there is potential for it to occur on property adjacent to, or under their control and the inclusion of the overlay is the appropriate vehicle.

Strategic assessment:

Strategy plan and policy

The first environment strategy from the LaTrobe Strategy Plan, that is, conserve, manage and protect the natural and man-made heritage resources of LaTrobe is relevant as the following extract demonstrates.

To promote development which is environmentally sensitive and has regard for the visual amenity, natural hazards (e.g. flooding, bush fire, soil subsidence) and land capability (including erosion potential).

Evaluate development proposals on the basis of, among other things, visual amenity, land capability and exposure to natural hazards.

Analyse and where appropriate, supplement existing bases of land capability and natural hazards, and prepare guidelines for landowners and for developments.

21.6-1 Environment MSS statement. Environmental matter for consideration to improve land and water management includes protection from wildfire.

22.2-3 local policy on fire safety

Council comment:

The proposed overlays and data were provided to Council after exhibition commenced. The information and control is considered to be valuable and appropriate. Procedural direction for incorporation of the overlay into the new Scheme is a regional issue and subject to Department of Infrastructure advice.

Recommendation:

That the local policy be amended so that it is policy to have regard to the *Wildfire Management Map* (Country Fire Authority, Risk Management Department, 27 January 1998). Refer to the Panel for advice on appropriate process.

Panel Comment

This submission has highlighted an ambiguity in the Wildfire Management overlay and its application. The Wildfire Management overlay is designed to:

Identify areas where wildfire is likely to pose a significant threat to life and property.

Detail the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

The CFA Risk Management Department prepares two types of maps. The first type show areas with the potential to be subject to severe wildfire, typically when the potential fire intensity exceeds 10,000 kw/m.

The second type show Bushfire Prone Areas which are prepared only for the purposes of compliance with the Building Control Act, and Victorian Building Regulation 6.4. These Bushfire Prone Area maps contain areas where the potential fire intensity will be significantly different from the Wildfire Management Overlay map.

The problem is that Bushfire Prone Areas may also pose a significant threat to life and property and therefore could be subject to the Wildfire Management overlay. This is a matter which should be clarified by the Department of Infrastructure.

The Country Fire Authority has subsequent to exhibition produced maps on which to base the Wildfire Management Overlay for areas where the potential fire intensity exceeds 10,000 KW/m. Council regards this material as valuable and appropriate.

As the maps identify areas with the potential for the most extreme fire hazard, the Panel considers that the Wildfire Management overlay be incorporated into the planning scheme forthwith, without further exhibition. The issue of public safety should be supreme to considerations of notice. Should the overlay areas require refinement these can be attended to as part of the next review of the planning scheme or by way of an earlier amendment if required.

Panel Recommendation

That the maps produced by CFA Risk Management Department dated 27 January 1998 be used as the basis for a Wildfire Management overlay and the local Fire Safety Policy be amended accordingly.

SUBMISSION NO: 52

Submitter: Gippsland Farm Plantations Inc.

Location: Whole of Shire

Existing Zone: Not Applicable

Exhibited Zone: Not Applicable

Requested Zone: Not applicable

Submission:

Background

Funded by the Commonwealth Government's Farm Forestry Program, Gippsland Farm Plantations Inc. (GFP) has been established to promote Farm Forestry in Gippsland. GFP has representatives from the Gippsland Agroforestry Network, and the Gippsland Wood Producers Cooperative on its Board. The Federal and State Governments have adopted a national goal to treble the plantations area by 2020. The Government's vision also recognises that future plantation expansion will need to occur on presently cleared agricultural land. The Farm Forestry Program has been established to promote commercial tree growing to farmers, so they are encouraged to include plantations as a viable farm enterprise on their properties.

MSS

GFP endorses the references in the MSS to the opportunities that exist for expanded plantation development and subsequent timber processing to contribute to economic growth in the Shire.

The significance of the industry is clearly recognised in the MSS, along with the scope for additional plantations and farm forestry on cleared agricultural land. This is welcomed and endorsed.

The attitude expressed in the MSS that farm based commercial tree growing is a legitimate form of agricultural production, and that farm plantations offer a valuable means to achieve economically and environmentally sustainable agriculture.

Local planning policies

Commends and endorses the objectives and policy statements in C22.4-6, Timber production.

Planning controls

Note that generally a planning permit will not be required for timber production in the Rural Zone provided C52.18 (Particular provisions – Timber production) and the conditions of 36.01-1 Section 1 are met (Table of uses to the Rural Zone). This approach is supported.

The application of the Environmental Significance Overlay provides a measure of uncertainty as plantation establishment (including ripping/mounding) is not clearly deemed to be works and thereby requiring a permit.

Strategic assessment:

The Strategy Plan recognises the timber resource and industry and the need to balance the inherent conflicts of the activity with other environment and conservation values in the Shire. The Local Planning Policy Framework complements the Strategy Plan and articulates specific policies.

Council comment:

The submission supports the approach and policy and seeks clarification of plantation establishment. For consistency in the planning assessment process the requirement for a permit for 'works' for activities usually inherent in plantation establishment would be illogical. Therefore, clarification of this matter through policy is proposed.

Recommendation:

That the submission be noted and it is proposed that plantation establishment activity as works is referred to the Planning Reform Team for clarification.

Panel Comment

This submission highlights ambiguities arising from the provisions of the Rural zone and Environmental Significance overlay as they relate to timber production.

The Environmental Significance overlay requires a permit to carry out works unless a schedule to the overlay specifically states that permit is not required. There is No. schedule which exempts timber production from requiring a permit for works which are associated plantation establishment. Council considers that the requirement for a permit for 'works' for activities usually inherent in plantation establishment would be illogical and therefore seeks clarification of this matter through policy.

Rather than clarifying through a policy Council's intention not to require a permit for works associated with plantation establishment it would be simpler to attach a schedule to the Environmental Significance overlay specifically exempting timber production from this requirement.

Panel Recommendation

That a schedule be attached to the Environmental Significance overlay exempting timber production from requiring a permit for works associated with plantation establishment.

Panel Comment

Another issue relevant to the timber production industry surfaced during the hearing concerned the effect of the schedule to the Environment Significance Overlay on Amendment S64 to the State section.

Prior to amendment S64, timber production was an as of right use on land zoned Special Use - Brown Coal, if all of the land is at least 1000 metres from land covered by a mining lease. Amendment S64 purported to modify this condition by allowing such land to be used for timber production following consultation with the holder of the mining rights under the relevant licence, provided that the land was used solely for the operation of the pulp and paper business in Gippsland.

The requirement that all of the land must be at least 1000 metres from land which is in a residential zone, business zone or land used for a hospital or school or land in a Public Acquisition overlay for a hospital or school was found in a fully specified Ministerial schedule in which No. changes were possible. This has now changed and the schedule to the special use zone is now only partly specified in which additional requirements may be added.

This means that despite Amendment S64, it is possible for the schedule to require a permit for timber production on land within 1000 metres of extractive industry.

It was pointed out to the Panel that there are irregularities between the terms of the Notice given of Amendment S64, the Explanatory Report and the amendment itself which may invalidate the Amendment. For example the Notice of Amendment contains the words;

“provided written consent is obtained from the Country Fire Authority the Department of Natural Resources and Environment and the holder of the Mining rights under the relevant licence or Order.”

The amendment ultimately contained the words

“Following a consultation with the holder of the mining rights under the relevant licence ...”

Whereas the Notice indicated that written consent of a number of instrumentalities was required the Amendment requires only consultation with the holder of the mining rights. This is quite different requirement from that advertised, and questions the validity of the Amendment.

SUBMISSION NO: 53

Submitter: J M Smith & Emmerton on behalf of **Boral Bricks (Vic) Ltd**
Location: Tyers – Walhalla Road, Tyers being part Crown Allotment 14C, 14D and 5G, Parish of Boola Boola
Existing Zone: Rural General Farming Zone, Traralgon (Shire) Planning Scheme
Exhibited Zone: Rural Zone
Requested Zone: Special Use Zone – Extractive Industry
Submission:

The site is a clay pit being a major resource and provides 70% of the clay used in manufacture at the Traralgon Brick Plant, which is the only brick plant in the Gippsland area.

Strategic assessment:

The existing operative clay pit is approximately 11.6 hectares in area. To the south is plantation and to the east a recently established bluegum plantation (formerly a pine plantation).

Tyers-Walhalla Road rises from the valley floor and provides access for the rural residential properties enjoying the aspect and views afforded by the elevation. This Road is also the main tourist route to the historic township of Walhalla.

Council comment :

The land is owned by APM Forests Pty Ltd and is licensed to Boral under agreements. The licence is time limited and ceases in 2004, in six years time, that is, short term for this strategic planning exercise.

Recommendation:

That the submission not be supported.

Panel Comment

A subsequent submission was forwarded to the Panel by Mrs R Mulcare from Gadens Lawyers raising similar issues.

Although Boral has tenure over the site until the year 2004, it is estimated that the resource has twenty years of remaining life. The Panel considers that such a valuable resource which is, and will continue to be, exploited in the medium term should be identified on the planning scheme map.

The Panel is aware of the Department of Infrastructure's view that zones are no longer intended to identify uses but the significance of the resource and its compatibility with the objectives of the Rural zone leads the Panel to the view that the Special Use zone should be applied to this site.

Panel Recommendation

The site be zoned Special Use - Extractive Industry.

SUBMISSION NO: 54

Submitter: Boral Bricks – Quarry Road, Yallourn North

Location: Quarry Road, Yallourn North

Existing Zone: Existing Zone

Exhibited Zone: Special Use Zone – Brown Coal

Requested Zone: Special Use Zone – Extractive Industry

Submission:

The stone quarry is a significant resource to the company and a supply source for the region. Application of the Special Use Zone – Extractive Industry would be more appropriate as it reflects the long term use of the land.

Strategic assessment:

Coal resource security is an identified priority in the Strategy Plan and the Local Planning Policy Framework.

Council comment:

For the land to be zoned Special Use Zone – Brown Coal identifies its strategic purpose. Under the exhibited zone mining is an as-of-right land use subject to meeting the requirements of Clause 52.08-2, a particular provision relating to mining. *The Report of the Advisory Committee on the Victoria Planning Provisions* states that the Special Use zoning should be exceptional rather than for standard type uses and as the mining use is as-of-right under the exhibited zone it may be considered as a standard rather than exceptional type use.

Recommendation:

That the submission not be supported.

Panel Comment

Coal resource security is a priority in the Strategy Plan, the Municipal Strategic Statement and the Local Planning Policy Framework. The subject land is within a Category A Brown Coalfield and it is therefore reasonable to conclude that the long term future of this land is for brown coal extraction. This should be reflected in the zone. In any event the Coal Resources Policy encourages the use of quarry or other materials recovered from coal development areas prior to or during their development.

Panel Recommendation

That the subject land remain in the Special Use zone - Brown Coal as exhibited.

SUBMISSION NO: 55

Submitter: Department of Natural Resources and Environment

Location: Whole of Shire policy matters and two specific sites

Existing Zone: For two specific sites see table below

Exhibited Zone: For two specific sites see table below

Requested Zone: For two specific sites see table below

Submission:

The Department of Natural Resources and Environment appreciates that a planning scheme needs to provide local focus and direction for the broader objectives of the State Planning Policy Framework, and to this end, the following comments are provided.

1. Municipal Strategic Statement
- 1.1 Urban Settlement (21.2-2). Dot point 7 could more directly read *'for development to have regard to and respond to **protect** the natural environment...'*
- 1.2 The Corporate Plan (21.3). The dot points need to include a point with clear focus on the importance of the natural environment, and the need for its protection. The third dot point is too general for this. An additional point could read *'an appreciation of the natural environment and a firm resolve to work towards biodiversity conservation'*.
- 1.3 The Strategy Plan Vision (21.4). This section has no reference to the protection of what is left of the natural environment within the municipality. In a municipality where much emphasis must naturally be placed on the use of natural resources such as coal and timber and the promotion of agriculture, it is important that a focus is still maintained towards the protection of native flora and fauna and natural ecosystems. It is suggested that an extra dot point be added which reads *'a leader in the protection of the region's native flora and fauna and the enhancement of natural ecosystems within the municipality'*.
- 1.4 Urban and Rural Settlement Strategies. Environmental Strategies, point 5 could more clearly define the intent by rewording, such as, *'protect and manage the natural environment and the natural and heritage resources of LaTrobe to conserve biodiversity and improve the natural ambience of the region'*.
- 1.4 Environment (21.6-1) The third paragraph discusses water quality and other catchment management issues. It could be more accurately defined by mention of the standards for administration of the land management processes as set by in the West Gippsland Catchment Management Strategy, 1997.

The first line of paragraph four can be better defined by adding the word *'values'* after *'natural'*.

Paragraph eight lists environmental matters for consideration to improve land and water management. Dot point 11 could be expanded to add meaning, for example *'maintenance of floodplain integrity'*.

Dot point 12 should begin *'**management of potentially contaminated land**'*.
- 1.5 Heritage (21.6-2). The fourth sentence in paragraph two could be expanded to read, for example, *'Land transport links also permitted extractive industry to supersede **other rural industries as the most economically enhancing operation**'*.
- 1.6 Agriculture (21.8-6). The second sentence in paragraph three could more clearly read: *'The Great Dividing Range and the Strzelecki Ranges are largely forested and **carry a large resource for** the timber industry which is located across the region'*.

The last sentence in that paragraph could more clearly read: *'On farm forestry plantations have the potential to become an integral part of **an integrated** farming*

system'. In the future, it is envisaged that farm plantations could become part of any type of agricultural pursuit including cropping, various forms of grazing and intensive agricultural pursuits such as raising of poultry or pigs, so the reference exclusively to grazing could be limiting.

Paragraph five, dot point 2, third line, rather than *'allowing new rural enterprises'* the action could be strengthened to read *'encouraging new rural enterprises'*.

Dot point 3 could more clearly read: *'safeguarding the resource base is recognised as an important priority to ensure the environmental stability of rural land. Land capability must be taken into account when considering any development or use. When considering a use associated with agriculture, sound management practices should be encouraged through whole farm planning and the adoption of Landcare principles'*.

2. Local policy

2.1 Settlements – Urban Form (22.1-1). Even within the urban landscape, there are opportunities for the protection and enhancement of the natural environment, and the retention of stands of remnant native vegetation. It is suggested that an additional dot point be added to the objectives which reads: *'To protect and enhance biodiversity'*.

2.2 Hill areas (22.2-2)

The first dot point should be amended to refer to **sheet** erosion.

Under Policy, the dot point should begin *'Only development, use or subdivision which is sensitive...'*.

Under Decision Guidelines, the second dot point should read *'...the pollution of any water course by run off water...'*.

An added dimension to the intent of dot point three could be gained by the addition of a further dot point to the effect, *'the need to retain vegetation cover where possible on steeply elevated slopes with soils prone to land slip, in order to maintain soil stability'*.

A further dot point could be added to this section which reads *'the need to protect the biodiversity of remnant native vegetation'*.

2.3 Biodiversity conservation (22.2-4). The policy reference could be more clearly read *'this policy applies to native flora and fauna'*.

Under Policy Basis, an extra paragraph could include reference to the important relevant legislation, and could read *'Important relevant legislation and strategies concerned with the protection of biodiversity includes:*

The Flora and Fauna Guarantee Act 1988;

The 3 part Biodiversity Strategy for Victoria 1997;

The National Strategy for the Conservation of Australia's Biological Diversity 1996;

The Convention on Biological Diversity, Rio 1993 ratified by the Australian Government; and

The Commonwealth Endangered Species Protection Act 1992'.

Under Objectives, dot point 2 could be broadened to include the 'Victorian Biodiversity Strategy' after reference to the *Flora and Fauna Guarantee Act*, and the word '**protection**' could be included before 'legislation'.

Under Policy, dot point four, the phrase 'by ensuring **appropriate use** of the *Ecological Vegetation Communities Database and Sites of Biological Significance Database*' appears to not be strong enough to act as an effective decision making tool, when the Planning Scheme has not made use of Vegetation Protection Overlay. In order to emphasise the requirement to consult the database records, it is suggested that the words '*appropriate use*' be replaced with '**mandatory consultation**'.

2.4 Rural (22.4-5)

The Department would suggest that the word '*significant*' be removed from dot point one under Objectives, as any intact stand of indigenous vegetation is deemed to be significant and should not be cleared.

Dot point two could be broadened to ensure that land development is compatible with a range of rural uses such as conservation, forestry and extractive industry, as well as agriculture.

Under Policy, dot point 2 could be more specific by reference to '**...high quality agricultural land;**'

Under Decision Guidelines, dot point six could be more clearly stated to include '**...roadside vegetation in the context of its role as a habitat for native flora and fauna, a wildlife corridor and a repository for maintenance of high quality native floristic values**'.

An additional dot point could include '*sites of biological significance*'.

2.5 Timber Production (22.4-6)

The second dot point under Objectives should refer to '*The Code of Forest Practices for Timber Production (Department of Natural Resources and Environment, Revision no. 2, November 1996)*'.

Under Policy, dot points four and five contain an element of repetition, and could be amalgamated. Reference to '*soil resources*' could more clearly be stated by '*soil stability*'.

3. Zones

3.1 Rural Zone (35.01), Decision Guidelines (35.01-6)

Under Environmental Issues, dot point two could be more clearly defined by including at the end of the sentence '*in particular fragmentation or disturbance of habitats or intact ecosystems, possible harassment of wildlife, potential introduction of environmental weeds, incremental loss of habitat, possible increases in the number or density of domestic or feral predators on local wildlife*'.

3.2 Public Use Zone (36.01), Incorporated Plan (36.03-6)

The final dot point could more clearly be stated by expanding the section in brackets to read '*...(including, in particular, any **Flora and Fauna Guarantee listed or potentially threatened species, communities or significant habitat**)...*'

Two specific sites of Crown land which are part of the Sale of Crown Land Programme will require appropriate rezoning. Where possible, the zoning for these parcels should reflect that of the surrounding land.

LOCATION	PROPOSED ZONE	SUBMISSION
Crown allotments 4 and 1A, Section A, in the Parish of Jeeralang	Public Conservation and Recreation Zone	Allotment 4 PCRZ adequate. Allotment 1A rezone to Rural Zone
Traralgon Shire Depot Allotment 7D, No Section, Township and Parish of Traralgon	Public Use Zone 6	Industrial 1 Zone to reflect current/future use.

3.3 Special Use Zone – Schedule One Brown Coal (37.01)

This Zone extends over areas currently included in the Proposed or Existing Public Purpose Reservations (SECV) and is already in the current planning schemes. Section 5 of this Zone needs to be modified to reflect the correct name of the Department which is the *Department of Natural Resources and Environment*.

4. Overlays

4.1 Protection of brown coal resources

The Department notes that the protection of brown coal resources and the translation of related provisions from the Latrobe Regional Section is proposed to be carried out through policies (rather than statutory controls) outlined in the Local Planning Policy Framework.

The appropriate recognition and protection of brown coal resources in the new planning scheme is a matter of great importance to the Department and effective planning controls must be adopted to protect coal resources in the Latrobe Valley and elsewhere in Victoria. The power generation companies appear to share this concern.

NRE believes that a new overlay which could be called '*Natural Resources Overlay*' would be a more appropriate tool to ensure the recognition of natural resources on

zoning maps. This overlay would also enable accurate translation of appropriate protective measures and statutory controls into the Shire's new planning scheme. The Department is currently taking this matter up with the Department of Infrastructure.

4.2 Gippsland Coalfields Policy Area

The Department notes that the land currently included in Category B and C coal areas and designated in the new Scheme as 'Other Coal Areas' is proposed to be included in the *Environmental Significance Overlay 1: Urban and Construction Buffer (ESO1)*. The Department understands that this occurred as a result of a drafting error. In view of this, the Department requests that *ESO1* be removed from all the land designated as 'Other Coal Areas' (formerly Category B and C coal areas) and the extent of the construction or urban buffer designation be checked to ensure that only relevant land is covered by this overlay.

4.3 Erosion Management Overlay

The Department believes that, due to the nature of soils and the potential for landslip in certain parts of the municipality, it is important that the Erosion Management Overlay be used to allow Council the ability to review the impacts of development and works in such areas. This would also bring the LaTrobe Planning Scheme into line with the Baw Baw Planning Scheme which has such an overlay on adjoining land.

The land subject to high erosion hazard is situated to the south west, south, south east and east of Boolarra, in the south of the municipality. The Department would be willing to assist the Shire in the accurate delineation of areas requiring the use of an Erosion Management Overlay.

5. Particular Provisions

5.1 Native Vegetation (52.17)

This section on permit exemptions includes the listing of dead vegetation. To assist clearer interpretation, an explanatory paragraph could be added in line with the following, '*While dead vegetation is exempt from the controls, it can have important habitat values for fauna which require hollows for nesting or fallen vegetation for shelter*'.

5.2 Private Tennis Court (52.21)

Under Application requirements, dot point five could be more clearly stated as '*Location and **description** of vegetation to be removed*'.

6. General Provisions

6.1 Decision Guidelines (65), Approval of an application or plan (65.01)

The list of factors which must be taken into consideration could include an extra point as follows '*The impact on flora, fauna, plant communities and habitats*'.

Dot point ten could more clearly read '*The **significance**, extent and character of native vegetation...*'

7. Incorporated Documents

7.1 Schedule to Clause 81

The Schedule to Clause 81 could include the following

‘Flora and Fauna Guarantee Act 1988
State Biodiversity Strategy 1997
National Strategy for the Conservation of Australia’s Biodiversity
Commonwealth Endangered Species Protection Act
***West Gippsland Regional Catchment Strategy, West Gippsland Regional
Catchment and Land Protection Board, 1997***
Framework for the Future – Final Report, October 1987
Land Over Coal and Buffer Area Study – Final Report, February 1988
***A Study of the Land in the Catchment of the Gippsland Lakes, Department of
Conservation and Natural Resources, 1992’***

8. General Comment

8.1 Uniformity of controls regarding protection of brown coal resources

The Department notes that local planning policies regarding the protection of brown coal resources vary slightly between the LaTrobe Planning Scheme and the Wellington Planning Scheme. The Department believes that both Shires would benefit from uniform expression of planning policies and controls in the respective planning schemes. The Department would be pleased to discuss this matter with both municipalities, and if necessary, the Department of Infrastructure.

Strategic assessment:

State Planning Policy Framework

The State Planning Policy Framework outlines the national agreements and policies which provide a broad framework for the development of operational planning policies to encourage sustainable land use and development.

Of the environment policies the following are relevant to the issues raised in submissions:

floodplain management (15.02)

protection from wildfire (15.07)

Of the economic development policies the following are relevant to the issues in the submissions:

forestry and timber production (17.07)

extractive industry (17.09)

LaTrobe Strategy Plan

Environment Strategy 1 *‘conserve, manage and protect the natural and man-made heritage resources of LaTrobe’* is relevant with related objectives and actions including measures such as planning for environmental sensitivity, land capability, natural hazards and so on.

The LaTrobe Strategy Plan establishes a commitment to best practice environmental management and recognises that conservation is a key issue, *‘striking the balance between the conservation of biodiversity and sustainable resource use requires the application of both sound planning principles and good land management practice’*.

Local Planning Policy Framework

The MSS adopts a supportive position with regard to the environment policies (21.6), that is: *‘Sustainability is the key aspiration of the environmental management of LaTrobe, and for all land uses within LaTrobe, whether they be urban or rural uses. To achieve this sustainability each proposed land use must be considered for its impact on the broader environment, and in particular on air quality, water quality, biodiversity and on the protection of the productivity of the land which provides the economic conditions to support beneficial land management activities’*.

Environmental matters for consideration to improve land and water management, include:
integrated catchment planning to guide land use and management;
effective erosion control along waterways;
effective erosion control in steep hill areas;
biodiversity conservation including native vegetation retention, protection and enhancement of habitats, and for protection of rare and endangered species and communities on public and private land;
measures to maintain the quality of stream and wetland environments;
environmentally sustainable urban systems;
air quality;
protection from wildfire;
environmental weed control;
pest animal control;
amelioration of potentially threatening processes to native flora and fauna;
floodplains; and
potentially contaminated land.

Detailed relevant Local Planning Policy Framework policies include flooding (22.2-1), fire safety (22.2-3), and timber production (22.4-6).

Council comment:

The general editorial suggestions are constructive and should be noted.

The proposed Natural Resources Overlay is addressed in the *Coal and Power Generation* section, however, support should be noted.

The erosion management overlay proposal should be noted and the future implementation in conjunction with the Department of Conservation and Environment (DNRE) and the West Gippsland Catchment Management Authority be pursued. It should be acknowledged that the specific Hill Policy which addresses the Strzelecki Ranges issues is an interim measure.

Recommendation:

That the general editorial proposals be supported.

That the submissions relating to particular land parcels follow the recommendation in the table below:

LOCATION	PROPOSED ZONE	SUBMISSION	RECOMMENDATION
Crown allotments 4 and 1A, Section A, in the Parish of Jeeralang	Public Conservation and Recreation Zone	Allotment 4 PCRZ adequate. Allotment 1A rezone to Rural Zone	Support Not support
Former City of Traralgon depot being Allotment 7D, No Section, Township and Parish of Traralgon	Public Use Zone 6	Industrial 1 Zone to reflect current/future use.	Residential 1 Zone subject to environmental audit and clean up of the site.

That the coal and power generation matters be noted.

That the inclusion of an Erosion Management Overlay over the Hill Policy area of the Strzelecki Ranges be referred as an issue to the Panel.

Support introduction of Vegetation Protection Overlay with finalisation of the DNRE sites of biological significance project.

Panel Comment

Re comments 1 to 2.5 (Municipal Strategic Statement and Local Policies).

The content of the Municipal Strategic Statement and Local Planning Policy Framework is ultimately a matter for the Planning Authority. The suggestions made by the Department of Natural Resources and Environment should be carefully considered by the Planning Authority as it reviews the exhibited scheme prior to adoption.

In any event Council supports the general editorial suggestions.

Re Comments No. 3 (Zones)

The suggestions made to improve the Rural, Public Use, Special Use and incorporated Plan zones are beyond the Terms of Reference.

Comment No. 4. Overlays

The Department of Natural Resources and Environment considers that a new Natural Resources overlay would be a more effective way of managing brown coal resources than by policy as proposed by Council. Whilst DNRE and DOI are discussing this matter, it is important that some control over the resource is retained and hence the Panel supports the use of the Coal Resources Policy pending the introduction of a Natural Resources overlay.

Re Comments No. 4.2 Gippsland Coalfields Policy Area

Coal areas are categorised A, B and C depending on how soon the resource is to be extracted, not on the basis of quality or extent. In view of the acknowledged significance of the coal resource to the Victorian and Australian economy it seems short sighted to water down the protection of category B and C coal reserves by going 'soft' on development of these areas.

Re Comments No. 4.3 (Erosion Management Overlay)

Despite the Shire having areas of high erosion hazard in the Shire Council has Not availed itself of the use of the Erosion Management overlay, preferring the use of a Hill Areas Policy (clause 22.2.2), pending further research to identify areas to be subject to the Erosion Management Overlay. The Hills Area Policy covers a wide area and is broad bush approach which may be difficult to justify strategically. It is therefore preferable to use the data DNRE has to accurately delineate areas of erosion risk and impose an Erosion Management overlay over such areas.

The Department of Natural Resources and Environment has available significant data on the nature of soils in the Shire with the potential for landslip.

Panel Recommendation

That the Council liaise with DNRE in the accurate delineation of areas requiring the use of an Erosion Management overlay.

Re Comments No. 5

Native Vegetation

The amendment sought to clause 52.17 is beyond the Panel's Terms of Reference.

Tennis Courts

The amendment sought to clause 52.21 is beyond the Panel's Terms of Reference Decision Guidelines (clause 65).

Re Comment No 6

The amendment sought to clause 65.1 is beyond the Panel's Terms of Reference.

Re Comments No. 7 (Incorporated Documents)

There is no need for the various Acts of Parliament to be made incorporated documents as the planning scheme is subject to all Legislative enactments.

The Planning Authority should assess the need to incorporate into the planning scheme the documents suggested by DNRE against the following criteria. Is it;

- essential to the administration or enforcement of the planning scheme.
 - necessary to determine the extent of a planning control, or whether planning permission is required in a particular case.
 - necessary to ascertain whether the scheme is or has been completed with.
 - required to be incorporated under an Act, specific planning provision or Ministerial Direction.
-

- Alternatively, they could be included as Reference Documents.

Re Comments No.. 8 (Uniformity of brown coal resources)

If there is some variation in local planning policies relating to brown coal resources in the LaTrobe Planning Scheme and Wellington Planning Scheme of any consequence, these should be discussed with DNRE and DOI to bring them into uniformity if possible.

Re Crown Allotments 4 and 1A, Section A, Parish of Jeeralang

DNRE have provided no strategic justification why this allotment should be zoned Rural. Council does not support such submission and pointed out that the land is adjacent to the Morwell National Park. A Public conservation and Recreation zone proposed will be an appropriate transition to the National Morwell Park and should be supported.

Panel Recommendation

That CA 1A be zoned PCRZ as exhibited.

Re Traralgon Shire Depot

This is the site of the former Shire depot which is now surplus to Council's requirements. It is adjacent to residential development and the Mixed Use zone. The strategy Plan and LPPF recognise that there are areas in the urban fabric which may be improved. The Panel considers that it is reasonable to upgrade this site by zoning it Residential 1.

Panel Recommendation

That the subject site be zoned Residential 1 zone with an Environmental Audit Overlay.

SUBMISSION NO: 56

Submittor: Wally Anders on behalf of the Gumnut Haven Wildlife Shelter

Location: Whole of Shire

Existing Zone: Not applicable

Exhibited Zone: Not applicable

Requested Zone: Not applicable

Submission:

The South Gippsland population of koalas is genetically more diverse than other Victorian populations and therefore of unique conservation importance. Therefore this population and its habitat should be preserved to maintain a large gene pool.

A number of comments were made with regard to the *State Planning Policy Framework*. These are general criticisms of failure to embrace concepts of bio-diversity and sustainability with sufficient strength to be meaningful as well to fulfill international agreements. Particular statements relating to the LaTrobe Shire may be summarised as follows:

conversion of land to timber industry activity is not sustainable and contravenes Inter Governmental Agreements

without sustainability future generations will have a large price to pay for restoration and quality of environment issues to address

forest industry must be made equally responsible for the long term effects on the environment, wildlife, bio-diversity and quality of life of residents

ratepayers should not have to bare the cost of environment assessment of timber industry activity and that the timber industry should pay for independent contracted environmental consultancy.

Strategic assessment:

See submission 55

Council comment :

To date the identification and mapping of koala habitat has not been completed. The Australian Koala Foundation have been active in fieldwork in the Shire preparing the *Koala Habitat Atlas*. Council is awaiting the results which are anticipated to be 1:50 000 vegetation and koala habitat maps with an accompanying report *Koala Plan of Management* with corollary recommendations such as rezoning for environmental protection, development controls, dog and traffic controls, and revegetation of degraded habitat. Upon receipt of the Atlas and Plan of Management consideration will be given to the mechanism for incorporation within the planning framework.

Criticism at the lack of overlays or application of the environmental rural zone is misplaced because it does not appreciate that there has been a fundamental shift in approach to planning decision making represented by the planning reform program and the VPP. The Minister in correspondence dated 27 November 1997 stated 'zone and overlay controls are no longer the sole, or even the most important basis for guiding decision making. In fact under VPP, zone and overlay controls merely provide a framework and it is policy which will be the principle guide in decision making.' The LaTrobe Strategy and the Local Planning Policy Framework recognise and have programmed appropriate actions to address these issues, through stage introduction of these controls as adequate information becomes available.

Recommendation:

That the submission be noted.

Panel Comments

This submission makes a number of criticism directed towards the failure of the VPP's and the LPPF to adequately embrace environmental values. Whilst the criticism of the VPP is a matter beyond the Panel's Terms of Reference, Council should take note of the suggestions leveled at the LPPF in the next review of the planning scheme.

Although the LPPF includes a number of initiatives dealing with environmental and land and water management issues (see submission No.. 55) more extensive use of the Vegetation Protection overlay, Significant Landscape overlay and the Environmental Rural zone and Public Conservation and Resource zone could be considered. Council in response to a suggestion that the Strzelecki Ranges be zoned Environmental Rural Zone replied that it was not use which was a problem in the Strzelecki's, but development which threatened its environmental values, and this could be addressed more appropriately through overlays rather than zone controls. This is quite a reasonable response, but an overlay cannot control some as of right uses.

Considerable research is currently being undertaken of the South Gippsland koala population. The importance of this population should be acknowledged in the Municipal Strategic Statement with an indication that when the identification and mapping of koala habitat is completed, it will form the basis for environmental protection and development and other controls to be introduced into the planning framework.

Panel Recommendation

That the importance of the South Gippsland koala population be acknowledged in the Municipal Strategic Statement as well as an indication that when the identification and

mapping of koala habitat is completed, it will form the basis for the introduction of further planning controls.

SUBMISSION NO: 57

Submitter: Victorian National Parks Association Inc.
Location: Whole of the Shire
Existing Zone: Not site specific
Exhibited Zone: Not site specific
Requested Zone: Environmental Rural Zone and Environmental Significance Overlays

Submission:

Local planning policy framework
MSS lacks commitment to actions including clear and measurable outcomes.

Focus on use of resources for industry rather than for conservation.

Support the biodiversity conservation policy.

Propose better documentation and inclusion of environmental values and application of protective overlays. Suggest use of the *Ecological Community Data Base* and *Sites of Significance Data Base* as the basis of the mapping.

Environmental Rural Zone

Concern at the lack of use of the Environmental Rural Zone which may be used to protect scarce native vegetation on private land.

The widespread use of the Rural Zone allows as-of-right uses which conflict with natural values. Application of the Environmental Rural Zone with appropriate overlays would provide protection. Submit that no excavation or fill should be allowed without a permit as it can have a negative impact on native vegetation through the introduction and promotion of weed species and / or by changes to drainage patterns that may affect native vegetation.

Overlays

Overlays are not adequate without appropriate Environmental Rural Zone base zoning. Reduce conflicting instructions between zone and overlay.

Application of the *Urban and Construction Buffer* is one which is not for an environmentally significant purpose and the normal use of this term is misleading to land owners. Should be implemented through maps and policies in the local planning policy framework.

Support the *Water Catchment ESO2*. Suggest supplementary ESO for flora and fauna in areas of environmental significance. The native vegetation controls in clause 52.17 with exemptions do not adequately protect all values. For example, the controls do not protect native vegetation from damage by grazing or prevent the cutting down of dead hollow trees which may be habitat.

ESO buffer in conjunction with Environmental Rural Zone for one (1) kilometre around Parks and Conservation Reserves. This overlay should impose constraints on small sized subdivision and on developments with likely off site impacts such as wildling seedlings. The Department of Natural Resources and Environment should be a referral authority where new plantations are proposed.

Strategic assessment:

See submission 55

Council comment:

See submission 55

Recommendation:

That the submission be noted and an Environmental Significance Overlay buffer around Morwell National Park be supported.

That the Local Planning Policy Framework be changed to more clearly identify the Strategy Plan as the location of measurable actions within the corporate municipal framework.

Support introduction of Vegetation Protection Overlay with finalisation of the DNRE sites of biological significance project.

Panel Comment

The Panel agrees with the Victorian National Parks Association Inc that the MSS and LPPF could be improved with more detail, clearer identification of threats, measurable objectives and specific strategies including time frames for implementation.

Council already has a data base of the Shire's environmental values in its "Ecological Community Data Base", and "Sites of Significance Data Base". With the finalisation of DNRE's Sites of Biological Significance Project, this data could be combined as a basis for drawing a map showing the location of environmental assets, and developing controls through Environmental Significance, Vegetation Protection and Significant Landscape overlays to give them protection.

The VNPA is concerned that there are no areas in the planning scheme zoned Environmental Rural zone. See the Panel's comments on the application of the Environmental Rural zone on the Strzelecki Ranges in submission No 56.

Regardless of the above, much of the Shire's native vegetation is on privately owned, rurally zoned land, in which a number of as of right uses may be incompatible with the protection of conservation values and native vegetation. Imposing an overlay control directed towards controlling development of an as of right use could be at least confusing, if not conflicting. On the other hand an Environmental Rural zone could seriously impede legitimate farming activities.

It is therefor imperative for the Shire's environmental assets to be thoroughly identified and evaluated so that Council can prioritise its objectives and seek to achieve such objectives with the most effective controls.

The Panel can see no difficulty in using the Environmental Significance overlay to protect natural resources. The purposes of the Environment Significance overlay are wholly consistent with imposing controls on land to ensure that development does not jeopardise the extraction of brown coal, an environmental asset of national significance. There is nothing in the ESO which is limited to the interpretation suggested by the VNPA.

There is no ESO to cover flora and fauna in areas other than along waterways (which is protected by ESO2) . The Planning Authority should consider applying an Environmental Significance overlay over areas identified by DNRE biodiversity mapping and Council's own studies.

The Panel also sees merit in the additional use of the Vegetation Protection overlay (including on roadside verges) to cover the full range of environmental values in the Shire.

The Planning Authority has agreed to placing an Environmental Significance Buffer in conjunction with an Environmental Rural zone for one kilometre around the Morwell National Park. The suggested controls should apply to other parks of similar significance.

Panel Recommendations

1. That an Environmental Significance overlay buffer of one kilometre be placed around Morwell National Park, in conjunction with the use of an Environmental Rural zone.
2. That each ESO impose constraints on small sized subdivision and on developments with likely off site impacts such as wilding seeding.
3. The Department of Natural Resources and Environment be a referral authority where new plantations are proposed within the buffer.
4. DNRE's sites of biological significance mapping be used in conjunction with Council's own data to identify the location of the Shires natural assets. This data be used as the basis for introducing appropriate environmental and landscape overlays.

SUBMISSION NO: 58

Submitter: Friends of the Gippsland Bush Inc.

Location: Whole of Shire

Existing Zone: Not applicable

Exhibited Zone: Not applicable

Requested Zone: Not applicable

Submission:

Overlays for native vegetation protection

Questions the use of overlays in the proposed scheme and suggests that more overlays are required for environmental protection, in particular to address native vegetation issues.

Strategic and policy statements

Suggests that the MSS and Local Policy Planning Framework are too general in their statements and therefore do not adequately protect important areas of the natural environment through the planning scheme. With regard to this matter the FOGB suggest that particular values be documented in the Local Planning Policy Framework and that these can be controlled in a prescriptive manner by application of overlays. Suggest reference to map sets.

Environmental rural zone

Advocate introduction of an environmental rural zone so that the native vegetation is protected by a planning control.

College Creek

Identifies the College Creek area as unique and requiring protection. Suggests an Environmental Significance Overlay and has drafted an overlay.

Strategic assessment:

See submission 55

Council comment:

It should be noted that at the June 1998 Council Meeting there was a resolution to prepare a strategy for the protection of College Creek. The basis of support for the Vegetation Protection Overlay should be subject to a process of introduction which includes listing on the register of the DNRE sites of biological significance. In the case of College Creek the assessment of significance by Biosis and identification of significance sufficient for listing on the DNRE register is a precondition as well as community consultation including the land owner.

Also see submission 55

Recommendation:

That the submission be noted and support the introduction of the Vegetation Protection Overlay with the finalisation of the process of establishment of significance outlined in the comment above.

Panel Comment

This submission essentially echoes the submission by Victoria National Parks Association and identifies the College Creek area as unique, requiring protection. The significance of this area will be determined by DNRE's sites of biological significance.

SUBMISSION NO: 63
Submittor: Minerals & Petroleum Victoria

Panels Comments and Recommendations

The techniques proposed by the Planning Authority to protect identified brown coal deposits includes use of Special Use - Brown Coal zone, Environmental Significance Overlay 1, the Coal Resources Policy and the Coal Buffers Policy.

Minerals and Petroleum Victoria, (MPV) was critical of the Planning Authority's approach to the protection of brown coal resources through policy statements, which to the extent possible, reflect provisions of the existing LaTrobe Regional section. MPV also considered that the use of the Environmental Significance overlay was inappropriate in the light of the comments made by the Advisory Committee on the Victoria Planning Provisions when it said;

“while it is technically possible to use the existing Environmental Significance Overlay The terminology would give a false impression that land will not be developed for its intended purpose of the extraction and processing of the identified resources.

Mr A Clarke, on behalf of the Power Generation Companies submitted that the purpose of the Environmental Significance Overlay is to protect “green” environmental issues and is therefore an inappropriate control for the coalfields and their development.

The essence of MPV's criticism is that it would prefer a Natural Resources Overlay to an Environmental Significance Overlay in this situation. The Panel has some sympathy for this view, especially in light of the comments of the Advisory Committee on the Victoria Planning Provisions. Unfortunately, development of a Natural Resources overlay is still some way off. Because of the importance of the brown coal resource, the Panel considers it highly appropriate that until a Natural Resources overlay is introduced into the VPP's, the Environmental Significance Overlay should be used in the interim.

The MPV made a valid point when it pointed to the difficulty in accurately identifying areas covered by the Coal Resources policy areas due mainly to the large areas involved, and the proportionately small size maps available for inclusion in the relevant policy statements. Comparison of the maps in Framework for the Future, with the maps included in the policy statements indicate that they differ. These maps should be checked.

SUBMISSION NO: 64
Submittor: Department of Infrastructure

Panel Comment

Regrettably the Planning Authority did not provide a copy of the proposed LaTrobe Planning Scheme to the Department of Infrastructure for comment prior to exhibition. Such input would have been useful to the Planning Authority and would have eliminated a number of the technical errors and omissions which have now been identified, as well as providing some guidance in the use of the Victoria Planning Provisions “tool kit”, such as the appropriate use of policies and the schedule to the Heritage overlay.

Just as regrettable was the lateness of the Department of Infrastructure's response to the exhibited scheme. The Planning Authority had no opportunity to respond to it prior to the Panel hearing.

DOI's response as it was presented to the Panel was thorough and well considered and provides the Planning Authority with a considerable amount of material and suggestions as to how the exhibited scheme can be improved.

The DOI submission is too detailed for the Panel to summarise it, but suffice to say that many suggestions and valid criticisms have been adopted by the Panel and included in the text of the report.

Panel Recommendation

That the Planning Authority give weighty regard to this submission in the context of the Panel's report in reviewing the exhibited planning scheme prior to adoption.

SUBMISSION NO: 65
Submitter: West Gippsland Catchment Management Authority

Panel Comment

A late submission was received from West Gippsland Catchment Authority which indicated that the policy provisions relating to flooding are broadly based and the associated mapping is not detailed enough to adequately identify flood prone areas.

The Panel addresses this issue in another part of the report.

General Submissions

SUBMISSION NO: 59
Submitter: Dell & Keith Consultants Pty Ltd
Location: See attached table
Existing Zone: See attached table
Exhibited Zone: See attached table
Requested Zone: See attached table
Submission:

LOCATION	SUBMISSION	COUNCIL COMMENT AND RECOMMENDATION
Vary's Track, Deans Road and Buckleys Track	Exhibited zone boundary between Special Use Zone and Rural Living Zone bisects Titles	Move zone boundary to follow cadastral boundary
Between Narracan Creek and Two Mile Road	Disused Moe-Thorpdale railway line inappropriately zoned Public Use – Transport (PUZ4)	Apply Rural Living Zone
Jason Street, Morwell	Plot of acute zone boundary creates illogical zone area	Plot zone boundary at a right angle to achieve practical use of land.
Princes Freeway,	Overlay buffer bisects titles.	Buffer boundaries be reviewed

LOCATION	SUBMISSION	COUNCIL COMMENT AND RECOMMENDATION
Commercial Road and Monash Way, Morwell		and redefined to follow cadastral boundaries where possible to provide certainty to landowners and developers.
Tyers	Lack of clarity in the scale of mapping in the Tyers area	Review of mapping product to ensure clarity in conjunction with future GIS developments.
Cross's Road, Traralgon	Gippsland Water large installation should be zoned Public Use – Service and Utility?	See Gippsland Water submission.
North of Chenhall Crescent, Traralgon	Land may be subject to flooding?	Delineated in the Local Planning Policy Framework Flooding Policy – see submission 50 from DNRE, Floodplain Management Unit
Franklin Park Estate	Floodway Zone boundary mapping inaccurately	Drafting error welcome contours and mapping details
Yinnar South	Rural Living Zone schedule description difficult to interpret	See submission 22 from Ross and Worth
Jeeralang Junction	Minimum subdivision size of this Rural Living Area should be 2ha.	The zone provisions require environmental, siting and design standards which would overcome any problems with the minor variation in the lot size in this Rural Living Zone. Recommend that Council support the proposed variation in the schedule for minimum lot size.
Traralgon Balook Road, Creamery Road, Sunday Road and Old Callignee Road, Callignee	Existing 2ha lots should be zoned Rural Living Zone to be consistent with application elsewhere in the Scheme	Support
Road name blimps	<ul style="list-style-type: none"> Map 13, the road to Churchill is shown as Midland Road and on map 14 Monash Way – should be consistently Monash Way Map 20 Cassandra Drive, Melissa Court and 	Drafting errors

LOCATION	SUBMISSION	COUNCIL COMMENT AND RECOMMENDATION
	<p>Benjamin Court have been omitted and Kassandra Drive should be extended to the northern boundary. William Cuthill is incorrect.</p> <ul style="list-style-type: none">· Chisholm Court spelt incorrectly.· Map 15 northern end of Cowwarr-Walhalla Road, Cowwarr spelt incorrectly.· Map 19 Kay Street shown as Princes Highway· Map 27 Boldings Road shown in incorrect place.· Map 30 Boolarra spelt incorrectly	

Strategic assessment:

Addressed where applicable in table above.

Council comment:

Addressed where applicable in table above.

Recommendation:

Support as indicated in the table above.

Panel Comment

This submission highlights a number of technical mapping errors which Council has agreed to address.

Panel Recommendation

The alterations be made to the documentation as agreed to by Council

9. Recommendations

The Panel's recommendations are divided into those which should be implemented prior to adoption and approval of the planning scheme, and those which can be deferred for later action. The Panel's recommended changes to the Local Planning Policy Framework are essentially clarifications and improvements rather than significant strategic changes and can be made without further exhibition.

9.1 Recommendations Prior to Adoption

Prior to the adoption of the planning scheme the Panel recommends that;

1. The Municipal Strategic Statement be restructured as outlined by the Panel for the purposes of:
 - distinguishing between objectives and strategies to achieve them;
 - explaining the relationship between these objectives and strategies and the land use and development controls used in the planning scheme.
 - to reflect a clear, concise statement of the key land use and development issues and directions for the Shire.
 2. The Municipal Strategic Statement contain one vision statement.
 3. A strategic Framework Plan be included in the Municipal Strategic Statement
 4. The objectives be redrafted to be generally consistent with the nine themes identified in section 10.2
 5. The Municipal Strategic Statement should indicate how it complements the Corporate Plan and the LaTrobe Strategy Plan.
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6. Relevant “actions” contained in the Corporate Plan be incorporated into the MSS.
 7. All sections of the MSS be individually numbered in the form adopted in the Manual for the Victoria Planning Provisions.
 8. A system of monitoring decisions made under the planning scheme and for reviewing the planning itself should be included in the MSS.
 9. The Planning Authority undertake a Rural Living Study to establish the need for, and preferred locations for Rural Living opportunities in accordance with Ministerial Direction No. 6/6A.
 10. Structure Plans for the individual townships be prepared and inserted into the MSS or local policies.
 11. The strategies be rigorously analysed and rewritten to reflect the Panel’s comments.
 12. The VPP zones not used in the planning scheme be deleted from the contents page.
 13. The Local Policies and all sections of the MSS be individually listed in the contents page.
 14. The complete provisions of the VPP’s be included in the planning scheme.
 15. The drafting amendments to the maps be effected in accordance with the maps produced at the panel hearing.
 16. The LPPF be edited to ensure that all V3 and V4 amendments to the Victoria Planning Provisions are incorporated into the planning scheme and that a final check be done to eliminate all grammatical and typing mistakes.
 17. All formatting anomalies identified by the Panel be corrected.
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18. The local policies be rigorously analysed and rewritten to reflect the Panel's comments.
 19. Where possible, Local Policies should include decision guidelines.
 20. Each of the local policies should have the word "policy" included in the title so that the nature of the document is easily identified.
 21. Local Policies which do not have a local focus, and merely duplicate the State Planning Policy Framework should be removed from the Local Planning Policy Framework. Heritage, Housing, Tourism, Rural, Stone resources, High pressure pipelines policies are candidates for removal.
 22. In the Car Parking policy the term "time sharing" should be substituted for "temporal".
 23. The prescriptive word "must" should not be used in policies.
 24. In reviewing Local Policies the Planning Authority have regard to the matters raised by the Department of Infrastructure in its submission to the Panel.
 25. The name LaTrobe should be used consistently throughout the planning scheme.
 26. The Statements of Environmental Significance in the schedules to the Environmental Significance Overlay require redrafting.
 27. A Wildfire Management Overlay be used instead of the Fire Safety Policy.
 28. The maps used in the Local Planning Policy Framework be reviewed as outlined by the Panel.
 29. The owner of the LaTrobe Regional Airport be requested to prepare an Australian Noise Exposure Forecast to enable the Planning Authority
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to prepare controls to prevent inappropriate development around the airport.

30. Quality agricultural land in the Rural policy should be identified by reference to “Assessment of Agricultural Quality of Land in Gippsland” by Swan and Volume 1984, or a more recent study if available.
 31. The use of the Public Park and Recreation zone and Public Conservation and Resource zone be reviewed to ensure that public open space which is used primarily for active and passive recreational purposes be designated PPRZ whilst public open space which has special environmental qualities be included in PCRZ.
 32. The Mid Valley Shopping Centre be included in a Business 1 zone and the existing site specific controls over the site be converted into permit conditions.
 33. In schedule one to the Special Use zone Clause 2.2 and 3.1 should be inserted as they are referred to in the table of uses.
 34. The schedules to the zones be rigorously analysed and rewritten to reflect the Panel’s comments.
 35. The Comprehensive Development zone be removed from the LPPF as Mid Valley Shopping Centre is to go into a Business 1 zone.
 36. The schedule to overlays be rigorously analysed and rewritten to reflect the Panel’s comments.
 37. All of the Shire’s heritage assets whose significance has been established to the Planning Authority’s satisfaction be included in the schedule to the Heritage Overlay.
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38. The Planning Authority liaise with the Shires of Baw Baw, South Gippsland and Wellington to adopt a common approach to controls along LaTrobe's boundaries as identified by the Panel.
 39. Subject to a Business 1 zone being allocated to the land occupied by Mid Valley Shopping Centre, the Morwell Mid Valley Shopping Centre Development Plan be removed from the schedule to clause 81.
 - 40.. The following documents be included in the Schedule to clause 81:
 - Australian Standard AS 2021 - 1994 Acoustics - Aircraft. Noise Intrusion - Building Siting and Construction.
 - LaTrobe Regional Airport Obstacle Limitation Surfaces Plan.
 41. Council establish a system for monitoring decisions made under the planning scheme, and for reviewing the planning scheme itself.
 42. The monitoring and review system be articulated in the Municipal Strategic Statement.
 43. Yallourn A, B, C, D & E Power Stations, Moe Glengarry Main Road, Yallourn be removed from the schedule to the Heritage overlay.
 44. The Yallourn cemetery be zoned Public Use - Cemetery/Crematorium (PUZ5)
 45. The Moe Municipal Tip be zoned Public Use - Service and Utility (PUZ1)
 46. The Driver Training Complex in John Field Drive, Newborough be zoned Public Use - Education (PUZ2)
 47. The Department of Infrastructure seek legal advice as to whether Amendment S64 has been legally approved, and whether it is consistent with clause 17.08-3 of the State Planning Policy Framework.
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48. The Transport Buffer referred to in the Coal buffers policy should be shown on Map 6 Coal Related Buffer Areas, or alternatively reference to the Transport Buffer should be removed from the policy.
 49. Map 6 should be checked to ensure that it shows all of the Urban Buffer areas.
 50. The range of industrial development permitted adjacent to power generation facilities by the Special Use Brown Coal zone be widened and a corresponding change to the MSS should also be made.
 51. The following parcels of land owned by Hazelwood Power be placed in a Special Use - Brown Coal zone;
 - Two parcels of land in Nadenbousch's Road, Hazelwood
 - Crown allotment K7, Parish of Hazelwood
 - Crown allotment 49D, Parish of Maryvale
 - Land marked 1 and 3 on Fisher Stewart Drawing No. LLGP02513B
 - Land marked 2 on Fisher Stewart Drawing No. LLGP0251B
 - land on Shields Road marked 2 on Fisher Stewart's Drawing LLGP0251B.
 52. The following parcels of land owned by Yallourn Energy Pty Ltd be placed in a Special Use - Brown Coal zone;
 - Land marked 1A on Fisher Stewart Drawing LYGP004B adjacent to the Princes Highway.
 - Land marked 1B on Fisher Stewart Drawing LYGP004B, east of Yallourn North township
 53. In consultation with the Power Generation Companies the Planning Authority review the zone and overlay boundaries to ensure that they follow cadastral boundaries.
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54. The Loy Yang B Power Station owned by Edison Mission Energy and Gippsland Power Ltd be zoned Special Use - Brown Coal.
 55. A wildfire Management Overlay be included in the LPPF based on CFA mapping.
 56. Existing flood data should be used to allocate flood controls to areas known to flood or be subject to inundation. The boundaries can be reviewed as up to date flood level data becomes available from DNRE.
 57. The following land remain in the equivalent of their current zones:-
 - the Boettcher, Paolini, Becker and Vasilopoulos land in Coonac Road Traralgon
 - the Squires land on the south west corner of Melrossa and Farmer's Roads Traralgon.
 - Land owned by R & B Farmer being lots 1, 2 3 and LP221522 and CP174568 and part Crown allotment 14G2, part crown allotment 14G3 and crown allotment 14F6, Parish of Loy Yang.
 - Land owned by C & A Vellios on the corner of Brady's lane and Boutlon's Crescent Tyres.
 - Land owned by the Gilmours in Stammers Road, Traralgon.
 - Land owned by J & R McMillan at Lot 2, Lanerina Drive, Traralgon.
 - Land owned by R & B Johnson in Silcocks Road, Churchill.
 58. Ellavale Park Estate owned by R and B Farmer be zoned part Residential 1 zone and part Rural zone as proposed.
 59. Melbourne Grange Estate owned by R & B Farmer be zoned Residential 1 as proposed.
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60. Land owned by F Peel in Brewsters Road Yinnar be included in Rural Living zone.
 61. The Township zone be extended north of Shekiniah Drive, Tyers to include lots abutting Shekiniah Drive to be included within the Township zone.
 62. Land owned by B Walton on south east corner of Wirraway and Borrmans Streets, Moe be zoned Rural Living.
 63. Land owned by B Walton in Scrubby Lane, Traralgon be zoned Rural.
 64. The schedule to the Rural Living zone affecting the Battista land of Two Mile Road, Moe South be amended to provide for a minimum 2 ha subdivision size. The land be placed in a Rural Living zone.
 65. The Schedule to the Rural Living zone affecting the Murraby land at Quarry Road, Yallourn North to be amended to provide for a minimum 2 ha lot size.
 66. The land owned by Y & G McKenzie Switchback Road, Churchill be zoned Rural.
 67. The land owned by B & B Johnson in Burch Drive, Churchill be zoned Rural.
 68. All land identified in the schedule to the Rural Living zone be marked with a designation and the areas be identified in a map attached to the schedule.
 69. Land owned by Greenslopes (Moe) Pty Ltd south of Newark Avenue and west of Old Sale Road, Moe be zoned Residential 1.
 70. Land owned by the Department of Treasury and Finance at 73-79 Church Street, Morwell be zoned Mixed Use.
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71. Land owned by D J Bennett Holdings Pty Ltd and McMillan Traders Pty Ltd be zoned Rural Living.
 72. Land owned by W Millet at 122-132 Waterloo road, Moe be zoned Mixed Use.
 73. The three residential properties facing Albert Street, Traralgon be removed from the exhibited 5 Business zone and be zoned Residential 1.
 74. The Municipal Strategic Statement, or the Heritage policy contain a statement that the Responsible Authority will give a Section 52 notice to the National Trust (Victoria) of all planning applications which may have a significant impact on any place classified by the National Trust.
 75. That the Planning Authority consider making a commitment to undertake a heritage Study of the Shire, and when this commitment is made include a reference to this in the MSS.
 76. The Planning Authority consider applying a Significant Landscape overlay to protect the national Trust's listed landscape of the Bulga and Tarra Valley National Park.
 77. The Traralgon Industrial Estate, Princess Highway, Traralgon be zoned business 4.
 78. Mid Valley Shopping Centre, Morwell be zoned business 1 and the site specific controls be translated into a permit.
 79. Clause 22.4-7 be amended to include words to the effect of

"..... restricted retail premises should be encouraged to remain and/or develop within the CAD's and the Mid Valley Activity Centre."
 80. The Morwell Hotel, 311-327 Princess Drive, Morwell be zoned Business 1.
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81. Telstra's Morwell Exchange, 7 Victor Street, Morwell be zoned Special Use.
 82. The map drafting errors identified in the Schedule to Vic Roads submission be rectified as indicated.
 83. Gippsland Water assets be zoned Public Use 1 as requested in the table to their submission.
 84. The matters raised by National Trust Victoria, to which the Planning Authority has agreed be included in the LPPF.
 85. The Flood Areas Mapping Project's data be used as the basis for introducing flood controls into the LPPF.
 86. Maps produced by the Country Fire Authority's Risk Management Department dated 27 January 1998 be used as the basis for a Wildfire Management Overlay, and that the Fire Safety policy be amended accordingly.
 87. A schedule be attached to the Environmental Significance Overlay exempting timber production from requiring a permit for works associated with plantation establishment.
 88. The Planning Authority liaise with the Department of Natural Resources and Environment to accurately define areas requiring the use of an Erosion Management overlay.
 89. The former City of Traralgon depot be zoned Residential 1 subject to an environment audit and clean up of the site.
 90. The importance of the South Gippsland koala population be acknowledged in the Municipal Strategic Statement, as well as an indication that when the identification and mapping of koala habitat is completed, it will form the basis for the introduction of further controls.
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91. An Environment Significance overlay buffer of 1 kilometre be placed around Morwell National park in conjunction with an Environmental Rural zone.
92. The Department of Natural Resources and Environment be a referral authority where new plantations are proposed with the ESO1 buffer.
93. DNRE's sites of biological significance mapping be used in conjunction with Council's own data to identify the location of, and significance of the Shire's natural assets. This data to be used as the basis for introducing appropriate environmental and landscape overlays.
94. A strategic assessment be undertaken of College Creek to determine its environmental values and subject to notice being given to the owner of the land and due process being observed, appropriate controls be introduced.
95. The technical drafting errors referred to in the submission by Dell & Keith Consultants Pty Ltd, and agreed to by the Planning Authority be rectified.
96. The land owned by Boral Brick (Vic) Ltd on Tyres-Walhalla Road, Tyres be zoned Special use - Extractive Industry.
97. The land owned by Boral Bricks in Quarry Road, Yallourn North be zoned Special Use zone - Brown Coal.

9.2 Recommendations following adoption

After the Planning Scheme is approved and as part of Council's ongoing review program the Panel recommends that;

- The Planning Authority completes a review of the heritage assets of the Shire and includes significant places in the Schedule to the Heritage overlay.
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- The Planning Authority completes a Development Contributions Policy.
 - An industrial policy be formulated intended to reconcile the current excessive supply of industrially zoned land with the need to provide new industrial parks in close proximity to power generators.
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Appendix 2

List of Submitters

Urban edge residential development

1. Hans Boettcher – Coonac Road, Traralgon
 2. A & O Paolini – Coonac Road, Traralgon
 3. Wolf & Ali Becker – Coonac Road, Traralgon
 4. Peter Vassilopoulos – Coonac Road, Traralgon
 5. W & L Squires – Melrossa Road, Traralgon
 6. Leila Ethel Squires – Melrossa Road, Traralgon
 7. R & B Farmer – Minniedale Road, Traralgon
 8. R & B Farmer – Ellavale & Milburn Grange Residential Estates, Traralgon
 9. C & A Vellios – Boultons Crescent, Tyers
 10. Frank Peel – Off Brewsters Road, Yinnar South
 11. NJ & LOM Jones – Tyers-Walhalla Drive and Shekiniah Drive, Tyers
 12. Brian Walton – Wirraway Street, Moe and Scrubby Lane, Traralgon
 13. Angela Battista – Two Mile Road, Moe South
 14. Gary Gilmour – Stammers Road, Traralgon
 15. J & R McMillan – Laurina Drive, Traralgon
 16. RJ & BJ Johnson – Silcocks Road, Churchill
 17. Carstein Group Pty Ltd – Switchback Rd/Arnolds Rd, Churchill
 18. Chris & Yvon McConnell – Coach Road, Newborough
 19. M K Murray – Quarry Road, Yallourn North
 20. Yvonne & Graham McKenzie – Switchback Road, Churchill
 21. B & B Johnson – Birch Drive, Churchill
 22. Ross & Worth Pty Ltd
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Urban development

- 25.** Deanmac Constructions Pty Ltd – Erin Park Residential Estate
- 26.** Greenslopes (Moe) Pty Ltd – Residential Estate
- 27.** MCPS Development – 73-79 Church Street, Morwell
- 35.** D J Bennet Holding P/L, McMillan Traders P/L – Northern Ave, Traralgon
- 37.** William Millet, Thompsons Road, Moe
- 39.** VicRoads – Dunbar Road, Traralgon

Heritage issues

- 28.** John Alston – Bridges Avenue, Traralgon
- 29.** Michael & Amanda Cameron – Bridges Avenue, Traralgon
- 30.** Robin & Ruth Widdowson – Bridges Avenue, Traralgon
- 31.** Dawn & Russell Wallace – Bridges Avenue, Traralgon
- 32.** SECV, Office of the Administrator – Heritage Overlay over Yallourn Industrial Estate
- 33.** National Trust

Retailing

- 23.** Peter F Wood & Associates – Coonac/Bradford/Princes Hwy, Traralgon
- 24.** Traralgon Industrial Estate (Peter Kluge)
- 34.** Mid Valley Shopping Centre
- 36.** Barnes Planning on behalf of Horizon Petroleum
- 38.** Morwell Hotel

Utilities and infrastructure

- 40.** Public Transport Corporation
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- 41.** Transmission Pipelines Australia
- 42.** Telstra
- 43.** VicRoads
- 44.** Gippsland Water
- 62.** LaTrobe Regional Airport Management Committee
- 63.** Minerals and Petroleum Victoria
- 64.** Department of Infrastructure
- 65.** West Gippsland Catchment Management Authority

Coal and power generation industry

- 60.** Power Generators
- 61.** SECV
- 45.** Loy Yang Power
- 46.** Edison Mission Energy Australia and Gippsland Power Ltd
- 47.** GPU Powernet Pty Ltd
- 48.** Yallourn Energy

Environment & conservation

- 49.** EPA
 - 50.** DNRE, Floodplain Management Unit
 - 51.** Country Fire Authority
 - 52.** Gippsland Farm Plantations Inc.
 - 53.** Boral Bricks (Vic) Ltd – Tyers-Walhalla Road, Tyers
 - 54.** Boral Bricks – Quarry Road, Yallourn North
 - 55.** DNRE, Traralgon Regional Office
 - 56.** Gumnut Haven Wildlife Shelter
 - 57.** Victorian National Parks Association Inc.
 - 58.** Friends of the Gippsland Bush Inc.
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General

59. Dell & Keith Consultants Pty Ltd

APPENDIX 3

Lists of Persons Appearing at Panel Hearing

LaTrobe Shire	E Wood
Department of Infrastructure	D Langmore, A Freitag
VicRoads	J Hewitt
Environment Protection Authority	D Meltzer
Catchment Management Authority	
Department of Natural Resources and Environment	A Cahill
Minerals Petroleum Victoria	F Jiricek
National Trust (Victoria)	D Maloney
Friends of Gippsland Bush	T Morsink, R Scott
LaTrobe Regional Airport Committee	P Lerstang, J Wills
Yallourn Energy, Hazelwood Power	A Clarke, Fisher Stewart
Loy Yang Power, SEC	J Fryer
Edison Mission Energy	R Jamieson, Blake Dawson Waldron
	Solicitors
Julliard Group of Companies (Mid Valley Shopping Centre)	M Carew, A T Cocks Consulting
Maryvale Motors Service Traralgon Pty Ltd	P Kluge, Kluge, Jackson Consultants Pty Ltd
Gippsland Farm Plantations Inc	R Willersdorf
Deanmac Constructions Pty Ltd, Vellios, Jones, McMillan Peel, Brown Healey, Reid,	P Dell, Dell & Keith Consultants Pty Ltd
Di Cicero & Southern Cross Broadcasting	
P Wood	
A Battista	
R Farmer	F Hewett, Beveridge Welhams & Co Pty Ltd
R & B Farmer	L Hammond
R Wallace	
G Gilmour	
H Boetcher	
C Sutherland	
