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Submission on potential water access for Latrobe coal mine rehabilitation

We welcome the opportunity to contribute to this consultation on the pricing of surface water access for coal mine rehabilitation in the Latrobe Valley. Until now, the details of coal operators' decades of bulk water entitlements have been kept from public scrutiny. This consultation represents a new era of transparency, and we commend Minister Tierney for her leadership.

About Environment Victoria

Environment Victoria is the leading not-for-profit environmental advocacy organisation in Victoria. With 96 grassroots member groups and over 200,000 individual supporters, we've been representing Victorian communities on environmental matters for over 55 years. Through advocacy, education and empowerment, Environment Victoria seeks significant and enduring solutions that will safeguard the environment and future wellbeing of all Victorians.

We've worked alongside Latrobe Valley communities for many years to advocate for a fair and responsible transition beyond coal. For decades, our state has benefited from the electricity generated in the Latrobe Valley — often at great cost to local people, rivers, and Country. Mine rehabilitation is a critical justice issue: those who profited from coal must now contribute to repairing the damage, restoring the Durt'Yowan or Latrobe River system, and supporting a healthier future for the region.

Introduction

Environment Victoria strongly supports the principle that mine operators must pay a fair price for access to water for mine rehabilitation. The Durt'Yowan, as it is known to Gunaikurnai people, is one of the longest rivers on Gunaikurnai Country. Many of the

Durt'Yowan's tributaries are of great significance to water flows and have shaped how people traditionally travelled around the Country of the Brayakaulung clan of the Gunaikurnai people. No price can realistically account for removing such vast amounts of water from this precious system, but this is an opportunity to bring the price that mining companies pay closer to the opportunity cost of this water, as outlined in the Ricardo expert report, and to make it consistent with prices paid by other commercial users, such as local farmers (Ricardo, 2025). Crucially, any revenue raised must be directed to environmental restoration of the Durt'Yowan and the Gippsland Lakes, which have endured more than a century of degradation due to the high water consumption of coal-fired power generation and other industry.

We note that, over the time the power stations have been operating, a proportion of the water taken to support power generation has returned to the rivers after its use. The switch to water being used for rehabilitation will change this aspect of the water entitlement. No water taken for rehabilitation will be returned to the system, so even an entitlement that matches an operator's historical average take will mean net loss to the river compared to the status quo. These stressed and degraded river systems are therefore now facing even greater long-term deficit flows as water is permanently removed to fill mine pits. As a result, it is even more crucial that the price of water directly relates to its true value, to ensure local rivers, wetlands and communities aren't left paying the cost of cleaning up privately owned mines and to contribute to a more resilient future for Gippsland.

Environment Victoria recommends:

- Mine operators must pay a fair price for water, consistent with its opportunity cost and reflective of environmental and cultural value.
- That price should be set at the higher end of the Ricardo range — \$260 to \$300 per megalitre — with an annual escalation rate that accounts for inflation, increasing scarcity and uncertainty due to climate change, competition and ecosystem effects. Pricing over time should consider Victoria's Climate Science Report which is required to be updated every five years under the *Climate Change Act 2017*.
- Pricing must also incorporate the value of ecosystem services currently provided by the Latrobe River system — including sediment and nutrient filtration, support for native fish and other fauna, wetland regeneration, and cultural flows — which are lost when water is permanently removed.
- All revenue raised should be ringfenced and transparently reinvested in river health and local restoration projects, guided by Traditional Owners and the West Gippsland Catchment Management Authority.

Water Justice

The Latrobe River — or Durt'Yowan as its known to the Gunaikurnai people— and the Gippsland Lakes have already borne the costs of coal-fired power generation for over a century. The West Gippsland Catchment Management Authority's *Transformation of the Latrobe* outlines the urgent need for repair: degraded wetlands, disconnected floodplains, declining native species, and reduced cultural access.

For Gunaikurnai Traditional Owners, this is not just environmental degradation — it is the continuation of colonial water theft. As the Yoorrook Justice Commission (2024) has recognised, Victoria's water laws and markets have developed on the false premise that Traditional Owners ceded water sovereignty. They did not.

As Environment Victoria noted in our response to the Yoorrook Justice Commission's final report: "First Peoples are the original owners of water in every river, stream, lake and creek – but they currently hold less than 0.2% of water entitlements in Victoria."

The Commission recommends that newly available water be allocated first to Traditional Owners (Recommendation 21e), and that the Victorian Government acknowledge that water on Aboriginal land is owned by Aboriginal people (Recommendation 31h).

This consultation on mine rehabilitation water pricing presents an opportunity to fund water restoration projects, including those led by Traditional Owners. However, in deciding bulk water entitlements it is crucial that the Minister consider how Gunaikurnai self-determined water strategy, and the environmental needs of the river system, will be met.

The legacy of coal mining on our rivers and wetlands

The Latrobe River and Gippsland Lakes have already been significantly impacted by a century of coal-fired power generation. West Gippsland Catchment Management Authority's *Transformation of the Latrobe* plan outlines the dire condition of the river system and the urgent need for restoration.

For example, the Latrobe River is often disconnected from its floodplain, reducing the natural filtration and sediment capture benefits these systems provide. In 2019, WCGMA recorded significant ecological degradation in priority wetlands due to prolonged low flows. The Seacombe and Dowd Morass wetlands have suffered recurring algal blooms, and native fish populations such as Australian grayling are declining due to barriers to movement and low dissolved oxygen levels. The transformation plan also highlights the loss of culturally significant sites, where Traditional Owners can no longer conduct ceremony or access ancestral waters (WCGMA, 2023).

The proposal to remove around 63GL/year to fill the Yallourn and Loy Yang mines, in addition to the water Engie plans to use to fill Hazelwood mine (under private water agreements with Gippsland Water), will permanently lower flows. When the equivalent water was used for power generation, “significant volumes” of that water were returned to the Latrobe River System following its use in the process of power production. This water was then able to be used by irrigators and provided benefits to the environment (DEECA, 2023). In contrast, the water used for mine rehabilitation will be retained in the mine, with no significant volume returned to rivers.

The Latrobe River has been heavily modified over the past century. Flow regulation, extractions for coal generation, and loss of connectivity to floodplains have all contributed to a river that no longer functions as a healthy ecosystem. The Gippsland Lakes, into which the river flows, are internationally recognised under the Ramsar Convention for their global ecological significance, yet face increasing salinity, algal blooms, and ecological stress due to reduced freshwater inflows.

Coal power generation is historically the biggest contributor to Victoria’s greenhouse gas emissions by far and still contributes almost half of current emissions (DEECA, 2023). Climate change is altering the water cycle in Gippsland. Winter rainfall is declining over the long term and extreme rainfall events are expected to become more intense (DEECA, 2024). We need to invest in Gippsland’s catchments to boost their resilience to an increasingly stressed and uncertain climate.

A fair price is one that better reflects the opportunity cost of the river water - the value the water could bring if it wasn’t removed for mine rehabilitation. The determination of opportunity cost should include the potential of additional cultural flows to realise Traditional Owner water rights, the value of ecosystem services provided by the water and the numerous and widespread benefits that a thriving Latrobe River System and Gippsland Lakes would bring to the local community, such as recreation and tourism.

Surface water in the Latrobe River system is constrained and hence its use for mine rehabilitation carries a high opportunity cost. Allocating water to fill coal pits means it is no longer available for other purposes, such as agriculture, urban supply, ecosystem services or Traditional Owner water rights.

Current irrigation prices in the region range from \$210 to \$300/ML, reflecting the high demand and productive value of water in Gippsland. By contrast, we understand past

arrangements allowed the owners of power stations and mines to access water for free, paying only for related infrastructure.

A fair price for mine rehabilitation must reflect what others would pay and what is lost when water is diverted for private purposes. The Ricardo report recommends a price range of \$200–\$260/ML, with real annual escalation of up to 5% (Ricardo, 2025, p. 32).

Environment Victoria supports setting the price at the upper end or above this range — \$260–\$300/ML, increasing annually at a rate that reflects the rising value of water in a climate-stressed future (Ricardo, 2025, pp. 6–7, 26–27). We recommend an annual escalation rate that is calculated taking into account actual inflation, increased scarcity and uncertainty due to climate change, competition and ecosystem effects. Pricing calculations should prioritise rigor over convenience: the government should base escalation on contemporary real-world data including the Victorian Climate Science Report, and avoid projections that tend to underestimate real prices.

Ecosystem Services

The Latrobe River provides critical ecosystem services that support both people and Country. These include:

- Nutrient and sediment filtration via floodplain and wetland systems
- Fish spawning and migration supported by seasonal high flows
- Dissolved oxygen regulation that prevents fish deaths and algal bloom
- Habitat maintenance for native species and aquatic ecosystems
- Resilience to salinity and acidification, which could worsen with pit lakes

For too long, AGL and other coal generators have taken large volumes of water from the river system at zero cost. Friends of Gippsland Lakes' submission and WGCMA's *Transformation of the Latrobe* plan both highlight that ecosystem services provided by the river are already under strain due to flow reductions. Taking more water — even in wetter months — undermines the river's ability to recover (WGCMA, 2023).

These ecosystem services support biodiversity, cultural practice, and recreational use, and are foundational to the long-term health and liveability of the region. If flows are reduced, the cost is borne by communities and governments through increased restoration expenses, environmental decline, and loss of public value. These losses don't appear on a financial balance sheet, but they represent a hidden and growing debt.

The cost of lost ecosystem services must be recognised in any pricing decision. Otherwise, Gippsland communities and future governments will carry the burden of restoring systems that have been degraded by private companies.

Underpriced river water distorts decision-making on alternatives

Until now, decision-making about mine rehabilitation has relied on a distorted status quo on water pricing. As we understand it, coal operators pay only for infrastructure costs and are gifted the water for free.

Freedom of Information documents obtained by community group Friends of Latrobe Water (FLoW) showed that alternative sources of water for rehabilitation were ruled out as economically unfeasible by a technical study (commissioned for the Latrobe Valley Regional Rehabilitation Strategy) that relied on an artificially low comparison price of \$11.55/ML price for river water (DEECA, 2024).

More efficient pricing that factors in the full opportunity cost of water, as recommended by the Ricardo report, may prompt reconsideration of alternative water sources for mine rehabilitation, such as recycled water. If fairer pricing means that recycled water is used for at least some of the fill and reliance on Latrobe River water is reduced, this is likely to be a better outcome for local waterways, Traditional Owners, farmers and other stakeholders.

Revenue must be reinvested in the health of the Latrobe system

Any funds raised from water pricing should be reinvested into Gippsland, and specifically the Latrobe River system and Gippsland Lakes. Working with local stakeholders the WGCMA has developed a long-term plan for restoring the Latrobe River system, including wetland restoration, fish ladders, land acquisition for floodplains, and returning flows to culturally and ecologically significant sites. Revenue from water access charges could support this vision — repairing landscapes damaged by overextraction and delivering lasting benefits for people, culture and nature.

The WGCMA is uniquely positioned to lead this work, with decades of catchment management experience, strong relationships with local landholders and Traditional Owners, and a well-developed strategy that can begin implementation immediately.

We recommend the funding be allocated to support vital restoration and operational works, as outlined in the WGCMA's plan for the Latrobe River system. This funding should be ringfenced such that it is spent on river restoration in Gippsland, with transparent and regular reporting of budgeting and expenditure. It should not go into consolidated revenue nor should it be stockpiled. To ensure transparency and accountability, the fund should be managed in collaboration with informed community stakeholders and Gunaikurnai Land and Waters Aboriginal Corporation (GLaWAC).

Conclusion

This consultation on pricing marks a positive new approach to managing the rehabilitation of the Latrobe Valley's coal mines. We commend the Minister for Water for taking this responsible and overdue step toward transparency and accountability.

This consultation relates to pricing, but pricing alone cannot determine the future of our rivers. Surface water in the Latrobe system is a scarce and vital public resource. Its role in sustaining ecosystems, communities and culture must be central to every decision — not just how much is paid for it, but how much can be taken.

The Minister's decision about AGL's water application as a whole, the volume of water granted and the conditions applied, will establish an important precedent for the other mines. Decisions must be made in the public interest, with full transparency, rigorous assessment of environmental and cultural risks, and genuine engagement with Traditional Owners and local communities.

Setting a fair price is necessary — and it must be part of a broader commitment to protect and restore the Latrobe River system for future generations.

Once again we thank the Minister for her leadership on this issue. Please feel free to contact me on the details below should you wish to discuss our submission in more detail.

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