

SRL East 101-157 Old Dandenong Road, Heatherton

Planning Permit Application No. PA2402918

Removal of vegetation in PAO2



Officer Assessment Report
State Project Facilitation

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Department
of Transport
and Planning

OFFICIAL

Executive Summary

Key information	Details
Application No.:	PA2402918
Received:	14 May 2024
Statutory days as of 6 August 2024:	8
Applicant:	Suburban Rail Loop Authority
Planning Scheme:	Kingston
Land details:	101-157 Old Dandenong Road, Heatherton
Proposal:	Removal of vegetation within the PAO2
Development cost:	NA
Why is the Minister responsible?	In accordance with the schedule to Clause 72.01-2, the Minister is the responsible authority for development of land for Suburban Rail Loop East.
Zone:	Clause 35.05 - Green Wedge A Zone (GWAZ)
Overlays:	Clause 42.01 - Environmental Significance Overlay Schedule 4 (ESO4) Clause 45.03 - Environmental Audit Overlay (EAO) Clause 45.01 - Public Acquisition Overlay Schedule 2 (PAO2)
Why is a permit required?	A permit is required under the Public Acquisition Overlay to: <ul style="list-style-type: none">Damage, remove, destroy or lop any vegetation
Referral authorities	Determining referral authority: <ul style="list-style-type: none">DEECA as the acquiring authority under the PAO in accordance with Clause 66.03
Public notice	The application is exempt from notice requirements in accordance with Clause 45.01-3.
Recommendation	The application is recommended for approval subject to the conditions outlined in item 59 of this report.

Background



1. This application concerns land at 101-157 Old Dandenong Road, Heatherton.
2. In accordance with Clause 72.01 of the Kingston Planning Scheme, the Minister for Planning is the Responsible Authority of land for Suburban Rail Loop East.
3. Suburban Rail Loop Authority (SRLA) has identified the need for works to occur outside the current project land to enable the realignment of Telstra conduit as a result of conflicts with the Westernport-Altona-Geelong (WAG) pipeline construction activities.
4. No planning permit is required for the use and buildings and works for telecommunications facilities pursuant to Clause 62.01 (Uses not requiring a permit) and 62.02-1 (Buildings and works). As such, this application relates only to vegetation removal.
5. The site is subject to the PAO2, for which the Department of Energy Environment and Climate Action (DEECA) is the acquiring authority. Referral details are discussed in the referral section below.

Application milestones

6. The key milestones in this application were as follows:

Milestone	Date
Pre-application meeting	8 May 2024
Application lodgement	13 May 2024
Further information requested	23 May 2024
Further information received	29 July 2024
Further information satisfied	29 July 2024
Decision plans	Plans received in RFI response, 29 July 2024

7. The subject of this report is the decision plans.



8. The proposal includes the removal of vegetation in the southeast corner of the site which is subject to the Public Acquisition Overlay – Schedule 2 (PAO2).
9. The vegetation includes one river red gum and one southern mahogany tree. The applicant provided an ecology report that confirms the vegetation has been planted without public funding.
10. Vegetation removal will be to the minimum extent possible.
11. Schedule 2 of the PAO relates to DEECA's Sandbelt Parklands initiative. DEECA is the acquiring authority.
12. The proposed works do not require a permit under Clause 52.19-1 (Telecommunications Facility) as the proposed telecommunications works are classified as a 'low-impact facility' as described at Clause 52.19-1 (Permit requirement) and in the *Telecommunications (Low-impact) Facilities Determination 1997* (Cth).

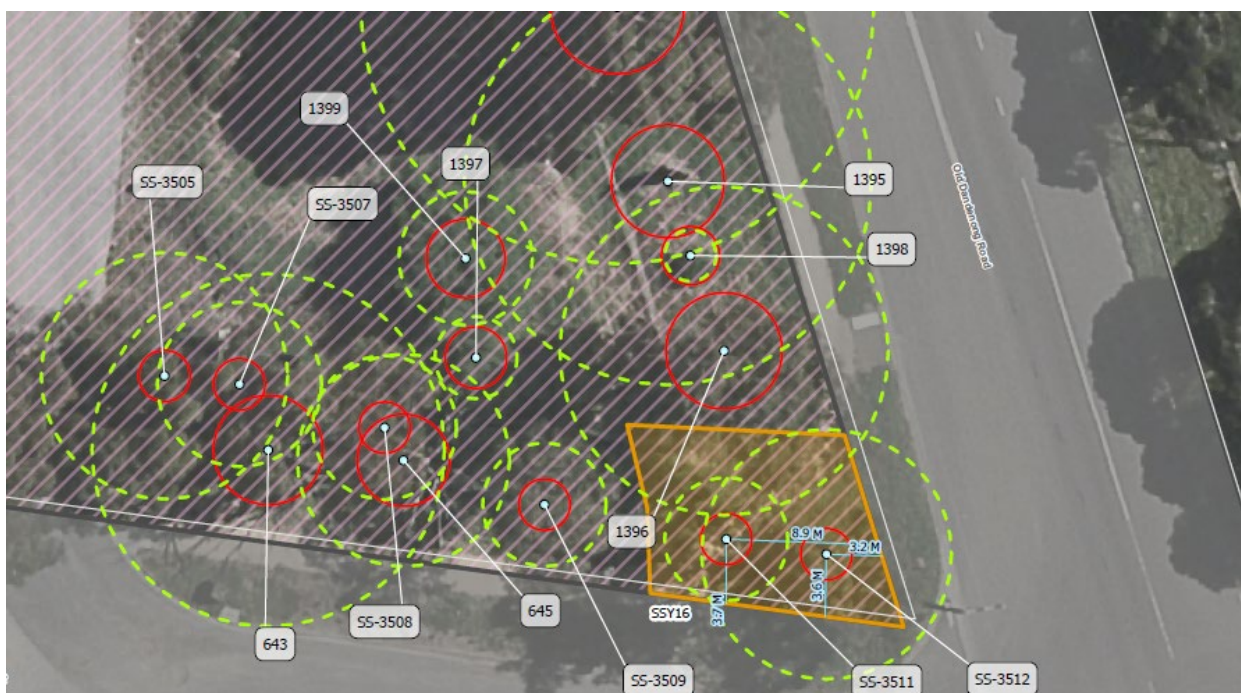


Figure 1: Aerial plan identifying trees to be removed in southeast corner



Site description

13. The additional land area, which includes the site, is located on the former Henry Street Landfill at 101-157 Old Dandenong Road, Heatherton, on the corner of Henry Street and Old Dandenong Road in Heatherton.
14. The site is adjacent to the Henry Street Linear Reserve and SRL East Stabling Facility to the south and Lantrak land to the east. It is currently vacant with extensive buildings and works located to the south adjacent to the site.
15. The site is formally referred to as Crown Allotment 2069 Parish of Mordialloc (SPI 2069\PP3186)
16. No restrictions or easements are registered on the title to prevent the issue of a planning permit.



Figure 2: Aerial view of additional land and site

Site surrounds

17. The surrounding area is characterised by flat, heavily modified agricultural land. It is positioned at the northern end of a passage of land zoned Green Wedge A.
18. Extensive works are taking place throughout the SRL area. The site is earmarked for transition to a public park managed by DEECA.
 - a. **Norh:** The site interfaces a range of industrial uses directly to the north. Beyond the Dingley Bypass, low-rise residential development is the predominant land use.
 - b. **East:** Large-scale agricultural and industrial land uses extend east of the site.
 - c. **South:** Three golf courses are situated south of the site.
 - d. **West:** The site abuts the Moorabbin Airport industrial precinct.

Planning provisions



Municipal planning strategy

19. The following objectives and strategies of the Municipal Strategic Statement of the scheme are relevant to the proposal:

Policy	Description
Clause 02.01	Context
Clause 02.02	Vision
Clause 02.03	Strategic Directions
- 02.03-4	- Environmental and landscape values
- 02.03-4	- Natural resource management
- 02.03-8	- Transport
- 02.03-9	- Infrastructure

Planning policy framework

20. The following objectives and strategies of the Planning Policy Framework of the scheme are relevant to the proposal:

Policy	Description
Clause 11	Settlement
- 11.01-1S	- Victoria
Clause 12	Environmental and Landscape Values
- 12.01-1L	- Protection of biodiversity Kingston
- 12.01-2L	- Native vegetation management Kingston
Clause 14	Natural Resource Management
- 14.01-1S	- Protection of agricultural land
Clause 17	Economic Development
- 17.01	- Diversified economy
Clause 18	Transport
- 18.02-3S	- Public Transport
- 18.02-1S	- Land use and transport integration

21. See the assessment section of this report for further details.

Statutory Planning Controls

Clause 35.04 - Green Wedge A Zone (GWAZ)

22. The Green Wedge A Zone seeks to:

- Provide for the use of land for agriculture.
- Protect, conserve and enhance the area's biodiversity, natural resources, scenic landscapes and heritage values.
- Ensure use and development promote sustainable land management practices and infrastructure provision.



- Protect, conserve and enhance the cultural heritage significance and the character of rural and scenic non-urban landscapes.
- Recognise and protect the amenity of existing rural living areas.

Clause 45.01 - Public Acquisition Overlay – Schedule 2 (PAO2)

23. The PAO seeks to:

- Identify land which is proposed to be acquired by a Minister, public authority or municipal council.
- Reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
- Designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

24. A planning permit is required to damage, demolish, destroy or lop any vegetation within the PAO2.

25. Applications under the PAO must be referred to the acquiring authority, which in this case is DEECA.

Clause 42.01 - Environmental Significance Overlay – Schedule 4 (ESO4)

26. The ESO seeks to:

- Identify land which is proposed to be acquired by a Minister, public authority or municipal council.
- Reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
- Designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

27. No planning permit is required for the removal, destruction or lopping of vegetation in accordance with schedule 4 to Clause 42.01-3 (permit requirement).

Clause 45.03 - Environment Audit Overlay (EAO)

28. The EAO seeks to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination.

29. The requirements of Clause 45.03 do not apply as the proposed works do not include the construction or carrying out of buildings and works associated with a sensitive use.

Particular provisions

Clause 52.17 – Native Vegetation

30. Clause 52.17 seeks to:

- To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):
 - Avoid the removal, destruction or lopping of native vegetation.



- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
 - Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.
 - To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.
31. No planning permit is required to remove native vegetation that is either planted or grown as a result of direct seeding.
32. The ecology report provided by the applicant confirmed that the two trees in question are both planted. Therefore, not permit is required.

Clause 52.19 – Telecommunications Facility

33. Clause 52.19 seeks to:
- To ensure that telecommunications infrastructure is provided in an efficient and cost-effective manner to meet community needs.
 - To facilitate an effective state-wide telecommunications network consistent with proper and orderly planning.
 - To support the provision of telecommunications facilities with minimal impact on the amenity of the area.
34. A permit is not required to construct a building or construct or carry out works for a telecommunications facility for a low-impact facility specified in the Telecommunications (Low-Impact Facilities) Determination 2018 (Cth).
35. No planning permit is required for the use and buildings and works for telecommunications facilities pursuant to Clauses 62.01 and 62.02-1 (General Exemptions).

Other legislation

Aboriginal Heritage Act 2006

36. Cultural Heritage Management Plan (CHMP) 18258 was approved on 22 November 2022 by the Bunurong Land Council Aboriginal Corporation (BLCAC). CHMP 18258 applies to activities associated with the SRL East Early and Main Works, from Monash to Cheltenham.
37. SRLA has prepared an amendment to CHMP 18258 to incorporate the additional land area subject to this permit application. Once received, a copy of the approved amended CHMP will be provided to the Minister for Planning.
38. A CHMP is not required for the proposed tree removal because, as it is associated with a telecommunications facility, it is not a high-impact activity in accordance with Regulation 46(1)(b)(xxvii) the *Aboriginal Heritage Regulations 2018*.



Referrals

39. The following referrals were carried out in accordance with the Clause 66 of the planning scheme and section 55 of the Act:

- a. DEECA (Clause 66.03) – Determining referral authority.

DEECA

40. The application was referred to DEECA on 26 June 2024 as the acquiring authority for the PAO.
41. On 23 April 2024, SRLA met with Luke Rogan (DEECA representative), who has been managing the PAO2 Suburban Parklands Program. SRLA presented the scope of works and the proposed vegetation impacts, including tree removal. No objections to the works or the permit application were raised. DEECA requested that the site plans include notations for existing ground levels to be reinstated following works. This was in connection to the adjacent swale, which manages the overland flow during rain events.
42. DEECA provided a response letter on 19 July 2024. It stated that DEECA does not object to the proposal subject to the following conditions (verbatim):
 - *Development work and ongoing use must not cause damage to the vegetation to be retained.*
 - *There is to be no stockpiling of material or storage of machinery/equipment on vegetated areas.*
 - *Materials imported to the site for infill or bedding must be classified as clean fill as per EPA Industrial Waste Guidelines. Any unused fill brought onto the site must be removed at the completion of works.*
 - *Before being taken to the work site and again on completion of the project, all earthmoving equipment must be free of soil and seed and sprayed with Phytoclean (after pressure washing) to reduce the spread of weeds*

Notice

43. In accordance with the PAO, the application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.



44. Having regard to the matters set out in section 60 of the Act and the relevant provisions of the planning scheme, the key considerations for assessment are:
 - a. The objectives of planning in Victoria.
 - b. The decision guidelines under schedule 2 to the Public Acquisition Overlay.
 - c. The comments of referral authorities (DEECA).
45. It is noted that there are no permit triggers under the GWAZ, ESO or EAO and therefore no assessment has been made against these controls.

Objectives of planning in Victoria

46. SRL is a significant infrastructure project. In this circumstance, the removal of vegetation cannot be avoided. Therefore, the steps to “minimise” and “offset” are adopted as the basis for this assessment.
47. The proposal contributes to the delivery of SRL, which will improve the movement of people and goods throughout the state while also strengthening sustainable transport modes (Clause 11.02-2S).
48. A key strategy identified in Clause 12.01 is to ensure no net loss of biodiversity due to the removal, destruction or lopping of native vegetation. This is achieved using a three-step approach:
 - Avoid the removal, destruction or lopping of native vegetation.
 - Minimise impacts from removing, destroying, or lopping native vegetation that cannot be avoided.
 - Provide an offset to compensate for the biodiversity impact of removing, destroying, or lopping native vegetation.
49. In this case, the landscape and biodiversity values will be maintained by including a condition on the permit that requires SRL to plant two semi-mature native trees. This condition responds to two of Kingston City Council’s local policies, which seek to ‘retain and replant native vegetation wherever possible’ (Clause 12.01-1L and 12.01-2L).
50. The project does not compromise the use or protection of agricultural land (Clause 14.01-1R).
51. The project will facilitate an environmentally sustainable transport system that is safe and supports health and wellbeing. This will have far-reaching impacts on the sustainability of Melbourne’s Transport system (Clause 18.01-3S and 18.02-1S).

Public Acquisition Overlay

52. The acquiring authority does not object to removing vegetation at the site. DEECA accepts that it will be done to the minimum extent necessary.
53. All conditions recommended by the DEECA have been included on the permit.
54. The project does not prevent the earmarked development of the site from occurring. The works will not spoil or waste the land so as to adversely affect its use for the Sandbelt Parklands.

Conclusion

55. The development is generally consistent with the relevant planning policies of the Kingston Planning Scheme and will contribute to the delivery of the Suburban Rail Loop East.
56. The formal referral agencies generally support the proposal, subject to conditions included in the permit.



Recommendation

57. It is recommended that **Planning Permit No. PA2402918** for *the removal of vegetation under the Public Acquisition Overlay*, at 101-157 Old Dandenong Road, Heatherton, be issued subject to conditions.



[Redacted]

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

- No Conflict**
- Conflict and have therefore undertaken the following actions:
 - Completed the **Statutory Planning Services declaration of Conflict/Interest form.**
 - Attached the Statutory Planning Services declaration of Conflict/Interest form on to the hardcopy file.
 - Attached the Statutory Planning Services declaration of Conflict/Interest form into the relevant electronic workspace.

[Redacted]

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[Redacted]

Reviewed / Approved by:

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Name:	<p>[Redacted]</p>		Signed:	<p>[Redacted]</p>
Title:	<p>[Redacted]</p>		Dated:	<p>[Redacted]</p>
Phone:	<p>[Redacted]</p>			