

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **SUSTAINABLE COMMUNITIES**

**18 JULY 2016**

**7.1**

**PLANNING SCHEME AMENDMENT C107 -  
FORMER SHELL SITE, SEYMOUR**

**Attachment No: 1**

**Planning Scheme Amendment Documentation**

## MITCHELL PLANNING SCHEME

### AMENDMENT C107

#### EXPLANATORY REPORT

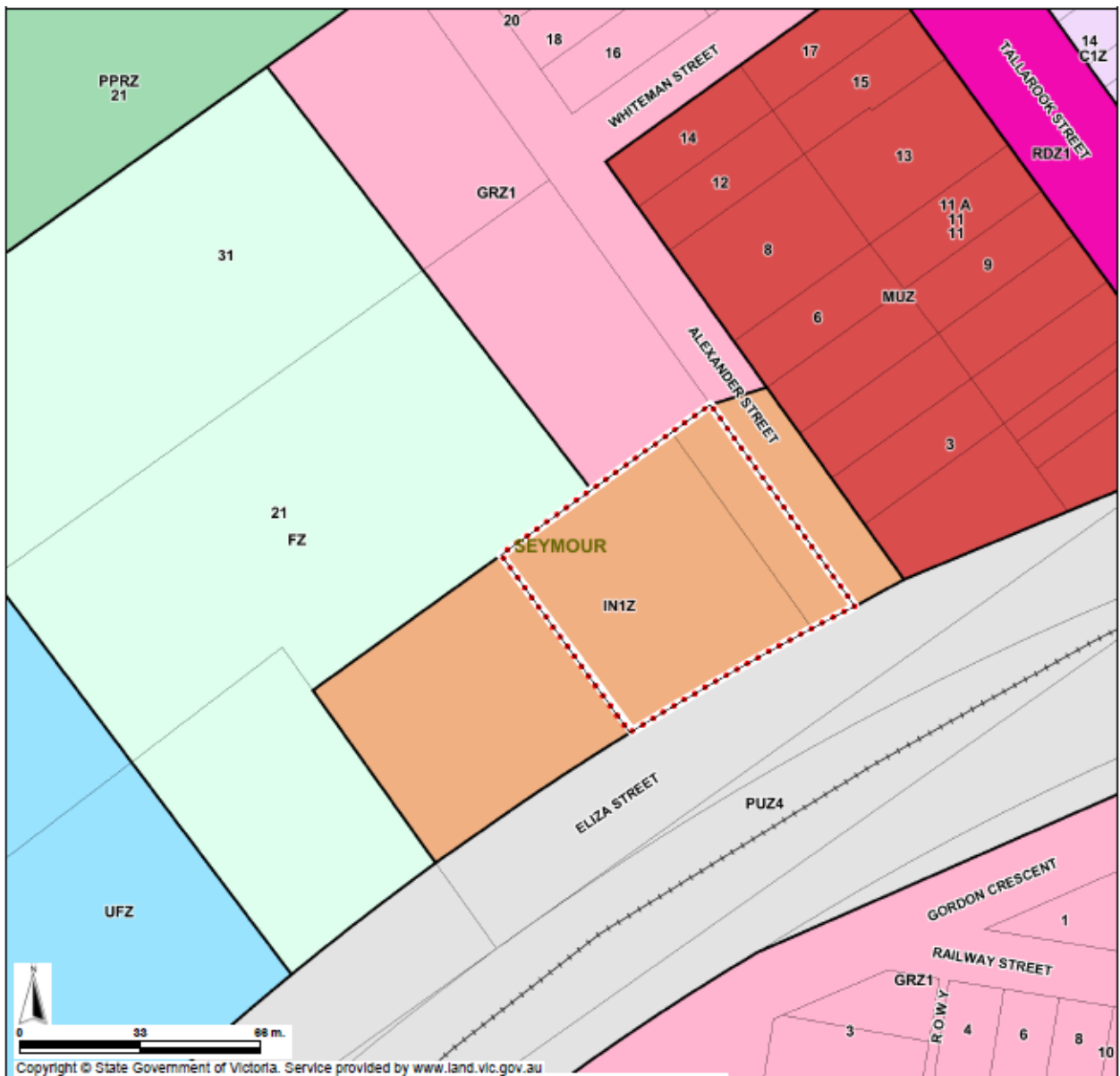
#### Who is the planning authority?

This amendment has been prepared by the Mitchell Shire Council, which is the planning authority for this amendment.

The amendment has been made by Aecom on behalf of Viva Energy Australia Ltd (formerly Shell Australia).

#### Land affected by the amendment

The amendment applies to land at 122 Eliza Street, Seymour (Lot 1 & 2 TP244007), as shown on the following map:



## **What the amendment does**

The amendment will apply an Environmental Audit Overlay (EAO) to the subject land. The purpose of the EAO is to ensure that potentially contaminated land is suitable for a sensitive use and/or development.

The EAO requires appropriate environmental management documentation accompanies planning applications for future development and use of the land.

## **Strategic assessment of the amendment**

### **Why is the amendment required?**

The proposed Planning Scheme Amendment is required to recognise the site's former use as a fuel depot, and to ensure future use and/or development considers soil and groundwater conditions prior to development of the site, particularly for sensitive uses.

Based on soil and groundwater data obtained at the site, no human health risks have been identified for future non sensitive uses under the Industrial 1 Zoning. However, at this stage, the site is not suitable for sensitive uses (defined as residential use, a childcare centre, a pre-school centre or a primary school).

The introduction of an Environmental Audit Overlay (EAO) to the land ensures that appropriate site management accompanies future planning permit applications for sensitive uses. The EAO would result in the need for an Environmental Audit to be undertaken on the land; or for a Certificate or Statement to be obtained in accordance with the *Environmental Protection Act 1970* from an Environmental Auditor, prior to the construction of buildings and works for a sensitive use.

It is important to note that the introduction of an EAO will not prevent the site from being used and developed for appropriate industrial uses permitted under the current zoning. However, it will prevent a planning permit from being issued for a sensitive use until a 53X audit is completed and a Certificate or Statement of Environmental Audit is issued.

### **How does the amendment implement the objectives of planning in Victoria?**

The amendment implements the objectives of planning in Victoria pursuant to section 4 of the *Planning and Environment Act 1987* by ensuring that the appropriate overlay control is placed over the site for the future proper and orderly planning of the site.

The amendment assists in implementing the following objectives:

- 1(a) - to provide for the fair, orderly, economic and sustainable use, and the development of land;
- 1(c) - to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and
- 1(g) - to balance the present and future interests of all Victorians.

### **How does the amendment address any environmental, social and economic effects?**

#### *Environmental Effects*

Environmental assessments of the subject land have identified some impacts on the site consistent with its past use as a fuel depot. Current impacts on site suggest that the site is not suitable for sensitive uses in its current condition.

The amendment requires that appropriate environmental management accompanies future development and use of the land for a proposed sensitive use. The EAO would result in:

- the need for an Environmental Audit to be undertaken on the land; or

- for a certificate or statement to be obtained in accordance with the *Environmental Protection Act 1970*, from an Environmental Auditor, prior to the construction or the carrying out of buildings and works in association with a sensitive use.

#### *Social and Economic Effects.*

The site currently offers no social or economic benefits to the region as the site is redundant and disused. Viva Energy is reluctant to divest the site due to the potential of a future land owner using the site for a sensitive use. The amendment is expected to have a number of positive social and economic impacts, including allowing for the reuse and redevelopment of the site consistent with its current Industrial 1 Zoning, whilst ensuring that sensitive uses would be managed appropriately in the future.

#### **Does the amendment address relevant bushfire risk?**

The site is not subject to the Bushfire Management Overlay and will not impact upon bushfire risk in this area.

#### **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7(5) of the Act.

This amendment is affected by *Ministerial Direction No 1 – Potentially Contaminated Land*, which seeks to ensure that potentially contaminated land is thoroughly assessed prior to any new use or development taking place on the site.

This Direction defines potentially contaminated land as; *land used or known to have been used for a) industry, b) mining, or c) the storage of chemicals, gas, wastes or liquid fuels (if not ancillary to another use of the land).*

This amendment introduces an EAO to manage potential contamination from the previous industrial land use(s).

This amendment is consistent with *Ministerial Direction No.11 – Strategic Assessment of Amendments*. The purpose of this Direction is to ensure that a comprehensive strategic evaluation of a planning scheme amendment takes place.

#### **How does the amendment support or implement the State Planning Policy Framework and any adopted State policy?**

The amendment supports the following principles of the State Planning Policy Framework:

- *Clause 13 – Environmental Risks* - By adopting best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. In particular, clause 13.03-1 *Use of potentially contaminated land* is relevant and aims to ensure that potentially contaminated land is suitable for its intended future use and development, and that contaminated land is used safely. The policy requires applicants to provide adequate information on the potential for contamination to have adverse effects on the future land use, where the subject land is known to have been used for industry, mining or the storage of chemicals, gas, wastes or liquid fuel.

#### **How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement?**

The amendment is consistent with the Local Planning Policy Framework including:

- *Clause 17.02 – Economic Development – By strategically planning and protecting industrial areas.*

### **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment makes proper use of the Victorian Planning Provisions through the application of the Environmental Audit Overlay over the site. This will ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

This amendment supports:

- *Clause 45.03 – Environmental Audit Overlay – By providing an Overlay to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.*

The application of an Environment Audit Overlay is an appropriate planning mechanism to undertake when dealing with contaminated land.

### **How does the amendment address the views of any relevant agency?**

The proponent met with EPA in 2013 to discuss the site status and present the forward plan for the site. The proponent also prepared a letter to the EPA in 2015 on the site status and of the proposed Planning Scheme Amendment to apply an EAO to the site to ensure an Environmental Audit is triggered if a sensitive use is planned for the site. The EPA raised no objection to this process.

This amendment has been prepared in consultation with affected agencies and will further incorporate, where appropriate, the views and requirements of such agencies.

### **Does the amendment address relevant requirements of the Transport Integration Act 2010?**

The Planning Scheme Amendment will have no impact on the requirements of the *Transport Integration Act 2010*.

### **Resource and administrative costs**

#### **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The amendment is unlikely to have a significant impact on resources and administrative costs of the Responsible Authority. There is not expected to be any significant increase in the number of planning permit applications or legal costs as a result of the proposed amendment.

### **Where you may inspect this Amendment**

The amendment is available for public inspection, free of charge, during office hours at the following places:

Seymour Library, 125 Anzac Avenue, Seymour

Mitchell Shire Council website: [www.mitchellshire.vic.gov.au](http://www.mitchellshire.vic.gov.au)

The amendment can also be inspected free of charge at the Department of Transport, Planning, and Local Infrastructure website at [www.delwp.vic.gov.au/public-inspection](http://www.delwp.vic.gov.au/public-inspection).

## **Submissions**

Any person who may be affected by the Amendment may make a submission to the planning authority. Submissions about the Amendment must be received by Thursday 21<sup>st</sup> April 2016.

A submission must be sent to:

113 High Street

Broadford

VIC 3658

## **Panel hearing dates**

In accordance with clause 4(2) of Ministerial Direction No.15 the following panel hearing dates have been set for this amendment:

- directions hearing: The week commencing 20<sup>th</sup> June 2016
- panel hearing: The week commencing 18<sup>th</sup> July 2016

*Planning and Environment Act 1987*

**MITCHELL PLANNING SCHEME**

**AMENDMENT C107**

**INSTRUCTION SHEET**

The planning authority for this amendment is the Mitchell Shire Council.

The Mitchell Planning Scheme is amended as follows:

**Planning Scheme Maps**

The Planning Scheme Maps are amended by a total of 1 attached map sheet.

***Overlay Maps***

1. Insert new Planning Scheme Map No.12EAO in the manner shown on the 1 attached map marked "Mitchell Planning Scheme, Amendment C107".

***Planning Scheme Ordinance***

The Planning Scheme Ordinance is amended as follows:

2. In General Provisions - Clause 61.03, replace the Schedule with a new Schedule in the form of the attached document.

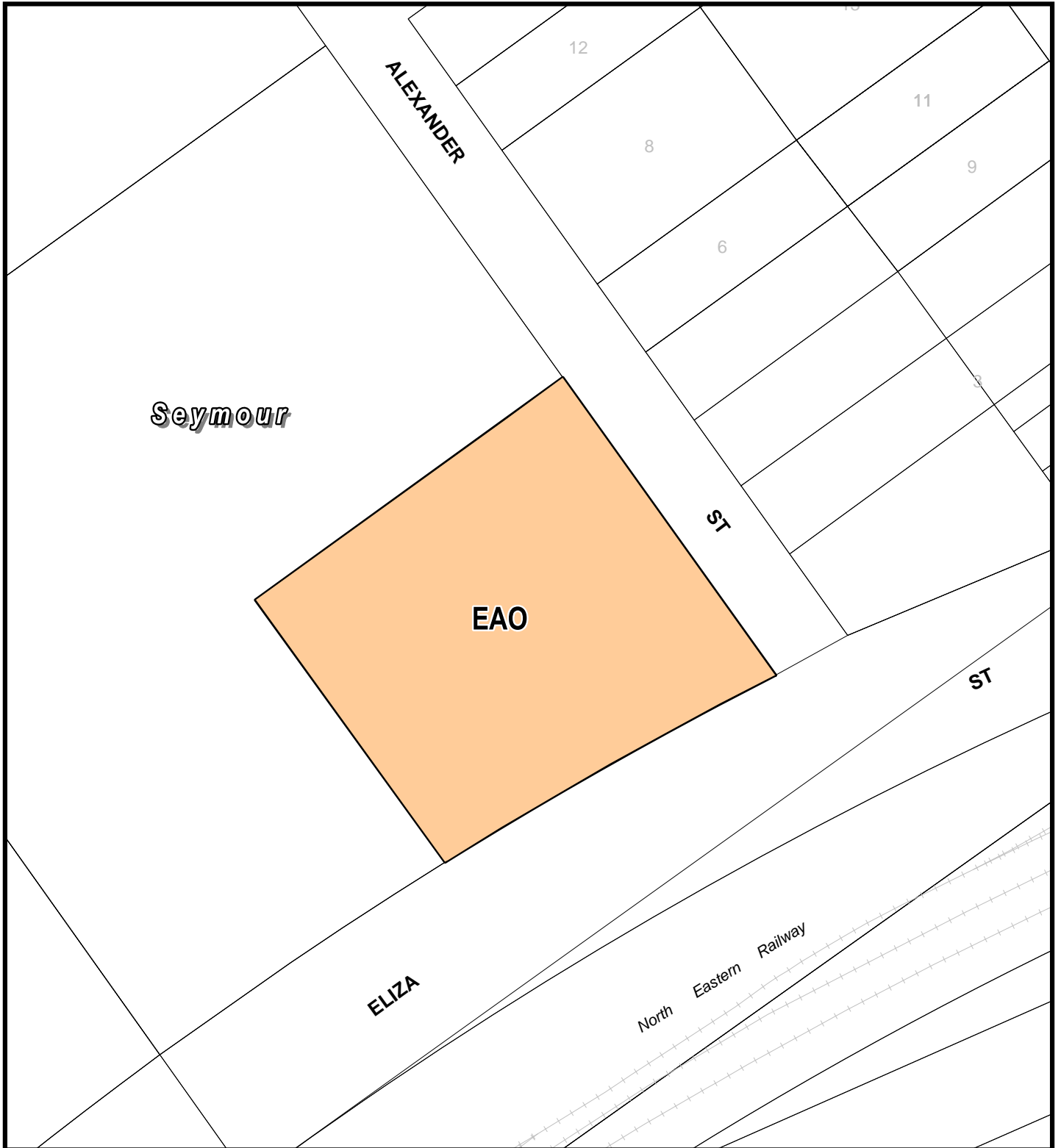
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**SCHEDULE TO CLAUSE 61.03****Maps comprising part of this scheme:**

- 1, 1ESO, 1EMO, 1SMO, 1WMO, 1VPO
- 2, 2SMO, 2LSIO -FO, 2WMO, 2VPO
- 3, 3ESO, 3VPO, 3EMO, 3SMO, 3LSIO-FO, 3WMO, 3EAO, 3IPO
- 4, 4ESO, 4VPO, 4EMO, 4SMO, 4LSIO-FO, 4WMO
- 5, 5ESO, 5HO, 5EMO, 5SMO, 5WMO, 5VPO
- 6, 6ESO, 6HO, 6DPO, 6EMO, 6SMO, 6WMO, 6VPO
- 7, 7ESO, 7HO, 7EMO, 7PAO, 7SMO, 7WMO, 7VPO
- 8, 8ESO, 8HO, 8EMO, 8SMO
- 9, 9ESO, 9VPO, 9HO, 9EMO, 9SMO, 9LSIO-FO, 9WMO
- 10, 10DDO, 10ESO, 10VPO, 10SLO, 10HO, 10EMO, 10SMO, 10LSIO-FO, 10WMO, 10EAO, 10RO, 10DPO
- 11, 11ESO, 11VPO, 11SLO, 11HO, 11EMO, 11SMO, 11LSIO-FO, 11WMO, 11EAO
- 12, 12DDO, 12ESO, 12VPO, 12HO, 12DPO, 12EMO, 12SMO, 12LSIO-FO, 12RXO, 12WMO, [12EAO](#)
- 13, 13ESO, 13VPO, 13HO, 13EMO, 13SMO, 13LSIO-FO, 13WMO
- 14, 14ESO, 14EMO, 14SMO, 14EAO, 14WMO, 14VPO
- 15, 15DDO, 15ESO, 15VPO, 15HO, 15DPO, 15EMO, 15SMO, 15EAO, 15WMO, 15RXO, 15SLO
- 16, 16DDO, 16ESO, 16VPO, 16SLO, 16HO, 16DPO, 16EMO, 16SMO, 16EAO, 16RXO, 16WMO
- 17, 17ESO, 17VPO, 17SLO, 17HO, 17EMO, 17SMO, 17WMO
- 18, 18ESO, 18VPO, 18HO, 18DPO, 18EMO, 18SMO, 18LSIO-FO, 18PAO, 18WMO, 18RO
- 19, 19ESO, 19VPO, 19HO, 19EMO, 19SMO, 19LSIO-FO, 19EAO, 19DPO
- 20, 20ESO, 20VPO, 20EMO, 20SMO, 20LSIO-FO, 20WMO
- 21, 21ESO, 21VPO, 21EMO, 21SMO, 21WMO
- 22, 22DCPO, 22ESO, 22VPO, 22DPO, 22EMO, 22SMO, 22LSIO-FO, 22PAO, 22WMO, 22IPO
- 23, 23DCPO, 23VPO, 23EMO, 23SMO, 23PAO
- 24, 24DCPO, 24ESO, 24VPO, 24HO, 24SMO, 24PAO
- 25, 25VPO, 25HO, 25DPO, 25EMO, 25SMO, 25LSIO-FO, 25RXO, 25ESO
- 26, 26VPO, 26HO, 26DPO, 26EMO, 26SMO, 26LSIO-FO, 26WMO
- 27, 27VPO, 27HO, 27EMO, 27SMO, 27LSIO-FO, 27WMO
- 28, 28ESO, 28EMO, 28SMO, 28WMO

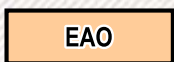


# MITCHELL PLANNING SCHEME LOCAL PROVISION



## LEGEND

Part of Planning Scheme Map 12EAO



EAO

Environmental Audit Overlay

## AMENDMENT C107

