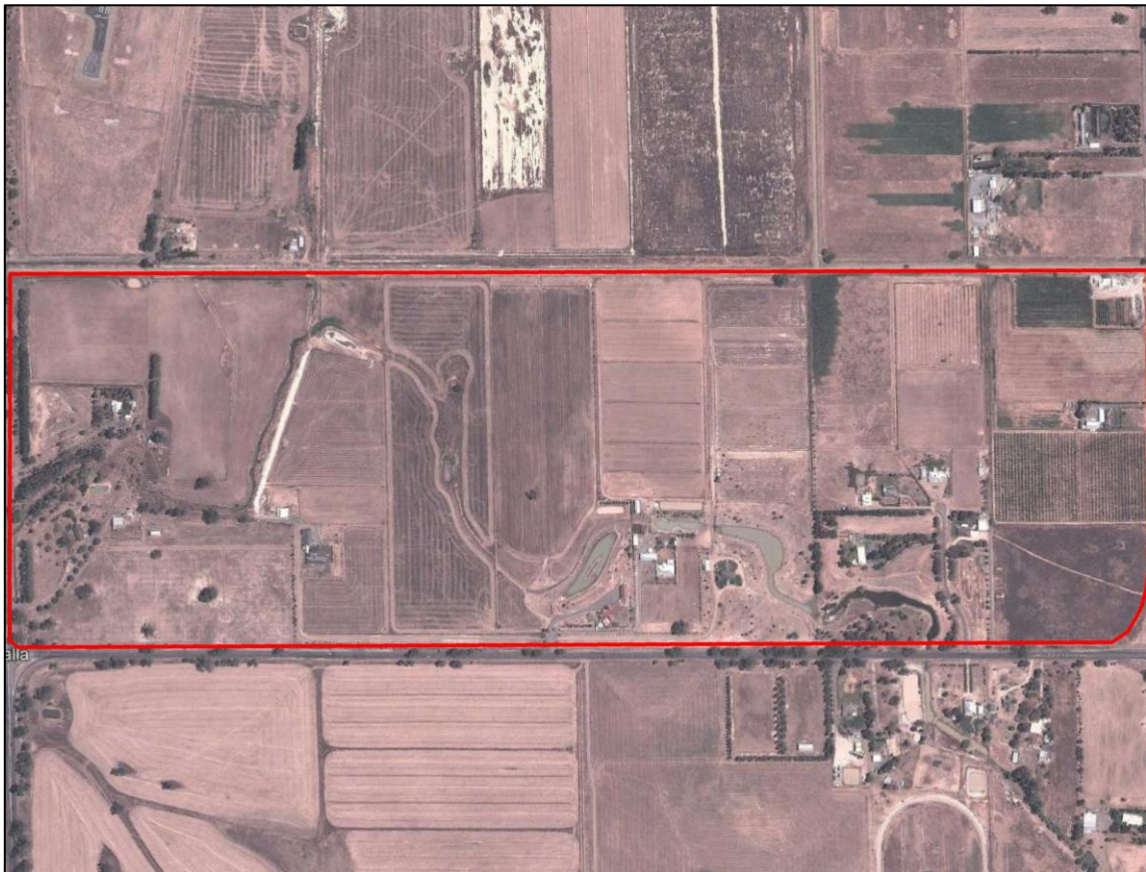


## Waterbird Creek Precinct

# Aboriginal Cultural Heritage Impact Assessment - Redacted



Name of Sponsor: Greater Shepparton City Council

Name of Heritage Advisor: Joanne Bell

Name of Authors: Neil Fenley, Jenny Fiddian and Joanne Bell

Date of Completion: 21 November 2022

## EXECUTIVE SUMMARY

Greater Shepparton City Council is currently working on precinct planning and design work for the Waterbird Creek Precinct. This Aboriginal Cultural Heritage Impact Assessment (ACHIA) aims to identify significant cultural qualities, important considerations and potential constraints for the Corridor and will assist in long-term planning for urban development.

The assessment has been prepared as a background report to assist in the development of the Waterbird Creek Precinct as part of the Greater Shepparton Housing Strategy (2011)[GSHS].

The Waterbird Creek Precinct area comprises an approximate total area of 93ha in the Parish of Kialla. It is bounded by Goulburn Valley Highway in the west, River Road in the south and Archer Road in the east. The northern boundary is defined by an existing housing development.

The Heritage Advisor commissioned to undertake this ACHIA is Joanne Bell, Jo Bell Heritage Services Pty. Ltd. (JBHS). The authors of the report are Neil Fenley, Jenny Fiddian and Joanne Bell.

The Registered Aboriginal Party (RAP) for the Activity Area is Yorta Yorta Nation Aboriginal Corporation (Yorta Yorta or YYNAC).

### Recommendations

Under r.7 of the Aboriginal Heritage Regulations 2018, a cultural heritage management plan (CHMP) is required for an activity if any part of the proposed activity is specified in the Regulations as a high impact activity, **and** the activity area (or part thereof) is specified as an area of cultural heritage sensitivity.

The Precinct Structure Plan (PSP) design may include such activities as residential and commercial subdivision, construction of buildings or carrying out of works associated with education centres, emergency services facilities, industry, childcare centres, sports and recreation facilities, offices, places of assembly, retail premises, service stations and utility installations. It will also include new roads and walking tracks. All of these works or activities are specified as high impact activities under Division 5 of the Regulations.

There are no cultural heritage sensitivity areas within the precinct boundary that are specified in the Regulations. Therefore, no works or activities undertaken within the precinct will require a CHMP under the Act.

However, it is strongly recommended that the areas indicated in Figure 16 by *green stippling*, should be considered as potentially sensitive landforms.

It is further recommended that prior to any specific development associated with these areas, a Heritage Advisor is engaged to provide advice on the specific planned development at that time.

Cover plate: 2009 Google aerial showing the activity area.

## TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
TABLE OF CONTENTS.....	ii
LIST OF TABLES.....	iii
LIST OF FIGURES.....	iii
Acknowledgements.....	iv
1.0 INTRODUCTION.....	5
1.1 Proponent.....	5
1.2 Heritage Advisor .....	5
1.3 Registered Aboriginal Party.....	5
1.4 Owner / Occupier of Land where the Activity Area is located .....	5
2.0 ACTIVITY AND ACTIVITY AREA.....	7
2.1 Proposed Activity and Extent of Activity Area .....	7
2.2 Existing Conditions.....	8
3.0 DOCUMENTATION OF CONSULTATION.....	16
4.0 DESKTOP ASSESSMENT .....	17
4.1 Geographic Region .....	17
4.2 Geology, Landforms & Geomorphology .....	17
4.2.1 Geology .....	17
4.2.2 Geomorphology.....	17
4.3 Climate and Hydrology.....	17
4.4 Vegetation .....	20
4.5 Ethnographic Information.....	20
4.5.1 Recording of Ethnography and Historical Documents .....	20
4.5.2 Social Organisation .....	21
4.5.3 Location and People .....	21
4.5.4 Economy.....	22
4.5.5 Missions and Reserves.....	22
4.6 Land Use History .....	25
4.6.1 Squatters, Pastoralists and Runs .....	25
4.6.2 Closer Settlement.....	25
4.6.3 Historical plans.....	27
4.6.7 Historic Aerial photographs .....	27
4.7 Aboriginal Cultural Heritage .....	27
4.7.1 Victorian Aboriginal Heritage Register .....	27
4.7.2 Registered Aboriginal Places .....	27
4.7.3 Previous Archaeological Investigations .....	34
4.8 Site Prediction Model .....	34
5.0 SITE INSPECTION .....	39
5.1 Methodology .....	39
5.2 Results.....	39
5.2.1 Oral History .....	39
5.3 Summary .....	40
6.0 LEGISLATION.....	42
6.1 Cultural Heritage Management Plans .....	42
6.2 Cultural Heritage Permits.....	42
6.3 Preliminary Aboriginal Heritage Tests.....	43
6.4 Areas of Cultural Heritage Sensitivity .....	43
7.0 RECOMMENDATIONS.....	44
8.0 REFERENCES.....	45
9.0 APPENDICES .....	49
Appendix 1: Qualifications of Cultural Heritage Advisor.....	49

## **LIST OF TABLES**

Table 1: Attendees at the inception meeting, held 12 July 2022.....	16
Table 2: Previous Archaeological and Cultural Heritage Investigations undertaken within the Geographic Region.....	35

## **LIST OF FIGURES**

Figure 1: Location of the activity area within the geographic region.....	6
Figure 2: Parcel plan of the activity area overview .....	9
Figure 2a: Parcel plan of the activity area – northeast portion .....	10
Figure 2b: Parcel plan of the activity area – east portion .....	11
Figure 2c: Parcel plan of the activity area – central portion .....	12
Figure 2d: Parcel plan of the activity area – west portion.....	13
Figure 3: The activity area showing the planning zones .....	14
Figure 4: Existing conditions of the activity area.....	15
Figure 5: Geology within the activity area .....	18
Figure 6: Local geomorphological context (tier 3 description) of the activity area.....	19
Figure 7: Clark’s (2011) Eastern Victorian Aboriginal Languages and Dialects map...	24
Figure 8: Pastoral runs in the region .....	26
Figure 9: 1967 Kialla Parish Plan of the activity area .....	28
Figure 10: 1957 Aerial showing the western side of the study area.....	29
Figure 11: 1977 aerial showing the eastern side of the activity area .....	30
Figure 12: 1977 aerial showing the western side of the activity area .....	31
Figure 13: 2009 Google Earth image showing the activity area .....	32
Figure 14: 2017 Google Earth image showing the activity area .....	33
Figure 15: Areas of potential cultural heritage sensitivity identified from historic aerial imagery.....	38
Figure 16: Potentially sensitive areas identified from historic aerial imagery and updated based on site inspection .....	41

## ACKNOWLEDGEMENTS

Jo Bell Heritage Services Pty. Ltd. would like to acknowledge the following people in the preparation of this CHMP:

Michael MacDonagh	Team Leader Senior Strategic Planner, Greater Shepparton City Council
Jack Montesano	Graduate Strategic Planner, Greater Shepparton City Council
Vanessa Charles	Acting Coordinator, Cultural Heritage Unit, Yorta Yorta Nation Aboriginal Corporation
Shannon Atkinson	Cultural Officer, Yorta Yorta Nation Aboriginal Corporation
Michael Day	Cultural Officer, Yorta Yorta Nation Aboriginal Corporation
Jo Bell	Director & Archaeologist, JBHS: background research, fieldwork, reporting & GIS
Neil Fenley	Archaeologist JBHS: reporting
Jenny Fiddian	Archaeologist JBHS: reporting
Tina Brown	Administration Manager, JBHS: Editing

*This report contains sensitive information about Aboriginal cultural places. If the report is to be exhibited publicly, then a redacted version of the report should be produced and used for this purpose. Redacted information would include:*

- Information contained within the Victorian Aboriginal Heritage Register (VAHR). This information is restricted and can only be accessed by people specific to the categories listed under s.146 of the Aboriginal Heritage Act 2006;*
- Photographs or images that accurately depict the location of Aboriginal places; and*
- Maps that highlight the precise location of Aboriginal places.*

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## **1.0 INTRODUCTION**

Greater Shepparton City Council is currently working on precinct planning and design work for the Waterbird Creek Precinct in response to the Greater Shepparton Housing Strategy 2011 (GSHS). This strategy was prepared to guide the long-term identification and provision of residential land within the City of Greater Shepparton. The GSHS was implemented into the Greater Shepparton Planning Scheme (Planning Scheme) in 2012 via Amendment C93. Amendment C93 included framework plans for all future residential land in the Planning Scheme. The Waterbird Creek Precinct was identified for Low Density Residential purposes however following the subsequent development of the Kialla Lakes residential estate to the north, Council has reviewed the zoning and concept plans are now considering General Residential Zoning of the area (Project Brief 2021:5).

This Aboriginal Cultural Heritage Impact Assessment (ACHIA) aims to identify significant cultural qualities, important considerations and potential constraints for the Corridor and will assist in long-term planning for urban development. It also aims to provide Council with advice in relation to their requirements and/or obligations under the *Aboriginal Heritage Act 2006*.

### **1.1 Proponent**

The sponsor (proponent) for the project is the Greater Shepparton City Council (GSCC), ABN: 59 835 329 843. The Project Manager is Michael MacDonagh, Team Leader Strategic Planner, GSCC.

### **1.2 Heritage Advisor**

The Heritage Advisor commissioned to undertake this ACHIA is Joanne Bell, Director, Jo Bell Heritage Services Pty. Ltd. (JBHS). The authors of this report are Neil Fenley, Jenny Fiddian and Joanne Bell. Neil has a B.Arch. (Hons) in Archaeology and over 15 years of professional experience in the cultural heritage industry. Jenny has both a BA (Hons) and MA in Archaeology. She has over 25 years professional experience in the cultural heritage industry. Jo has a BA (Hons) in Archaeology and over 20 years of professional experience in the cultural heritage industry (Appendix 1).

### **1.3 Registered Aboriginal Party**

The Registered Aboriginal Party (RAP) for the Activity Area is Yorta Yorta Nation Aboriginal Corporation (Yorta Yorta or YYNAC).

### **1.4 Owner / Occupier of Land where the Activity Area is located**

The activity area comprises a number of different land parcels under private ownership in a predominantly rural setting (farmland).

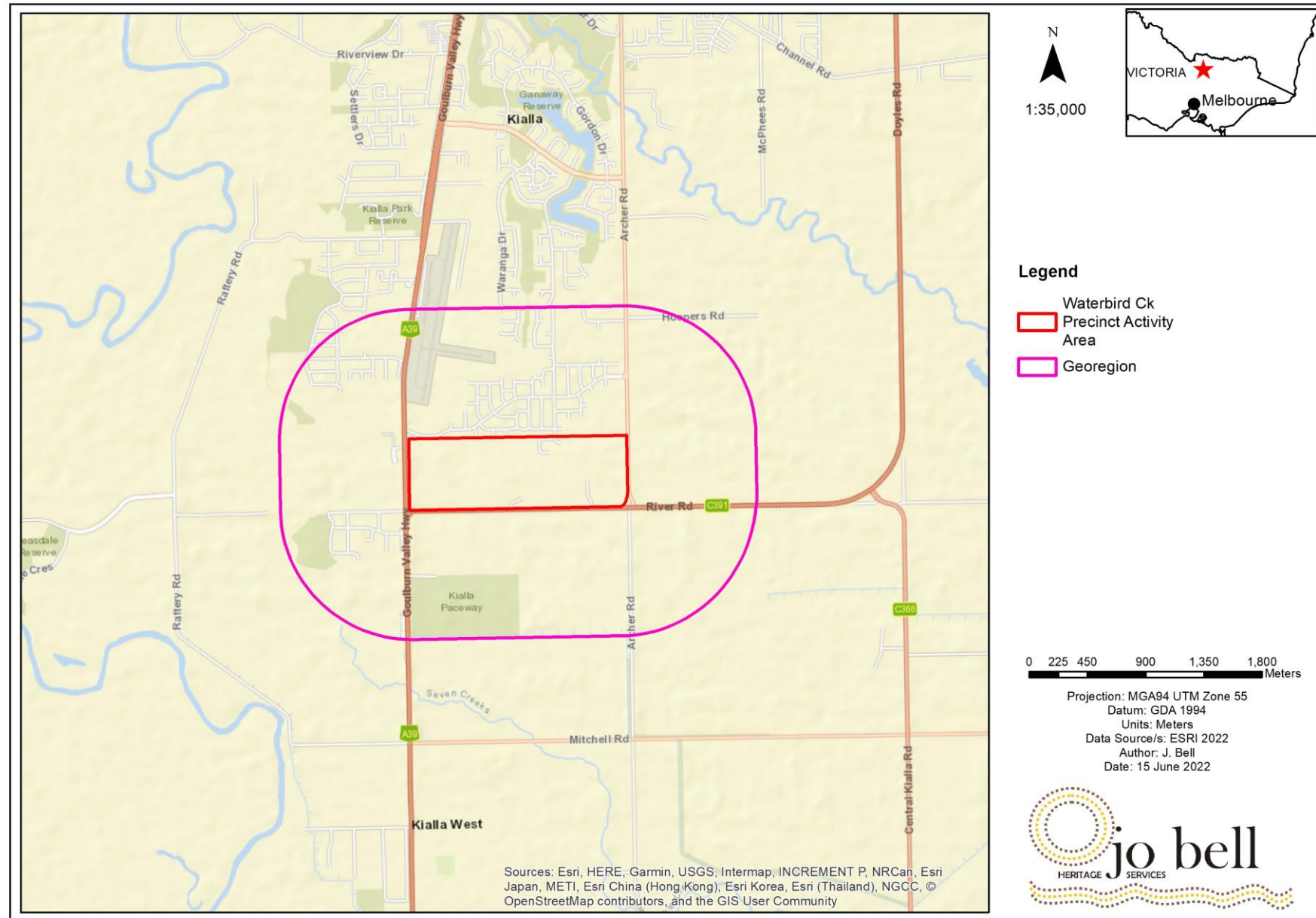


Figure 1: Location of the activity area within the geographic region

## 2.0 ACTIVITY AND ACTIVITY AREA

### 2.1 Proposed Activity and Extent of Activity Area

The Waterbird Creek Precinct area comprises an approximate total area of 93ha in the Parish of Kialla. It is bounded by Goulburn Valley Highway in the west, River Road in the south and Archer Road in the east. The northern boundary is defined by an existing housing development (see Figure 2 series).

Cadastral details for the activity area include:

- Lot 1 LP139517
- Lot 2 LP139517
- Lot 1 PS341824
- Lot 1 PS426092
- RES1 PS715834
- Lot 2 PS715838
- Lot 3 PS426092
- Lot 1 PS803490
- Lot R1 PS803490
- Lot 63 PS837373
- Lot 64 PS837373
- Lot 65 PS837373
- Lot 66 PS837373
- Lot 67 PS837373
- Lot 68 PS837373
- Lot 69 PS837373
- Lot 70 PS837373
- Lot 71 PS837373
- Lot 72 PS837373
- Lot 73 PS837373
- Lot 1 PS823116
- Lot 2 PS823116
- Lot 3 PS823116
- Lot 4 PS823116
- Lot 5 PS823116
- Lot 6 PS823116
- Lot 7 PS823116
- Lot 8 PS823116
- Lot 9 PS823116
- Lot 10 PS823116
- Lot 11 PS823116
- Lot 12 PS823116
- Lot 13 PS823116
- Lot 14 PS823116
- Lot 15 PS823116
- Lot 16 PS823116
- Lot 17 PS823116
- Lot 18 PS823116
- Lot 19 PS823116
- Lot 1 PS715831
- Lot 2 PS 715831
- Lot 3 LP129072
- Lot 1 LP127989
- Lot 11 LP112600
- Lot 12 LP112600
- Lot 1 TP749714
- Lot 20 PS823116
- Lot 21 PS823116
- Lot 22 PS823116
- Lot 23 PS823116
- Lot 24 PS823116
- Lot 25 PS823116
- Lot 26 PS823116
- Lot 27 PS823116
- Lot 28 PS823116
- Lot 29 PS823116
- Lot 31 PS823116
- Lot 32 PS823116
- Lot 33 PS823116
- RES1 PS823116
- RES2 PS823116
- Lot47 PS382112
- Lot48 PS382112
- Lot49 PS382112
- Lot50 PS382112
- Lot51 PS382112
- Lot52 PS382112
- Lot53 PS382112
- Lot54 PS382112
- Lot55 PS382112
- Lot56 PS382112
- Lot57 PS382112
- Lot58 PS382112
- Lot59 PS837359
- Lot60 PS837359
- Lot74 PS382111
- Lot75 PS382111

Under the City of Greater Shepparton Local Planning Scheme, the land is currently zoned RLZ – Rural Living Zone with UFZ – Urban Floodway Zone along Waterbird Creek and SUZ 10 Special Use Zone – Schedule 10 (Figure 3).

## **2.2 Existing Conditions**

Google Earth imagery from 2018 provides an indication of the existing conditions of the activity area, including land use, *i.e.*, namely farming (Figure 4).

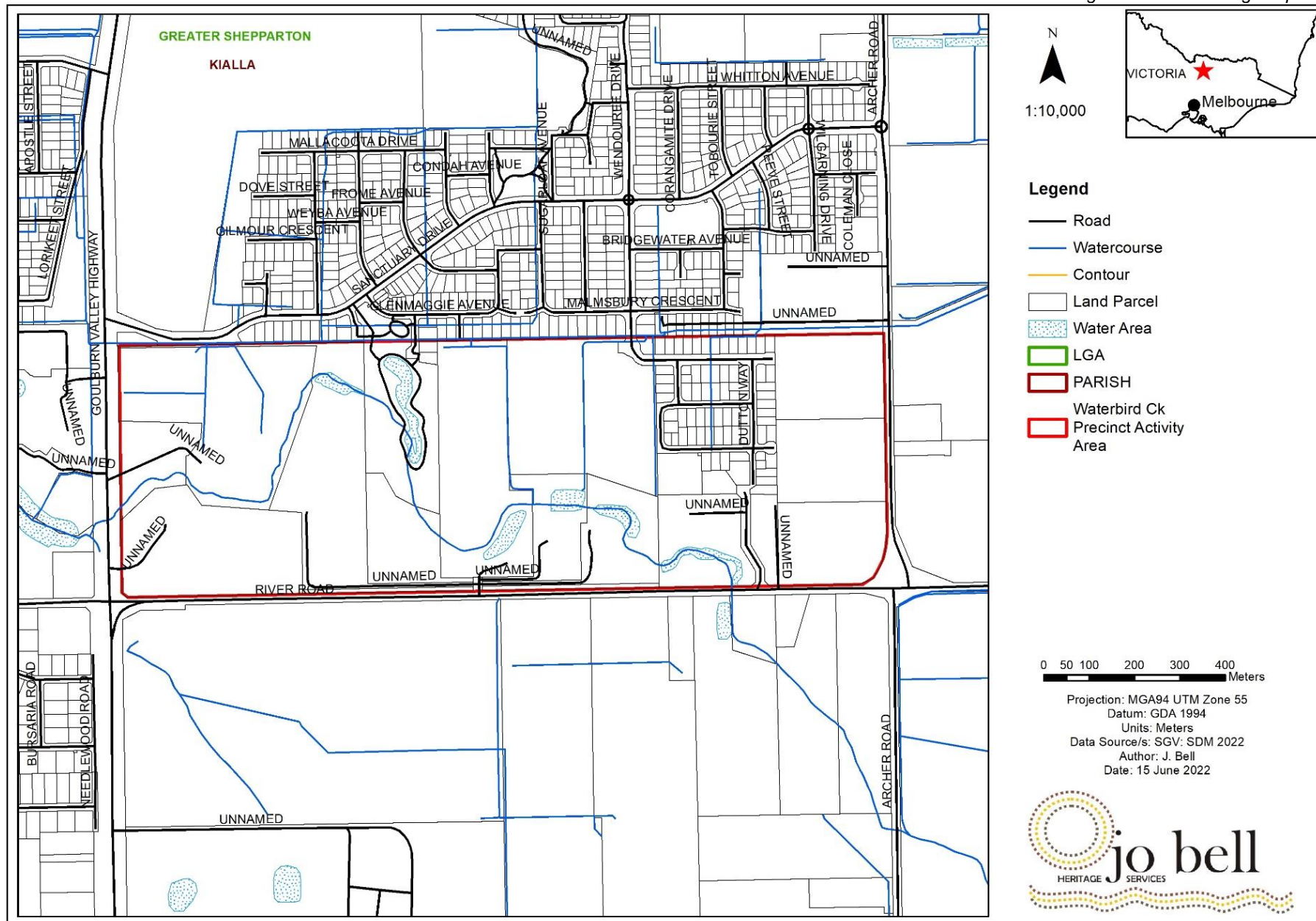


Figure 2: Parcel plan of the activity area overview

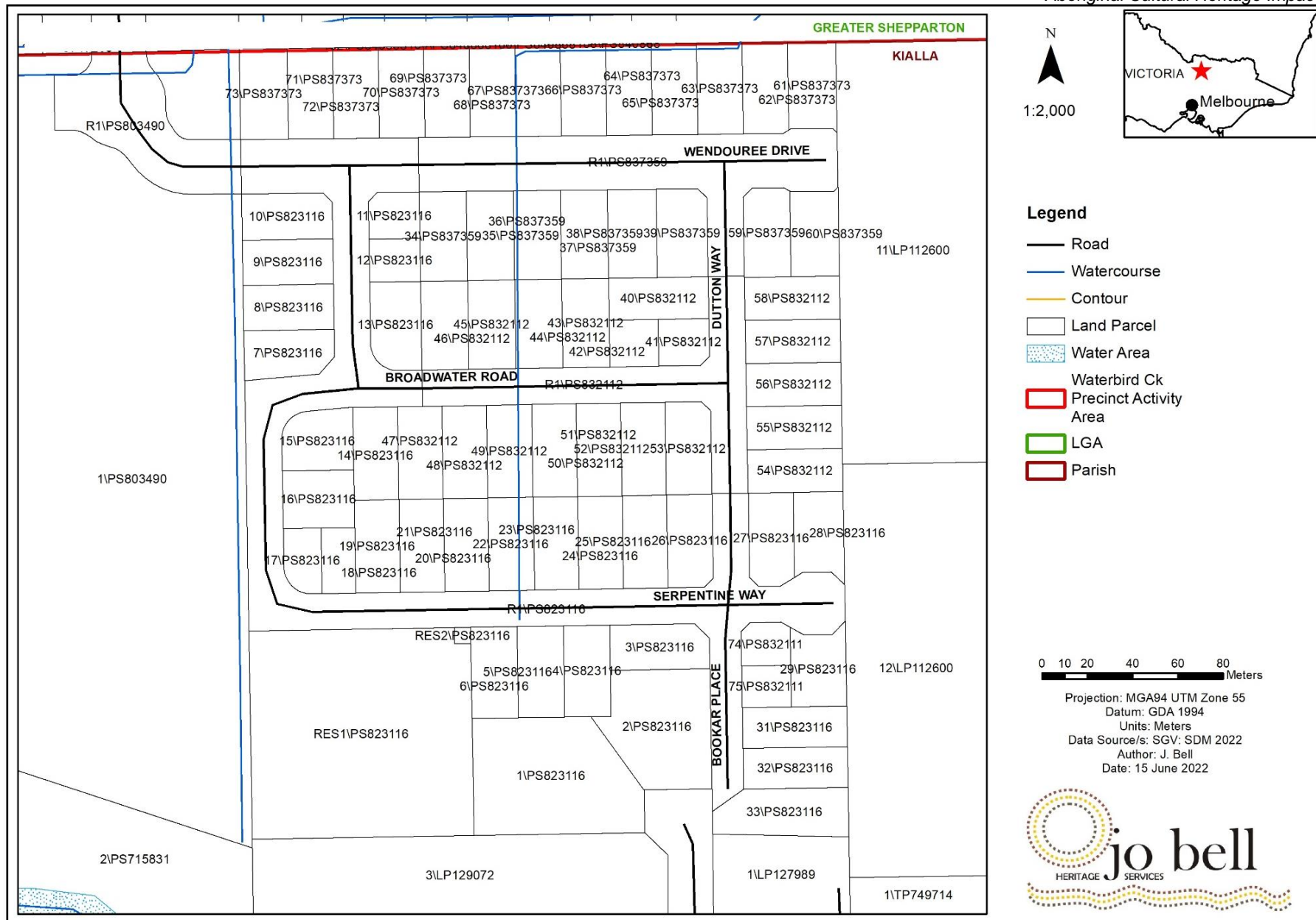


Figure 2a: Parcel plan of the activity area – northeast portion

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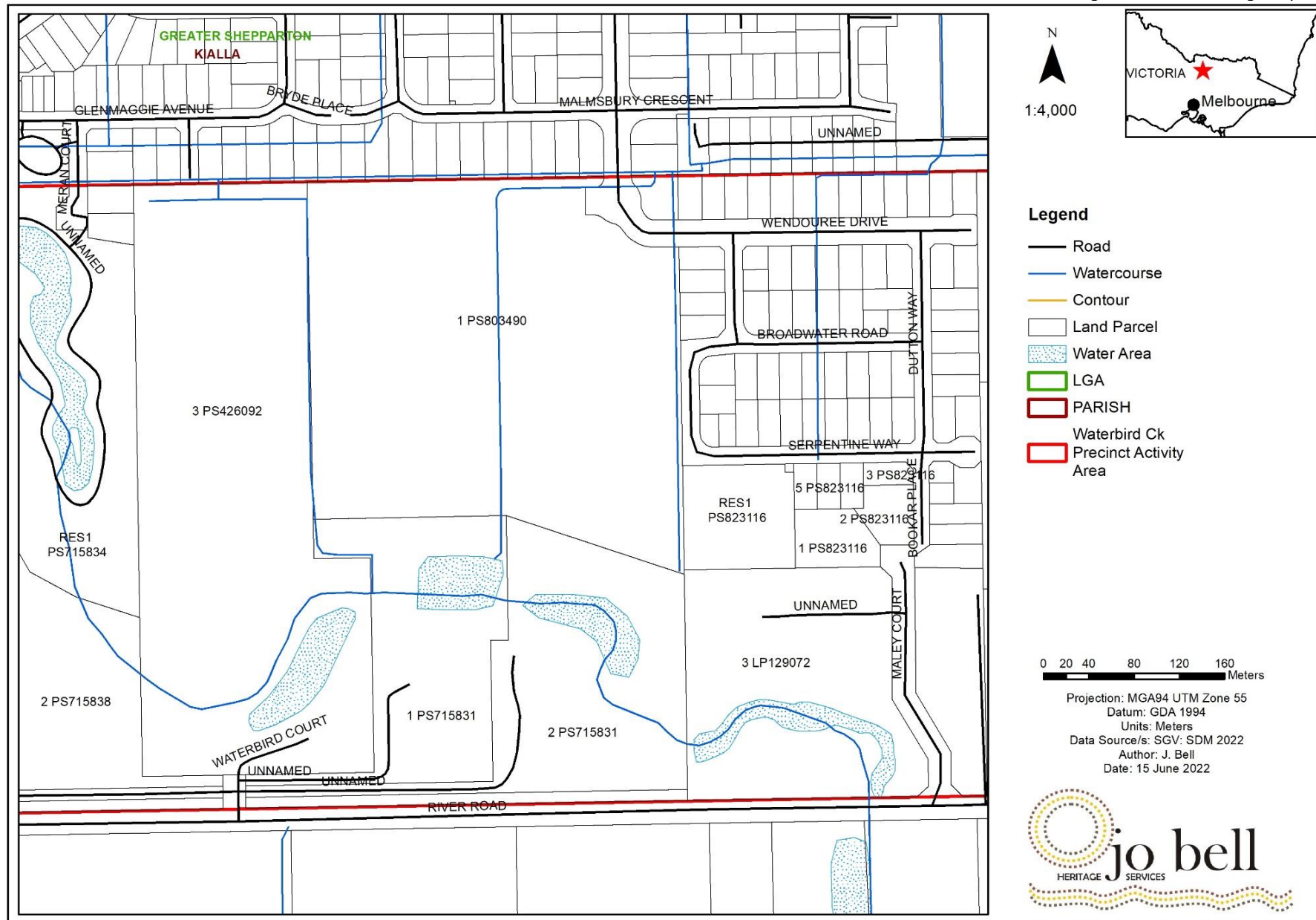


Figure 2c: Parcel plan of the activity area – central portion

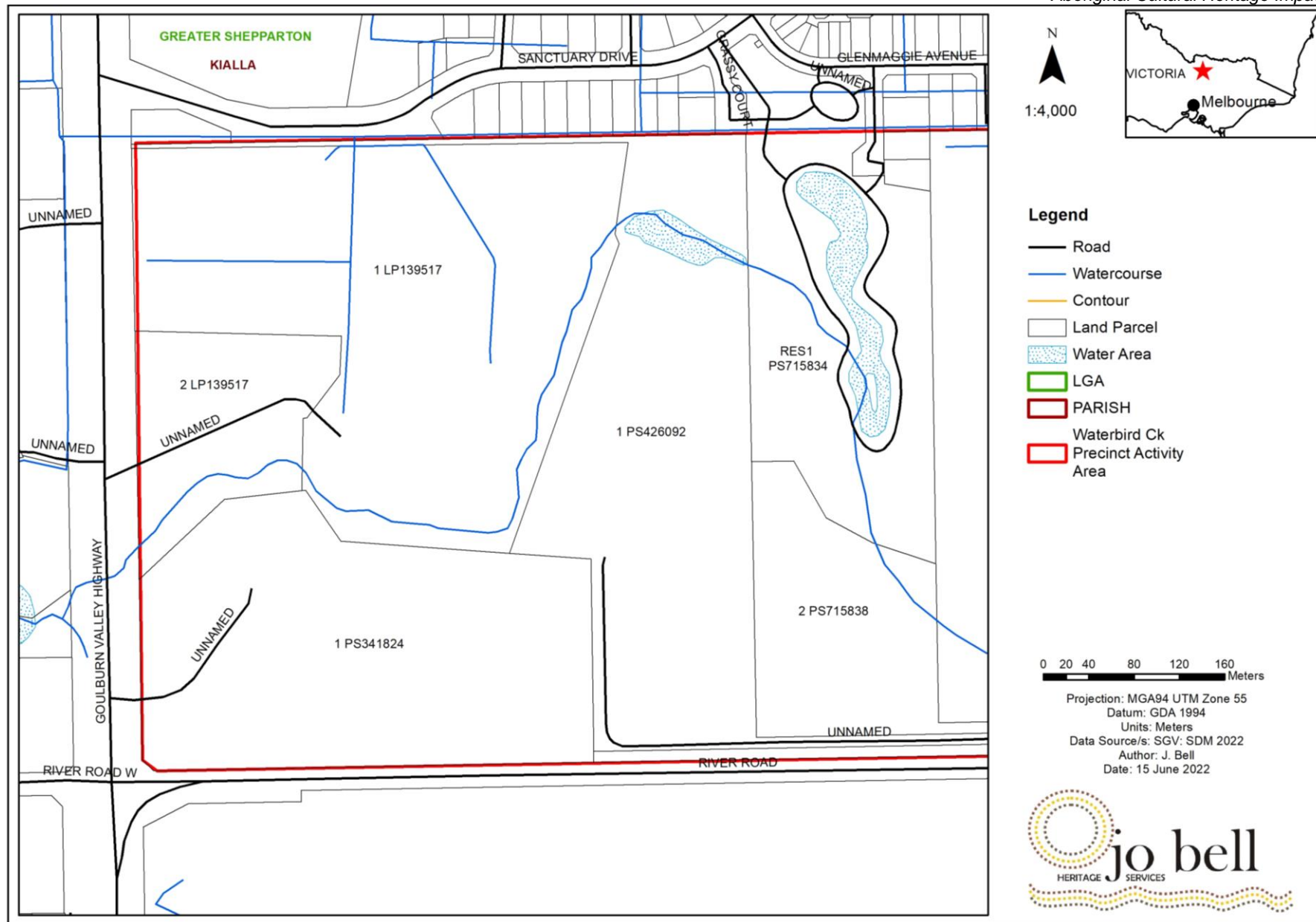


Figure 2d: Parcel plan of the activity area – west portion

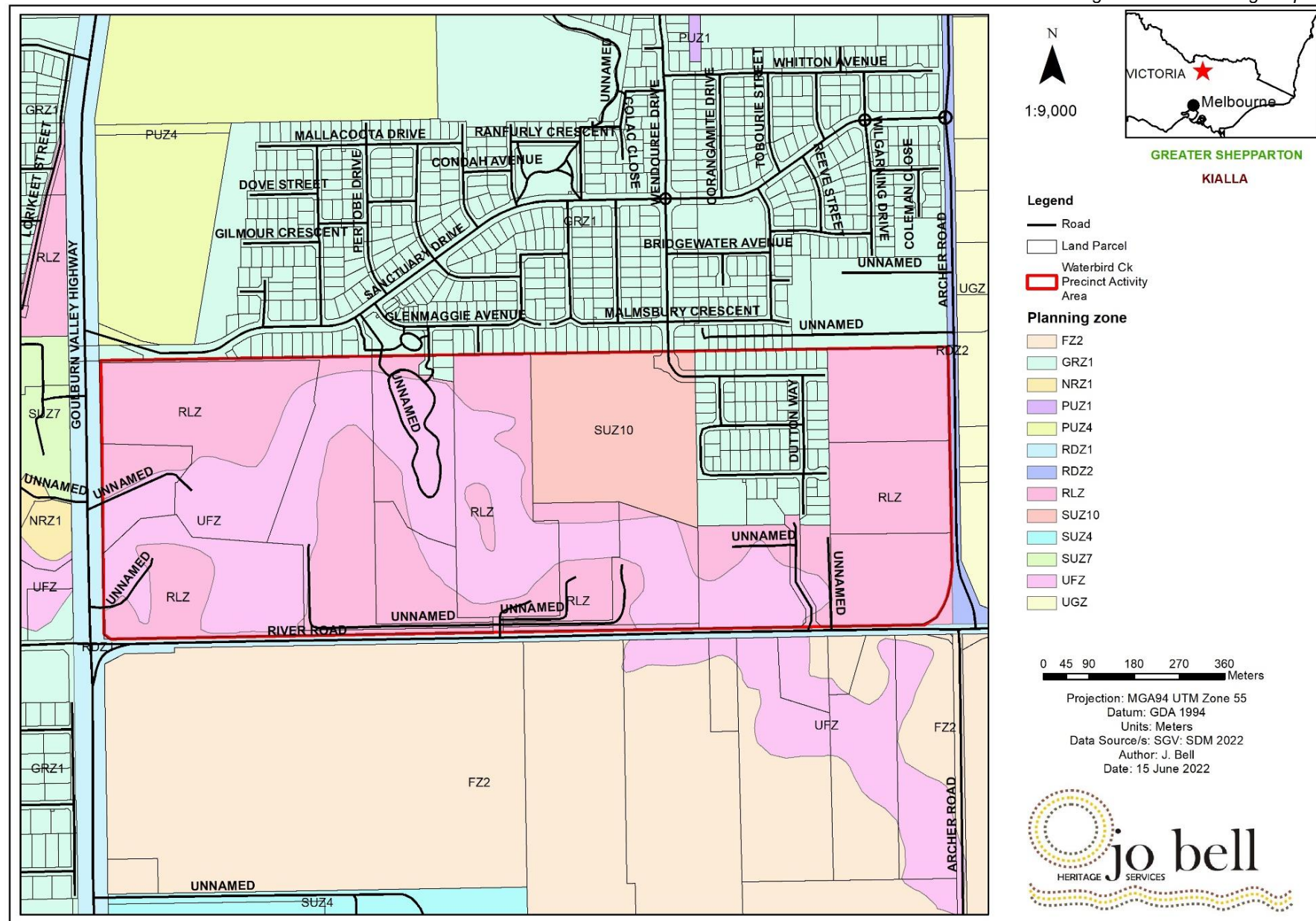


Figure 3: The activity area showing the planning zones

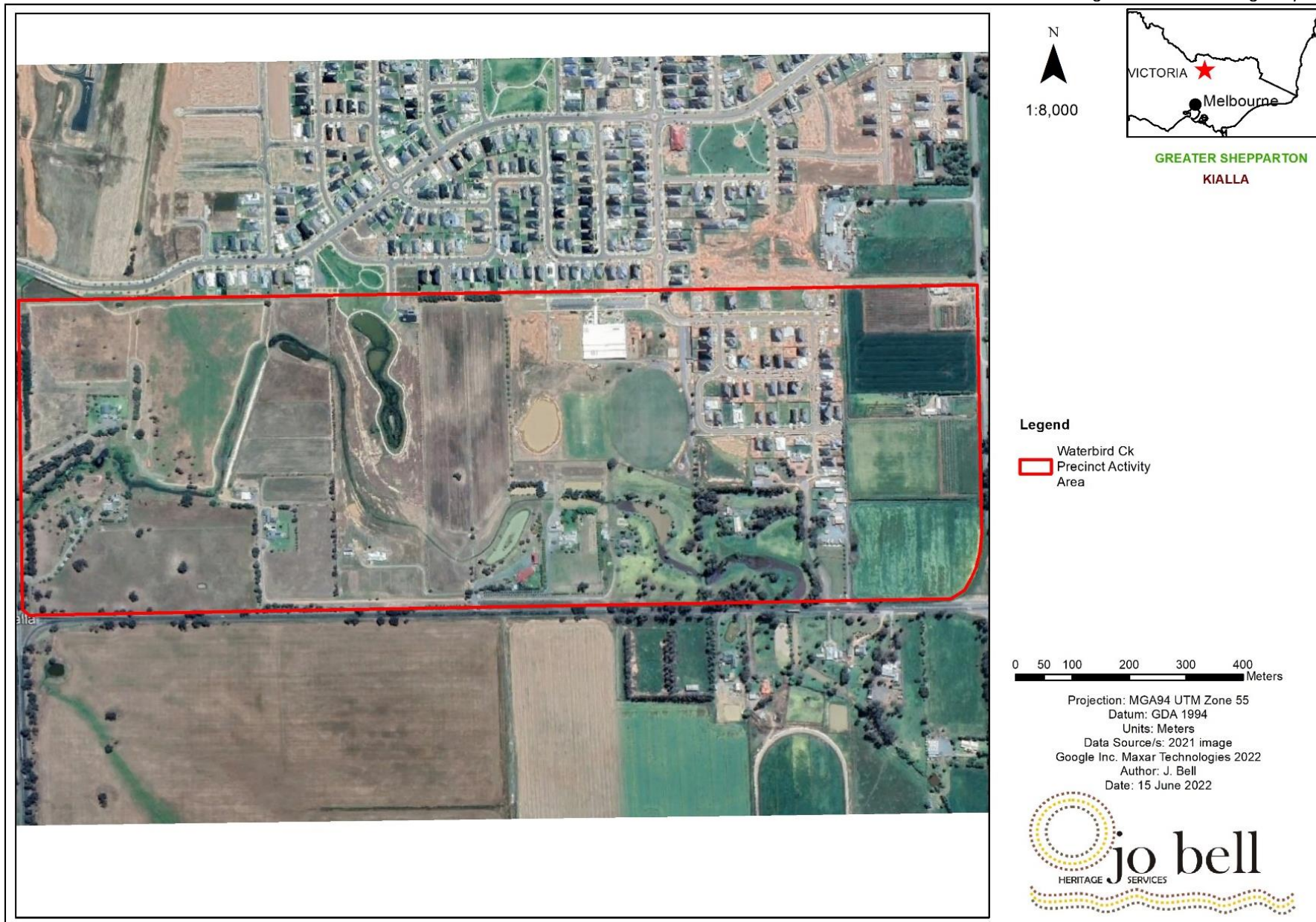


Figure 4: Existing conditions of the activity area

### 3.0 DOCUMENTATION OF CONSULTATION

On 28 June 2022, Jo Bell contacted Vanessa Charles (Acting Coordinator, Cultural Heritage Unit, YYNAC) in relation to the project and to organise the inception meeting. This was arranged for 12 July 2022.

The inception meeting was held via *Microsoft Teams* on 12 July 2022. Participants of the inception meeting are listed in Table 1. The project was discussed at length and background research tabled for discussion. A marked-up map showing possible areas of cultural heritage sensitivity for site inspection was emailed to Vanessa Charles for comment prior to Council being notified and landowners contacted.

Name	Organisation represented
Vanessa Charles	Acting Coordinator, Cultural Heritage Unit YYNAC
Jo Bell	Director & Senior Archaeologist, JBHS

Table 1: Attendees at the inception meeting, held 12 July 2022

The site inspection was carried out on 15 August 2022 by Jenny Fiddian (JBHS archaeologist) with Shannon Atkinson and Michael Day (YYNAC) in attendance. Jack Montesano, Graduate Strategic Planner with GSCC also attended, facilitating land access.

On completion of the ACHIA report, a copy of the report was sent to the CHU at Yorta Yorta on 1 September 2022 for comment and a telephone discussion was held on 2 September 2022 between Vanessa Charles and Jo Bell to discuss the content of the report and the outcomes of the project. Due to staffing issues then flooding of the Barmah office, no written response was received.

## **4.0 DESKTOP ASSESSMENT**

The desktop assessment provides context for the region in which the activity area is situated. It includes background environmental data, ethnographic information, and land-use history.

### **4.1 Geographic Region**

The geographic region has been identified as a radius of 1km from the Activity Area (see Figure 1). This area was chosen as a representative sample of the surrounding geomorphological units.

### **4.2 Geology, Landforms & Geomorphology**

#### **4.2.1 Geology**

The activity area lies within the Shepparton Formation (Nws), which comprises non-marine, alluvial deposits of clay, silt, sand, and minor gravels, dating to the Pleistocene epoch of the Quaternary Period (between 10Kya - 1.6Mya). The geology of the area is shown in Figure 5.

#### **4.2.2 Geomorphology**

In terms of geomorphic divisions of Victoria, the activity area lies entirely within the Northern Riverine Plain unit (Cochrane *et al* 1995: 65; DJPR 2022).

Geomorphology in Victoria is described in a tiered system. Tier 1 shows that the activity area is located within the Northern Riverine Plain. At the general level (Tier 2), the activity area lies predominantly within the 'older alluvial plains,' which essentially correspond to the Shepparton Formation; and 'modern floodplains'. At the more localised level (Tier 3), the activity is further described as 'plains with leveed channels, sometimes with source-bordering dunes' across the activity area (DJPR 2022; GeoVic Online 2022). The localised geomorphological context is shown in Figure 6.

### **4.3 Climate and Hydrology**

The activity area is situated within the warm temperate climate zone of Southeast Australia and receives 400-500mm of rainfall annually (DSDBI online 2013, cited in Grinter & Bell 2014:19; DELWP 2022). It is characterised by hot, dry summers and cool, wet winters. The average maximum temperatures range from 29.8°C in January and 12.4°C in July (Bureau of Meteorology 2022).

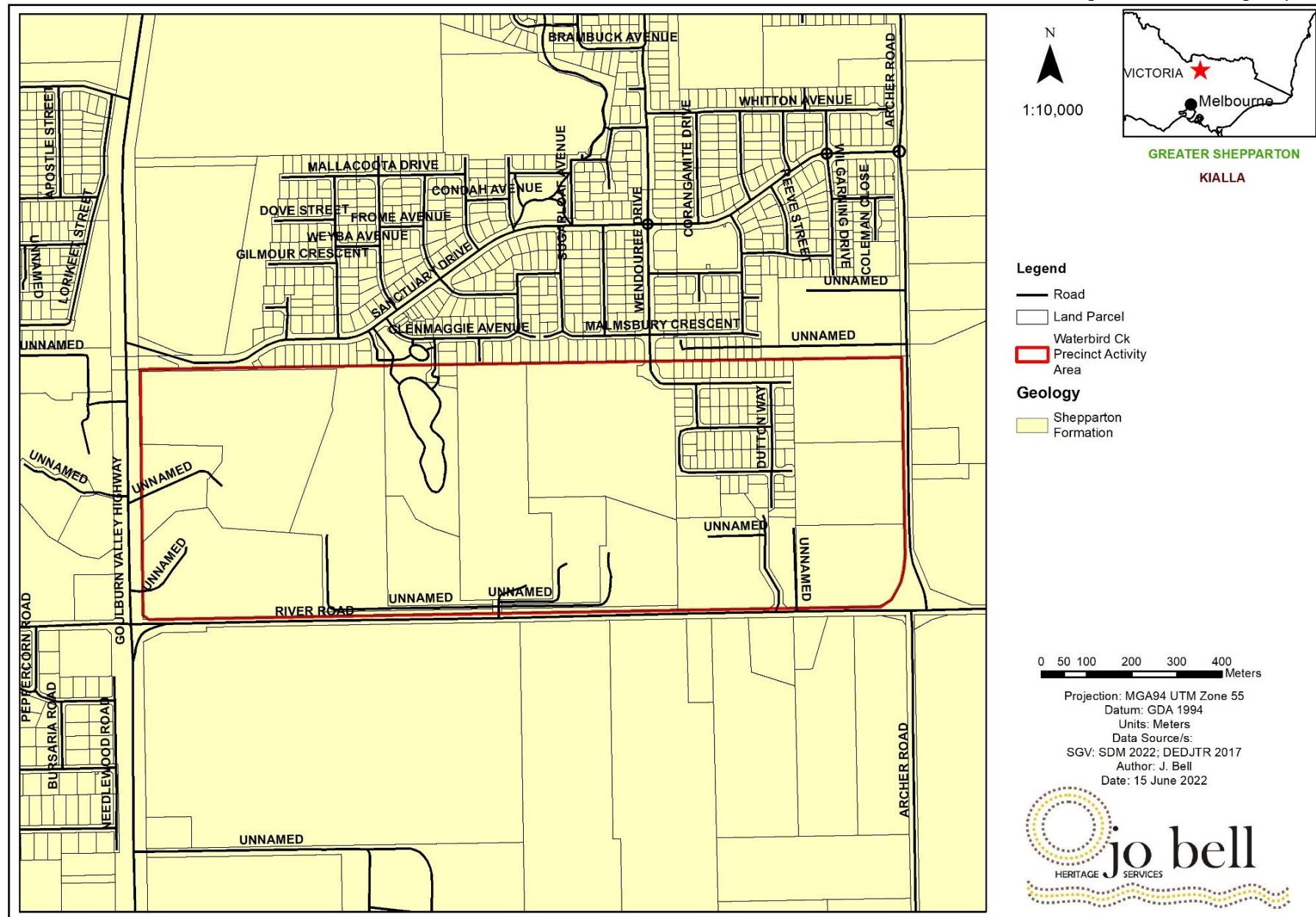


Figure 5: Geology within the activity area

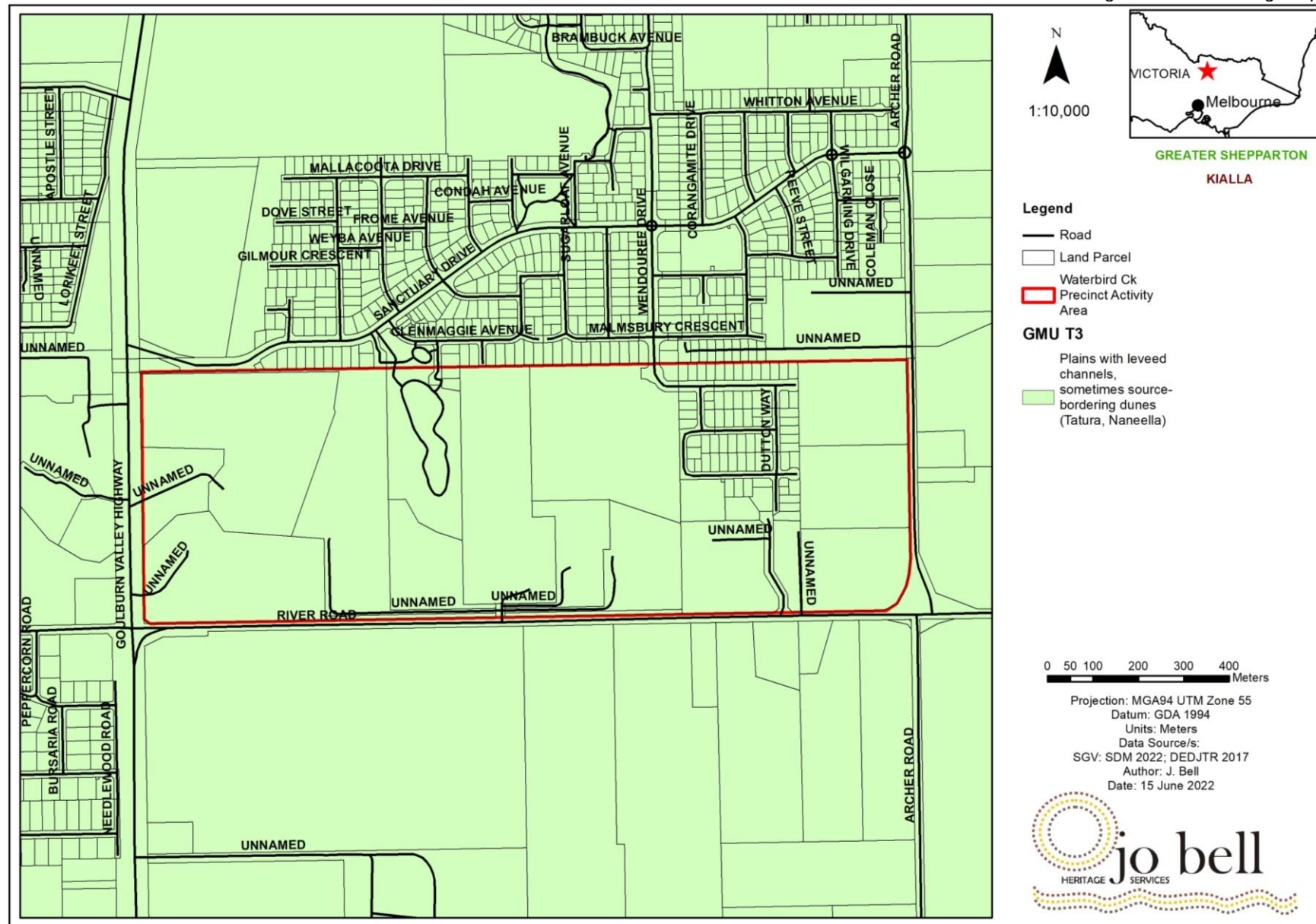


Figure 6: Local geomorphological context (tier 3 description) of the activity area

## **4.4 Vegetation**

The activity area lies within the Victorian Riverina Bioregion.

Pre-1750, the mapping indicates the vegetation community of the activity area comprised predominantly Plains Woodland (EVC 803). This is described as an open Eucalypt woodland to 15m tall, occurring on fertile clays and clay loam soils on flat or gently undulating plains at low elevations in areas with <600mm annual rainfall. The understorey consists of a few sparse shrubs over a species-rich grassy and herbaceous ground layer. Canopy species include Grey Box, Yellow Box, Black Box and River Red Gum. Shrub species include acacias whilst the ground cover, which makes up 45% is dominated by Common Wallaby-grass, Black-anther Flax-lily and Rough spear-grass (DSE EVC / Bioregion Benchmark Fact Sheet).

The current EVC mapping indicates very little remnant vegetation occurs away from the nearby creek lines (DELWP 2022: NatureKit).

## **4.5 Ethnographic Information**

### **4.5.1 Recording of Ethnography and Historical Documents**

There is much debate amongst ethnographers and discrepancies in the historical documents in relation to the identity of many traditional Aboriginal owners across what is now Victoria. Many of the first Europeans to explore or settle the Port Phillip District had little interest in, or training for, recording much about the society they encountered or displaced. The information provided by early ethnographers is often steeped in bias and their observations affected by inconsistencies in nomenclature, in addition to the cultural differences, themselves.

The documented Aboriginal ethnographic record for the North East region can be quite fragmentary, due to the rapidity with which introduced diseases such as small pox, measles and influenza, spread through the indigenous populations at the time of European colonisation. Disease and pastoral expansion (and associated violence) decimated entire populations of people throughout South-eastern Australia, severely disrupting and in many cases destroying traditional Aboriginal culture (after Bell 2004:5).

The majority of the available historical information for the region including the activity area has come from journals and memoirs of early pioneers and settlers, from early ethnographers such as Tindale and Howitt, and from government appointed officials such as G.A. Robinson, the Protector of Aborigines and his Assistant Protectors (under the Board for the Protection of Aborigines).

It should be noted that the author has attempted to provide relevant ethnographic information from many sources. This may not represent the perspective of the Registered Aboriginal Party or Traditional Owner groups of the region today.

#### 4.5.2 Social Organisation

Prior to European settlement, Aboriginal people occupied all aspects of the Victorian landscape, governed by a distinct system of land ownership. Aboriginal social organisation was extremely complex with marriage, social, and inter-group relationships based on tribe (or language group), descent, clan, and moiety. The tribe was a group of people who shared a common language. Language groups shared the same rules of descent (either matrilineal or patrilineal) and claimed ownership of a particular area. Clans were groups with a common ancestry and also held particular tracts of land. Moieties divided the entire language group into separate but complementary social groups, controlling social and ceremonial status of individuals and marriageability. Inter-marriage of persons within the same moiety was not allowed (Coutts 1981: viii, after Howitt 1904 (1996); Bell 2000:7).

#### 4.5.3 Location and People

The land that is now occupied by the activity area was inhabited by Aboriginal people from the *Ngurai-illum-wurrung*, speaking a language related to their neighbours, the *Daung Wurrung* (Clark 1990:376). However, Barwick (1984:125) believes Parker's census of Goulburn tribes shows they may have been two dialects, the former of which could have been influenced by their northern neighbours, the *Pangerang* (Bangarang), or may alternatively indicate speech differentiation relating to mythological sanctions. According to Clark, *Yoda Yoda* (Yorta Yorta) were situated just to the north of the current activity area (1990:364). Tindale's (1974) map shows the Shepparton region within the Bangarang language area, with *Joti Joti* (Yorta Yorta) placed to the north of this. Clark however refutes Tindale's idea that Bangarang and Yorta Yorta were separate tribal groups, instead he believes that the Bangarang clans spoke a language called *Yortayorta*.

In his history of Kyabram Bossence (1963) gives an account of Curr's (2001 (1883)) understanding in relation to Aboriginal occupation on the Goulburn River. Curr believed that the Bangarang people called the Goulburn River '*Kaiele*' and a Bangarang tribe living on the river was called Kailtheban (Bossence 1963:9). However, the *Ngooraialum* tribe was situated south of the Kailtheban, and the boundary between the two groups is given to be close to the present day Kialla (*Ibid.*:10). The *Ngooraialum* people called the Goulburn River *Waaring* and referred to the Kailtheban people as *Waaringulum* (people of the *Waaring*) (*Ibid.*:9).

For the purpose of this ethnohistory, *Ngurai-illum-wurrung* is identified as the relevant group living in the area in and around Kialla (Figure 7) (after Clark 1990; 2005).

The *Ngurai-illum-wurrung* consisted of three clans (or *balugs*) that occupied the Campaspe and Goulburn Rivers. These were the *Benbedora-balug*, *Gunung-willam*, and *Ngurai-illum-balug* (Clark 1990:378). Early European settlers' accounts suggest the *Benbedora-balug* ('*Benbedora* people') lived around Mitchellstown and at and around the Protectorate station at Murchison near the junction of the Goulburn River, Mooropna, Eppalock, the Elmore-Goornong area, and the Colbinabbin and Coragorag runs (*Ibid.*). *Benbedora-balug* were members of the *Bunjil* moiety. *Gunung-willam* belonged to the *Waa* moiety, and were situated at Murchison and the lower Campaspe, between the *Benbedora-balug* and the *Nattarak-balluk* clan of the *Daung Wurrung* (Taungurung) (*Ibid.*). Members of this group include Chimbri, who died at Murchison in 1842, and King Charles Tattambo (died Murchison 1866) and his son Captain John (died Murchison 1874) (*Ibid.*). According to Clark (*ibid.*), *Ngurai-illum-balug* were located at Murchison, Moiyhu (*sic.*), on the Goulburn River north of Mitchellstown, north of Murchison 'to within 40 miles of the Goulburn-Murray junction', west to 'creeks' and

east to Violet Town and Euroa (*Ibid.*). The clan head in 1840 was *Weeng-her-bil* / *Wang-her-bil*. The group were part of the *Bunjil* moiety (*Ibid.*).

#### 4.5.4 Economy

Aboriginal people generally practiced a hunter/gatherer economy, although evidence suggests that the richness and abundance of resources of the Goulburn River region may have allowed groups in this area to be more sedentary. Nevertheless, the seasonal availability of resources is likely to have determined population densities with larger gatherings probably occurring during the summer months with dispersal into smaller groups occurring during the colder months (see Atkinson & Berryman 1983:19; Beveridge 1889:27).

Generally speaking, utilitarian items were made from resources obtained from the surrounding landscape. Bark from mature Eucalypts was used to make shelters, carrying containers and canoes. Bark and sap (or gum) from specific trees also provided medicine. Wood was required to make a range of hunting and fighting implements and women's digging sticks. Grasses and reeds were used to weave baskets, and nets were manufactured from a cord made from the stringy-bark tree. Possums and kangaroos not only provided a meat source, but also provided raw materials from which clothing (cloaks), body decoration (jewellery) and other items could be made, including tools. Resin from the grass tree was used to bind handles to axes and spear points to spears. Suitable stone from which to manufacture tools, if not available within country could be traded for at corroborees (see McBryde 1978; 1979).

Aboriginal clans living in the Kialla area would have relied heavily on the woodland plains surrounding the major and minor watersheds for their livelihood.

Large mammals such as the Eastern grey kangaroo and emu would have been readily available on the open grasslands of the plains; and a number of plant species that occur within the vegetation types described in Section 4.4 of this report would have been utilised by people in the past. These include eucalypts such as River Red Gum, the bark of which was used to make canoes for fishing and transport. The sap of the Red Gum has a high tannin content and was used to shrink and heal burns. Golden Wattle gum was eaten or dissolved in water to make a sweet drink. The fruits of Cranberry Heath were also eaten. Kangaroo Grass was used to make fishing nets, mats and string (Zola & Gott 1992).

#### 4.5.5 Missions and Reserves

In 1839 the Port Phillip government set up an Aboriginal Protectorate under G.A. Robinson. In May that year James Dredge opened the protectorate station at Mitchellstown. By February 1840 he had attracted members of the *Ngurai-illum-wurrung* including the *Nguraiillum-balug* (Barwick 1984:126), however people left when rations ran out (Christie 1979:96). William Le Souef succeeded Dredge in 1841, moving the station to present day Murchison. Le Souef convinced the Aboriginal occupants to cultivate the land for crops, however this relationship soon deteriorated, and he was dismissed in 1843 (Christie 1979:96). Records from the Protectorate medical officer, Dr W.H. Baylie, show 'numerous and healthy' *Nguraiillum-balug* members at Murchison depot from 1841-43. According to Parker and Robinson's 1845 census, they numbered fifty-two within the Murchison depot (Barwick 1984:126). The station continued until 1850 (Parris 1950:150).

In 1858 the Victorian Government recommended the formation of a Central Board to replace the Protectorate system and take over responsibility for the protection of Aboriginal people within the colony (EDM Group 2008). In 1860 the *Central Board appointed to watch over the interests of Aborigines in the Colony of Victoria* (CBA) was established. The CBA appointed Honorary Correspondents in districts where Aboriginal people lived. The role of these Honorary Correspondents was to report to the CBA and later the Board for the Protection of Aborigines (BPA) on the health and population of the Aboriginal people. The Honorary Correspondent was also responsible for distributing supplies such as flour, sugar, tea, tobacco, soap, tomahawks, blankets, and clothing to Aboriginal people in the area (CBA Reports 1866 & 1869).

Toolamba (Innes) Station Honorary Correspondent Depot was located to the south of the activity area, on the banks of the Goulburn River. J.W. Manley was the Honorary Correspondent for the CBA from 1861-69.

The *Ngurai-illum-wurrung* population suffered great devastation as a result of European encroachment, and they and neighbouring groups were relocated to Maloga Mission on the New South Wales side of the Murray River in 1874 (YYNAC website accessed 16/07/14). The mission was eventually closed, and the residents then relocated 2 miles north to Ulunja, and then north again to Cummeragunja Station in 1888 (Morgan 1952:14). The residents of Cummeragunja worked the land turning it into a thriving farm, producing wheat, wool, and dairy products (ABC website accessed 16/07/14). All the profits of the farm were used for the upkeep of the station, which caused much resentment among the residents (Morgan 1952:15). Poor living conditions, oppressive control by the NSW Protection Board and disease caused the more than 150 Aboriginal residents of Cummeragunja to stage a walk off in 1939 (*Ibid.*). A small number of residents returned, and the Protection Board closed the reserve as a managed reserve in 1953 due to low numbers (*Ibid.*). In the 1980s 1200 acres of the former reserve were granted to the Yorta Yorta Land Council (*Ibid.*).

### *Registered Aboriginal Parties*

Yorta Yorta Nation Aboriginal Corporation is the Registered Aboriginal Party (RAP) appointed by the Victorian Aboriginal Heritage Council (VAHC) for the area in which the activity area is located.

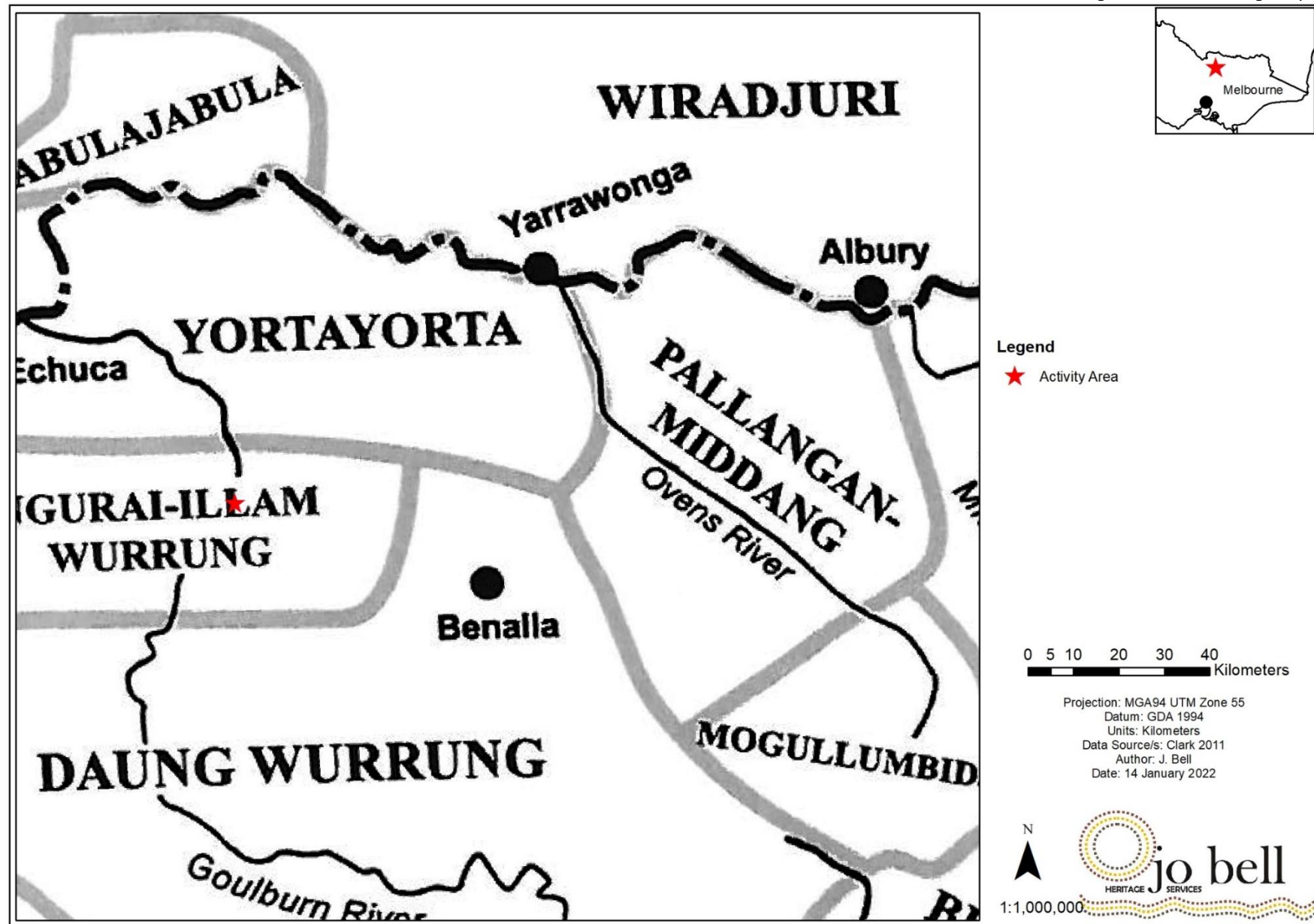


Figure 7: Clark's (2011) Eastern Victorian Aboriginal Languages and Dialects map

## **4.6 Land Use History**

### **4.6.1 Squatters, Pastoralists and Runs**

According to Spreadborough & Anderson, the activity area lies on the western boundary of the Arcadia pastoral run, gazetted in 1848 with an estimated area of 80,000 acres (Figure 8). It was licensed 50 months prior to the NSW OIC of 1847 to William Snow Clifton and Henry Clifton. In 1858, the run was subdivided into the newly formed Arcadia and Pine Lodge leases. The activity area falls within the new Arcadia run. When subdivided, the lessees remained in Clifton hands until 1864, when the Arcadia lease was sold to John White Pearce and Charles Heape, then to Archibald McMillan in 1867. During 1869 the lease was taken on by the Australian Mortgage Land & Finance Co. Ltd. then in 1873, by Julius Martyn Wilkinson of Melbourne. It was abandoned in 1878 (1983).

### **4.6.2 Closer Settlement**

In September 1836, the Port Phillip district was proclaimed open to settlement, and the principle of the sale of unoccupied land by auction was introduced. The first Port Phillip land sale took place on 1 June 1837, and the first Portland Bay sale on 15 October 1840. In the year 1841 the upset price of country lands in New South Wales, limited to twelve shillings per acre, was specially raised to twenty shillings per acre in the Port Phillip district (<https://www.abs.gov.au/>).

In 1862, free selection before survey was introduced by Duffy's Land Act, which provided for the setting apart of large agricultural areas, within which land could be selected at a uniform price of £1 per acre. Alternative conditions were imposed to the effect that certain improvements should be conducted or that part of the land should be placed in cultivation, and modifications were introduced as to the mode of payment. As regards pastoral lands, license fees and assessments of stock were abolished, and provision was made for the payment of rent for runs according to their value, based on their stock-carrying capacity. This Act was amended in 1865 (*ibid*).

The next land settlement legislation was enacted in 1869. Both a Land Act and a Pastoral Act were passed, consolidating, and amending all previous land legislation. The system of free selection before survey, as applied to all unoccupied Crown lands, was retained, but the selected area was limited to 320 acres, and was at the outset to be held under license for a term of three years. During the first two and a-half years however, the selector had to reside on the land, fence it, and cultivate a certain proportion of it. At the end of the period of license, the selector could either purchase the land outright or he might obtain a further lease of seven years, with the right to purchase at any time during that term. The Pastoral Act of 1869 provided for the occupation of the land for pastoral purposes under two systems, either as runs under license or lease or under grazing rights. The Land Act of 1869 was amended in 1878, when the conditions of selection were greatly restricted; the immediate effect of the restrictions being a considerable reduction in land taken up (*ibid*).

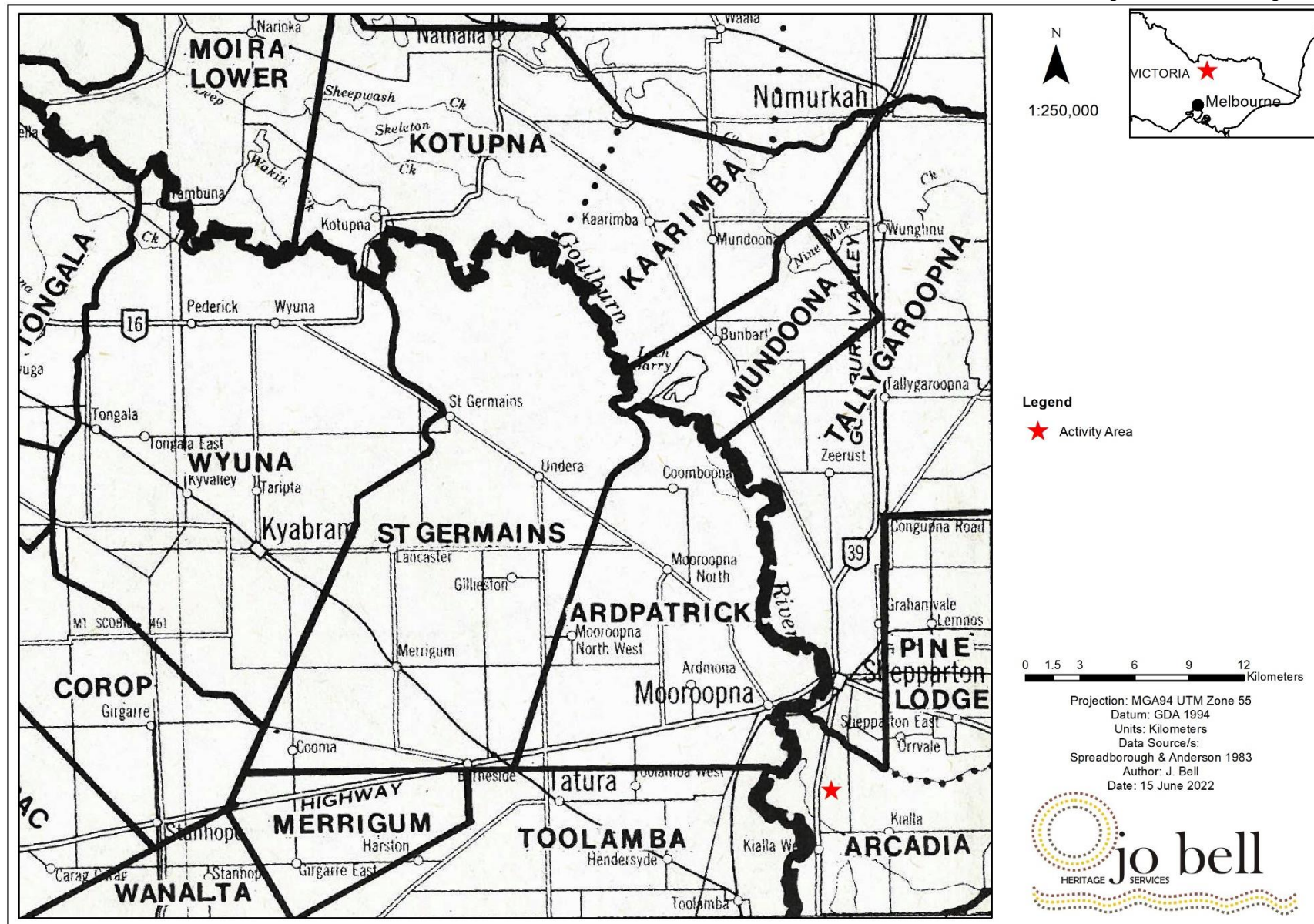


Figure 8: Pastoral runs in the region

### 4.6.3 Historical plans

State Library Victoria, Landata and Victorian Archive Centre have been visited on-line to review historic plans of the area.

The 1967 Kialla parish plan (Figure 9) records landholders for the activity area as Geo. McNabb (CA71A) and Edward Geo. Henderson (CA70A).

### 4.6.7 Historic Aerial photographs

Landata and the State Library Victoria were visited on-line to review available historic aerial photography.

A 1957 aerial run shows the western side of activity area as farmland, with one residence to the north of Waterbird Creek and shedding to the south. The area is divided into various paddocks, though fewer than in the more recent aerial photography. Very few trees are found in the wider area, although there does appear to be some remnant trees in the southwest corner (Figure 10).

A 1977 aerial shows a second residence has been constructed south of Waterbird Creek and to the west of the still existing shedding and there are less remnant trees present in the southwest corner (Figure 11). The eastern portion of the activity area has a single dwelling present and very sparse trees along the southern boundary, the remainder has been cleared and ploughed for cropping (Figure 12).

Google Earth was also reviewed. The 2009 and 2017 images indicate predominantly open farmland with some additional residences present in the southern portion (Figures 13-14). The 2021 image shows that St. Annes College and associated sports ground are now present in the central northern portion and that a housing subdivision is present to the east of the college in the northeast (see Figure 4).

## 4.7 Aboriginal Cultural Heritage

### 4.7.1 Victorian Aboriginal Heritage Register

The Victorian Aboriginal Heritage Register (VAHR) holds information about known Aboriginal cultural heritage places and objects within Victoria. It is maintained by First Peoples-State Relations and is governed by the *Aboriginal Heritage Act* 2006 and the *Aboriginal Heritage Regulations* 2018. The Aboriginal Cultural Heritage Register and Information System (ACHRIS) is used to access the VAHR.

The VAHR was accessed on 17 June 2022 by Jo Bell.

### 4.7.2 Registered Aboriginal Places

The activity area is not in an area of mapped cultural heritage sensitivity.

Within a 1km radius of the activity area, there are three registered Aboriginal places. These include a scarred tree and two LDADs.

- 7925-0340 – scarred tree (Grey box tree with a possible scar facing southeast)
- 7925-0664 – LDAD (a single silcrete angular fragment)
- 7925-0624-7 – LDAD (16 stone artefacts, of which two lie within geographic region).

There are no Aboriginal places within the activity area and there are no historical references listed for the geographic region.

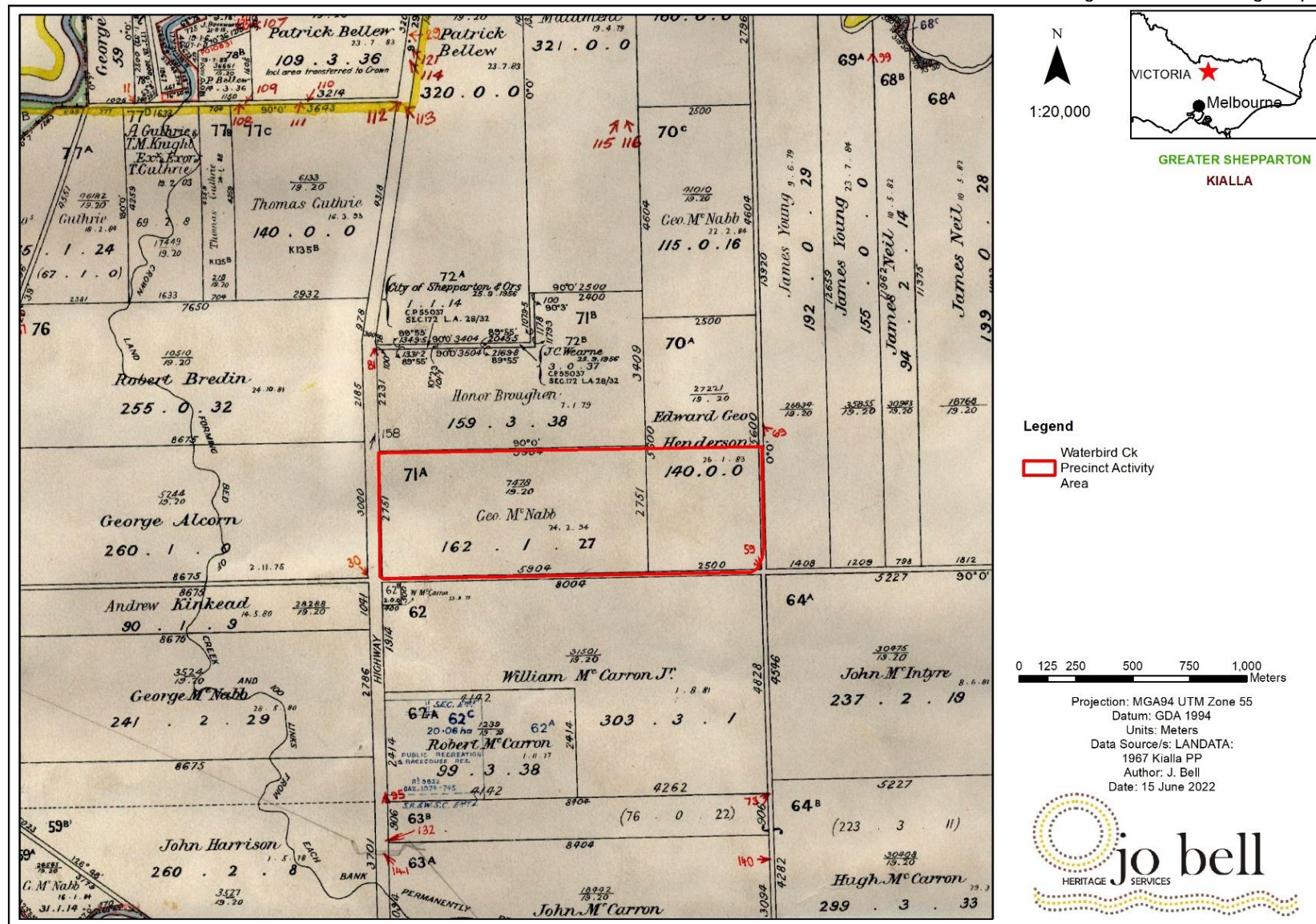


Figure 9: 1967 Kialla Parish Plan of the activity area

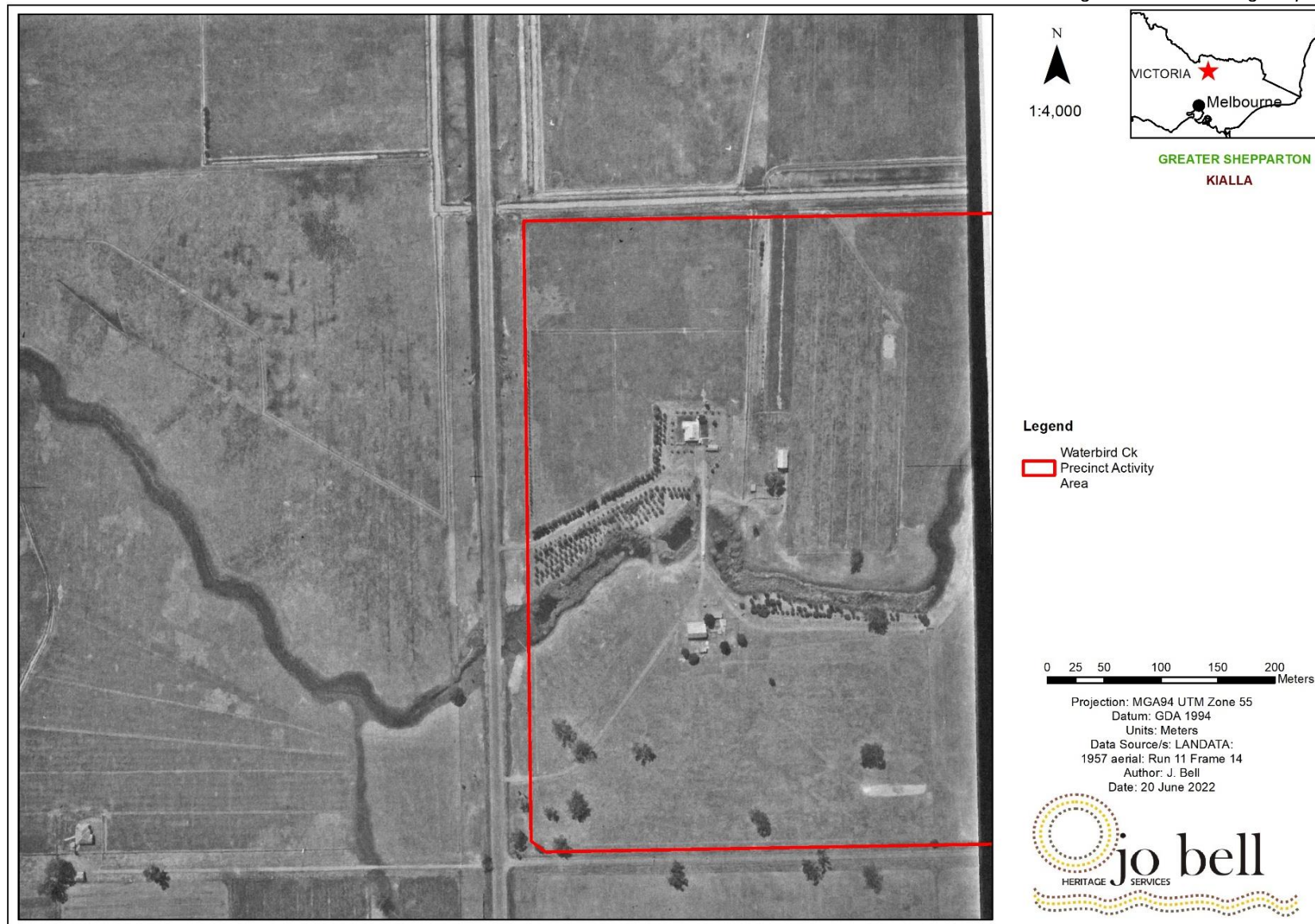


Figure 10: 1957 Aerial showing the western side of the study area

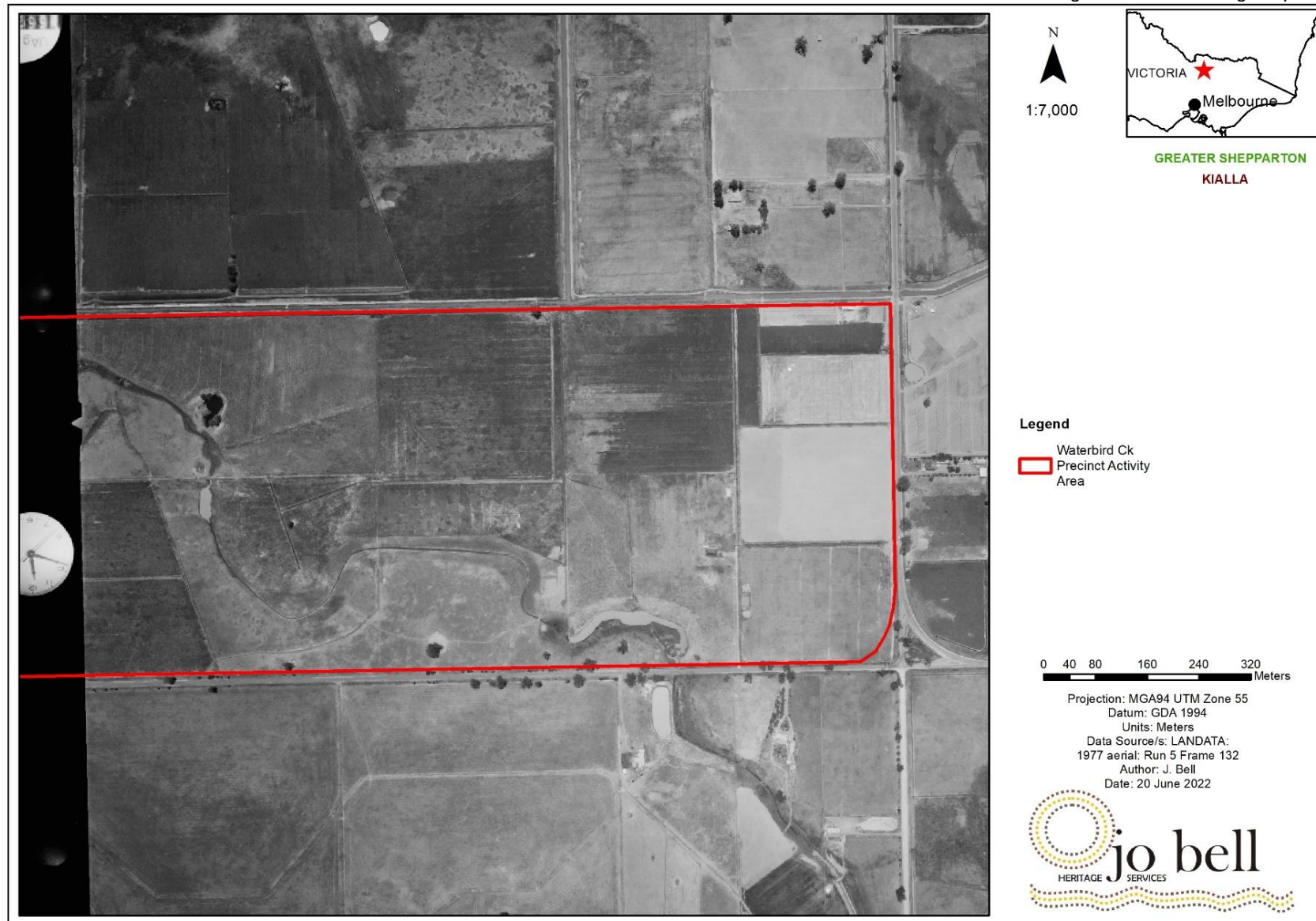


Figure 11: 1977 aerial showing the eastern side of the activity area

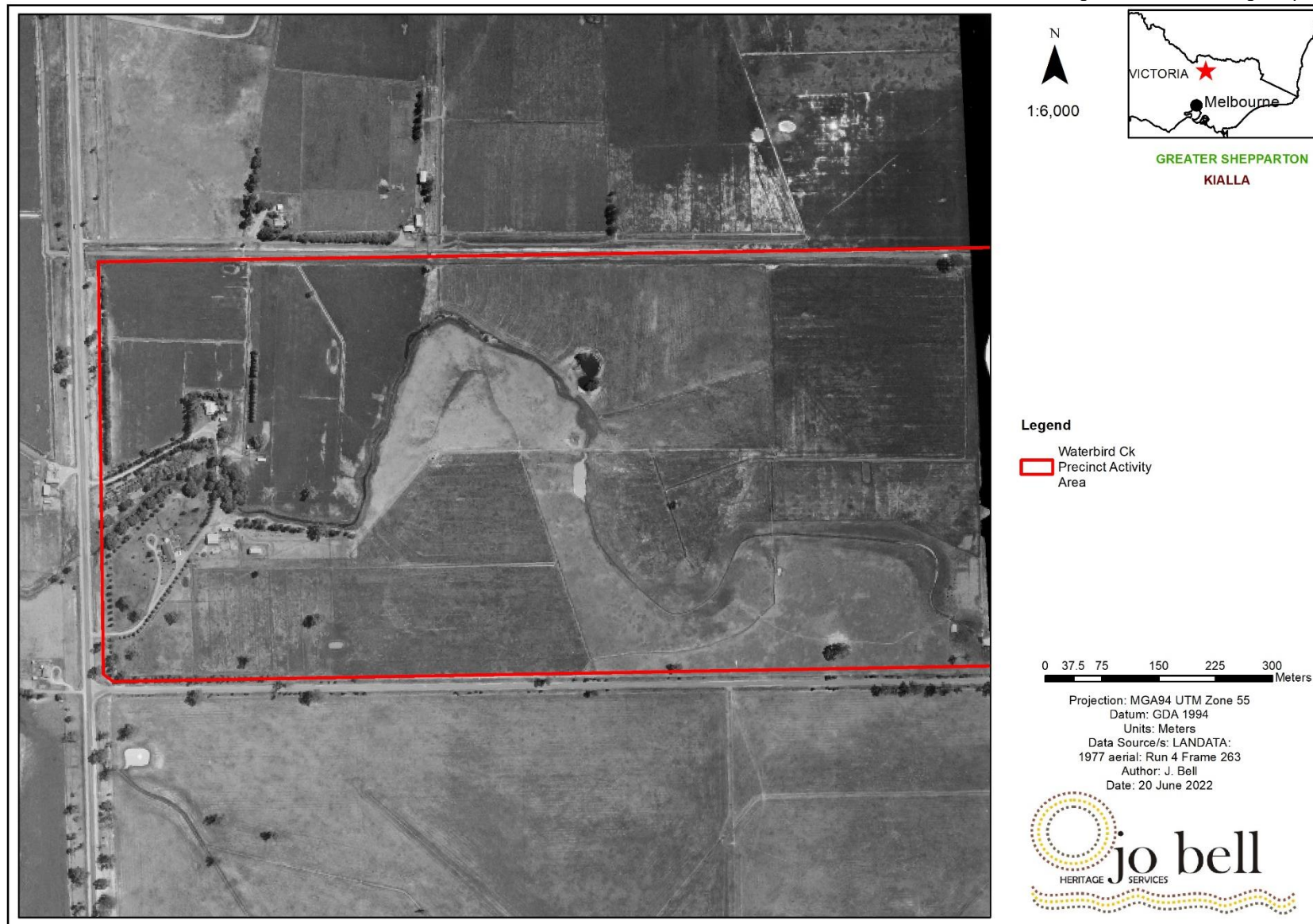


Figure 12: 1977 aerial showing the western side of the activity area

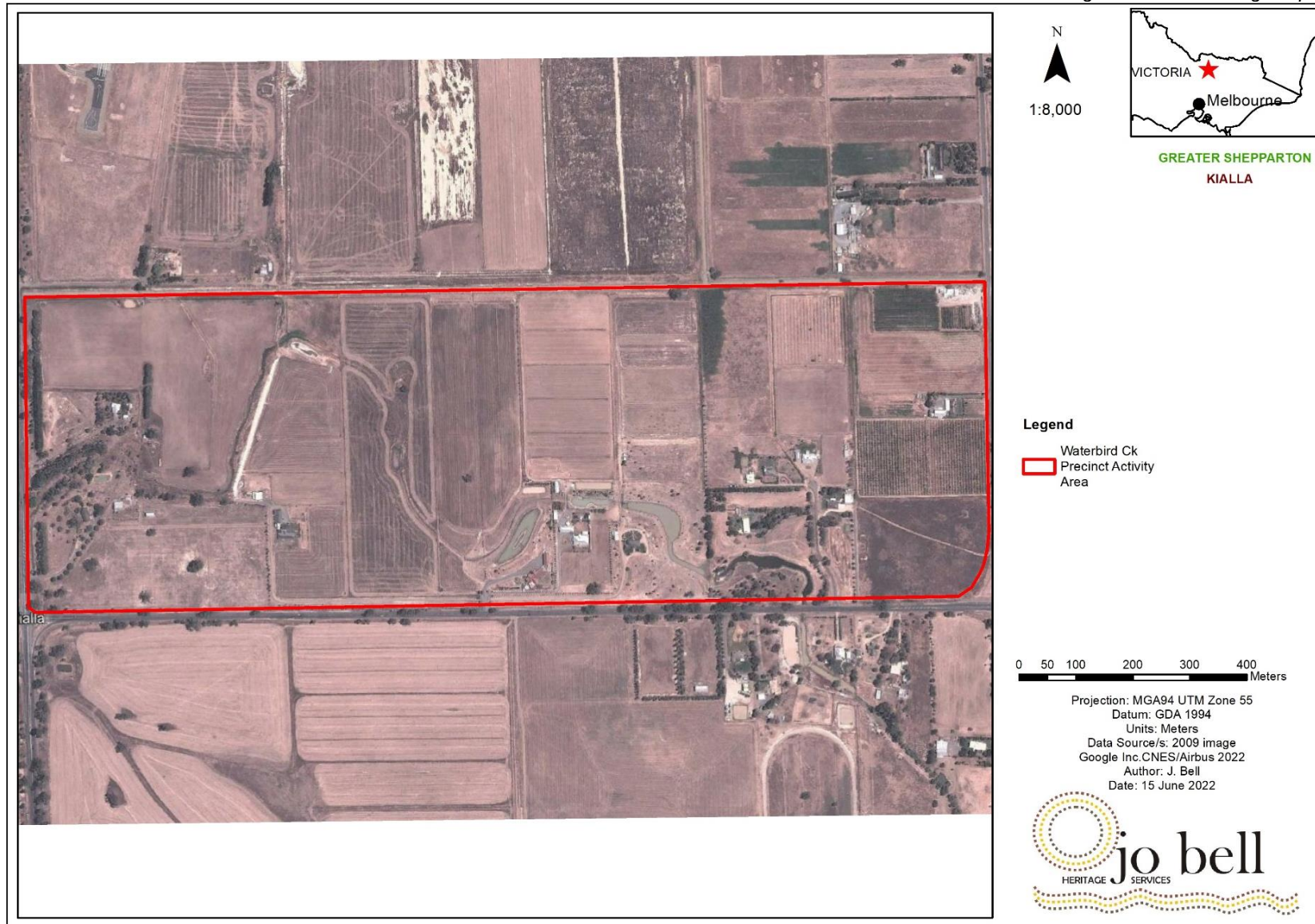


Figure 13: 2009 Google Earth image showing the activity area

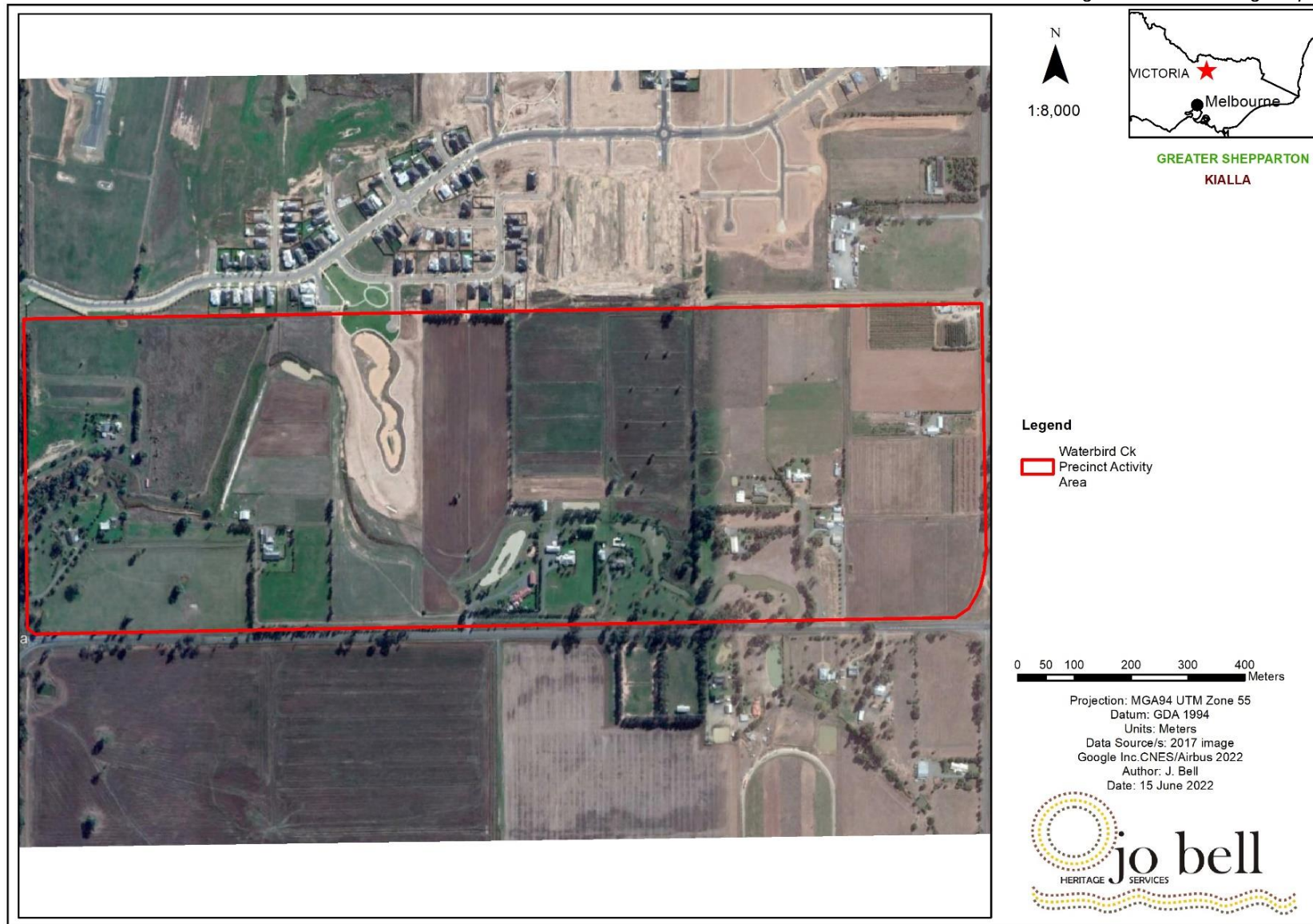


Figure 14: 2017 Google Earth image showing the activity area

#### **4.7.3 Previous Archaeological Investigations**

There are 21 archaeological and/or cultural heritage reports listed on the VAHR for the geographic region. These include:

- \* 10 desktop/papers/due diligence assessment reports;
- \* 3 survey reports; and
- \* 8 CHMPs (3 standard and 5 complex).

Investigations include regional studies and general desktop investigations with more localised projects for residential developments, walking tracks, a proposed camping and caravan park, and the Shepparton bypass. Table 2 summarises the relevant reports and investigations carried out in the geographic region.

Of most relevance, however, is CHMP 12975 prepared for 7719-7721 Goulburn Valley Highway in 2020. At that time, a residential estate was proposed. The investigation included background research, systematic survey of the entire property and complex assessment. The background research (desktop assessment) identified that there were 268 registered Aboriginal Cultural Heritage Places in the geographic region with 297 components.

Standard assessment was carried out over a single day. The surface visibility was considered to be less than 10 % due to grass cover, however, a single isolated silcrete artefact was identified (VAHR 7925-0664) on a track in the northwest of the activity area.

Complex assessment included excavation of two 1m<sup>2</sup> test pits (TP) and 59 shovel test pits (STP). These were located across the activity area, although the bulk of the STPs were excavated in close proximity of Seven Creek. No further Aboriginal places were uncovered in the activity area during the complex assessment.

#### **4.8 Site Prediction Model**

Likely place types that could be expected to occur within the study area include low density artefact distributions, artefact scatters and scarred trees in areas of remnant vegetation, and particularly around waterways (prior or extant), soaks or springs, or on rises adjacent waterways (Figure 15).

Table 2: Previous Archaeological and Cultural Heritage Investigations undertaken within the Geographic Region

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
Atkinson, W. & A. Berryman 1983 Aboriginal Associations with the Murray Valley Study Area	Murray Valley Desktop	Various landforms within the Riverine Plain	General overview of Aboriginal association with the subject area.
Zobel, D. 1984 A report to the Land Conservation Council of Victoria on Aboriginal Occupation of the North East Study Area, Districts 1, 2 and 4	North East region Desktop	Varied	83 sites (26 scarred trees, 25 surface scatters, 13 isolated artefacts, 10 art sites, 2 mounds, 2 rock shelters, 1 mound with a burial, 1 burial, 1 quarry, 1 rock arrangement and 1 exposure).
Bird, C. 1992a Archaeology of the Goulburn River Basin: a background study	Goulburn River Basin Desktop	Uplands, plains and hills, riverine plain	The desktop identified 265 registered sites in the study area. No new Aboriginal cultural heritage was identified.
Bird, C. 1992b Archaeology of the Broken River Basin: a background study	Broken River Basin Desktop	Uplands, plains and hills, riverine plain	21 artefact scatters, 87 mounds, 8 shell middens, 4 earth features, 5 rock wells, 174 scarred trees, 3 quarries and 10 human remain sites were located in the Broken River Basin. The majority (N=254) of sites were located in the riverine plain.
Long, A. 1996 Shepparton Bypass Planning Study phase 2: Cultural Heritage. Volume 1: An archaeological survey of the western and eastern corridor	To the east and west of Shepparton Survey	Floodplains of the Goulburn and Broken Rivers	63 sites: 12 artefact scatters, 24 isolated artefacts and 25 scarred trees. Artefacts were found on floodplain margins, sand drifts, floodplain floor within 1km of rivers or creeks and sand dunes. Scarred trees were found on the floodplain.

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
Light, A. 2003 Seven Creeks Estate, Kialla. Archaeological Desktop Assessment	60ha property west of Goulburn Valley Highway, Kialla  Desktop	Floodplain	Not previously assessed and no sites previously recorded. Considered as having low- moderate potential for stone artefacts and scarred trees
Murphy, A. & L. Amorosi 2004 Proposed Residential Estate, Between Archer Road and Goulburn Valley Highway, Kialla.	c.84ha at Kialla	Flat plain	Limited ground surface visibility during assessment and no Aboriginal sites were recorded. Assessed as having low-moderate potential for isolated stone artefacts only
Barker, M. 2011 Proposed residential development, 2 and 8 Marlboro Dve, Kialla. CHMP 11449	Two lots at Kialla  Desktop and Standard Assessments	Plain	Dry grassland with no water. Identified as low potential. No Aboriginal cultural heritage was identified.
Barker, M. 2012 Proposed Residential Development, 7755 Goulburn Highway, Kialla Victoria. CHMP 11927	15.4ha  Desktop and Standard Assessments	Plain and Seven Creeks floodplain	No Aboriginal cultural heritage was found, and no areas of potential sensitivity were identified
Grinter, B. & J. Bell 2014 Proposed Raftery Waters Residential Estate, Raftery Road, Kialla. CHMP 12964	3.445sqkm area between Raftery Road, Mitchell Road, and Sevens Creek. (South and west of current activity area)  Desktop, Standard and Complex Assessments	Riverine plain – plain above flood level	Farmland and reserve surveyed. Test pits and shovel probes investigated. 16 new Aboriginal places identified, predominantly associated with Seven Creeks floodplain and prior streams, including 1 LDAD, 1 ring tree and 17 scarred trees
Grinter, B. & J. Bell 2016 Proposed Residential Subdivision 74 Seven Creeks Drive Kialla. CHMP 13962	East of Seven Creeks Kialla (south of current activity area)  Desktop and Standard Assessments	Riverine plain – plain above flood level	Excellent ground surface visibility indicated no Aboriginal places or any areas of potential sensitivity.

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
Barker, M. 2017 Proposed Seven Creeks Walking Path and Drainage, Kialla. CHMP 14812	West of Seven Creeks Drive Kialla (south of current activity area)  Desktop, Standard and Complex Assessments	Riverine plain – plain above flood level	Significantly disturbed landscape. 2 1m <sup>2</sup> test pits and 48 shovel probes investigated. No cultural heritage was identified.
Millar, A. & M. Barker 2019 Proposed Residential Subdivision at 7615 Goulburn Valley Highway, Kialla. CHMP 16734	7.931ha  Goulburn Valley Highway  Desktop, Standard & Complex Assessments	Seven Creeks floodplain and plain	Limited ground surface visibility during the standard assessment. Complex assessment included a 1x1m test pit and 24 STPs. No Aboriginal cultural heritage was identified. It was concluded that the area had a low potential sensitivity for Aboriginal cultural deposits.
Barker, M. & A. Millar 2020 Proposed Residential Subdivision at 7719-7721 Goulburn Valley Highway, Kialla. CHMP 17275	32.83ha  Goulburn Valley Highway  Desktop, Standard & Complex Assessments	Seven Creeks floodplain and plain	Limited ground surface visibility although an isolated artefact was found on a track (7925-0664). Complex assessment included two 1x1m test pits and 59 STPs. No further Aboriginal cultural heritage was identified.
Stadwick, J. 2021 Residential Development Infrastructure at 7755 Goulburn Valley Highway, CHMP 18120	2.19ha  Goulburn Valley Highway  Desktop, Standard & Complex Assessments	Plain and floodplain	Limited ground surface visibility during the standard assessment. Complex assessment included one 1x1m test pits and 3 STPs. No further Aboriginal cultural heritage was identified. It was concluded that the topsoil had been previously removed down to clay and little to no archaeological deposit is remain.

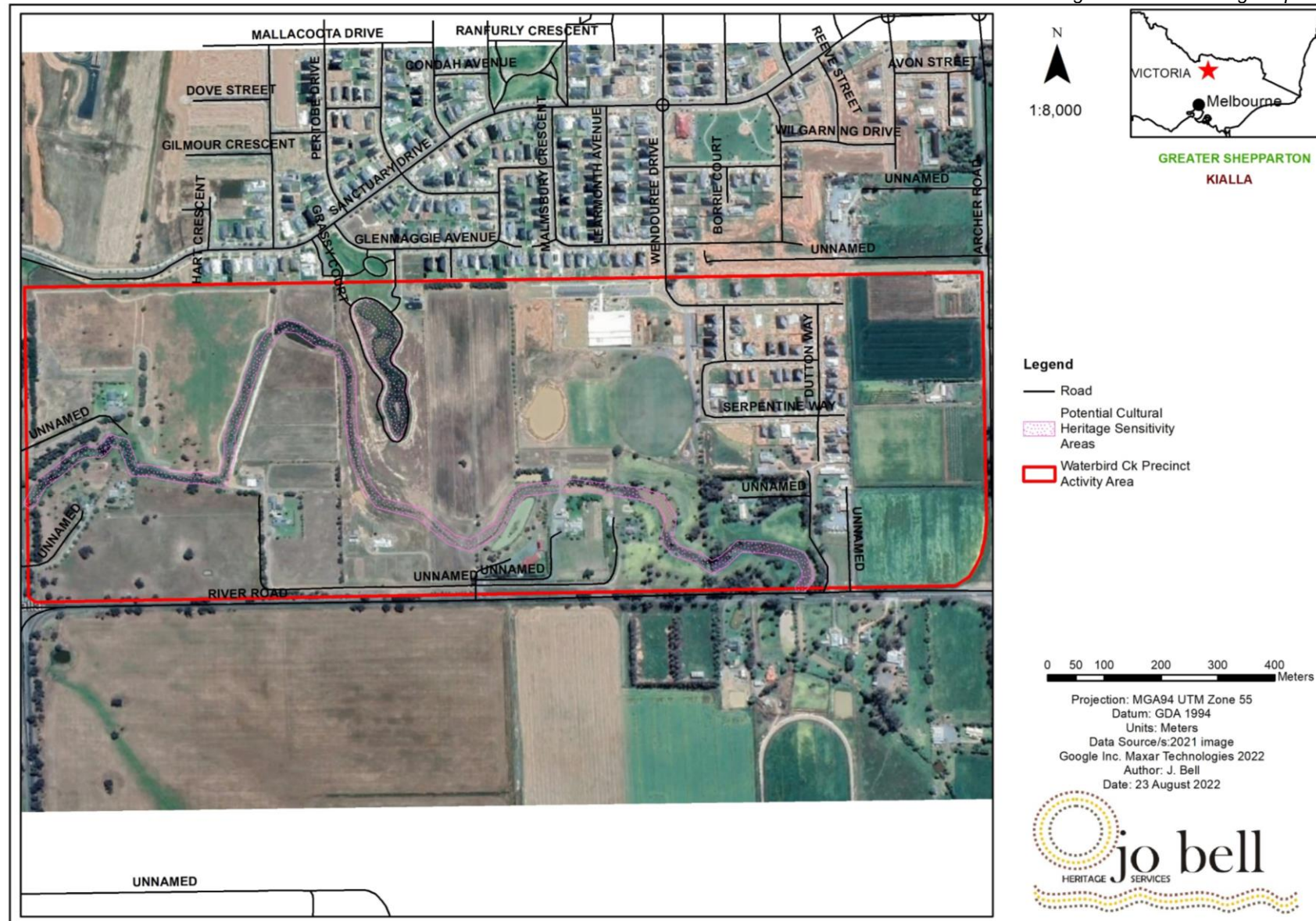


Figure 15: Areas of potential cultural heritage sensitivity identified from historic aerial imagery

## **5.0 SITE INSPECTION**

The site inspection was undertaken on 15 August 2022 by Jenny Fiddian (JBHS), Shannon Atkinson and Michael Day (YYNAC Cultural Officers). Jack Montesano (GSCC) also attended and facilitated land access and met with any landowners who were present.

### **5.1 Methodology**

Greater Shepparton City Council contacted landowners within the growth corridor to seek permission for the field team to visit specific properties to assess the cultural heritage potential of identified landforms (see Figure 15). Landowners from seven properties granted access, and an eighth property which is owned by Council was also visited.

### **5.2 Results**

Eight properties were visited by the field team. Land-use history was discussed with landowners, where available. Ground disturbance was noted and landforms with the potential to contain buried cultural deposits were identified.

Areas of archaeological potential were identified on five of the eight properties inspected. These were associated with Waterbird, Creek which is a tributary of Seven Creeks, located west of the growth corridor, and included slight rises overlooking the creek.

The tributary crosses nine of the properties in the growth corridor, including the eight which were visited (see Figure 15). There was little extant mature native vegetation and each of the properties had sustained at least some ground surface impacts. This was a result of farming activities, excavation of dams and drains, construction of houses, sheds and associated services and infrastructure, including driveways and vehicle access tracks through properties. The Council land has been heavily landscaped and modified and is currently undergoing revegetation activities. Ground surface visibility was limited across much of the activity area due to dense grass cover.

Landforms along the tributary were assessed for their potential to contain buried cultural deposits and the sensitivity mapping was updated. Areas of sensitivity identified include rises adjacent the waterway and a less disturbed section of creek adjacent the Goulburn Valley Highway (Figure 16).

#### **5.2.1 Oral History**

Neither Shannon Atkinson nor Michael Day (YYNAC) was able to provide any oral history in relation to cultural heritage places or landforms within the activity area.

### **5.3 Summary**

The desktop assessment identified that the activity area lies on older alluvium associated with the Shepparton formation, sometimes with leveed channels and source-bordering dunes. The area formed part of the Arcadia pastoral run before being subdivided into smaller blocks under the Closer Settlement scheme and the State Rivers and Water Supply Commission during the early twentieth century. Cropping and grazing land were the mainstay of the area, as illustrated by aerial imagery from the 1950s to the present day. Cultural heritage has previously been associated with Seven Creeks. No registered Aboriginal places have previously been identified within the activity area.

Whilst Waterbird Creek probably represents a prior stream and remains a tributary of the Seven Creeks, it is not on the Register of Geographic Place Names (VICNAMES) and therefore cannot be considered an area of cultural heritage sensitivity under the Regulations. However, there are definite rise landforms overlooking the waterway, which have the potential to contain Aboriginal cultural heritage.

It is strongly recommended that further investigation be undertaken for any high impact activities that are carried out within the areas specified in Figure 16 as being potentially sensitive (green stippled areas).

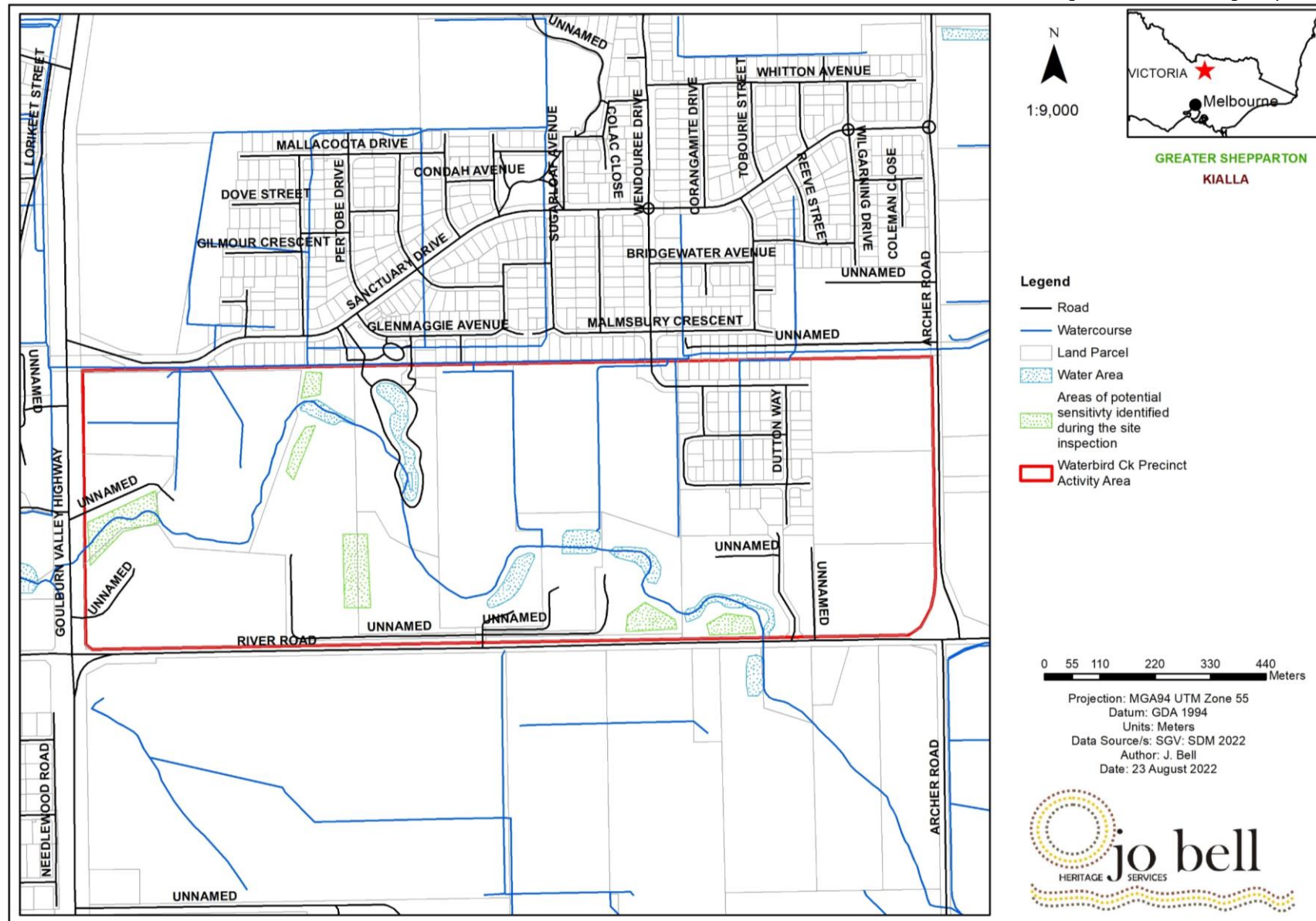


Figure 16: Potentially sensitive areas identified from historic aerial imagery and updated based on site inspection

## 6.0 LEGISLATION

In Victoria, Aboriginal cultural heritage is protected and managed in accordance with the *Aboriginal Heritage Act 2006* (the Act) and the *Aboriginal Heritage Regulations 2018* (the Regulations). Under the Act, Aboriginal cultural heritage is defined as Aboriginal places, Aboriginal objects and Aboriginal ancestral remains.

It is an indictable offence to harm Aboriginal cultural heritage in Victoria, which attracts severe penalties.

The Act makes provision for a number of cultural heritage processes, which may be required in different circumstances. These include the preparation of Cultural Heritage Management Plans (CHMPs or management plans), Cultural Heritage Permits (CHPs) and Preliminary Aboriginal Heritage Tests (PAHTs). These processes may include cultural heritage assessment or the preparation of a due diligence assessment.

### 6.1 Cultural Heritage Management Plans

A CHMP is a written report containing the results of an assessment and conditions to be complied with before, during and after an activity to manage and protect Aboriginal cultural heritage in an identified area.

A management plan assesses whether a project will have any impact on Aboriginal cultural heritage values and provides appropriate agreed management conditions.

Preparation of a management plan is commissioned and paid for by the project proponent (the sponsor).

Preparing a CHMP involves a heritage advisor (an appropriately qualified person e.g. archaeologist, anthropologist or other heritage specialist with knowledge and experience in relation to the management of Aboriginal cultural heritage) working with Registered Aboriginal Party (RAP) representatives, to identify and assess cultural heritage values in relation to a proposed development or activity.

### 6.2 Cultural Heritage Permits

A person must apply to an approval body under the *Aboriginal Heritage Act 2006* if they propose to:

- Disturb or excavate land to uncover or discover Aboriginal cultural heritage;
- Carry out research on an Aboriginal place or Aboriginal object, including removing an Aboriginal object from Victoria for the purposes of that research;
- Carry out an activity that will, or is likely to, harm Aboriginal cultural heritage;
- Sell an Aboriginal object (where it was not made for the purpose of sale);
- Remove an Aboriginal cultural heritage object from Victoria;
- Rehabilitate land at an Aboriginal place, including land containing burial grounds for Aboriginal Ancestral Remains; or
- Inter Aboriginal Ancestral Remains at an Aboriginal place.

## **Restrictions Apply**

- A cultural heritage permit must not be granted for an activity that requires a cultural heritage management plan.
- A cultural heritage permit must not be granted in relation to Aboriginal ancestral remains or an Aboriginal object that is a secret or sacred object if the permit relates to:
  - an activity that will, or is likely to, harm Aboriginal cultural heritage;
  - selling an Aboriginal object; or
  - removing an Aboriginal object from Victoria.
- A cultural heritage permit must not be granted in respect of Aboriginal intangible heritage.

## **6.3 Preliminary Aboriginal Heritage Tests**

The Preliminary Aboriginal Heritage Test (PAHT) provides sponsors with certainty about whether a cultural heritage management plan is required for a proposed activity. The PAHT is evaluated by a delegate of the Secretary to the Department of Premier and Cabinet (Secretary) and certifies whether a CHMP is required for a proposed activity.

For instance, a sponsor may be unclear as to whether their proposed activity area has been subject to significant ground disturbance. In such cases, a person is able to prepare a PAHT to establish whether a CHMP is required for the activity. The PAHT can then be submitted to the Secretary, who must decide whether to certify the PAHT as correct within a 21-day evaluation period.

The preparation of a PAHT is voluntary. A responsible authority (such as a Local Government Authority) cannot require a PAHT to be prepared before a statutory authorisation is issued for a proposed activity.

Proponents of works are expected to exercise due diligence in determining their requirements under the Act and the Regulations with regards to proposed activities. If it is clear that a CHMP is not required, there is no need to prepare a PAHT. The responsible authority should then be sufficiently satisfied that a statutory authorisation can be issued.

## **6.4 Areas of Cultural Heritage Sensitivity**

Areas of cultural heritage sensitivity are landforms and land categories that are generally regarded as more likely to contain Aboriginal cultural heritage. A registered Aboriginal cultural heritage place is also an area of cultural heritage sensitivity. If part of an area of cultural heritage sensitivity (other than a cave) has been subject to significant ground disturbance that part is not an area of cultural heritage sensitivity (Aboriginal Victoria *n.d.*).

‘Significant ground disturbance’ is defined in r.4 of the Regulations as meaning disturbance of –

- a) the topsoil or surface rock layer of the ground; or
- b) a waterway –

by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

The burden of proving that an area has been subject to significant ground disturbance lies with the sponsor (proponent of an activity).

## 7.0 RECOMMENDATIONS

Under r.7 of the Aboriginal Heritage Regulations 2018, a cultural heritage management plan (CHMP) is required for an activity if any part of the proposed activity is specified in the Regulations as a high impact activity, **and** the activity area (or part thereof) is specified as an area of cultural heritage sensitivity.

The Precinct Structure Plan (PSP) design may include such activities as residential and commercial subdivision, construction of buildings or carrying out of works associated with education centres, emergency services facilities, industry, childcare centres, sports and recreation facilities, offices, places of assembly, retail premises, service stations and utility installations. It will also include new roads and walking tracks. All of these works or activities are specified as high impact activities under Division 5 of the Regulations.

There are no cultural heritage sensitivity areas within the precinct boundary that are specified in the Regulations. Therefore, no works or activities undertaken within the precinct will require a CHMP under the Act.

However, it is strongly recommended that the areas indicated in Figure 16 by *green stippling*, should be considered as potentially sensitive landforms.

It is further recommended that prior to any specific development associated with these areas, a Heritage Advisor is engaged to provide advice on the specific planned development at that time.

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## **9.0 APPENDICES**

### **Appendix 1: Qualifications of Cultural Heritage Advisor**

**Joanne Bell**  
**Director**  
**Jo Bell Heritage Services Pty. Ltd.**

**Qualifications:**

Bachelor of Arts (Hons) Archaeology, La Trobe University, Bundoora, 2000  
Certificate IV Training and Assessment, ECEC 2006

Joanne is qualified in Indigenous Australian prehistory and non-Indigenous historic archaeology. She has over twenty years professional experience in heritage management, including development and research projects. Fields of research include Australian Indigenous archaeology, Australian historic archaeology, stone artefact analysis, cultural heritage management and heritage training.

**Neil Fenley**  
**Archaeologist**  
**Jo Bell Heritage Services Pty. Ltd.**

**Qualifications:**

Bachelor of Archaeology (Hons) Archaeology, La Trobe University, Bundoora, 2007.

Neil is qualified in Indigenous Australian prehistory and non-Indigenous historic archaeology. He has over fifteen years professional experience in heritage management, including development and research projects. Fields of research include Australian Indigenous archaeology, Australian historic archaeology, stone artefact analysis and cultural heritage management.

**Jenny Fiddian**  
**Sub-consultant Archaeologist**

**Qualifications:**

Bachelor of Arts (Hons) Archaeology, La Trobe University, Bundoora, 1994  
Master of Arts Archaeology, La Trobe University, Bundoora, 2003

Jenny is qualified in Indigenous Australian prehistory and non-Indigenous historic archaeology. She has over twenty-five years professional experience in heritage management, including development and research projects. Fields of research include Australian Indigenous archaeology, Australian historic archaeology, stone artefact analysis, faunal analysis, marine shell analysis, cultural heritage management and impact assessment.