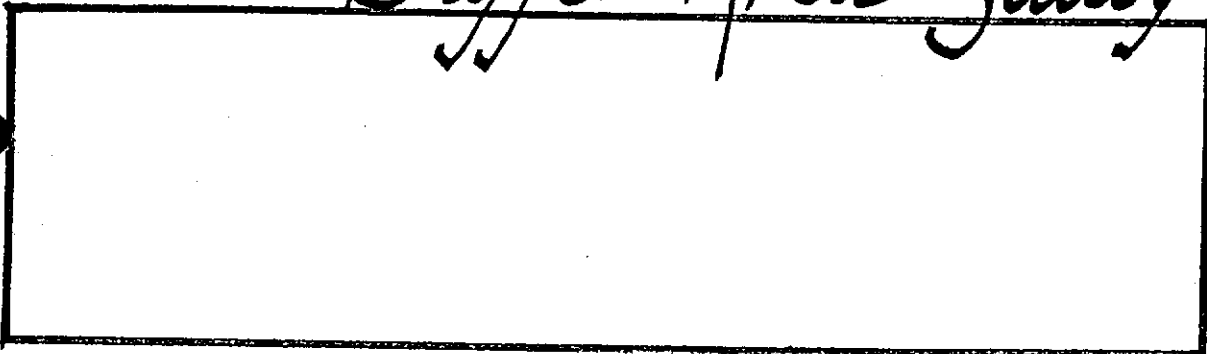


Ministry for Planning
and Environment

February 1988

Land Over Coal and Buffer Area Study



				FINAL REPORT



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SUMMARY OF RECOMMENDATIONSCategory A and associated coal industry areas:

1. Existing use and development of land be encouraged to continue provided that development of the coal resource is not prejudiced.
2. In the period until land is required, use and development be controlled so that the land is able to be later developed for its coal resource with a minimum of financial and social cost to the coal developer or the community.
3. Proposals to change land use be required to demonstrate that future development of the coal resource would not be prejudiced by their development and use, according to the following criteria:
 - 3.1 The expected timing of coal resource development;
 - 3.2 Potential risk to coal resource development;
 - 3.3 The nature and scale of development;
 - 3.4 The social and economic implications of the development;
 - 3.5 Proximity to coal resource development; and
 - 3.6 Alternative locational options available.
4. Subject to compliance with these criteria, proposals be further assessed on the basis of sound planning principles, including:
 - 4.1 The objectives of the underlying zoning of the land;
 - 4.2 Compatibility with adjacent land uses; and
 - 4.3 Other State, regional or local policies.

5. Responsible and Referral Authorities consider the inclusion of conditions, which protect the interests of both the future coal developer and the proposed user or developer of the land, when considering the approval of proposals.
6. Subdivision proposals should be approved only where the purpose is related to continuing farming or rural activity.

Subdivision proposals should not be approved where the intent is to create new housing. This prohibition should extend to small lot excision proposals.

7. Rural residential development is an inappropriate land use. Consideration should be given to rezoning any existing undeveloped rural residential land to reduce housing opportunities.
8. All proposed houses, whether new or replacement, should be subject to the issue of a planning permit.
9. Intensive rural uses should be discouraged.
10. The SECV be accorded Referral Authority status under the new Planning and Environment Act, to ensure the SECV input is given significant weight when proposed changes in land use are being considered by Responsible Authorities.
11. The SECV initiate discussions with regional and local planning authorities to provide for planning controls to protect open-cut coal mining areas from the risk of fire. This process could proceed separately from the preparation of the Regional Strategy Plan.

Category B, C and uncategorised coal areas:

1. Existing use and development of land be encouraged to continue until the land is required for development of the coal resource. This applies particularly to farming activities and low intensity uses.
2. In the period until land is required, use and development be controlled so that the land is able to be later developed for its coal resource. Proposals which could create significant economic or social costs should be discouraged.
3. Proposals to change land use be required to demonstrate that future development of the coal resource would not be prejudiced by their development and use of the land, according to the following criteria:
 - 3.1 The expected timing of coal resource development;
 - 3.2 Potential risk to coal resource development;
 - 3.3 The nature and scale of development;
 - 3.4 The social and economic implications of the development;
 - 3.5 Proximity to coal resource development; and
 - 3.6 Alternative locational options available.
4. Subject to compliance with these criteria, proposals be further assessed on the basis of sound planning principles, including:
 - 4.1 The objectives of the underlying zoning of the land;
 - 4.2 Compatibility with adjacent land uses; and
 - 4.3 Other State, regional or local policies.
5. The inclusion of coal related conditions should be unnecessary in approving most proposals.

6. Subdivision is acceptable where the purpose is related to farming or rural activity. Small lot excision proposals should be considered on their merits.

Subdivision is not acceptable where the intent is to facilitate new rural residential development, or otherwise significantly increase the permanent population of these areas.

7. Rural residential development is an inappropriate land use. Rezoning proposals would be unacceptable.
8. Limited changes only appear to be required to current planning controls, which provide for farming activities and low intensity uses.
9. Proposals to change land use be referred by the Responsible Authority to the following Government agencies for comment:
 - 9.1 Latrobe Regional Commission;
 - 9.2 Coal Corporation of Victoria;
 - 9.3 SECV (where the proposal could influence a category A or associated coal industry area).

Buffer Areas:

1. Existing use and development of land be encouraged to continue provided development of the adjacent coal resource or amenity of urban development is not prejudiced.
2. Land should be encouraged to be retained in productive use in accordance with land capability.
3. Proposed use and development should be compatible with both the adjacent coal resource and adjacent urban area. Urban and coal mining use or development is prohibited in buffer areas.
4. Local planning schemes should be amended to provide more specific control over development and use in buffer areas. Review of the Special Policy Area planning controls which currently exist is recommended.

This should be implemented by the normal statutory amending process for planning controls, involving public consultation.

5. Proposals to change land use be required to demonstrate that neither urban nor coal resource development would be prejudiced by their development and use, according to the following criteria;
 - 5.1 The expected timing of coal resource development;
 - 5.2 Potential risk to coal resource development;
 - 5.3 Possible adverse effects of coal mining on the proposal; and
 - 5.4 The capability of the proposal to contribute to buffering effects.

6. Councils, as responsible planning authorities, continue to be responsible for land use decisions in accordance with sound planning principles, including:
 - 6.1 The objectives of the underlying zoning of the land;
 - 6.2 Compatibility with adjacent uses; and
 - 6.3 Other State, regional or local policies.
7. Proposals to change land use be referred by the Responsible Planning Authority to the following government agencies for comment;
 - 7.1 Latrobe Regional Commission;
 - 7.2 Coal Corporation of Victoria; and
 - 7.3 SECV (where the proposal could influence a category A or associated coal industry area).
8. Subdivision policy should be based on:
 - 8.1 The location of land with regard to the boundaries of the urban and coal operation areas.

Any lots intended for housing must contain a house site within 200 metres of the urban boundary. This applies to both rural and rural residential subdivision proposals.

The onus should be on the subdivider to demonstrate that the balance of any land subdivided for housing is capable of being used productively and maintained.
 - 8.2 Allotment size

For rural residential and small lot excision proposals, an allotment minimum of 1 ha. and average of 2 ha. is recommended as an appropriate balance between contribution to buffering effects, land management and possible adverse effects associated with living in a buffer area.
9. Widespread rural residential development of buffer areas is inappropriate. Rural residential proposals should be viewed in the context of sound planning principles which includes supply and demand considerations, land capability and locational factors.

10. Siting controls are required to ensure that the siting of buildings on allotments minimises possible adverse effects of coal mining. Buildings should desirably not be orientated towards future coal resource development.
11. The recommended subdivision policy does not apply to existing rural residential zones already subdivided, for example Melrossa Estate, where Government policy is that land should be able to be developed.
12. A Regional Landscape Plan be prepared and implemented by the Latrobe Regional Commission, with the assistance of relevant government agencies, municipalities and the community. The Plan should specifically address buffer areas, as well as general landscape issues.

The plan should encourage existing and proposed uses and developments in buffer areas to enhance the visual amenity of the buffer area.

1. INTRODUCTION

1.1 THE STUDY

The purpose of this study is to determine principles for guiding future land use in designated coal and associated coal industry areas, and in buffer areas.

The study has been carried out by the Ministry for Planning and Environment for the Latrobe Regional Commission. The results will form an input into the Latrobe Regional Strategy Plan currently being prepared by the Commission, due to be released early in 1988.

The basis for the study is provided by the "Latrobe Region Framework for the Future" final report, and the revised Statement of Planning Policy No.9 for the Latrobe Region brown coalfields. These were released in October 1987, and represent the culmination of efforts by the Government over recent years to find long term solutions to conflicts which exist in the region.

The results of this study of land over coal and buffer areas represent a further step in the Government's ongoing commitment aimed at promoting certainty and confidence in the region. This aim can be facilitated by a clear understanding within the regional community of the implications that designating land for future coal resource development, or as buffer areas, may have on their use of the land.

The results of the study are important because of the impact their implementation will have on the future planning and location of development within the region.

1.2 TERMS OF REFERENCE

The most important factor influencing the selection of the terms of reference was the need for the Latrobe Regional Commission to have information on coal and buffer areas appropriate for inclusion in the Regional Strategy Plan. The original Terms of Reference were modified slightly following comments from the Working Group to read:

1. To identify issues related to the use of land designated as overlying, or being adjacent to, protected brown coal and associated coal industry areas, and identify appropriate principles to determine suitable uses for those areas in the period until the land is required for coal resource development.
2. To identify issues related to the use of land designated as buffers between coal and adjacent areas, and identify appropriate principles to determine suitable uses for the buffer areas.
3. To recommend appropriate means of implementing the necessary amendments to the relevant planning controls.

The Terms of Reference reflect a regional perspective, with an emphasis on the identification of principles which can be applied at the local level in any situation. The study did not extend to looking at specific sites.

At the commencement of the study, a number of issues were identified as being outside the Terms of Reference. Other current studies or processes, such as the final "Framework for the Future - Latrobe Region" report and the new "Land Acquisition and Compensation Act", have dealt with these issues. These issues included defining the boundaries of designated coal areas and buffer areas, and the application of compensation to all designated categories of coal areas.

1.3 STUDY APPROACH

The Ministry, in consultation with the Latrobe Regional Commission, considered the establishment of a Working Group representing a wide range of interests would ensure that relevant issues were identified and discussed. The following organisations accepted an invitation to participate on the Working Group:

- Latrobe Regional Commission;
- State Electricity Commission of Victoria;
- Coal Corporation of Victoria;
- Local Government in the region, arranged by the Municipal Association of Victoria; and
- Gippsland Landowners Over Coal Association.

Appendix 1 provides details of the representatives of these organisations.

A number of other organisations were consulted for information and their views, including:

- Environment Protection Authority;
- Department of Agriculture;
- Department of Conservation Forests and Lands;
- Department of Industry Technology and Resources; and
- Land Conservation Council.

As a wide range of interests is apparent in respect of coal-related issues in the Latrobe Region, responsibility for the framing of recommendations was taken by the Ministry at the commencement of the study.

Following consideration of the results by the Latrobe Regional Commission and release of the Draft Regional Strategy Plan, the opportunity to formally comment on these recommendations in the context of the Strategy Plan will be available to organisations or individuals.

2. BACKGROUND

During the early 1970s, the development of land for rural residential purposes began to encroach onto areas overlying brown coal. The Government acted to protect the coal resource in 1975 by introducing a Statement of Planning Policy No.9, which stated:

"... deposits of economically winnable brown coal and areas designated as containing them shall be protected to maintain their potential for extraction ..."

In 1978, the Government followed this action with the introduction of planning controls (the Brown Coal Interim Development Orders) to restrict land use and development in areas covered by the Statement of Planning Policy. These Orders were subsequently removed in 1980, and the controls transferred into the relevant local planning controls.

During the late 1970s and the early 1980s, there were expectations of a "resources boom" for Gippsland involving numerous coal conversion plants. Compounded by the SECV's "21 Power Stations Report", there was considerable uncertainty concerning the future of the region, particularly for those living over or near coal.

A series of steps has been taken by Government over recent years to improve certainty and confidence within the region.

The first of these, in 1983, was the Victorian Brown Coal Resource Development Study, also known as the Kinhill Study, which aimed to produce a strategy for the best use of Victoria's brown coal resource. This report greatly increased the basic understanding of the State's brown coal resources by collating and re-assessing available data on their location and utilisation, and constraints on their development.

Later in 1983 the Victorian Brown Coal Council's report Victorian Brown Coal Future Development further refined the Kinhill Study findings taking into account public submissions. A first attempt was made to promote the concept of the sequencing of coalfield development.

The State Economic Strategy released in April 1984 identified the extensive brown coal resources of the State as representing a major source of low cost energy suitable for the generation of electricity, and having potential for alternative fuels and other products. The importance of the Latrobe Region brown coal as an energy resource was recently reiterated when the Government updated the Economic Strategy, and released Victoria the Next Decade.

The release in July 1984 of the Government Energy Policy Statement, entitled Victoria : Brown Coal represented the first stage of the planning process aimed at remedying the past uncertainties evident in the Latrobe Region. It outlined the major strategic thrusts of the new approach to brown coal development, and indicated the further actions to be taken to integrate land use and resource planning in the region. The policy included a sequential coalfield development process, and indicated areas to be exempted from coal winning.

Also in 1984, the Ministry for Planning and Environment released "Land Use Guidelines for the Latrobe Region". These Guidelines have provided a framework for detailed land use planning in the Latrobe Region pending the completion of the Regional Strategy Plan by the Latrobe Regional Commission.

The Latrobe Region Framework for the Future Report released in May 1986 provides the basic context for this Study. Framework for the Future brought together three streams of activity foreshadowed in the Energy Policy Statement. These were:

1. Revision of Statement of Planning Policy No.9;

The planning policy was substantially revised to reflect the new coal policies and the sequential coalfield development process. The policy restated the intent to plan land use and development for the conservation and utilisation of the Gippsland brown coal deposits in the context of overall resources, and the implementation of a sequential brown coal development process integrated with regional strategy planning. The exemptions from coal winning identified earlier were included, as were the associated coal industry areas required by the SECV for utilising Category A coal.

The planning policy also placed greater emphasis on social planning and natural environment issues in the region within the context of brown coal resource development.

2. The definition of coal boundaries and the establishment of buffers to urban areas;

This was based on the work of an Interdepartmental Committee on Brown Coal Resource Boundaries, which sought to reconcile geological considerations with expressed public concerns.

3. The definition of sites for developments related to coal.

The large number of sites previously identified for possible power stations was reduced to three existing areas (Yallourn, Morwell and Loy Yang) and a possible future area at Driffield/Hazelwood South. These are strategic areas located adjacent to Category A coal and serviced by existing urban areas, in which it is hoped to accommodate most coal based industries which utilise Category A coal. (A number of other existing and possible future development sites were identified with regard to other protected coal areas).

This study of land over coal and buffer areas is one of many tasks required to implement the policies contained in the "Framework for the Future" report. These other tasks include the reservation of land overlying Category A coalfields for "SECV purposes" in local planning schemes; the gradual disposal of the SECV's excess land holdings; and the detailed definition of the boundaries of categories B, C and uncategorised coalfields by cadastral base mapping.

3. LAND OVER COAL

3.1 INTRODUCTION

The key factors influencing brown coal development are the State Economic Strategy and Statement of Planning Policy No 9.

It is fundamental to the achievement of the Government's objectives relating to energy that there is secure access to reasonably priced energy supplies. This underlies the importance of access being available to brown coal, and other areas required to process the coal, at the time the coal resource is required.

The sequential coalfield development process provides a clear statement of priorities, intended to increase short term planning certainty while maintaining flexibility for the longer term.

Importantly, there is certainty for landowners and the regional community because there is advance knowledge of areas required for coal resource development. The improved compensation procedures contained in the new Land Acquisition and Compensation Act further enable both the Government and landowners to plan ahead with confidence.

The sequencing process involved nominating undeveloped brown coal reserves to one of three categories or stages. 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 C - Identified Stage
(development more than 60 years off).

An interdepartmental committee, reviewed the boundaries and quantities of protected brown coal resources in the Gippsland region in accordance with the principles set down in the then Statement of Planning Policy No.9 (1975). One of the outcomes of this review was the designation of further areas, as "Uncategorised Coal", in South Gippsland. These are areas where the development of the coal resource might occur at any time in the future subject to the economics of coal winning (and unrelated to the sequencing process).

The Revised Statement of Planning Policy establishes the broad policy context applying to land over coal and associated coal industry areas. The policies which form the Statement have different implications for the use of land, depending on the coalfield designation that land has been assigned.

The timing of coal resource development is possibly the greatest influencing factor in determining principles which should be applied to land use decisions over coal areas.

The Statement of Planning Policy contains a number of policies of particular relevance to this study, including:

1. Maintenance of access to coal in accordance with the time frame for its recovery and use;
2. Management of land to maximise its productive base in the period prior to coal resource development;
3. Encouragement of future major urban growth in suitable locations away from recoverable coal; and
4. The importance of protection of coal winning activities against fire.

An important qualification to these policies is the contextual statement that at every stage of the development of the coal, due account shall be taken of the other principal resources of the region. This is supported by policies relating to other major physical resources, the natural environment, and social planning in the region.

Land use and development decisions on land overlying designated coal areas are, and will continue to be, dependant on:

1. The interpretation of the relevant policies in the statement of planning policy; and
2. The application of sound planning principles according to the nature and location of any proposed use or development.

The new Planning and Environment Act, due to take effect early in 1988, will reinforce this process. The Act provides for a single planning scheme, containing a state, regional and local section, for every municipal area. Local planning controls will be required to reflect the intent of any higher order State or regional controls, such as the policies contained in the Statement of Planning Policy.

Effective decision making requires that broader State and regional policies are clearly understood and implemented at the local level. The identification of appropriate principles to apply to decision making on land overlying designated coal areas demands a clear interpretation of the policies contained in the Statement of Planning Policy, and the identification of issues related to the development of the coal resource.

The interpretation of the policies in the Statement in respect of land use planning decisions has been considered in accordance with the designation of land into Categories A, B, C and Uncategorised coal areas.

3.2 CATEGORY A AND ASSOCIATED COAL INDUSTRY AREAS

3.2.1 Context

Category A and associated coal industry areas have been identified as being required in the short term for coal resource development. This short term requirement is the most significant factor applying to use and development of the land.

3.2.2 Interpretation

The most important policy relating to the category A coal areas is contained in Clause 3.4 of the Statement. The policy has been separated into three parts for clarification. The policy states that in category A and associated coal industry areas:

1. "...there shall be a strong general presumption against the use or development of land for all uses other than the winning or processing of brown coal or uses associated with that winning or processing..."

The interpretation of the key phrase "strong general presumption" is critical to land use decisions in the category A coal areas.

Where the need for the coal is identified as being short-term, the emphasis of the planning controls which apply to use and development of the land must favour the protection of the coal resource. This is the case in the category A coal areas where a 10-30 year time frame applies.

In the period until land is required, the use and development of the land must be regulated so as to ensure that the land is able to be later developed for the coal resource, with a minimum of financial and social cost to the coal developer and the community.

This is not intended to imply that a prohibition exists on all but coal-related uses.

2. "...Existing uses shall be encouraged to continue until such time as the land is required for coal winning or processing..."

This part of the policy provides certainty for current owners and users of land in the category A coal areas. The existing use and development of land will be encouraged to continue, as long as it does not prejudice development of the coal resource.

The category A coal areas were reserved for "State Electricity Commission of Victoria" purposes in local planning controls in October 1987. Following the implementation of these reservations, the SECV is now responsible for the payment of compensation (including acquisition where appropriate) as well as negotiations with landowners.

The rights of existing owners and users of land have been improved by this change. The introduction of the reservations, combined with the new Land Acquisition and Compensation Act (proclaimed in November 1987), provides greater certainty. Existing uses will be able to continue until such time as the land is required for, or for protection of, coal resource development, at which time compensation will be payable.

3. "...Other uses of land may be considered on a temporary basis if it can be demonstrated that they will not adversely affect the future development of coal..."

There are likely to be circumstances where other uses could be established without affecting the development of the coal resource in the short term.

The term "temporary" is intended to denote the time frame prior to the development of the coal resource. In category A coal areas, this period may be up to 30 years.

The concept of a strong general presumption, against uses unrelated to coal, demands that any proposed uses should be required to demonstrate that they will not compromise the future development of the coal.

The nature and scale of any proposed use or development is clearly an important issue in determining its suitability. A proposal which demonstrates that:

- (a) there would be no adverse physical, financial or social effects resulting from its development and operation over the period prior to the land being required for its coal resource;
- (b) there would be minimal additional financial or social cost to coal development at the time the land is acquired or required for coal development; and
- (c) sound planning principles can be satisfied, for example, the proposal is compatible with the objectives of the underlying zoning and adjacent land uses, and could not be located in a more appropriate area;

should be well placed to gain approval to establish in a category A coal area.

3.2.3 Related Issues

1. Land Tenure

The retention of land designated for coalfield development in private ownership and productive use, for as long as possible prior to the land being required, is an important principle in the Statement of Planning Policy.

This approach offers significant advantages to both the Government and the regional community, particularly owners and users of land. The SECV, and other government agencies, should be financially better served by being able to defer payment of compensation to nearer the time that land is required. The community and landowners stand to benefit financially by land being kept in productive use. There are also land management and social benefits resulting from not having large areas of land in public ownership.

The confidence of the landowners and users is further supported by a policy requirement (Clause 3.7) that acquired land, which is not immediately needed, shall be managed by the SECV in a way which maximises its productive use.

2. Planning Controls

The category A coal areas are primarily contained within the rural areas of the Shires of Morwell and Traralgon.

Use and development of land in these areas has been controlled by the application of rural zoning and Special Policy Area planning controls in local planning schemes.

This has generally restricted land use and development to normal farming activities. Subdivision controls have limited new allotments to a minimum area of 25 ha. The Special Policy Area controls (Brown Coal Resource Areas) have placed further restrictions on development and provided for referral of proposals to Government agencies for comment.

The Special Policy Area controls were removed over the category A coal areas concurrently with the implementation of SECV reservations. The underlying zoning of the land (which is predominantly rural) was retained, as required by the new Land Acquisition and Compensation Act.

Subdivision of Land

The trend in many rural areas has been towards larger farming properties for economic reasons. This is commonly unrelated to subdivision controls in local planning schemes, which are usually based on a minimum area designed to prevent the intrusion of non-rural uses.

In rural areas generally, it would be desirable for subdivision policy to be related to the capability of land to sustain rural activities. A land capability approach may result in an increase in the subdivision minimum applying to rural land in some Shires, and probably would affect category A coal areas.

The coal development sequencing strategy also has a significant impact on the assessment of future subdivision proposals in the category A coal areas.

In the past, the timing of possible coal resource development was less certain. Rural subdivision controls were considered adequate to protect areas required for coal development.

Land designated as category A coal areas has now been identified as being required for coal or related development in the next 30 years. This is a short period of time in the economic life of many forms of development.

The intent of any subdivision has become the critical factor in determining the merits of subdivision.

In rural areas, proposed subdivision is usually related to the creation of smaller farms from a large property, the excision of a small allotment (often for a family member), boundary adjustments or for rural living (by rural residential rezoning).

With the exception of temporary uses, the Ministry considers that future subdivision in the category A coal areas should only occur for the purpose of enabling farming or rural activity to continue. Subdivision proposals should be able to be supported on economic grounds, and be cognizant of the likely timing of coal resource development.

Subdivision for the purpose of rural residential development, and small lot excision proposals, are not considered acceptable in category A coal areas. Increasing the permanent population of areas required for coal resource development in the short term cannot be justified economically or socially.

The Ministry recommends that subdivision proposals:

- (a) should be approved only where the purpose is related to continuing farming activity; and
- (b) should not be approved if the intent is to create new housing.

Land Use and Development

The Working Group was agreed that farming and rural activities were appropriate, and likely to continue to dominate land use in the category A coal areas.

The SECV stated that it would be unlikely to object to normal farming activities, and would expect all existing low intensity uses to continue in the future.

The SECV may, however, object to further development in rural residential areas, or to other significant increases in the intensity of land use, which could:

- (a) add to social and/or economic costs; or
- (b) prejudice existing or possible future coal utilising and associated developments.

Proposals which may increase the intensity of land use would need to demonstrate compliance with the key phrase "strong general presumption". This clearly favours the protection of the coal resource over other demands on land use.

The Ministry therefore considers that rural residential or other development (such as intensive rural uses) likely to increase the intensity of land use or the population living in the category A coal areas would be unacceptable.

The Ministry recommends that:

- (a) rural residential development should be prohibited in category A coal areas. Consideration should be given to rezoning any existing undeveloped rural residential land to reduce housing opportunities;
- (b) all proposed houses, whether new or replacement, should be subject to the issue of a planning permit; and
- (c) intensive rural uses should be encouraged to locate in other than category A coal areas.

Conditions of Approval

Certain uses which would increase the intensity of land use may prove to be acceptable, subject to conditions placed on approval of such uses following an assessment of coal-related and sound planning principles.

Where consideration is being given to approval of any proposal in the category A coal areas, particularly uses of a temporary nature, the Ministry considers it is desirable that Responsible (and Referral) Authorities consider the inclusion of conditions which protect the interests of both the future coal developer and the proposed user of the land. These conditions would be in addition to any planning requirements relating specifically to the use or development, and may include:

- (a) the return of the land to a state suitable for coal resource development without cost to the coal developer, at the time the land was required;
- (b) the time that the land is available for the use or development, being the best estimate by the coal developer of the period until the land would be required;
- (c) No compensation for improvements to the land after the specified time had elapsed. This would require the developer/user of the land to amortise the cost of the development over the specified time; and
- (d) Compensation to be paid to the developer/user if the land was required in advance of the specified time.

The decision on which conditions should apply may vary, depending on the nature and scale of the proposed use or development.

Referral of Proposals

The Special Policy Area controls which applied to category A coal areas provided for referral of land use and development proposals to certain Government agencies for comment prior to any decision by the Responsible Authority.

The removal of these controls, when the SECV reservations were implemented, removed this referral requirement.

The Ministry considers it is no longer necessary for there to be a specific referral requirement to Government agencies. Referral to the SECV will automatically occur because of the reserved status of the land. The Latrobe Regional Commission will continue to input into matters of regional significance in category A coal areas through the statutory planning process.

The SECV has stated that any proposed changes in land use in the reserved areas must be referred by the Responsible Planning Authority to the SECV for consideration.

The new Planning and Environment Act provides options for SECV input into planning decisions.

The SECV could be specified either as:

- (a) a Referral Authority under this Act, having the power to direct a Responsible (planning) Authority to make a particular decision, or include certain conditions in approving a use; or
- (b) there could be mandatory referral of proposals to the SECV for comments, with the decision on the proposal being the responsibility of the Responsible Authority.

The Ministry considers that Referral Authority status would be most appropriate for the SECV in the category A coal areas. The SECV position is very important to the State financially because of its overall role and responsibilities in regard to compensation issues over a very extensive area.

This view was supported by representatives from the SECV, Latrobe Regional Commission and the Coal Corporation of Victoria.

It is possible that local government will oppose the SECV having greater responsibility in determination of proposals for the reasons that they are the authorities responsible for planning decisions, and the current process which involves referral of proposals to the SECV has operated quite well in the past.

The Ministry does not consider this is necessary because Responsible Authorities, applicants and other affected parties would retain the right to challenge the views of the SECV in the Administrative Appeals Tribunal (Planning Division) in cases where there was not consensus.

3. Fire Prevention

A number of clauses, in particular Clause 3.9, in the Statement of Planning Policy, identify the need for protection against fire as a major consideration in all areas where coal winning is taking place. The risk of fire is a concern, especially during Summer months.

The SECV is committed to reducing the risk of fire, and has adopted a Policy for Protection of SECV Latrobe Valley Assets from Rural Fires. The SECV is satisfied that this policy represents a suitable basis for fire prevention.

A strong element of this policy is the support for land use planning controls which will increase the level of fire protection of the SECV assets. The SECV considers that the ability to control activities on privately owned land is essential to effective control of fire risk. Uses which might constitute an increase in the risk of fire, in particular, would be unacceptable near to open cut areas.

The SECV considers that the areas proposed for reservation for SECV purposes (the category A coal areas) require no further planning scheme measures beyond reservation, but proposes that amendments to local planning controls provide protection in other areas. Special Policy Area controls for fire protection, similar to those which exist in the Shire of Morwell Planning Scheme, were advocated.

The Ministry agrees that fire prevention is an important issue, and generally supports the approach outlined by the SECV.

The only action beyond the implementation of the SECV reservations considered necessary in the category A coal areas is the specification of the SECV as a Referral Authority under the new Planning and Environment Act. This would reinforce the SECV's position in respect of fire risk imposed by activities on privately owned land.

Planning controls, may be required in other areas to protect open-cut mining in the category A coal areas from the risk of fire. This includes other protected coal areas, buffer areas and areas unaffected by coal.

The importance of fire prevention necessitates it receiving the earliest possible attention. Although of regional significance, the issue may be resolved more quickly independently of the Regional Strategy Plan.

The Ministry recommends that the SECV initiate discussions with regional and local planning authorities to provide for planning controls to protect open-cut coal mining areas from fire. The initial work of the SECV, which formed an input to this study, is considered to provide a good basis for this task (refer Appendix 2 for details of the SECV submission).

Following agreement on areas required to provide protection and suitable planning controls, the normal statutory planning process including public exhibition should be used.

3.2.4 Recommendations

In the category A and associated coal industry areas:

1. Existing use and development of land be encouraged to continue provided that development of the coal resource is not prejudiced.
2. In the period until land is required, use and development be controlled so that the land is able to be later developed for it's coal resource with a minimum of financial and social cost to the coal developer or the community.
3. Proposals to change land use be required to demonstrate that future development of the coal resource would not be prejudiced by their development and use, according to the following criteria:
 - 3.1 The expected timing of coal resource development;
 - 3.2 Potential risk to coal resource development;
 - 3.3 The nature and scale of development;
 - 3.4 The social and economic implications of the development;
 - 3.5 Proximity to coal resource development; and
 - 3.6 Alternative locational options available.
4. Subject to compliance with these criteria, proposals be further assessed on the basis of sound planning principles, including:
 - 4.1 The objectives of the underlying zoning of the land;
 - 4.2 Compatibility with adjacent land uses; and
 - 4.3 Other State, regional or local policies.
5. Responsible and Referral Authorities consider the inclusion of conditions, which protect the interests of both the future coal developer and the proposed user or developer of the land, when considering the approval of proposals.

6. Subdivision proposals should be approved only where the purpose is related to continuing farming or rural activity.

Subdivision proposals should not be approved where the intent is to create new housing. This prohibition should extend to small lot excision proposals.

7. Rural residential development is an inappropriate land use. Consideration should be given to rezoning any existing undeveloped rural residential land to reduce housing opportunities.
8. All proposed houses, whether new or replacement, should be subject to the issue of a planning permit.
9. Intensive rural uses should be discouraged.
10. The SECV be accorded Referral Authority status under the new Planning and Environment Act, to ensure that SECV input is given significant weight when proposed changes in land use are being considered by Responsible Authorities.
11. The SECV initiate discussions with regional and local planning authorities to provide for planning controls to protect open-cut coal mining areas from the risk of fire. This process could proceed separately from the preparation of the Regional Strategy Plan.

3.3 OTHER PROTECTED COAL AREAS

3.3.1 Context

The other areas required for coal are the areas designated as categories B and C, and uncategorised, coalfields. The timing of possible development of the coal resource in these areas is less definite, and is largely dependant on development of coal technology and markets, and the economics of coal winning.

The reason for the designation of these areas well in advance is the assurance of future energy supplies in Government long term planning.

It is equally important for the regional community to have areas which may be required for future coal resource development identified at the earliest possible stage, otherwise uncertainty about which areas are likely to be required would continue to exist. The problems this situation creates underlie the actions taken by the Government over recent years.

3.3.2 Interpretation

The most important policy relating to other protected coal areas is clause 3.5 of the Statement of Planning Policy. The policy has been considered in two parts.

The policy states that in all other protected coal areas:

1. "...there shall be a general presumption against the use of land for urban or industrial purposes, major overburden dumps or other uses which could prejudice the winning or processing of the underlying coal within the time frame specified in the Sequential Coalfields Development Strategy..."

The interpretation of the phrase "general presumption" is critical to land use decisions in these areas. The intent is that uses which may result in financial or social costs to the future coal developer, community or owners or users of land should be discouraged from locating in these areas. This includes uses which are of an intensive nature, or may prejudice future coal resource development.

Use and development of land needs to be controlled to ensure that the coal resource is able to be developed when required.

The emphasis of planning controls must favour the protection of the coal resource, but not necessarily to the same extent as applies in the category A and associated coal industry areas. The longer time frame applying to possible development means that there is greater flexibility for making land use decisions.

2. "...Uses of land which maintain and enhance land use capability and productivity shall be encouraged in these areas."

The other protected coal areas will be identified, but not reserved, in local planning schemes. It is proposed that the boundaries of these areas will be accurately defined in 1988. This would be followed by amendments to local planning schemes to designate the boundaries.

The intention of the government is that reservation of these areas would occur closer to the time that an area is required for coal resource development. This period would be 30 years in advance of development, at which time land acquisition and compensation procedures would come into effect.

The identification of these areas is to protect long term options. There is no certainty that the land will definitely be required for coal resource development in the designated time frame.

Continued private ownership and productive use are the cornerstones of the other protected coal areas. The Ministry considers that maintaining and enhancing land capability and productivity is essential in these areas.

3.3.3 Related Issues

1. Planning Controls

The other protected coal areas are primarily contained within the rural areas of the Shires of Alberton, Morwell, Rosedale and Traralgon.

The current planning controls over use and development in these areas consist of provisions relating to the zoning of the land, and Special Policy Areas (Brown Coal Resource Areas).

As with the category A coal areas, rural zonings have generally restricted use and development to farming activities. Planning control over subdivision has maintained lot sizes above the minimum allowable lot size, which varies between 15 and 50 hectares according to municipality and zoning of the land. The Special Policy Areas have placed restrictions on development and provided for referral of proposals to government agencies for comment.

Subdivision of Land

The minimum area able to be created by subdivision in rural areas should desirably be related to the capability of the specific area to sustain farming. In some rural areas, this could mean increasing the minimum subdivision area requirement by amending the rural zoning controls in local planning schemes, as discussed in section 3.2.3.

The impact of the coal development sequencing strategy must also be considered.

In the category B and C coal areas, wider opportunities are provided for subdivision than in category A coal areas because of the longer time period prior to coal resource development.

Some land uses which could not be justified in category A coal areas may be acceptable. Subdivision to facilitate such land uses may be acceptable.

- (eg)
1. Intensive farming and forestry may be acceptable uses because enhanced economic viability is provided by the time frame.
 2. The economic life of a house may be able to be satisfied in a period beyond 30 years, and therefore limited rural subdivision for the purpose of maintaining land in rural use could be acceptable. This could include the excision of small lots from rural properties.

The timing of possible coal resource development in the uncategorised coal areas in south Gippsland is less certain. As a short time frame is a possibility, it is considered that the principles which apply to subdivision of land in the uncategorised areas should generally be in accordance with the principles applying in the category A coal areas.

This is that subdivision should be related to maintaining land in rural or low intensity use.

This needs to be balanced against providing certainty for landowners so that there will be continued confidence to maintain rural land in productive use.

Compensation is payable under the Mines Act in the unclassified coal areas. Should a coal project be approved and development of the coalfield be required to commence in a short period (say 10 years), the coal developer would be required to compensate landowners.

Maintaining excision opportunities would provide greater certainty in the short term for continued rural land use. As with the category B and C coal areas, the excision of a small lot from a larger farm may be acceptable where the purpose is to provide for continued farming of the land.

Subdivision proposals having the potential to create a significant increase in population would be contrary to the intent of protecting all of the other protected coal areas for future coal resource development. The Ministry would therefore oppose further rural residential development in category B, C and unclassified coal areas.

The Ministry recommends that in the other protected coal areas:

- (a) subdivision is acceptable provided it assists in enabling farming activities to continue; and
- (b) subdivision is not acceptable where the intent is to create opportunities for rural residential development, or for a significant increase in the permanent population.

Land Use and Development

The Working Group generally agreed that farming activities and low intensity uses would continue to dominate in the other protected coal areas.

The SECV suggested that other protected coal areas should be treated in sympathy with category A and associated coal industry areas. The development of these areas for coal was, however, expected to be sufficiently far into the future to permit some other interim uses.

The Coal Corporation of Victoria contended that proposals which may increase the intensity of land use would need to demonstrate compliance with interpretation of the phrase "general presumption". The provisions of rural zones, supported by referral of proposals to Government agencies in the Special Policy Areas, in current planning controls appear to provide the means to restrict use and development sufficiently to satisfy the Corporation.

Representatives of local government and the community considered that areas which are suitable should be encouraged to continue in farming, as good farming land is diminishing in areas. In some areas which may be less suitable for farming, other economically viable uses may be required to maintain the land in productive use.

The cost of developing the coal resource in the future can be expected to be proportionally far greater than the total cost of acquiring land, and compensating owners of the land. The social costs associated with acquiring land, in particular relocating people, probably will have greater implications. Approval of proposals which would see a significant increase in the population in the other protected coal areas would, therefore, not be considered appropriate.

The task of defining and designating the other protected coal areas in local planning schemes need not alter the current approach to decision making in these areas. While the name of the Special Policy Area may change (from "Brown Coal Resource Area" to "category B, C or uncategorised coal area"), the approach could remain the same. Subdivision and rural land use controls can continue to reflect local situations without prejudicing development of the underlying coal.

The Ministry recommends that:

- (a) limited changes only would be required to the rural planning controls which currently apply to land overlying the other protected coal areas. The current controls facilitate farming uses, which are considered acceptable to protect future coal resource development; and
- (b) land uses which would result in a significant increase in the permanent population are unacceptable. New rural residential rezoning is unacceptable;

Conditions of Approval

Where consideration is being given to approval of any proposal in the other protected coal areas, the longer, or less definite time frame is important.

A decision to include coal related conditions would need to balance the likely time prior to possible coal resource development against the nature and scale of proposed development.

Conditions on approval are more likely to be appropriate in uncategorised or category B rather than category C coal areas. The types of farming and low intensity activities which can be expected to predominate in these areas, however, would appear to mitigate against the inclusion of conditions. Large scale or intensive uses would be unlikely to satisfy the "general presumption" requirement, and therefore be unable to gain approval.

In most cases, the application of sound planning principles based on rural zonings should be all that is required to protect other coal areas.

Referral of Proposals

In the other protected coal areas, Special Policy Area (Brown Coal Resource Area) planning controls currently provide for referral of land use and development proposals to certain Government agencies for comment prior to any decision by the Responsible Authority. These agencies include the SECV, Coal Corporation of Victoria, Department of Industry Technology and Resources, and the Ministry.

The new Planning and Environment Act will provide options for input by these agencies, as discussed in section 3.2.3. The Ministry, however, considers that no change to the current approach is warranted in the other protected coal areas for two reasons:

- (a) A longer, or less definite, time frame applies to the possible development of the coal; and
- (b) Compensation provisions will not apply in the category B and C coal areas (although compensation under the Mines Act will apply to the uncategorised coal areas).

The Responsible Authority should continue to make the final determination on land use proposals, based on its evaluation of comments received under the referral process.

It is appropriate to reconsider to which authorities proposals should be referred. The principles underlying use and development of land required for coal resource

development are provided in the recommendations of this study.

The Ministry considers that with the implementation of the recommendations of this study through the Latrobe Regional Strategy Plan process, it may not be necessary for proposals to be referred to other than a potential coal developer (the Coal Corporation, and SECV where a proposal could influence a category A coal area) or Regional Planning Authority. It may be appropriate for the Latrobe Regional Commission to discuss the need for future referral of proposals to the Department of Industry Technology and Resources with that agency. Future referral to the Ministry is not considered necessary.

3.3.4 Recommendations

In the category B, C and uncategorised coal areas:

1. Existing use and development of land be encouraged to continue until the land is required for development of the coal resource. This applies particularly to farming activities and low intensity uses.
2. In the period until land is required, use and development be controlled so that the land is able to be later developed for its coal resource. Proposals which could create significant financial or social costs should be discouraged.
3. Proposals to change land use be required to demonstrate that future development of the coal resource would not be prejudiced by their development and use, according to the following criteria:
 - 3.1 The expected timing of coal resource development;
 - 3.2 Potential risk to coal resource development;
 - 3.3 The nature and scale of development;
 - 3.4 The social and economic implications of the development;
 - 3.5 Proximity to coal resource development; and
 - 3.6 Alternative locational options available.
4. Subject to compliance with these criteria, proposals be further assessed on the basis of sound planning principles, including:
 - 4.1 The objectives of the underlying zoning of the land;
 - 4.2 Compatibility with adjacent land uses; and
 - 4.3 Other State, regional or local policies.
5. The inclusion of coal related conditions should be unnecessary in approving most proposals.

6. Subdivision is acceptable where the purpose is related to farming or rural activity. Small lot excision proposals should be considered on their merits.

Subdivision is not acceptable where the intent is to facilitate new rural residential development, or otherwise significantly increase the permanent population of these areas.

7. Rural residential development is an inappropriate land use. Rezoning proposals would be unacceptable.
8. Limited changes only appear to be required to current planning controls, which provide for farming activities and low intensity uses.
9. Proposals to change land use be referred by the Responsible Authority to the following Government agencies for comment:
 - 9.1 Latrobe Regional Commission;
 - 9.2 Coal Corporation of Victoria;
 - 9.3 SECV (where the proposal could influence a category A or associated coal industry area).

4. BUFFER AREAS

4.1 INTRODUCTION

Buffer areas have been designated between coal resource areas and the townships, and other sensitive areas, exempted from coal resource development.

The provision of buffer areas is to protect existing urban communities, and other sensitive areas, from possible adverse effects of coal resource development, and to protect open-cut mining areas from fire hazard.

The Interdepartmental Committee on Brown Coal Resource Boundaries considered buffer area issues as part of its terms of reference. The committee's final report was included in the 1986 "Framework for the Future" report.

The following comments can be made on the desirable features and objectives of buffer areas identified by the Committee (underlined):

1. Mutual protection and separation of urban and protected coal areas.

The principles of mutual protection and separation form the bases of the buffer areas. If the integrity of buffer areas is to be maintained, their immediate proximity to townships must not be allowed to create pressures for urban or coal-related development in the future.

2. Compatibility of adjacent uses.

Development in the buffer areas needs to be compatible with the adjacent urban and coal-related uses of land. Use and development within buffer areas needs to be in accordance with sound planning principles governing land use.

3. Beneficial use of land.

Productive uses of land in buffer areas are required within the constraints imposed by mutual protection and separation, and compatibility of adjacent uses.

4. Continued private ownership wherever possible.

Private ownership of land, used for productive purposes, should ensure that land within the buffer areas is maintained satisfactorily.

5. Maximum feasible protection into the future.

Protection of urban and coal resource areas in the long term is essential to the integrity of the buffer areas.

6. Aesthetics

The buffer areas provide an opportunity for improvement in the visual amenity of areas surrounding the towns, and visual protection from the effects of coal resource development on the landscape for residents of the towns.

The Committee recommended a separation of 1 km between possible open-cut areas and urban areas as an appropriate width for buffers. The choice of a 1 km separation width was made following a review of the available information on earth subsidence, noise, dust, fire hazard and visual intrusion.

1. Subsidence

Settlement behaviour was considered to be well understood and the most easily quantifiable factor. A 1 km separation was considered sufficient to avoid possible damage from subsidence.

2. Noise and dust

The impact of noise and dust depends on meteorological conditions and time of day. A 1 km separation was considered sufficient to avoid severe effects.

3. Fire and visual amenity

A 1 km separation, with appropriate landscaping to enhance visual amenity, was considered sufficient for fire protection provided that the area surrounding the open-cut was clear of vegetation, and the buffer area controlled.

The 1 km buffer would comprise approximately 750m of buffer area and approximately 250m of coal operations area adjacent to open-cut mining. The coal operations area was included in the separation distance because its effect is to increase the spatial separation of mining activity from urban communities. A 10% variation within the designated buffer area was recommended to simplify boundary definition along property lines. Its effect is to vary the 750m buffer area by ± 75m.

Consideration of principles applying to use and development of buffers involves only the 750m \pm 10% "buffer area".

The 250m "coal operations area" is included in the protected coal area. The recommendations of this study relating to use and development in category A and associated coal industry areas, and the other protected coal areas, should be applied to land use decisions in the coal operation areas.

4.2 Interpretation

The most important policies relating to buffer areas are stated in the following clauses of the Statement of Planning Policy No.9:

- 3.6 "In all buffer areas referred to in Schedule 2, uses may be permitted subject to the application of sound planning principles, and the recognition of the planning needs of both the adjoining coal development and urban or other sensitive areas."

(Schedule 2 is shown in Appendix 3 of the report).

- 3.20 "Buffers shall be used to provide separation between coal development and associated areas and residential or other sensitive areas to alleviate the adverse effects of one upon the other."

The key principles of mutual protection and separation of urban and protected coal areas identified by the Interdepartmental Committee are clearly stated in clause 3.20.

The "application of sound planning principles and the recognition of the planning needs" in clause 3.6 further identifies the necessity for uses which may establish in buffer areas to be compatible with adjacent urban or coal-related development.

The combined effect of these principles underlies the purpose of buffer areas. One of the primary objectives of planning is to avoid possible land use conflicts, by seeking to separate uses and developments which may by their form or activity be incompatible. There are clear benefits in anticipating incompatible land uses in advance. The policies contained in clauses 3.6 and 3.20 of the Statement of Planning Policy seek to achieve this objective.

The provision of buffer areas is, in accordance with sound planning principles, intended to "protect" urban communities and other sensitive areas. Buffer areas were not provided as a measure to "compensate" existing or prospective owners and users of land in buffer areas, or urban communities, from the possible adverse effects associated with open-cut mining. The government does not intend to purchase land in buffer areas to protect coal resource areas (it will sell any land not required), nor compensate owners or users of land in buffer areas.

This is not intended to imply that government ownership of land for other purposes such as community uses, including parklands or sporting fields, would be unacceptable uses of buffer areas. Any proposal to use land in buffer areas should be considered on its merits, according to sound planning principles.

The reference to urban/residential areas and other sensitive areas in the clauses identifies that there is more than one type of buffer area. The different types of buffer area include:

1. Areas between urban development and existing or future coal resource development;
2. An area to protect activities at the Australian Paper Mill site at Maryvale;
3. An area to protect the transport corridor (Princes Highway) between Morwell and Traralgon; and
4. Construction buffers associated with the proposed future diversion of the Morwell River.

This study addresses the first type of buffer only. The other types of buffer area are generally located in rural areas, and sound planning principles governing use and development according to the zoning of the land and the area being protected should continue to apply.

4.3 Related Issues

1. Land Tenure

Buffer areas, together with the adjacent urban areas, are permanently exempted from coal resource development. Compensation will not be available to owners and users of land in buffer areas as a result of the proximity of any coal winning activities.

Maintaining and enhancing the capability and productivity of land in private ownership therefore becomes essential to the success (or continued community acceptance) of the buffer areas.

2. Planning Controls

The buffer areas defined in the "Framework for the Future Final Report" cover extensive areas. The existing uses of the buffer areas differ but are predominantly low intensive land uses such as rural or rural residential, in accordance with the zoning of the land in local planning controls. There is some land zoned and used for industrial purposes south of Morwell.

Some of these buffer areas are already defined in local planning controls, for example the "Brown Coal Resource Buffer Area" Special Policy Areas in the Shire's of Morwell and Traralgon planning controls. This is a second tier of planning control over use and development, additional to the zoning of the land, and includes provision for referral of proposals to certain government agencies for comments. (These controls do not cover all of the buffer areas defined in the Framework report in these two shires).

In other municipalities, buffer areas are not presently defined around the exempted towns. Use and development is controlled by the zoning of the land, which is primarily rural.

More specific, but not necessarily complex, planning controls are required to regulate use and development of the buffer areas. This is necessary to ensure mutual protection and separation of urban and protected coal areas in the long term.

The objective is to provide owners and users of land, and the regional community, with certainty about the acceptable use and development of buffer areas.

This emphasises the importance of use and development in buffer areas being based on sound planning principles which reflect the underlying principles for providing buffer areas.

There is a choice in the form that such planning controls could take, being:

- (a) a second tier of control, similar to the existing Special Policy Areas in the Shires of Morwell and Traralgon; and
- (b) the introduction of a new buffer zone.

The Ministry considers that the existing Special Policy Area planning controls have operated satisfactorily in the past and are well understood, and therefore a second tier of control would be preferable to a new zone. (The name of the control may differ). This needs to be introduced across the region for consistency, once the buffer areas have been accurately defined. The normal statutory amending process is recommended to introduce any new controls.

Planning controls are required in the buffer areas to cover subdivision of land, use and development, siting of houses and buildings, provision of landscaping for visual amenity and protection, and referral of proposals to relevant government agencies for comment.

Subdivision of Land

The existing rural zonings applying in buffer areas generally provide for subdivision of land into minimum allotment areas varying from 15-50 hectares. Small allotments are sometimes able to be excised from larger rural properties.

In some municipalities, there are rural residential zones included in buffer areas. The size of allotments able to be created varies in accordance with the provisions of local planning schemes which are generally in the range 0.4-4 hectares in area.

The reasons why buffer areas were established is important in determining future subdivision policy. The potential effects of coal mining on nearby land include subsidence, noise and dust, and loss of visual amenity. The separation of urban (particularly residential) communities and coal mining activities by 1 kilometre was implemented as Government policy to reflect these possible impacts.

The expansion of urban development into buffer areas by rezoning, and then subdivision, of land is unacceptable. Proposals which would create a significant increase in the permanent population residing in buffer areas would be clearly contrary to the intent of Statement of Planning Policy No.9.

In addition to separation of incompatible uses, subdivision policy in buffer areas needs to reflect the important issues of existing rights of owners and users of land, continuing private ownership (which will apply to most areas) and productive use of land.

Where land is currently zoned for a particular purpose, whether this be rural, rural residential or industrial, landowners will consider it their "right" to subdivide and/or develop land in accordance with planning controls which currently apply.

The Ministry considers it is reasonable to largely accommodate this view for existing situations, however the manner in which subdivision and/or development occurs may need to vary from the landowner's intentions in some cases.

Subdivision proposals which would result in further houses or buildings being constructed in a buffer area is an issue requiring careful consideration, particularly should the house or building site be proposed close to the coal operations area boundary.

It is possible to distinguish between existing subdivided land and land not yet subdivided.

In the case in the Melrossa (rural residential) Estate east of Traralgon, landowners are allowed to develop vacant lots to housing on the basis of existing rights. Landowners in similar circumstances in other buffer areas, regardless of the zoning of their land, would expect equitable treatment.

The Ministry considers that this approach would be inappropriate where land has not yet been subdivided. The objective should be to ensure that development that may occur following subdivision is largely unaffected by the potential impacts associated with open cut mining. In most cases, maximising the distance between a proposed development site and open cut mining will be appropriate.

Subdivision policy therefore needs to be based on the location of land with respect to the boundaries of the urban and coal operations areas, and allotment size and shape. As in the protected coal areas, proposed land uses are also a significant factor.

(a) Location and Land Use

Housing in buffer areas was the issue which received the greatest attention from the Working Group (refer to section on "Land Use and Development"), probably because it is rural and (pressure for) rural residential development which is expected to dominate future land use in buffer areas.

The Ministry recommendations relating to subdivision with regard to housing are summarised in Figure 1. These recommendations are based on:

- (1) achieving a balance between the potential effects of open cut mining on land use in the buffer areas and demands for different types of land uses close to urban centres, particularly the demand for some rural residential development;
- (2) compatibility of land use in buffer areas with both adjacent urban development and open cut mining; and
- (3) the importance of maintaining land in buffer areas in productive use.

The subdivision policy recommended in regard to new housing would require that any lots created must contain a house site within 200 metres of the urban boundary, otherwise subdivision is inappropriate.

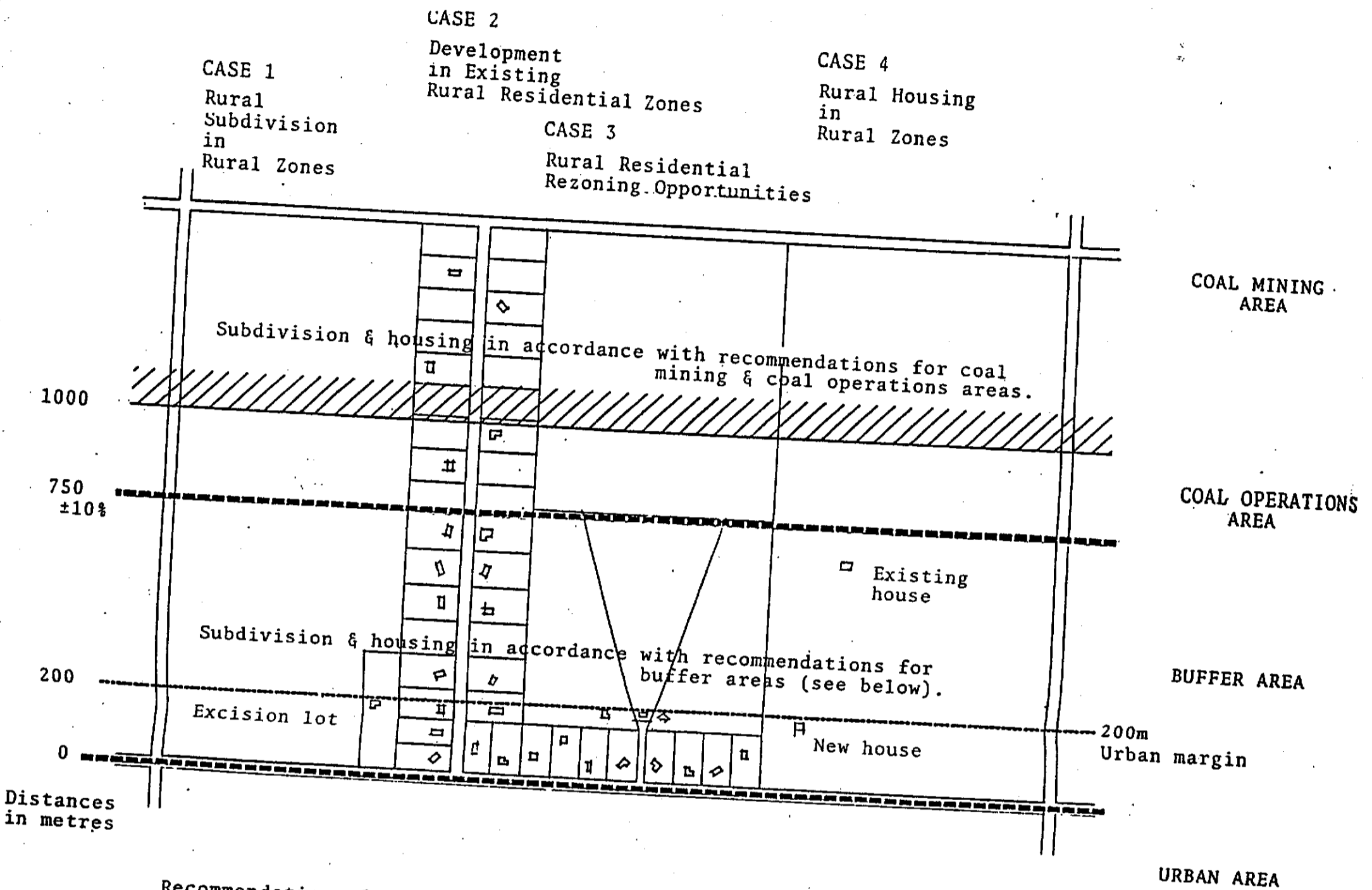
This requirement would apply to both rural and rural residential subdivision proposals, where the intent is housing development. This would encompass all proposed small rural lot excision proposals. Rural residential rezoning proposals would potentially be able to include land beyond 200 metres from the urban boundary provided that houses could be sited adequately within the 200 metre requirement, and any remaining land could be maintained in productive use.

The 200 metre requirement would not apply to existing rural houses or existing rural residential subdivisions. It should, however, be applied to replacement or caretaker's house proposals.

The Ministry emphasises that the policy recommended is not to be viewed as acceptance of widespread development of land in buffer areas within 200 metres of the urban boundary for housing, nor for widespread rural residential rezoning of buffer areas. As far as possible, low intensive uses such as farming and recreational opportunities should be pursued. The legitimate demand for "limited" rural residential development in buffer areas should be viewed in the context of sound planning principles, which is provided by appropriate rural residential policy based on supply and demand considerations, land capability and locational factors.

Any other proposed development in buffer areas, for example, within the existing industrial zoned area south of Morwell, would likewise need to take into account the potential impact of the effects of open cut mining (such as subsidence).

FIGURE 1 SUBDIVISION AND DEVELOPMENT WITHIN BUFFER AREAS



Recommendations for Buffer Areas

- CASE 1 - Rural Subdivision in Rural Zones
1. Existing rural planning controls for subdivision continue to apply.
 2. Excision lots must contain a house site within the 200m urban margin.
- CASE 2 - Development in Existing Rural Residential Zones
1. Rural Residential Development in accordance with buffer siting controls.
- CASE 3 - Rural Residential Rezoning Opportunities
1. Rural Residential rezoning possible provided lots contain house sites within the 200m Urban margin.
 2. The boundary of any rural residential zone is the coal operations area.
- CASE 4 - Rural Housing in Rural Zones
1. Existing houses to continue in residential use.
 2. New houses only within the 200m Urban margin.

(b) Allotment Shape and Size

Land proposed to be subdivided will not always neatly fall within the buffer areas. Allotment boundaries and land ownership can be expected to straddle the coal operation and urban areas in some areas, despite the 10% variation provided for in determining coal operation area boundaries.

Proposals to subdivide land in buffer areas must be designed to ensure that ensuing development remains in viable land units (capable of being used) following acquisition for coal resource development. For example, where rural land straddling a buffer/coal operation area boundary is proposed to be subdivided, the choice of that boundary as a lot boundary has obvious merit. Similar situations may apply to urban/buffer boundaries. This approach will assist in simplifying land acquisition processes.

Allotment size is also an important issue, largely related to rural residential proposals. The Working Group differed as to the appropriate minimum and average allotment sizes that should be imposed on rural residential subdivision in buffer areas. The minimum area discussed ranged from 1 to 5 ha. and the average from 1 to 10 ha.

While acknowledging the importance of this issue in limiting development in buffer areas, the Ministry is more concerned with the issues of appropriate location for houses which might be established, siting controls and visual protection.

In view of the previous recommendation requiring houses to be sited within 200 metres of the urban area, and comments regarding the amount of rural residential development appropriate to buffer areas, the Ministry considers that the current subdivision size requirements applying to rural residential development in local planning schemes may be acceptable in buffer areas. This would avert the need for specialised small lot criteria in buffer areas.

If an allotment minimum and average were to be applied as regional or local policy, the Ministry would recommend that:

- (1) no allotment should be less than 1 ha. in area, because a lesser area may not provide sufficient space for landscaping measures necessary to contribute to buffering effects; and
- (2) 2 ha. would be an appropriate average allotment size therefore providing for a range of allotment sizes to be created using the 200 metres requirement for housing.

The siting of buildings on allotments should desirably seek to minimise possible adverse effects of open-cut mining or coal operations. This applies to noise, dust and visual amenity, and is particularly important where any building is proposed for permanent habitation.

The siting of buildings should be designed to maximise the distance from the coal operations area on any allotment. The living areas of buildings should be encouraged not to directly face the open-cut area, including where open-cut mining is unlikely to occur for many years into the future.

Land Use and Development

The need to maintain land in private ownership and productive use, combined with the constraints imposed by uses surrounding buffer areas, suggests it would be reasonable to consider a wider range of uses and development in buffer areas than would be considered acceptable in other areas surrounding protected coal areas. This is provided that the principles of:

- (a) mutual protection and separation; and
- (b) compatibility with adjacent urban and coal-related developments;

are satisfied. These principles clearly identify urban and coal mining uses as being unacceptable.

The Interdepartmental Committee in its report proposed farming and recreational activities were appropriate uses in buffer areas, and that light industry (which does not pose a fire hazard), transport facilities, effluent pipelines and power transmission lines may be acceptable in particular areas.

The Working Group considered possible land uses in buffer areas. Comments were also sought from a number of government agencies. These views suggest a wider range of uses than the Interdepartmental Committee.

The SECV agreed with the interdepartmental Committee's proposals, but suggested that (limited) rural residential developments could be an appropriate urban buffer use. The SECV requested to be consulted regarding structures other than dwellings or farm sheds, and regarding major pipelines and linear services, in areas adjoining category A coal areas.

The Latrobe Regional Commission included a table in its submission that indicated coal winning and urban development must not be permitted in buffer areas. This would include all permanent housing and commercial developments and many industries. Nuisance generating activities, such as freeways or piggeries, were seen as inappropriate. Well landscaped recreational uses and public open space were seen as highly desirable.

Representatives of local government and the community suggested rural residential, industrial and agricultural uses would be acceptable. Some specific examples included:

- (a) Forestry plantations, controlled with respect to tree species, planting densities, proximity to forest lots and to each other and, importantly, anticipated harvesting requirements with respect to SECV timetables; and
- (b) Urban development, in selected areas, but controlled with respect to density and type of use.

The Department of Agriculture and Rural Affairs indicated that agricultural use in buffer areas would be unlikely to be viable unless the land-holding included areas outside of the buffer area. This was because the buffer areas are too small to be used for normal agricultural uses (dairy or beef farms), and, with limited exceptions, the quality of land would not support intensive agricultural uses. The potential conflict to agricultural land use of adjacent urban use was also identified as a constraint.

The Environment Protection Authority indicated that certain industrial uses which experience difficulties finding suitable locations, such as sand blasting, may be acceptable. Attention was also drawn to conflicts between urban and agricultural uses such as attacks by domestic pets on livestock and unpleasant odours arising from intensive livestock farming.

The Ministry considers that the acceptability of any specific use depends on the particular situation, which may vary according to local conditions. This underlies the importance of having principles against which to assess specific proposals.

The Ministry has not recommended a specific range of uses which would be acceptable in buffer areas, but instead has aimed at identifying suitable principles for assessing the merits of specific proposals in the buffer areas.

The following principles are recommended to assess proposed changes in land use. Any proposal should:

- (a) not constitute an increased fire risk to coal resource development;
- (b) be considered in the context of the possible timing of coal resource development;
- (c) be unlikely to be adversely affected by potential affects associated with open cut mining; and
- (d) be considered in the context of its capacity to contribute to buffering effects.

Referral of Proposals

Local Government, as responsible planning authorities, should continue to be responsible for planning decisions in the buffer areas, in accordance with sound planning principles.

Land use proposals are currently formally referred to certain government agencies for comment under the Special Policy Area controls in the Shires of Morwell and Traralgon.

The SECV has requested that certain types of proposals adjacent to category A coal areas continue to be referred for comment by responsible planning authorities. The Ministry considers that this request is in accordance with the principle of protection for coal areas, and that referral to the SECV, as the coal developer in category A coal areas, should be maintained in planning controls.

For similar reasons, referral of proposals to the Latrobe Regional Commission (adjacent to all protected coal areas) and the Coal Corporation of Victoria (adjacent to other protected coal areas) is also considered appropriate. The continuing need to refer proposals to the Department for Industry Technology and Resources following the implementation of the recommendations of this study could be addressed by the Latrobe Regional Commission.

Referral Authority status under the new Planning and Environment Act (refer section 2.2.3) is not considered appropriate for government agencies in buffer area decisions.

3. Visual Amenity and Protection

Open cut mining activities, and associated infrastructure surrounding the coalface, markedly alter the landscape. The perception of many people is that the landscape is destroyed by these processes.

The buffer areas (and possibly the coal operation areas) provide the opportunity to improve visual amenity and protection for urban communities, by landscaping works and tree planting. This issue is even more important for any existing or prospective residents in the buffer areas.

If the open-cuts were less visually obtrusive, people's perceptions would be likely to be more positive. This would strengthen the principle of mutual protection and the community's sense of separation. It would therefore be desirable to provide general landscaping in buffer areas, and landscape buffers in the coal operation areas (subject to the views of the coal developer), to effectively "hide" the visual impact of open-cut mining. This will require the cooperation of government agencies, particularly the coal developer, and the will of the community.

Within buffer areas, opportunities exist to encourage (or require by planning controls) tree planting:

- (a) between any residences and coal development areas;
- (b) along roadsides, or the boundaries of any parkland or community owned land;
- (c) along common boundaries with coal operation areas on privately owned land;

Within the coal operation areas, there may be the opportunity to carry out landscaping works and tree planting along the common boundary with buffer areas. A width of 15-25m could be planted (with fire resistant plant species if necessary), perhaps with mounding in sensitive areas, to provide further protection to urban communities. The landscaping and planting would need to be designed to ensure little ongoing management was required. The impact on the coal operation areas would appear to be slight given their intended width of 250m.

In some areas, the success of landscaping works and tree planting in visually protecting urban or buffer area residents may depend on the topography of the land.

The timing of planting is also an important factor. Planting in advance of coal development is preferable because it would likely lead to earlier visual protection. It is unlikely that planting could occur prior to a project being approved, and land acquisition commenced by the coal developer.

It is mandatory that prior to any landscaping or planting, the potential fire risk to the coal resource area is addressed. The SECV views on requirements to adequately address fire prevention is discussed in section 3.2.3 and Appendix 2. Further SECV input on specific buffer issues is required.

The Ministry considers that the issue of visual amenity and protection would be best approached by the preparation and implementation of a Regional Landscape Plan by the Latrobe Regional Commission. The Plan should desirably review general landscape issues in the region, such as roadside planting and landscaping in areas required for future coal resource development, in addition to landscaping requirements in the buffer areas.

Preparation of the plan needs to involve municipalities, the SECV, the Department of Conservation Forests and Lands, and the community. Consideration has previously been given to some of these issues independently by government agencies, including the Latrobe Regional Commission and the SECV.

4. Fire Prevention

The Statement of Planning Policy includes clause 3.9 which states that:

"Protection against fire shall be a major consideration in the planning and management of land in which fire could affect open-cuts and in all aspects of the production, utilisation and storage of coal and its products."

In all buffer areas, it is essential that proposals to use or develop land be assessed on the basis of their potential fire risk to open-cut mining. It is equally important that management of land and existing uses do not increase the potential for fire.

Referral of proposals to the coal developer for comment on potential fire risk is recommended.

5. Coal Development Sequencing Strategy

The use of buffer areas needs to take account of the timing of development of the adjacent protected coal area.

The principle involved is the requirement for maximum protection of both the coal resource and urban areas in the long term. In the case where the buffer area is adjacent to a category C coal area, the period prior to coal resource development would be more than 60 years.

This raises the possibility of "temporary" uses establishing in buffer areas, similar to the intent in the category A coal areas.

If buffer areas are to provide a permanent separation between coal-related and urban uses for their long term mutual protection, temporary uses in buffer areas should be required to satisfy the principles which are to apply to land use decisions. The Ministry considers that urban and coal-related uses would therefore be unacceptable temporary uses in buffer areas.

Other uses which are compatible with the adjacent urban area but unable to satisfy long term requirements for development of the coal resource may, however, be suitable uses of buffer areas in the period prior to the coal resource being developed. The approval of such uses, for example forestry, should be conditional upon their cessation at an appropriate future time to provide permanent protection to open-cut mining. The conditions recommended when temporary uses are being considered in category A areas provide a guide to suitable conditions for uses in buffer areas.

4.4 Recommendations

In the buffer areas (being the 750m area \pm 10% surrounding the exempted towns):

1. Existing use and development of land be encouraged to continue provided development of the adjacent coal resource or amenity of urban development is not prejudiced.
2. Land should be encouraged to be retained in productive use in accordance with land capability.
3. Proposed use and development should be compatible with both the adjacent coal resource and adjacent urban area. Urban and coal mining use or development is prohibited in buffer areas.
4. Local planning schemes should be amended to provide more specific control over development and use in buffer areas. Review of the Special Policy Area planning controls which currently exist is recommended.

This should be implemented by the normal statutory amending process for planning controls, involving public consultation.

5. Proposals to change land use be required to demonstrate that neither urban nor coal resource development would be prejudiced by their development and use, according to the following criteria:
 - 5.1 The expected timing of coal resource development;
 - 5.2 Potential risk to coal resource development;
 - 5.3 The possible adverse effects of coal mining on the proposal; and
 - 5.4 The capability of the proposal to contribute to buffering effects.
6. Subject to compliance with these criteria, proposals be further assessed on the basis of sound planning principles, including:
 - 6.1 The objectives of the underlying zoning of the land;
 - 6.2 Compatibility with adjacent uses; and
 - 6.3 Other State, regional or local policies.

7. Proposals to change land use be referred by the Responsible Authority to the following government agencies for comment:
 - 7.1 Latrobe Regional Commission;
 - 7.2 Coal Corporation of Victoria; and
 - 7.3 SECV (where the proposal could influence a category A or associated coal industry area).
8. Subdivision policy should be based on:
 - 8.1 the location of land with regard to the boundaries of the urban and coal operation areas.

Any lots intended for housing must contain a house site within 200 metres of the urban boundary. This applies to both rural and rural residential subdivision proposals.

The onus should be on the subdivider to demonstrate that the balance of any land subdivided for housing is capable of being used productively and maintained.
 - 8.2 allotment size

For rural residential and small lot excision proposals, an allotment minimum of 1 ha. and average of 2 ha. is recommended as an appropriate balance between contribution to buffering effects, land management and possible adverse effects associated with living in a buffer area.
9. Widespread rural residential development of buffer areas is inappropriate. Rural residential proposals should be viewed in the context of sound planning principles which includes supply and demand considerations, land capability and locational factors.
10. Siting controls are required to ensure that the siting of buildings on allotments minimises possible adverse effects of coal mining. Buildings should desirably not be orientated towards future coal resource development.

11. The recommended subdivision policy does not apply to existing rural residential zones already subdivided, for example Melrossa Estate, where Government policy is that land should be able to be developed.
12. A Regional Landscape Plan be prepared and implemented by the Latrobe Regional Commission, with the assistance and cooperation of relevant government agencies, municipalities and the community. The Plan should specifically address buffer areas, as well as general landscape issues.

The plan should encourage existing and proposed uses and developments in buffer areas to enhance the visual amenity of the buffer area, by landscaping and tree planting, to provide visual protection for residents and a sense of community permanence in both buffer areas and adjacent urban communities.

APPENDIX 1

LAND OVER COAL AND BUFFER AREAS STUDY

WORKING GROUP MEMBERS

Study Coordinator

Kevin Jackson	Asst. Manager - Gippsland Region Ministry for Planning & Environment
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Members

David Langmore	Latrobe Regional Commission
Karen Stewart	Latrobe Regional Commission
Cr Gary Black	Local Government Representative (Shire of Traralgon)
Max Speedy	Local Government Representative (Shire of Morwell)
Brian Newell	Coal Corporation of Victoria
Valdis Bormanis	Coal Corporation of Victoria
Brian Eddy	State Electricity Commission of Victoria - Morwell
Jack Fryer	State Electricity Commission of Victoria - Melbourne
Cr Barry Farmer	Gippsland Landowners Over Coal Association

Assisting in the Study

Simon Rawson	Ministry for Planning & Environment Gippsland Region
Neil Spencer	Ministry for Planning & Environment Melbourne

APPENDIX 2**FIRE PROTECTION ISSUES**

The State Electricity Commission of Victoria made a detailed submission on fire protection issues to the Ministry. The submission has been included in this appendix to this report because of the specific nature of the submission.

This report recommends that the State Electricity Commission of Victoria:

1. Initiate discussions with regional and local planning authorities to provide for planning controls to protect open-cut mining areas from the risk of fire; and
2. This process should proceed separately from the Regional Strategy Plan currently being prepared by the Latrobe Regional Commission.

The submission was as follows:

"Experience has shown that when fires start under extreme weather conditions, unless they are rapidly extinguished, major fire development causing widespread damage will occur despite advances in fire-fighting organisation, equipment, and techniques. Since the commencement of operations in 1921, ten large rural fires have burned onto SECV land, five of which invaded open cuts and disrupted coal production. The serial transfer of burning material from tree stands near the open cut was a major factor in these outbreaks. In this regard, native vegetation poses a special hazard, and "spotting" of flaming material for many kilometres ahead of the fire front can occur in extreme weather conditions.

While softwood plantation is acknowledged as a lesser fire risk, spotting up to 2 km from pine forest has been recorded under extreme conditions. Thus, while measures can be taken to reduce the fire hazard, special care is required when considering softwood plantation establishment near open cuts.

With both softwood and hardwood forests, some available measures, such as pruning and fuel-reduction burning, can reduce the hazard.

As indicated in its letter of 1 June 1987, the SECV adopted a "Policy for the Protection of Latrobe Valley Assets from Rural Fires" after public comment, and regards this as being a suitable basis for fire prevention measures in Category A coal areas and associated development areas and in buffer zones as well as in other relevant areas. A strong element of this Policy is the support for land use planning controls which will increase the level of fire protection of SECV Latrobe Valley assets.

For preliminary discussion purposes by the group and pending formal consideration by the SECV, it is proposed that the following planning scheme protection measures be considered:

- (a) Areas proposed for reservation as "Coal Development (SECV) areas in "Framework" - no additional planning scheme measures beyond reservation, except that "forestry" (to be defined) be an item requiring referral to the SECV.
- (b) For other areas in which stands of trees could pose a threat to SECV assets, the establishment of a Special Policy Area - Fire Protection Area. This would be similar to the Morwell Shire Planning Scheme Fire Protection Special Policy Area, except that it would also provide for proposals to plant stands of trees (to be defined) to be subject to control and to be referred to the SECV for comment and advice as to suitability from a fire protection viewpoint. It is proposed that this Special Policy Area should apply to the following existing cleared areas shown on the accompanying map:
 - . North of the Latrobe River, between the Moe Walhalla Road, and the Tyers-Traralgon Road and generally bounded on the north side by the SECV 500kV transmission line easement and the Tyers Road.
 - . SECV-owned rural land west of the Yallourn Open Cut not proposed for SECV Reservation.
 - . East of Traralgon, in the Category B coalfields between the Princes Highway, the proposed (Category A) SECV Reservation areas and Flynns Creek.
 - . South of Traralgon between the Traralgon Creek and the Jeeralang North Road and a line running north from the Firmins Lane, Hazelwood Road intersections and the Princes Highway.

For open cut areas, the greatest fire hazard is presented by intense rural fires burning into production areas under severe fire weather conditions.

Fire histories indicate that these are usually high temperatures, low humidities and strong winds from the north to the west or under the influence of a strong south-westerly change.

The first two areas would provide local protection to the Yallourn and Maryvale coal areas from rural fires originating in native forest land 10-30 km north to north-west of the Latrobe Valley and would provide adequate distance to minimise "spotting" hazards.

The last two areas would provide local protection to the Loy Yang coal areas from potential forest fire threats emanating from the north and north-west.

The Princes Highway has been proposed as the northern boundary for the Special Policy Area east of Traralgon on the assumption that the Latrobe River flood plains would not be suitable for substantial treed areas.

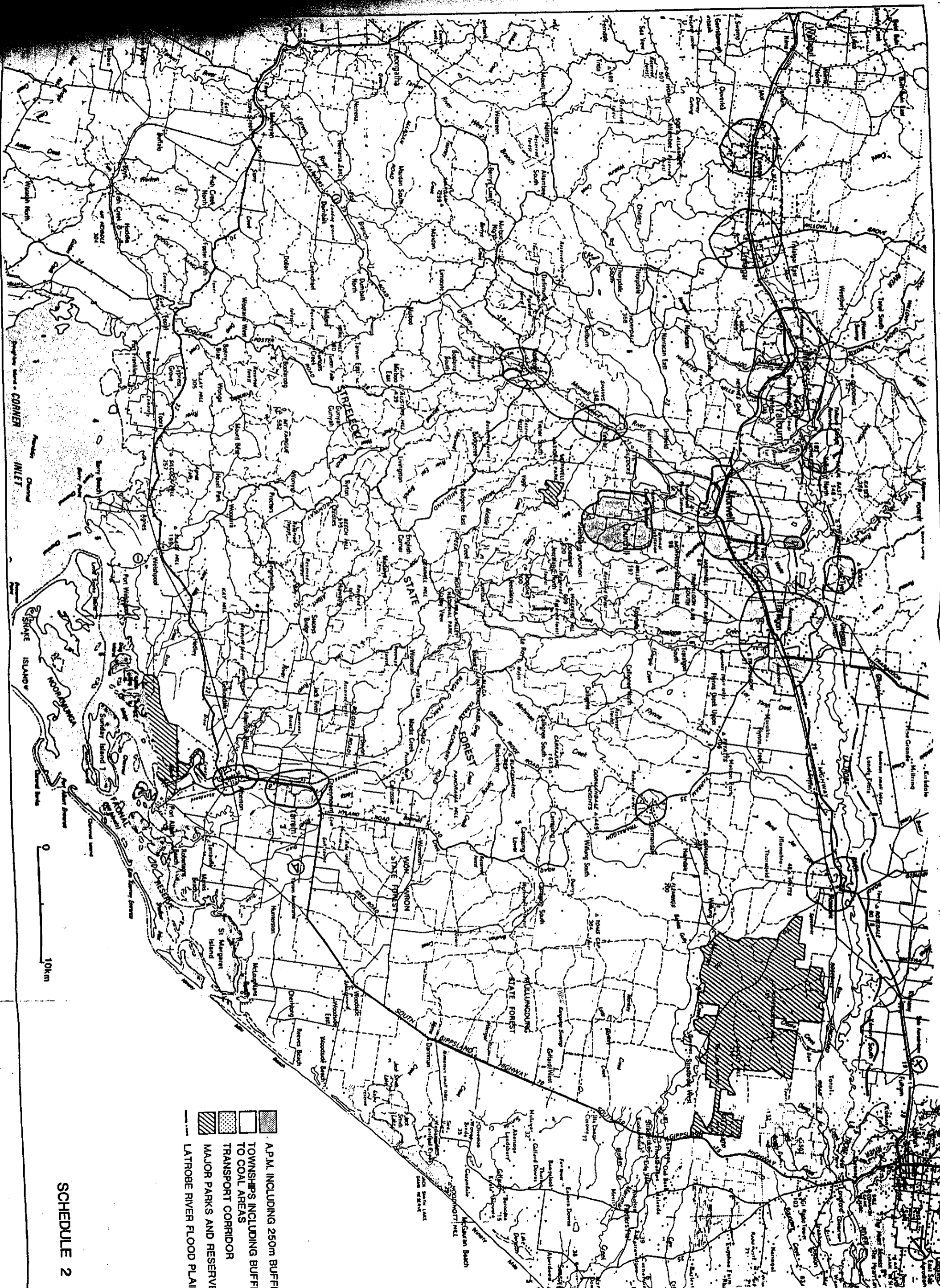
The Special Policy Area for Fire would also apply to the area south of the Princes Highway, bounded by the Driffield coal area proposed Reservation on the east and by Rosatos Road, the Moe-Thorpdale Road, and the Morwell-Thorpdale Road. This land is predominantly APM land, and in practice no fire problems would be expected with this land, but it should also be covered in principle to protect the Driffield coalfield.

The Special Policy Area for Fire would also apply to the following Urban Buffers shown in "Framework":


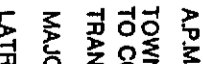
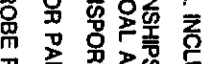
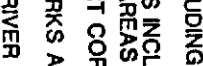

- . Morwell, west of Alexanders and Tramway Roads.
- . Traralgon south of the Princes Highway."

APPENDIX 3

STATEMENT OF PLANNING POLICY NO 9
SCHEDULE NO 2



SCHEDULE 2

-  A.P.M. INCLUDING 250m BUFFER
-  TOWNSHIPS INCLUDING BUFFER TO COAL AREAS
-  TRANSPORT CORRIDOR
-  MAJOR PARKS AND RESERVES
-  LATROBE RIVER FLOOD PLAN