



Latrobe City Council Submission to Separation Distance Guidelines

January 2023



1. Introduction

The Environment Protection Authority is seeking feedback on the Separation Distances Guideline. Feedback received will inform the Final Guideline that is being prepared.

Submissions on the proposed changes are required by 17 February 2023.

Latrobe City Council provides some comments around the proposed guidelines, but specifically the submission focuses on:

- Justification and;
- Requirements on sensitive land use applicants;
- Implementation

2. Submission

2.1 Justification and Proposed Distances

2.1.1 Justification

On page 9 of the report, it is identified that the recommended separation distances listed in the guideline are derived from:

- *a review of Recommended separation distances for industrial residual air emissions (2013) (EPA publication 1518) while considering EPA's experiences and research, including a review of separation distances recommended by similar jurisdictions in Australia*
- *a review of clause 53.10 of the VPP 1 commissioned by the Department of Environment, Land, Water and Planning*
- *empirical assessments of industrial sites and activities by EPA scientists and officers*
- *EPA industry-specific guidance for wastewater treatment plants and composting industries*
- *other guidelines and codes if relevant to the industry*

This information has not been exhibited as part of the consultation process. Provided in the document 'Guide to separation distance and landfill buffer changes' is a basic reasoning as to why the change has been implemented."

One of the questions in the frequently asked questions is 'What if I think a separation distance or landfill buffer is wrong? In response to this, details are provided stating that the 'EPA is confident in the recommended distances as they are supported by significant in-field experience and evidence-based research. It also suggests that the distances can be varied'. Whilst this appears to be the case for most distances, there are some distances identified, such as the distance for open cut coal mines, that cannot be varied. Council has concerns about what is required to vary the distances, especially for a sensitive use application which is discussed more in section 2.3.

Council sought further advice from the EPA in relation to the justification behind the reports and were advised that the most relevant for open cut coal mines are:

- the review of separation distances in similar Australian jurisdictions (in particular, South Australia and Western Australia)
- EPA's in-field experience with these activities.

EPA advised that they cannot provide specific details about the in-field experience. However, Council did review the South Australian Environment Protection Authority *Evaluation distances for effective air quality and noise management* and the Western Australia Environment Protection Authority *Guidance for the Assessment of Environmental Factors*.

The South Australian distances do not have a specific for coal mining, but coal handling and storage is between 500-1000m and extractive industries are based on an individual assessment.

The West Australian separation distances for coal mining is between 1000 – 2000m and it appears this distance can be varied.

Therefore, it is still not clear what justification is for the increase for distances for 2000m which cannot be varied and it doesn't seem consistent with other states.

We request that the justification for the increase to coal mining be reviewed and that the distances be changed back to 1000m or identify the justification as to why the distances have been changed. It is requested that this information be provided to Council and the community before any changes are made to the distances.

2.1.2 Proposed changes to distances

Latrobe has a large industrial history with long standing industrial uses across Moe, Morwell and Traralgon. In particular, there are concerns about the increase in the separation distances, particularly for dust related issues for Open Cut Coal Mining which has an increase from 1000m to 2000m.

Open Cut Coal Mine

Latrobe has 3 open cut coal mines, Engie Hazelwood mine south of Morwell which is currently being de-commissioned and in planning for rehabilitation, Energy Australia Yallourn mine north west of the Morwell township, and Loy Yang A and B mine south of the Traralgon township.

With the exception of the Hazelwood mine, all mines have been well buffered from the township and contain overlays such as the Environment Significance Overlay with its purpose to protect amenity concerns from the industrial sensitive uses and allowing growth of the surround townships. These buffers meet existing separation distances of 1000m.

The proposed increase in distance affects growth areas, existing sensitive land uses and sparks concern that this proposed distance is onerous, and that the distance cannot be varied. Page 8 of the guidelines state that:

This guideline is not to be used retrospectively to require an existing industry operating in accordance with all relevant statutory obligations to comply with a separation distance listed. However, it may be used to determine an applicable separation distance to support land use and development decisions surrounding an existing industry, or to assess proposed expansion of an existing industry.

Whilst this is generally reasonable, the effect this will have on the two operating mines in the Latrobe Valley is as follows:

We note the proposed guidelines discuss the separation distance being from the activity area, however as the activity area for an active mine changes, we have taken the area from the works approval area to determine the distances. Therefore, the scenarios below are worse case.

Loy Yang Coal Mine

Figure 1 shows the impact of the increase in distances from 1km to 2km and the increase in the number of residential and rural living properties which are affected.

Any new sensitive land uses which are in this area, that trigger a permit will be subject to these guidelines. This includes existing residential growth fronts and future residential growth fronts.

In particular in the existing town boundary 563 lots will be affected by the increase to 2km. Additionally, 49 that sit within the Rural Living area which are proposed as long-term future residential will be affected.

Yallourn Coal Mine

Figure 2 shows the impact of the increase in distances from 1km to 2km and the increase in the number of residential and rural living properties which are affected.

The townships of Yallourn North, Newborough and Morwell are affected by the change in distances. Any new sensitive land uses which are in this area, that trigger a permit will be subject to these guidelines. This includes existing residential growth fronts and future residential growth fronts.

In particular an additional 1302 properties in Morwell inside the existing town boundary. In Yallourn North an additional 103 properties will be affected. In Newborough an additional 75 properties will be affected.

This includes some of our residential growth fronts in Morwell North West, Morwell West, Lake Narracan and Monash Views are currently developing. The Morwell North West area is the location for the proposed Commonwealth Games Villages.

Figure 1 – Loy Yang Separation Distance Analysis 1km to 2km

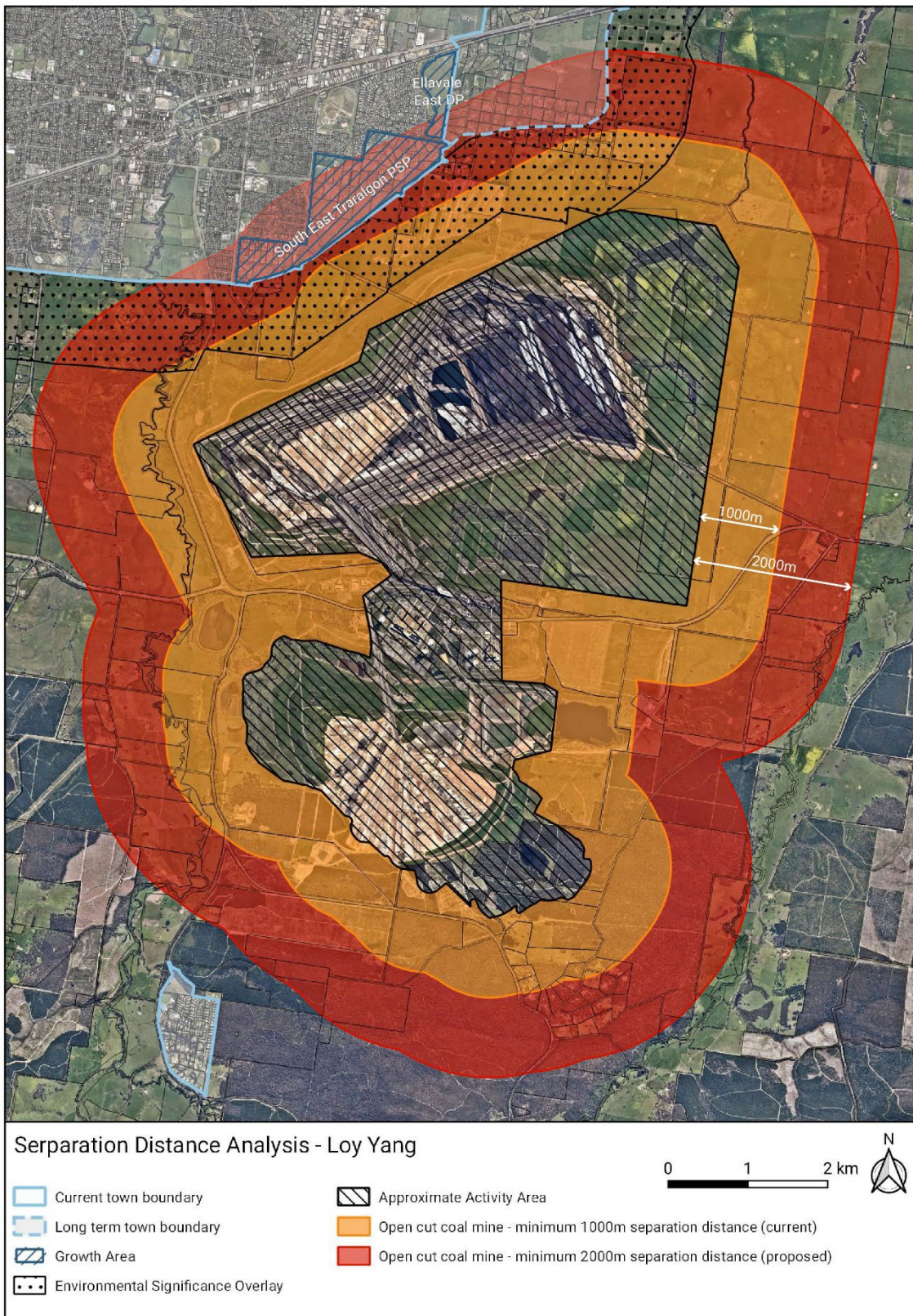
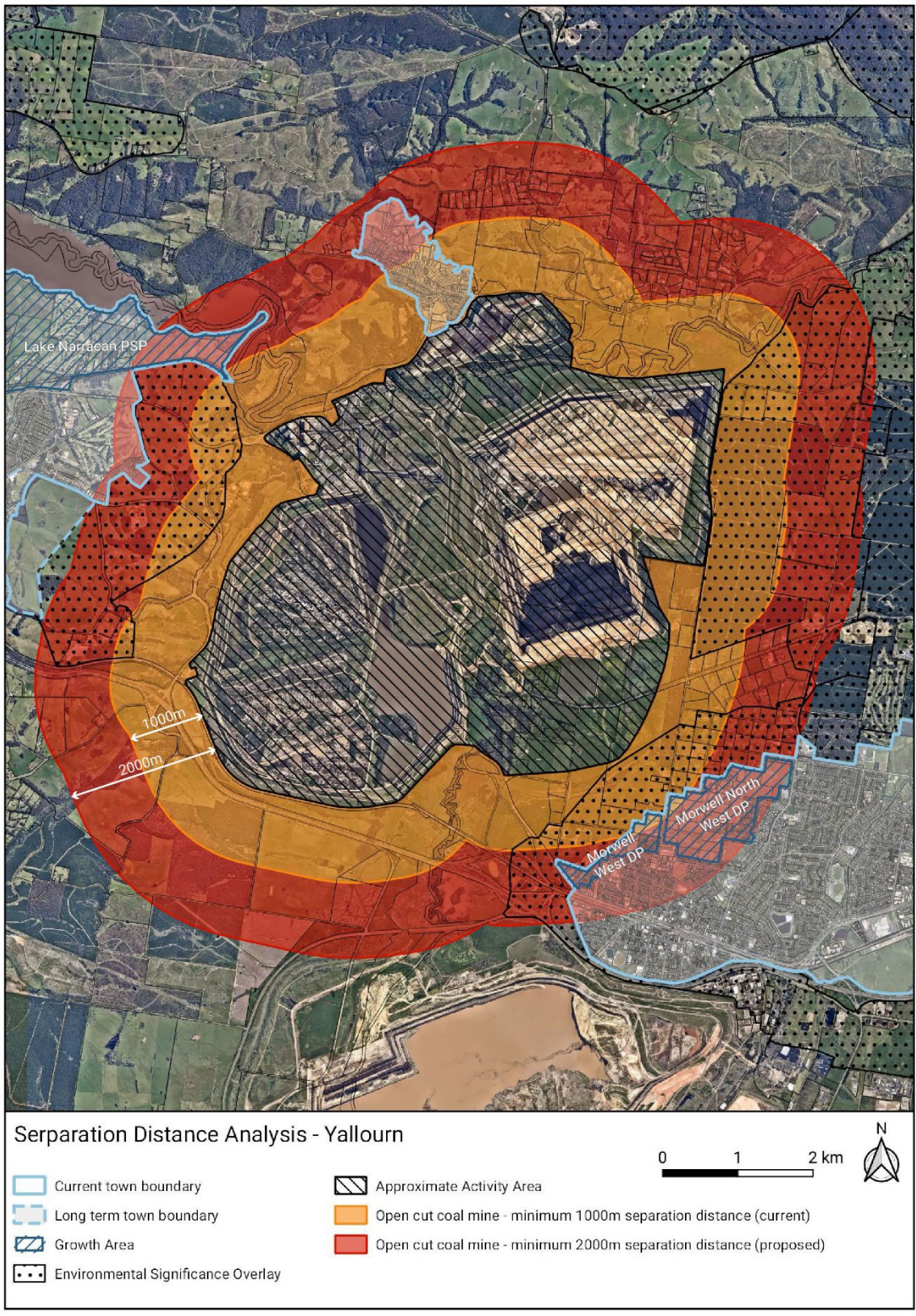


Figure 2 – Yallourn Separation Distance Analysis 1km to 2km



Latrobe City Council does not understand the justification for the increase considering the mines have been operating at these distances for a significant amount of time and therefore would request this change not be made.

Council would also like to understand if there have been any significant health risks to residents within the proposed separation distance area, if there is any data which suggested this change be necessary, and that it be released to the public.

2.2 Requirements on sensitive land use applicants

Risk Assessment

Page 19 of the guidelines state:

As shown in the decision-making process, a proponent may be recommended to submit a risk assessment with their development proposal to the decision maker (planning authority, responsible authority or state agency).

The risk assessment requires a variety of assessment tools be used, including where the dust impacts are coming from and the process used in their operations. Whilst this is going to be easy for industrial applicants as they know the business, sensitive use applicants are not going to know the specifics of the operation and obtaining the information from industry may be problematic.

In our experience when dealing with a variation in relation to Paper and Pulp facility, Council could not produce their own modelling as they didn't have access to the information and were not able to obtain the information needed.

Therefore, this process for sensitive land use applicants needs to be revisited to ensure they are able to meet these requirements.

Determining an Activity Area

For large operations or areas which change, such as coal mines it is difficult to determine where the activity boundary is. Therefore, further details on determining an activity boundary needs to be reviewed and provided in the guidance. This will be important for applicants in making an application.

2.3 Implementation

Council sought further details on how the proposed changes are to be implemented from the EPA. The following advice was provided:

Once finalised, it is intended that the proposed guidelines will be referenced in the Victoria Planning Provisions (likely replacing references to equivalent existing EPA guidelines).

There are no plans to introduce/update overlays based on the proposed guidelines. Planning authorities can use the Buffer Area Overlay in certain circumstances to prevent future encroachment and intensification of incompatible use and development within buffer areas. The proposed guidelines could be used to inform this process, though the spatial extent of a Buffer Area Overlay should be determined using a more detailed site-specific assessment. [Planning Practice Note 92](#) has more information about this.

It is suggested that the form of implementation be reviewed as it is reliant on an applicant knowing the policy guidelines, and determining land uses which in some instances could be some distances away from them. This does not make it a more streamlined and easier to understand scheme.

3.0 Conclusion

Latrobe City Council are generally supportive of the guidelines for the separation distances. However, there are some concerns around some aspect of the guidelines.

Latrobe City Council have requested a few changes / require further detail to the guidelines which are:

- Review justification for coal mining and update the guidelines with further detail around the justification for the changes or
- Do not increase the separation distance for open cut coal mining;
- Update the guidelines to make it easier for sensitive use applicants to vary the separation distances;
- Provide additional information on how to determine and activity area; and
- Provide details on how the guidelines are proposed to be implemented.