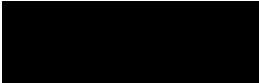


24th July 2020

Planning Implementation Team
Strategic Extractive Resource Areas Pilot Project
Department of Environment, Land, Water and Planning
P. O Box 500
EAST MELBOURNE VIC 3002

Attn Planning Implementation Team,



**RE: STRATEGIC EXTRACTIVE RESOURCE AREAS PILOT PROJECT – CITY OF WYNDHAM
EYNESBURY ESTATE**

This submission has been prepared by Eynesbury Township Pty Ltd, the owner of the Eynesbury Estate (the Estate), in response to the Department of Environment, Land, Water and Planning’s Strategic Extractive Resource Areas pilot project pertaining to the City of Wyndham.

In making their submission, Eynesbury Township Pty Ltd:

- Acknowledges the existence of *Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas)* within the Wyndham Planning Scheme.
- Notes that through the proposed pilot project in Wyndham, mapping is introduced that identifies the Estate as being location within an Extractive Industry Interest Area (EIIA) via the Reference Document *‘Strategic Extractive Resource Areas Pilot Project Report (Victorian State Government, 2020)’* at *Clause 14.03-1S (Resource Exploration and Extraction)*.
- Notes the abutting land to the south and west of the Estate is proposed to be a Strategic Extractive Resource Area (SERA) and as such a State Resource Overlay (SRO) is proposed to be applied to the said land.
- Understands the Special Use Zone – Schedule 6 is only proposed to be applied to existing extractive industry operations.

Background to the Eynesbury Estate

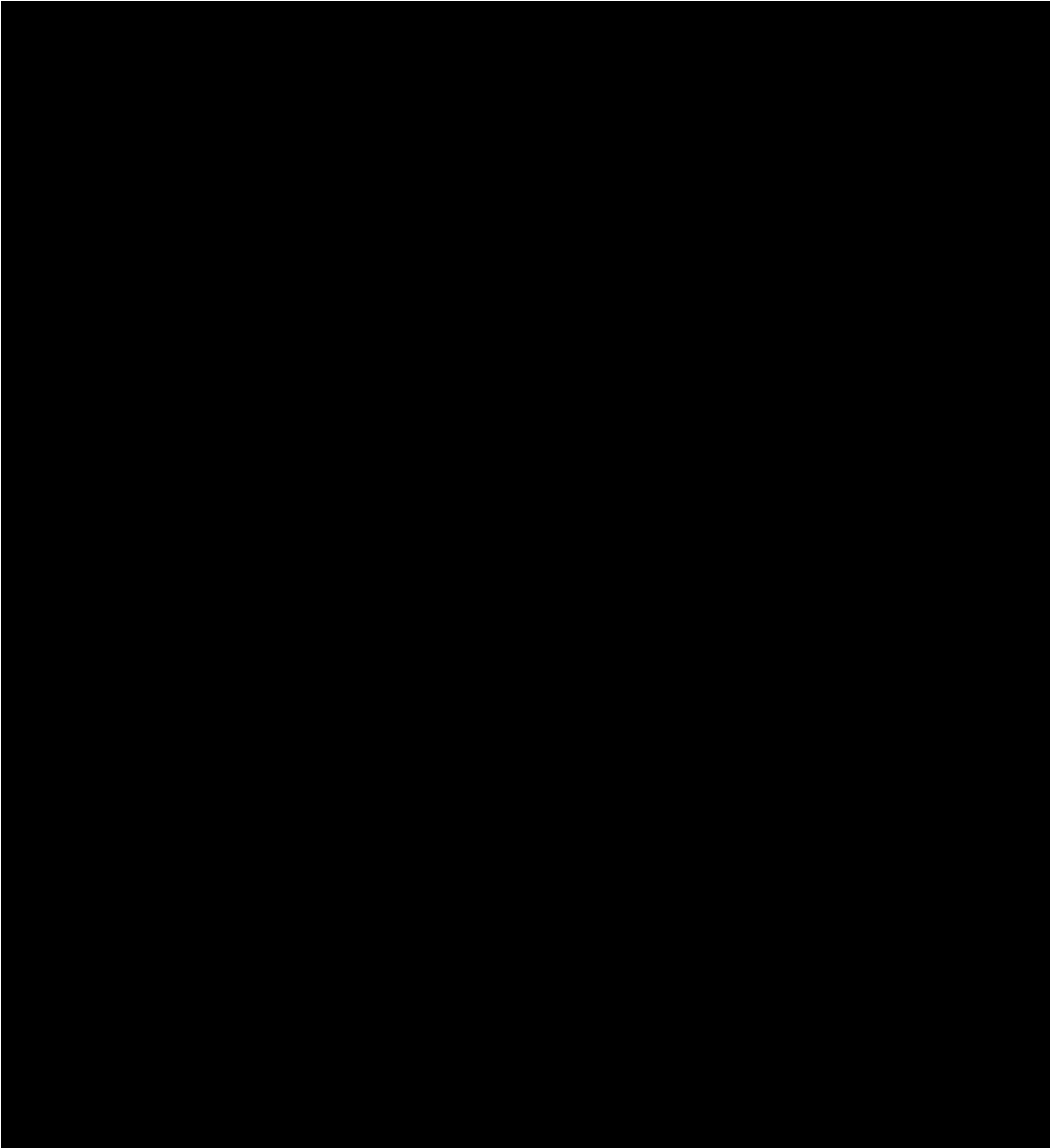
The staged subdivision and development within the Estate is guided by two strategic documents:

- The *‘Eynesbury Station Incorporated Plan, September 2001’*.
- The approved *‘Eynesbury Township Development Plan’*. The latest version of the Development Plan was approved in 2013. As the Estate straddles the local government area boundary between the Cities of Wyndham and Melton, each Council has approved separate copies of the Development Plan.





The total development area covered by the Eynesbury Township Development Plan and corresponding Mixed Use Zone, in both Melton and Wyndham, comprises approximately 1,224 hectares in an irregular shape. It is located approximately 40km west of the Melbourne CBD, 10km south of the Melton Township and 13km north-west of the Werribee town centre. The Estate is clearly identified at Figure 32 of the public exhibited *Strategic Extractive Resource Areas Pilot Project: Draft Report*. Refer to Figure 1 below, which identifies the estate through its red Mixed Use Zone designation.



The land is generally bound by Exford Road to the north, Ballan Road to the south, Werribee River to the east and

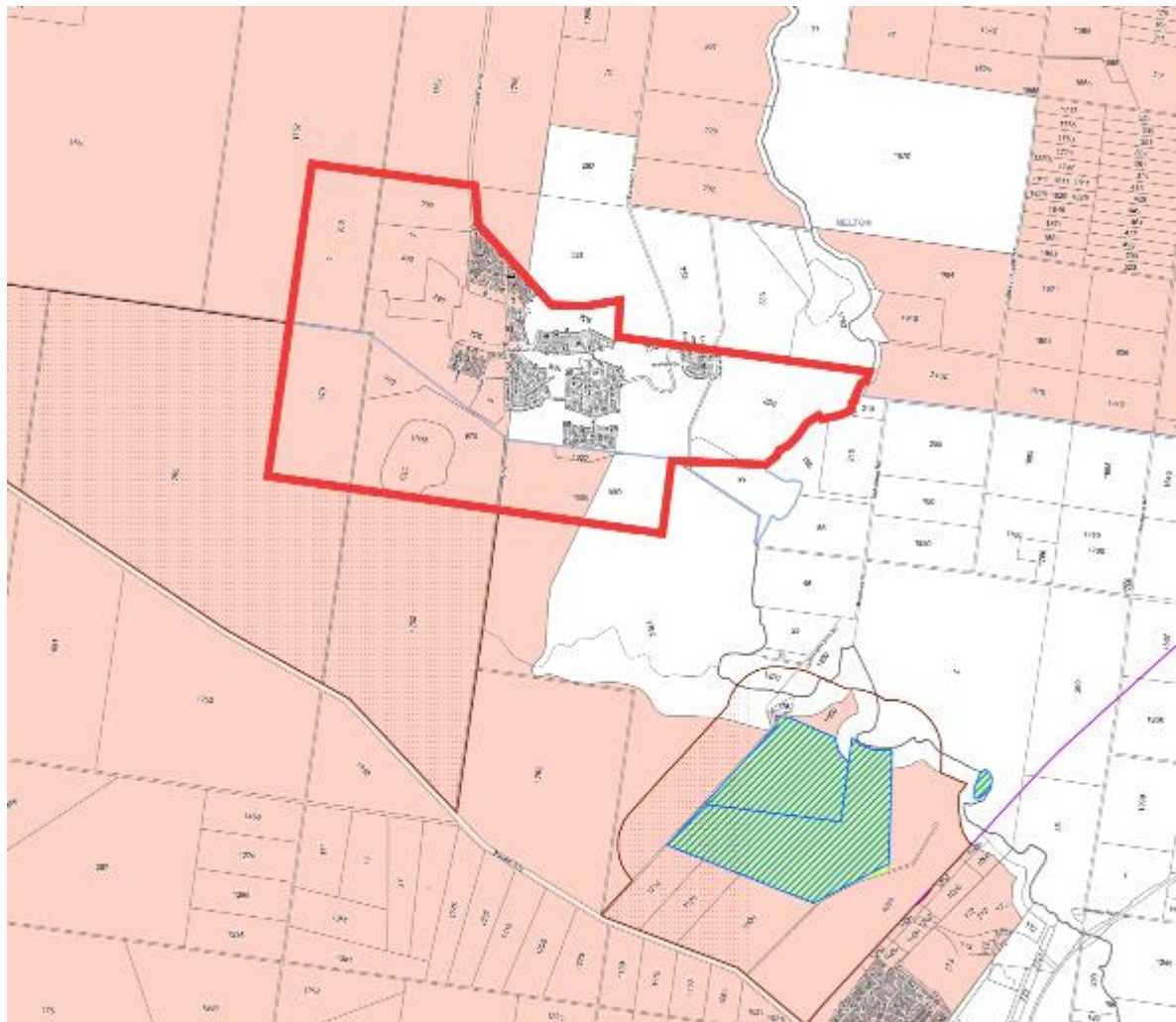


Figure 4 | Eynesbury Estate within the Extractive Industry Interest Area

As such, the proper and orderly planning that has occurred since the early 2000s at the Estate in accordance with the established planning control framework does not appear to be properly recognised in the proposed planning control framework being pursued via this pilot program. Such recognition would:

- Not continue to nominate the Estate as an EIIA at proposed *Clause 14.03-1S (Resource Exploration and Extraction)*.
- Not require an application to use or develop land within the Estate and on land zoned Mixed Use Zone (such as a dual occupancy, or a supermarket) to be subject to the provisions of *Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas)*. In this regard, *Clause 52.09-1 (Application)* states:

This clause applies to an application to use or develop land:

- *For extractive industry;*

- *Within an Extractive Industry Interest Area; or*
- *Within 500 metres of an existing or proposed extractive industry operation.*

(underlined to emphasise)

- Not require a proposal that is in accordance with an approved Incorporated Plan and Development Plan to be advertised. In this regard, proposed 52.09-7 (*Notice of an application*) states:

Notice of the following kinds of applications must be given in accordance with section 52(1)(c) of the Act to the Secretary of the Department administering the Mineral Resources (Sustainable Development) Act 1990:

- *An application to use or subdivide land or construct a building for accommodation, child care centre, education centre or hospital:*
 - *Within an Extractive Industry Interest Area.*
 - *On land which is within 500 metres of land on which a work authority has been applied for or granted under the Mineral Resources (Sustainable Development) Act 1990.*

(underlined to emphasise)

- Not nominate a SERA, through the application of a State Resource Overlay, along the southern and western interfaces of the Estate. This action has the potential to result in an ‘agent of change’ commencing activities associated with an extractive industry in proximity to the Estate and the Western Grassland Reserve. This is not considered to be demonstrative of proper and orderly planning in this part of Wyndham.
- It is unclear why the proposed State Resource Overlay does not apply to land to the north and west of the Estate, given this land has also been identified since 1996 as an area with potential resources (pink shading in below map).
- The land subject to the State Resource Overlay to the south and west of the Estate is irregular in shape and may not facilitate an efficient extractive industry operation, noting its varying widths (in a north – south alignment).
- The SERA nomination of the abutting land appears to also apply to a road reserve (commonly referred to as Mt Mary Rd) that Eynesbury Township Pty Ltd are required to privately fund and deliver as part of a Section 173 Agreement associated with the staged delivery of the Estate, to provide road access south to Wyndham Vale and Werribee.

As Eynesbury Township Pty Ltd is required to fund and deliver Mt Mary Road, along with a similar road extending in a northerly direction from the Estate to Exford Road (Green Hill Rd), there will be a continuous road network extending through the Estate. The SERA proposition could result in unanticipated truck movements within the Estate as a consequence of the improved accessibility between extractive industry sites within the City of Wyndham and development fronts within the City of Melton. These truck movements have the potential to generate considerable unreasonable amenity impacts.

Eynesbury Township Pty Ltd’s Recommendations regarding the Strategic Extractive Resource Areas pilot project

Whilst appreciating the importance of ensuring ongoing accessibility to high quality extractive materials in response to current and future population growth in Victoria, Eynesbury Township Pty Ltd has serious concerns that, through introducing the Reference Document ‘*Strategic Extractive Resource Areas Pilot Project Report (Victorian State Government, 2020)*’ at *Clause 14.03-15 (Resource Exploration and Extraction)* of the Wyndham Planning Scheme, a range of unintended consequences will arise. At present, the Wyndham Planning Scheme does not reflect historical extractive industry mapping. Indeed, Eynesbury Township Pty Ltd understand the EIAs

have never been reflected formally in the Victorian Planning Provisions.

Specifically, the EIIA mapping undertaken in the 1990s has not been vetted against current land use and development activities occurring in accordance with the adopted planning controls framework in this area. A review of the Wyndham Planning Scheme as part of the SERA pilot project would have identified the well established planning control framework and residential community at the Eynesbury Estate.

Therefore, Eynesbury Township Pty Ltd provide the following recommendations:

- Remove the entire 1,122 hectare Mixed Use Zone site from Figure 8 of the Reference Document '*Strategic Extractive Resource Areas Pilot Project Report (Victorian State Government, 2020)*' at *Clause 14.03-1S (Resource Exploration and Extraction)* of the Wyndham Planning Scheme.

The retention of such a classification in the '*Strategic Extractive Resource Areas Pilot Project Report (Victorian State Government, 2020)*' is considered to result in outcome whereby a proposal entirely in accordance with the approved Incorporated Plan and Development Plan for the Estate must be assessed against the provisions of *Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas)*, including being advertised.

It is not considered the changes proposed to Clause 14.03-1S were intended to require the submission of a planning application for a dual occupancy or a supermarket within the town centre of the Eynesbury Estate.

- The Estate is subject to a well established planning control framework. At present, the approved Eynesbury Development Plan contemplates 4,500 lots (circa 12,000 residents), supported by a town centre comprising a range of retail, commercial and entertainment uses, multiple schools, community uses and an integrated open space network. Importantly, the approved Development Plan does not apply to all of the land subject to the Mixed Use Zone classification or covered by the Incorporated Plan Overlay and Development Plan Overlay.

As such, it should be anticipated that the Estate will accommodate urban development in the future to the full extent of its 1,224 hectare site area, including to the site's southern and western boundaries. Therefore, the nomination of land directly adjacent to the site's southern and western interfaces as a SERA with the associated application of a SRO should be reconsidered. In this regard, the SRO establishes the potential for an 'agent of change' (i.e. a new quarry) operating in proximity to the Estate, prejudicing the future master planning of the Estate to the full extent of its Mixed Use Zone designation.

At this point in time, the SRO does not set out how an extractive industry will minimise the amenity impacts on existing residential areas, and the only guidance is contained within the Decision Guidelines of *Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas)*:

Before deciding on an application to use and develop land for extractive industry, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- *The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area.*

Of note, the above decision guideline only uses the term 'surrounding area', with no specific reference to sensitive uses or residential uses.

Therefore, the provisions of the SRO, in prioritising land for extractive industry activities, should also incorporate policy guidance which ensures any new extractive industry has regard to existing residential uses on abutting land. This could be achieved by ensuring there is explicit planning policy requiring a minimum 500m buffer between any new extractive industry on land subject to an SRO and an existing residential use on abutting land not covered by an SRO. Furthermore, the new extractive industry, when calculating its required buffer distance, should only be relying upon land covered by the SRO. This will ensure that the Mixed Use Zone land within the southern and western portions of the Estate not presently occupied by residential dwellings are not prevented from future residential development.

It is also noted that reference is made to *Clause 52.09-8* at exhibited *Clause 66.05 (Notice of Permit Applications under State Standard Provisions)*. At this point in time, the exhibited version of *Clause 52.09 (Extractive Industry and Extractive Industry Interest Areas)* only contains sub clauses 1 to 7. In the event proposed *Clause 52.09-8* exists, Eynesbury Township Pty Ltd request the opportunity to review it and provide comment, if required.

Eynesbury Township Pty Ltd look forward to engaging further with the Department of Environment, Land, Water and Planning on this matter to ensure the Estate is property recognised before the exhibited pilot program in the City of Wyndham is approved.

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