

# DTP State Project Facilitation



**175 Burwood Highway, Burwood**

## **Vegetation Removal**

### **Planning Permit Application No. PA2302656**

#### **Summary**

<b>Application No:</b>	PA2302656
<b>Lodged:</b>	15 January 2024
<b>Applicant:</b>	Suburban Rail Loop Authority (SRLA)
<b>Planning Scheme:</b>	Whitehorse Planning Scheme
<b>Land:</b>	Gardiners Creek Reserve, 175 Burwood Highway, Burwood VIC 3125
<b>Proposal:</b>	Removal of native vegetation
<b>Development value:</b>	N/A fees are a Class 22 under Planning and Environmental Act 1987 (the Act) regulations 2016
<b>Zone:</b>	Clause 36.02 Public Park and Recreation Zone (PPRZ)
<b>Overlays:</b>	Clause 44.04 Land Subject to Inundation Overlay Clause 45.06 Development Contributions Plan Overlay – Schedule 1 Clause 45.12 Specific Controls Overlay (Suburban Rail Loop East Incorporated Document, August 2022) (SCO14) Clause 45.12 Specific Controls Overlay (Suburban Rail Loop East Infrastructure Protection Incorporated Document, August 2022) (SCO15)
<b>Particular Provisions:</b>	Clause 52.17 Native Vegetation
<b>Why is a permit required?</b>	Clause 52.17 Native Vegetation - Under Clause 52.17-1, a permit is required to remove, destroy or lop native vegetation, including dead native vegetation.
<b>Referral authorities/ Notice</b>	Clause 66.02-2 (S55 Recommending referral) – Secretary to the Department of Energy, Environment and Climate Action (DEECA) (formerly Department of Environment, Land, Water and Planning)  Informal notice - Whitehorse City Council
<b>Public Notification</b>	Clause 52.17 Native Vegetation – The application is not exempt from notice; however, it is considered that notice is not required as the proposal will not cause material detriment to any other persons. See the Notification and Review section of this report for more discussion.
<b>Delegation Date</b>	21 December 2023

## Background

In accordance with Clause 72.01 of the Whitehorse Planning Scheme:

*The Minister for Planning is the responsible authority for administering and enforcing:*

- *Any other provision of the planning scheme as it applies to the use or development of land for Suburban Rail Loop East.*

The application has been lodged by the Suburban Rail Loop Authority for native vegetation removal for the Suburban Rail Loop East project.

<b>Application Lodgement</b>	15 January 2024
<b>Further information requested</b>	Information requested on 30/01/2024 including: <ul style="list-style-type: none"><li>• Copy of title</li><li>• Scale plans of the proposed vegetation removal</li><li>• Amended application to include/correct details</li></ul>
<b>Further information received</b>	Copy of title plan - Lot 1 on Title Plan 920310R RFI response document – Received 16 February 2024 Site plan, revision A7 - Dated 28 February 2024
<b>RFI Satisfied Date</b>	29 February 2024
<b>Documentation Received</b>	Planning report, revision A (January 2024) Proposed impact map, revision A.2 (November 2023) Suburban Rail Loop East: Main Works (Box Hill to Monash), Cultural Heritage Management Plan, revision A05 (December 2023) Copy of title plan - Lot 1 on Title Plan 920310R Site plan, revision A7 - Dated 28 February 2024 RFI response document – Received 16 February
<b>Decision Plans</b>	Site Plan Revision A7 - Dated 28 February 2024

## Subject Site and Surrounds

### Site Description and context

The existing site at 175 Burwood Road is comprised of two parcels (Lot 1 TP910161 and Lot 1 TP920310).

The site measures approximately 6 hectares and has direct frontage to the Burwood Highway of approximately 290 meters.

The site currently used as public open space and forms part of the larger Gardeners Creek Reserve corridor.

There are three Melbourne and Metropolitan Board of Works easements on the site. The proposed vegetation removal will not infringe upon or have any impact on the operation of these easements.

Land use surrounding the site can be described as follows:

- To the **north**: Gardiners Creek reserve corridor
- To the **east**: Bennettswood Reserve oval and Deakin University Burwood campus
- To the **south**: Burwood Highway
- To the **west**: residential development consisting of predominantly single dwellings, and a drive through restaurant.



Figure 1: Aerial imaging of the site context - site marked in red, proposal area marked (approximately) in yellow  
(Source: VICPlan Mapping)

## Proposal

### Project description

The applicant proposes the removal of 60 square metres (0.006 hectares) of native vegetation (EVC 83 Swampy Riparian Woodland) including three small trees. The removal of these trees is required to facilitate access to an existing manhole for activities related to the Suburban Rail Loop East project. The trees are within the access pathway or considered lost due to the impact of works around the base and root structure of the tree. Figure 2 identifies the trees to be removed (tree IDs 140, 223 and 139).

Figure 3 shows the existing access path that will be used for access. This path is to be widened to a width of 1 metre and safe clearance around the track is to be established. No buildings or works are proposed as part of the permit application, only vegetation clearing around the existing track.



The application is in the detailed assessment pathway according to the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) due to the cumulative clearing associated with the Suburban Rail Loop East project.

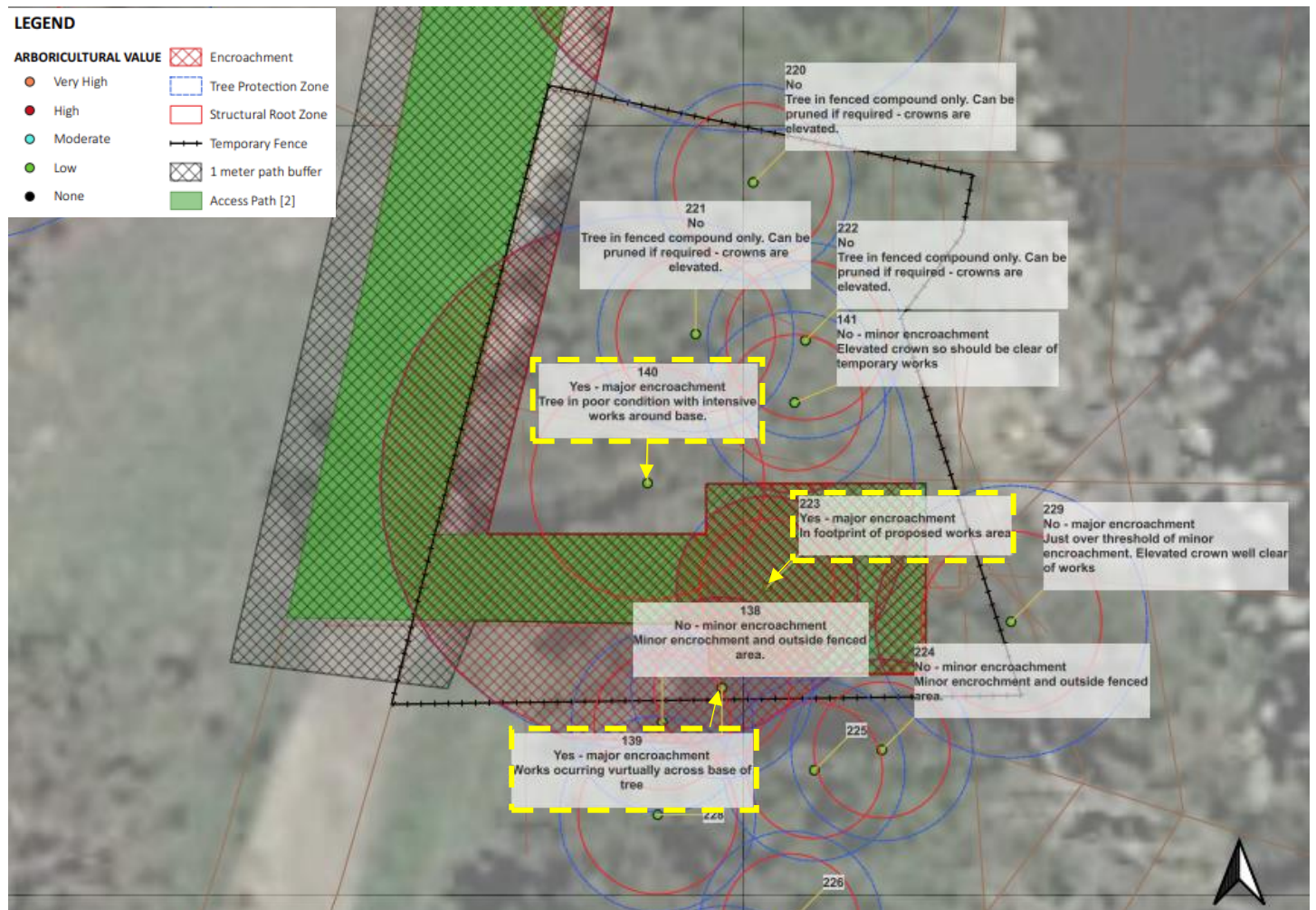


Figure 2: Tree removal plan, trees to be removed marked in yellow (Source: applicant)



**Figure 3: Existing access track (Source: applicant)**

## Relevant Planning Policies and Controls

Policy or Control	Planning Permit Trigger
<p><b>State and Local Planning Policies</b></p> <p>The following Planning Policy Framework (PPF) policies are considered relevant to this application:</p> <ul style="list-style-type: none"> <li>• Clause 12 – Environmental and Landscape Values</li> <li>• Clause 12.01-1S - Protection of biodiversity</li> <li>• Clause 12.01-2S - Native vegetation management</li> <li>• Clause 12.03-1S - River and riparian corridors, waterways, lakes, wetlands and billabongs</li> <li>• Clause 18 – Transport</li> </ul>	N/A
<p><b>Zone</b></p> <p>Clause 36.02 Public Park and Recreation Zone</p>	No – No permit requirement to remove





	<p>Purpose:</p> <ul style="list-style-type: none"> <li>To implement the Municipal Planning Strategy and the Planning Policy Framework.</li> <li>To recognise areas for public recreation and open space.</li> <li>To protect and conserve areas of significance where appropriate.</li> <li>To provide for commercial uses where appropriate.</li> </ul>	vegetation under the zone provisions.
Overlays	Clause 44.04 Land Subject to Inundation Overlay	No – No permit requirement to remove vegetation under the overlay provisions.
	Clause 45.06 Development Contributions Plan Overlay – Schedule 1	No - No permit requirement to remove vegetation under the overlay provisions.
	Clause 45.12 Specific Controls Overlay (Suburban Rail Loop East Incorporated Document, August 2022) (SCO14)	No – works outside of the overlay area.
	Clause 45.12 Specific Controls Overlay (Suburban Rail Loop East Infrastructure Protection Incorporated Document, August 2022) (SCO15)	No – works outside of the overlay area.
Other Controls	<p><b>Clause 52.17 Native Vegetation</b></p> <p>Pursuant to Clause 52.17-1, a permit is required to remove, destroy or lop native vegetation, including dead native vegetation.</p>	Yes – Planning permit required for the removal of native vegetation.
	<b>Aboriginal Heritage Act 2006</b>	<p>The site is located in an ‘area of cultural heritage sensitivity’ as defined in the Aboriginal Heritage Regulations 2018. The proposal is not a high impact activity and does not include any ‘significant ground disturbance’ and therefore does not require a Cultural Heritage Management Plan (CHMP). Notwithstanding, the applicant has provided a copy of the SRL East project CHMP.</p>

## Referrals and Notice

Referral/Notice	Provision/Clause	Organisation	Referral response
<p><b>Section 55 Referral – Recommending referral authority</b></p>	<p><b>66.02-2 Native vegetation</b></p> <p>An application to remove, destroy or lop native vegetation in the Detailed</p>	<p>Secretary to the Department of Environment, Land, Water and Planning (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987)</p>	<p>On 21 February 2024, DEECA advised (s56(1)(b)) and (s56(2)) they have no objection to the proposed native vegetation removal subject to conditions.</p> <p>On 4 March 2024, DEECA recommended updates to the offset evidence condition. The conditions have been included on the draft permit as requested.</p>



Assessment Pathway		Now Department of Energy, Environment and Climate Action (DEECA)
Notice under section 52(1)(b)	N/A	Whitehorse City Council
		Council was given notice of the application by way of a referral.  No response was received.  The applicant provided a copy of pre-application correspondence with council officers. This included confirmation from council representatives required to consent to the permit application. The council provided a condition to manage works within the Tree Protection Zones, this has been added to the permit.

## Notification and review

DTP officers are satisfied that the granting of the permit would not cause material detriment to any person and therefore did not require the applicant to notify under Section 52(1)(a) and (d) of the Act.

The removal of native vegetation to access existing infrastructure is not expected to result in material detriment to adjoining property owners, or any other persons.

The vegetation is sited away from site boundaries. The proposed removal of vegetation will not impact adjoining private landowners' privacy.

## Assessment

### Officers Assessment

#### Planning Policy

State planning policies encourage appropriate development which enhances the built environment, supports economic growth, meets the community expectations on commercial provision, meets housing needs, integrates transport and infrastructure planning, and protects biodiversity, waterways and other natural resources.

The proposal has limited its impacts on biodiversity as much as possible with the retention of trees in the vicinity of the works (Clauses 12.01-1S and 12.01-2S).

Mitigation measures as recommended in the flora and fauna assessment will contribute the avoidance and minimisation of impacts to the environment. The proposal will have minimal impact on the landscape compared with existing conditions (Clauses 12.03-1S).

#### Proposed works

In accordance Clause 52.17 Native Vegetation, a planning permit is required for the removal of vegetation. The removal of vegetation is considered acceptable, and proposal is supported for the following reasons:

- No buildings or works are proposed as part of the permit application.
- The extent of native vegetation removal is limited to what is required for safe access to an existing asset utilising the existing path.
- The proposal is not foreseen to contribute to future clearing or impacts on the site and no additional works are proposed for the manhole/sewer outside of formalising the existing access path. The site is maintained as a public reserve. It is expected that the remaining vegetation on the site will continue to be maintained.

- The proposed vegetation removal is minimal in extent, limited to 60 square metres including 3 small trees. In this context, the removal will have a proportionally small impact on the amount of vegetation on the site.
- The report provided with the application notes that “Native vegetation found within the study area was also considered unlikely to support threatened species due to the heavily degraded low-quality habitat and weedy understorey that is located within a heavily modified and urban landscape.” Due to this and the minimal amount of clearing proposed, no significant impacts to the biodiversity of the site are expected because of the proposal.
- The vegetation removal will be offset and will therefore result in no net loss in biodiversity. Further, DEECA is supportive of the application and requested conditions related to the protection of retained native vegetation and offsets.

For the above reasons, the proposal is considered to be generally consistent with the policies, objectives and strategies of the Whitehorse Planning Scheme including the relevant Planning Policy Framework and Particular Provisions.

### Conclusion

The development is generally consistent with the relevant planning policies of the Whitehorse Planning Scheme.

The proposal is generally supported by DEECA, in its capacity as a recommending referral authority, subject to conditions.

The council, as the relevant public land manager, has conditionally consented to the application of the permit being made.

The conditions provided by DEECA and council will be included in the relevant planning permit.

It is recommended that Planning Permit No. PA2302656 for the removal of vegetation at 175 Burwood Highway, Burwood, be approved subject to conditions.

### Conflict of Interest

I have considered whether or not I have 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 declaration of conflict/interest form.
  - ☐ Attached the declaration of conflict/interest form on hardcopy file.
  - ☐ Attached the conflict/interest form into Trim.

Prepared by:

