

This copied document to be made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright

7 November 2024

Attn: Hannah Scott
Senior Planner (Renewables)
Department of Transport and Planning
Level 8, 8 Nicholson Street
East Melbourne VIC 3002

Project name: Lilydale Waste-to-Energy Project
Project no: IS0803L4

**ADVERTISED
PLAN**

Subject: Application to amend a planning permit
Permit No: PA2201903
Land: 83-85 Nelson Road Lilydale 3140
Proposal: Removal of vegetation associated with the Yarra Valley Water Lilydale Waste-to-Energy Project

Dear Hannah,

Introduction

Jacobs acts on behalf of Yarra Valley Water in applying to amend Planning Permit PA2201903 under Section 72 of the *Planning and Environment Act 1987*.

Background

The permit was issued by the Minister for Planning on 6 December 2023 and allowed for the removal of vegetation (native vegetation and non-native) within the Lilydale Waste-to-Energy project area. Project works have commenced and it has since been established by the contractor that more vegetation removal is required than originally determined in order to facilitate construction.

An application via the department's planning portal has been made to amend the planning permit to:

1. Amend the wording of Condition 4 (Development in accordance with plans), Condition 28 (Native vegetation removal) and Condition 29 (Native vegetation offsets)
2. Increase the permitted vegetation removal:
 - a. Clause 52.17 (Native vegetation) from 0.180 hectares to 0.271 hectares
 - b. Clause 42.01 (Environmental Significance Overlay Schedule 1) from 18 trees to 24 trees
 - c. Clause 42.03 (Significant Landscape Overlay Schedule 2) from 16 trees to 24 trees

The following supporting documentation has been submitted online:

- Attachment A - Trees to be removed table and tree removal location plans
- Attachment B – Addendum Ecological Impact Assessment (including NVR Report)

Date: 7 November 2024

Subject: Application to amend a planning permit

Permit No: PA2201903

Land: 83-85 Nelson Road Lilydale 3140

Proposal: Removal of vegetation associated with the Yarra Valley Water Lilydale Waste to Energy Project

- Attachment C – Swale Drain Arboricultural Impact Assessment (Ironbark Environmental Arboriculture, September 2024)
- Attachment D - Current Certificates of Title

Subject Site

The project area location has not altered, being situated at 83-85 Nelson Road Lilydale. The construction footprint has been revised at two locations within the project area (refer to Attachment A):

- Area 1 – Lilydale East Drain

The impacted native vegetation is located on the southern boundary line of the site where the road and swale drain is to be constructed.

- Area 2 – Yarra Rail Trail

The impacted native vegetation patch is located in an existing drainage swale (minor utility installation) directly south of the rail trail crossing.

Assessment

ADVERTISED
PLAN

Why was the original permit required

The original permit allows for the use and development of a waste to energy facility, removal of native vegetation and creation of access to a road in a Principal Road Network. The approved permit triggers are listed in the table below. No new permit triggers are proposed by the amendment.

Planning scheme clause No.	Description of what is allowed
36.01-1	<i>Use the land for a waste to energy facility</i>
36.01-2	<i>Construct a building or construct or carry out works</i>
36.04-1	<i>Use the land for a section 2 use</i>
36.04-2	<i>Construct a building or construct or carry out works</i>
35.04-1	<i>Use the land for a section 2 use</i>
35.04-5	<i>Construct a building or construct or carry out works</i>
44.04-2	<i>Construct a building or construct or carry out works</i>
42.03-2	<i>Construct a building or construct or carry out works</i>
42.01-2	<i>Construct a building or construct or carry out works within 30m of a waterway</i>
52.17-1	<i>Removal of native vegetation</i>
52.29-2	<i>Creation of access to a road in a Principal Road Network.</i>

Date: 7 November 2024

Subject: Application to amend a planning permit

Permit No: PA2201903

Land: 83-85 Nelson Road Lilydale 3140

Proposal: Removal of vegetation associated with the Yarra Valley Water Lilydale Waste-to-Energy Project

What the amendment is seeking

1) As per your email advice on 5 July 2024, amendment of the following permit conditions:

- **Condition 4 (Development in accordance with plans)** which reads

The development must be generally in accordance with the endorsed plans. The endorsed plans must not be altered or modified without the prior written consent of the responsible authority

to instead say:

The development as shown on the endorsed plans must not be altered (unless the Yarra Ranges Planning Scheme specifies that a permit is not required) without the prior written consent of the responsible authority.

- **Condition 28 (Native vegetation removal)** which reads

Native vegetation removal must be in accordance with the extent specified in the Native Vegetation Removal report JAC_2023_028 dated 26/04/2023. The total area of native vegetation permitted to be removed is 0.180 hectares

to instead say:

Native vegetation removal must be in accordance with the extent specified in the Native Vegetation Removal report JAC_2023_028 dated 26/04/2023. The total area of native vegetation permitted to be removed is 0.180 hectares. This amount may be amended with the prior written consent of the responsible authority.

- **Condition 29 (Native vegetation offsets)** which reads

To offset the removal of 0.180 hectares of native vegetation, the permit holder must secure native vegetation offsets, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:

A general offset of 0.054 general habitat units:

a. Port Phillip and Westernport Catchment Management Authority (CMA) or Yarra Ranges Shire Council;

b. with a minimum Strategic Biodiversity Value score of at least 0.509;

to instead say:

To offset the removal of native vegetation in accordance with an endorsed Native Vegetation Removal report, the permit holder must secure native vegetation offsets in accordance with the requirements of the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) to the amount specified in the endorsed Native Vegetation Removal report.

2) The removal of additional vegetation (native and non-native) requires approval under Clause 42.01-2, Clause 42.03-2 and Clause 52.17-1. An assessment against the Decision guidelines is provided below.

**ADVERTISED
PLAN**

This copied document to be made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright

Clause 52.17 Native vegetation

The purpose of this clause is to ensure that permitted removal of native vegetation does not result in a net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved by:

- Applying the following three step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (the Guidelines) (DELWP, 2017):
 - 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.
- Managing the removal, destruction or lopping of native vegetation to minimise land and water degradation.

The Lilydale Waste-to-Energy project has been assessed in accordance with the Guidelines and a planning permit is required to remove native vegetation. A total of 0.180 hectares of native vegetation in patches was originally estimated to be impacted by the project works. The removal of an additional 0.091 hectares of EVC 164: Creekline Herb-rich Woodland including one small scattered tree, has been identified since the original permit application. The changes are summarised in the table below.

Ecological Vegetation Class	Past Removal Approved	Proposed Additional Removal	Combined Removal
EVC 821: Tall Marsh	0.086ha	-	0.086ha
EVC 164: Creekline Herb-rich Woodland	0.094ha	0.091ha	0.185ha
Total	0.180ha	0.091ha	0.271ha

Guidelines for the removal, destruction of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines)

A Native Vegetation Removal report (NVR Report) has been prepared in accordance with the Guidelines, where the type and extent of vegetation to be removed falls under the intermediate assessment pathway (see Attachment B – Addendum Ecological Impact Assessment). A summary of how the proposed native vegetation removal satisfies each of the decision criteria of the Guidelines (DEWLP, 2017) is provided below.

**ADVERTISED
PLAN**

This copied document to be made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright

Guideline	Assessment
<p>Efforts to avoid the removal of, and minimise the impacts on, native vegetation should be commensurate with the biodiversity and other values of the native vegetation, and should focus on areas of native vegetation that have the most value. Taking this into account consider whether:</p> <ul style="list-style-type: none"> The site has been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation The proposed use or development has been appropriately sited or designed to avoid and minimise impacts on native vegetation <p>Feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal</p>	<p>Ecological and arboricultural assessments have been used to inform the construction footprint in order to avoid native vegetation where possible and locate works in areas of no native vegetation or low-quality native vegetation.</p> <p>To address the avoidance and minimise requirements under the Guidelines, a qualified arborist was engaged to provide further arboricultural impact assessment of additional trees potentially impacted by the proposed access road and swale drain.</p> <p>The additional native vegetation to be removed consists of 0.091 hectares of EVC 164: Creekline Herb-rich Woodland including one small scattered tree. The arboricultural assessment identifies the additional native vegetation as mostly having low-moderate arboricultural rating in Area 1 and a low arboricultural rating in Area 2 (Attachment C).</p>
<p>The role of native vegetation to be removed in:</p> <ul style="list-style-type: none"> Protecting water quality and waterway and riparian ecosystems, particularly within 30 metres of a wetland or waterway in a special water supply catchment area listed in the <i>Catchment and Land Protection Act 1994</i>. Preventing land degradation, including soil erosion, salination, acidity, instability and water logging particularly: <ul style="list-style-type: none"> where ground slopes are more than 20 per cent on land which is subject to soil erosion or slippage in harsh environments, such as coastal or alpine areas. Preventing adverse effects on groundwater quality, particularly on land: <ul style="list-style-type: none"> where groundwater recharge to saline water tables occurs that is in proximity to a discharge area that is a known recharge area 	<p>The proposed native vegetation to be removed consists of two patches of EVC 164, HZ01b and HZ02a, both with a Habitat Score of 20/100.</p> <p>These are not within 30 metres of a wetland or waterway in a special water supply catchment area listed in the <i>Catchment and Land Protection Act 1994</i>.</p> <ul style="list-style-type: none"> It is not on land which is subject to erosion, land slip or salinity issues as indicated by the absence of any land management overlays to the is affect (i.e., Erosion Management Overlay or Salinity Management Overlays).
<p>The need to manage native vegetation to preserve identified landscape values.</p>	<p>A Significant Landscape Overlay (SLO2) affects the site. As noted in the Tree Removal Plan 2024 (Attachment A), 14 of the 24 trees impacted by project works have been identified as having low visual amenity. Seven were assessed to have moderate visual amenity (Tree ID 9, 10, 18, 19, 21, 22, 58) and 3 with high visual amenity (Tree ID 11, 28, 37).</p>
<p>Whether any part of the native vegetation to be removed, destroyed or lopped is protected under the <i>Aboriginal Heritage Act 2006</i>.</p>	<p>The native vegetation to be removed is not protected under the <i>Aboriginal Heritage Act 2006</i>.</p>

This copied document to be made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Date: 7 November 2024

Subject: Application to amend a planning permit

Permit No: PA2201903

Land: 83-85 Nelson Road Lilydale 3140

Proposal: Removal of vegetation associated with the Yarra Valley Water Lilydale Waste-to-Energy Project

Guideline	Assessment
The need to remove, destroy or lop native vegetation to create defensible space to reduce the risk of bushfire to life and property, having regard to other available bushfire risk mitigation measures.	The native vegetation subject to this planning permit application is not proposed to be removed to create defensible space.
Whether the native vegetation to be removed is in accordance with any Property Vegetation Plan that applies to the site.	Not applicable
Whether an offset that meets the offset requirements for the native vegetation to be removed has been identified and can be secured in accordance with the Guidelines.	Based on the native vegetation mapped, an offset of 0.019 general habitat units with a minimum strategic biodiversity score of 0.2908 in the vicinity of Melbourne Water Catchment Management Authority or Yarra Ranges Shire Council is required in accordance with the <i>Guidelines</i> . An offset must be in place prior to the removal of any native vegetation. Refer to the NVR report prepared on the 19 September 2024 at Appendix B of the Addendum Ecological Impact Assessment (Attachment B).

This copied document to be made available for the Overlay Scheduling (ES01) its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may infringe copyright

Clause 42.01 Environmental Significance Overlay Schedule 1 (ES01)

Within the ES01, a planning permit is required for the removal of any vegetation. Trees within the ES01 that are to be removed are summarised in the table below (also refer to plan Figure 1 of Attachment A).

Project Area	Past removal approved	Proposed additional removal	Total proposed trees for removal in the ES01
Lilydale East Drain (Area 1)	15, 16, 17, 22, 23*	9, 10, 11, 13, 18, 19, 21	11
Maroondah Highway (Area 3)	37, 40, 45, 46, 47, 49, 50, 51, 53, 57, 58, 65, 104*	48	13
Total	18	8	24

* Trees within the ES01 that are now to be retained with mitigation and no longer requiring approval/removal since the original permit application.

Having regard to the decision guidelines, the proposed amendment:

- Minimises removal of native and non-native vegetation through project design refinement.
- Would not require the removal of indigenous vegetation from a site where the majority of understorey ground cover, being sited on land that has been significantly disturbed in the past.
- The endorsed Construction Environmental Management Plan details necessary management and mitigation measures to minimise potential impacts to the environment during and after construction.

Clause 42.03 Significant Landscape Overlay Schedule 2 (SLO2)

Within the SLO2, a planning permit is required for:

- The removal of vegetation that is native to the Shire of Yarra Ranges (indigenous vegetation)

Date: 7 November 2024

Subject: Application to amend a planning permit

Permit No: PA2201903

Land: 83-85 Nelson Road Lilydale 3140

Proposal: Removal of vegetation associated with the Yarra Valley Water Lilydale Waste-to-Energy Project

- The removal of a substantial tree with a trunk circumference greater than 0.35m of a diameter at 1.3m above ground

The trees to be removed within the SLO2 are summarised in the table below (also refer to plan in Figure 1 of Attachment A). (Note that Tree ID 48 in Area 2 is different to Tree ID 48 in Area 3)

Project Area	Past removal approved	Proposed additional removal	Total proposed trees for removal in the SLO2
Lilydale East Drain (Area 1)	16, 22, 28	9, 10, 11, 18, 19, 21, 141	10
Yarra Rail Trail (Area 2)	48, 60	51	3
Maroondah Highway (Area 3)	37, 45, 46, 47, 48, 49, 50, 51, 57, 58, 65	0	11
Total	16	8	24

Having regard to the decision guidelines:

- Arboricultural assessment has been undertaken to refine the project design in order to minimise the removal of established trees. This includes vegetation where possible for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Energy Facility Act 1987. The plan will be updated to reflect the proposed additional vegetation identified for removal. The plan will be submitted as a supporting document when approval from the Yarra Ranges Shire Council is received.
- The visual amenity of the trees to be removed are moderate with the exception of Tree ID 11 (high) and 141 (low).
- The *Land Management Plan Lilydale Waste-to-Energy Facility* (dated 2 May 2024) required under condition 27 will be updated to reflect the proposed additional vegetation identified for removal. The plan will be submitted as a supporting document when approval from the Yarra Ranges Shire Council is received.

This includes vegetation where possible for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Energy Facility Act 1987. The plan will be updated to reflect the proposed additional vegetation identified for removal. The plan will be submitted as a supporting document when approval from the Yarra Ranges Shire Council is received.

Yarra Valley Water remain committed to minimising impacts to vegetation on the Waste-to-Energy project site. The additional vegetation impacts along the new access road were not anticipated and only became apparent once the construction contractor was appointed. Further arboricultural and ecological assessments have been used to inform the access road construction footprint seeking to avoid and minimise vegetation impacts. The removal of additional vegetation is, however, unavoidable. The delivery of the project will result in an overall net community benefit, through the generation of renewable energy in the local area and the diversion of organic waste from landfill.

Please contact me should you wish to discuss this application in further detail. We look forward to receiving the Department's determination on this matter.

Kind regards,



Anika Warren-Smith
Environmental Planner

0417561586
anika.warrensmith@jacobs.com

ADVERTISED PLAN