

Kialla West Growth Corridor

Aboriginal Cultural Heritage Impact Assessment - Redacted



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Date of Completion: 14 June 2022

EXECUTIVE SUMMARY

Greater Shepparton City Council is currently working on precinct planning and design work for the Kialla West Growth Corridor. 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 Kialla West Growth Corridor Precinct Structure Plan (PSP).

The Growth Corridor area comprises an approximate total area of 382ha in the Parish of Kialla. It is bounded by Raftery Road in the north and west, Seven Creeks in the east, and Mitchell Road in the south (see Figure 2 series).

The Heritage Advisor commissioned to undertake this ACHIA is Joanne Bell, Director, Jo Bell Heritage Services Pty. Ltd. (JBHS).

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 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 two types of cultural heritage sensitivity areas within the precinct boundary that are specified in the Regulations. These include the Goulburn River and Seven Creeks as waterways and registered Aboriginal places.

On face value, any works or activities specified in Division 5 of the Regulations that encroach on an area of cultural heritage sensitivity as specified in the Regulations and indicated in Figure 13, will require a CHMP to be prepared. That is, unless it can be shown that the area has been subject to significant ground disturbance; a Preliminary Aboriginal Heritage Test (PAHT) has been prepared and certified that a CHMP is not required; or a CHP is deemed an appropriate and legal alternative.

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

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ACKNOWLEDGEMENTS

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Alex Smith	Senior Strategic Planner, Greater Shepparton City Council
Wade Morgan	Coordinator, Cultural Heritage Unit, Yorta Yorta Nation Aboriginal Corporation
Jo Bell	Director & Archaeologist, JBHS: background research, fieldwork, reporting & GIS
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 Kialla West Growth Corridor 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. It also identified six residential Investigation Areas, one of which is the Kialla West Growth Corridor (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 Alex Smith, 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 author of this report is Joanne Bell. Jo has a BA (Hons) in Archaeology and over twenty 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).

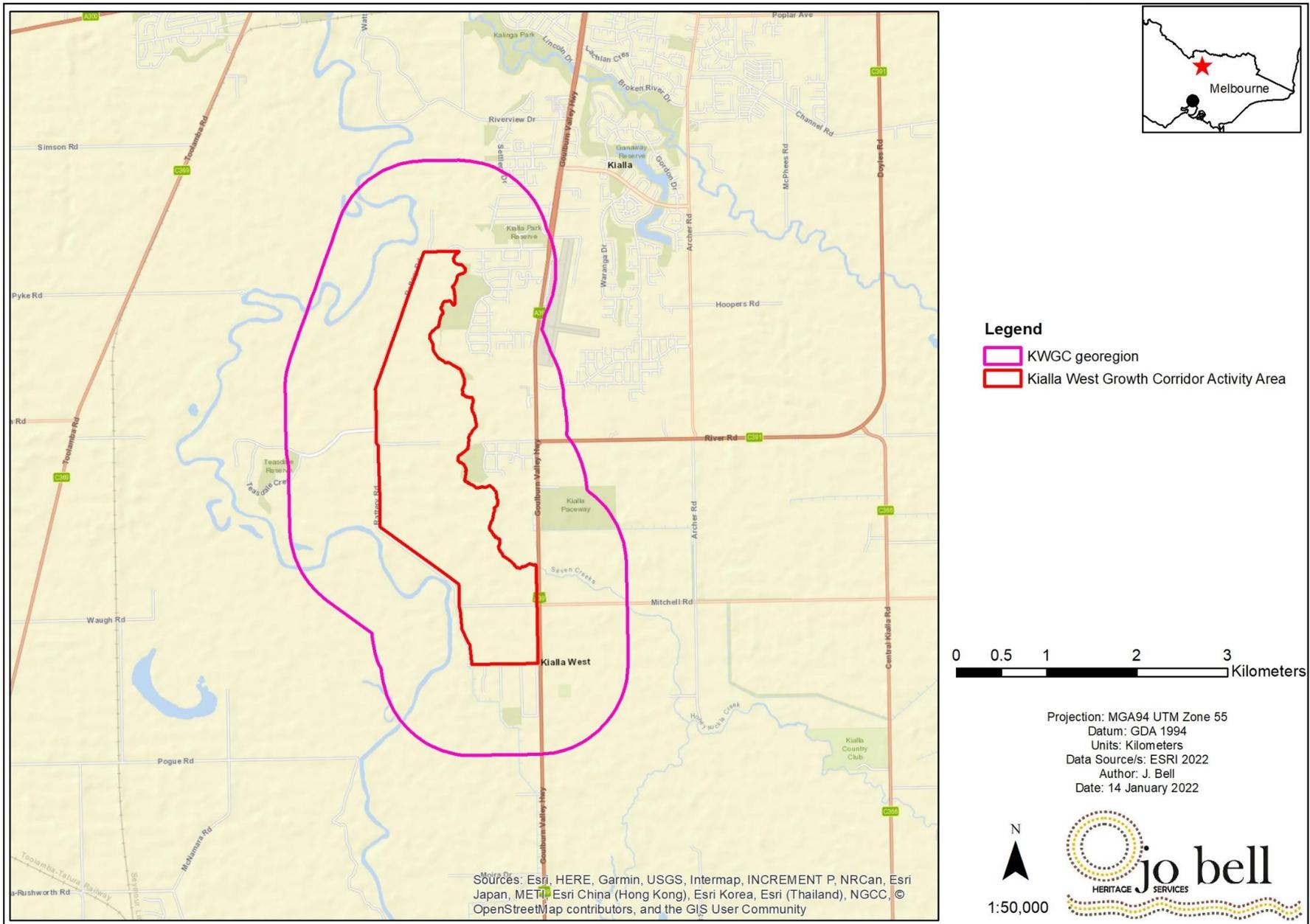


Figure 1: Location of the activity area within the geographic region

2.0 ACTIVITY AND ACTIVITY AREA

2.1 Proposed Activity and Extent of Activity Area

The Growth Corridor area comprises an approximate total area of 382ha in the Parish of Kialla. It is bounded by Raftery Road in the north and west, Seven Creeks in the east, and Mitchell Road in the south (see Figure 2 series).

Cadastral details for the activity area include:

- Lot 1 TP898464
- Lot 3 LP43737
- Lot 1 TP197766
- Lot 1 LP130160
- Lot 1 LP132988
- Lots 1-3 PS318521
- Lot 2 LP41642
- Lot 2 LP142160
- Lots 1-2 LP110691
- Lots 1-3 LP134869
- Lot 1 LP68555
- Parish of Kialla

Under the City of Greater Shepparton Local Planning Scheme, the land is currently zoned RLZ – Rural Living Zone with UFZ – Urban Floodway Zone along the Seven Creeks (Figure 3).

The *Greater Shepparton Housing Strategy 2011* identified the current activity area as a future residential investigation area; and along with land further south to Bennetts Road, the area was identified as Kialla West Growth Corridor under the *Shepparton and Mooroopna 2050 Regional City Growth Plan* (Project Brief 2021). Under the Plan, the area was 'designated as a medium-term growth corridor to be undertaken in the next 5-10 years. The Growth Corridor will consist of a Precinct Structure Plan (PSP) and Development Contributions Plan (DCP) to facilitate a low-density residential estate. The Growth Corridor will consider standard residential density if flooding, access, bushfire and servicing constraints can be resolved' (*ibid*).

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).

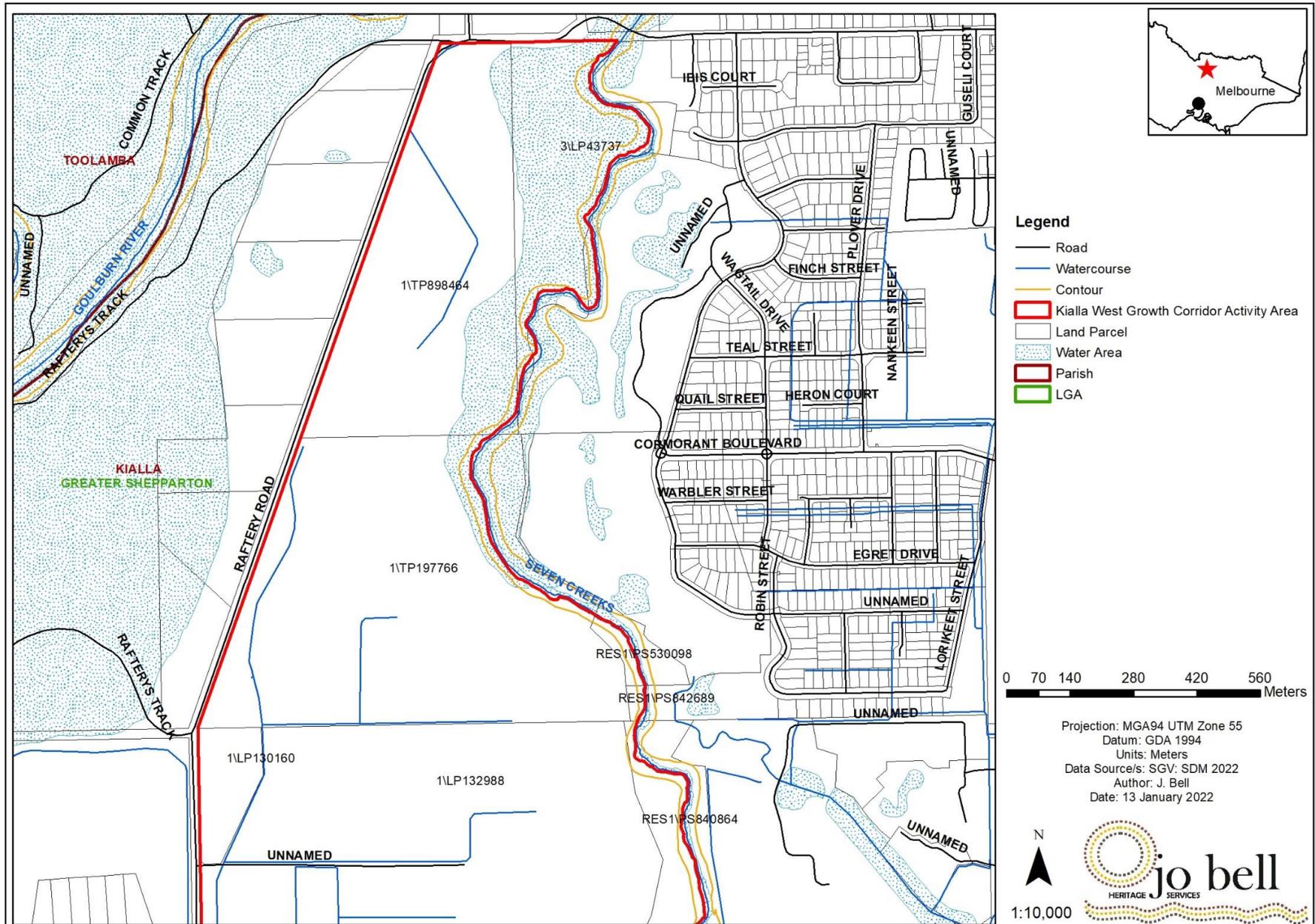


Figure 2a: Parcel plan of the activity area – northern portion

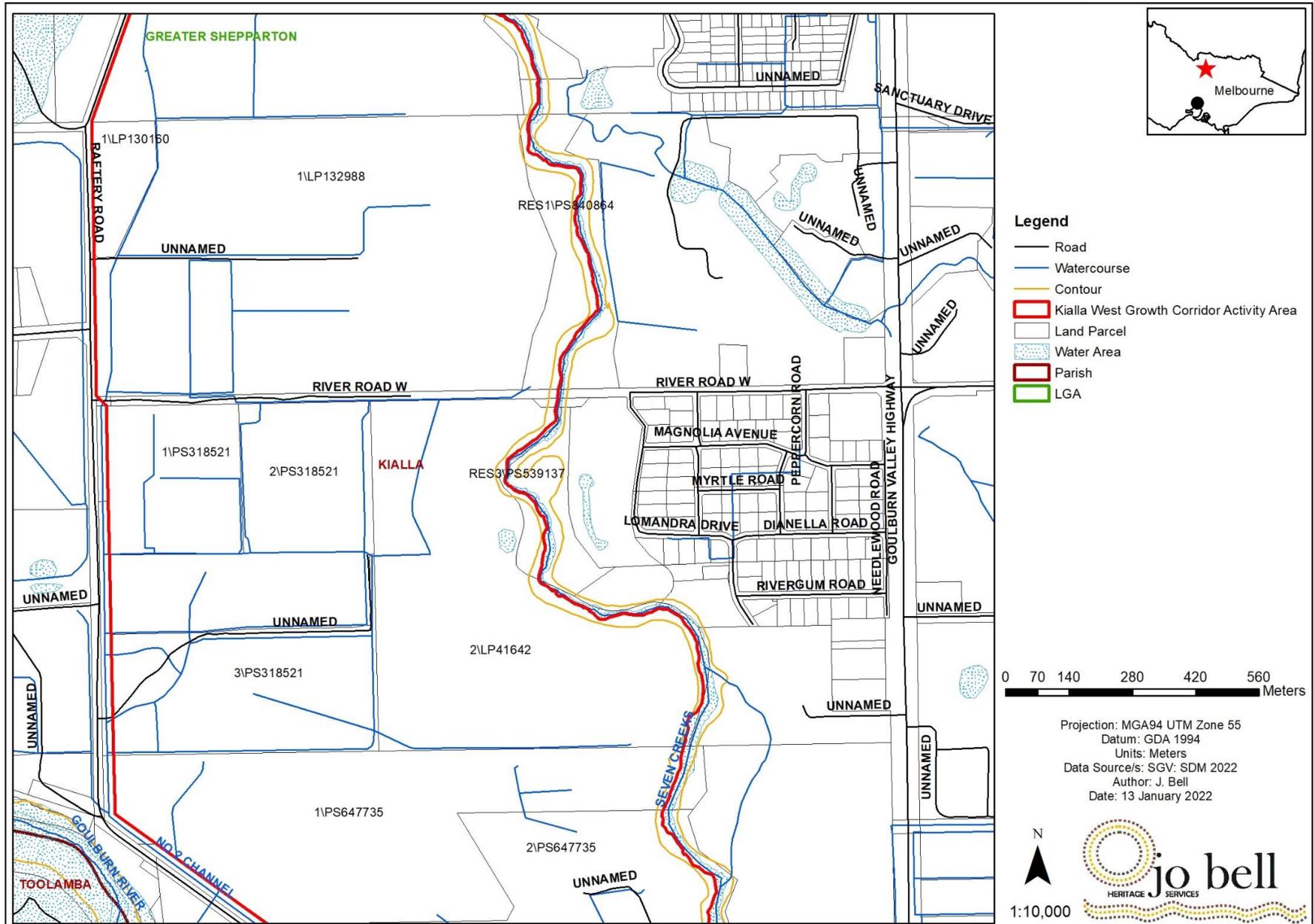


Figure 2b: Parcel plan of the activity area - central portion

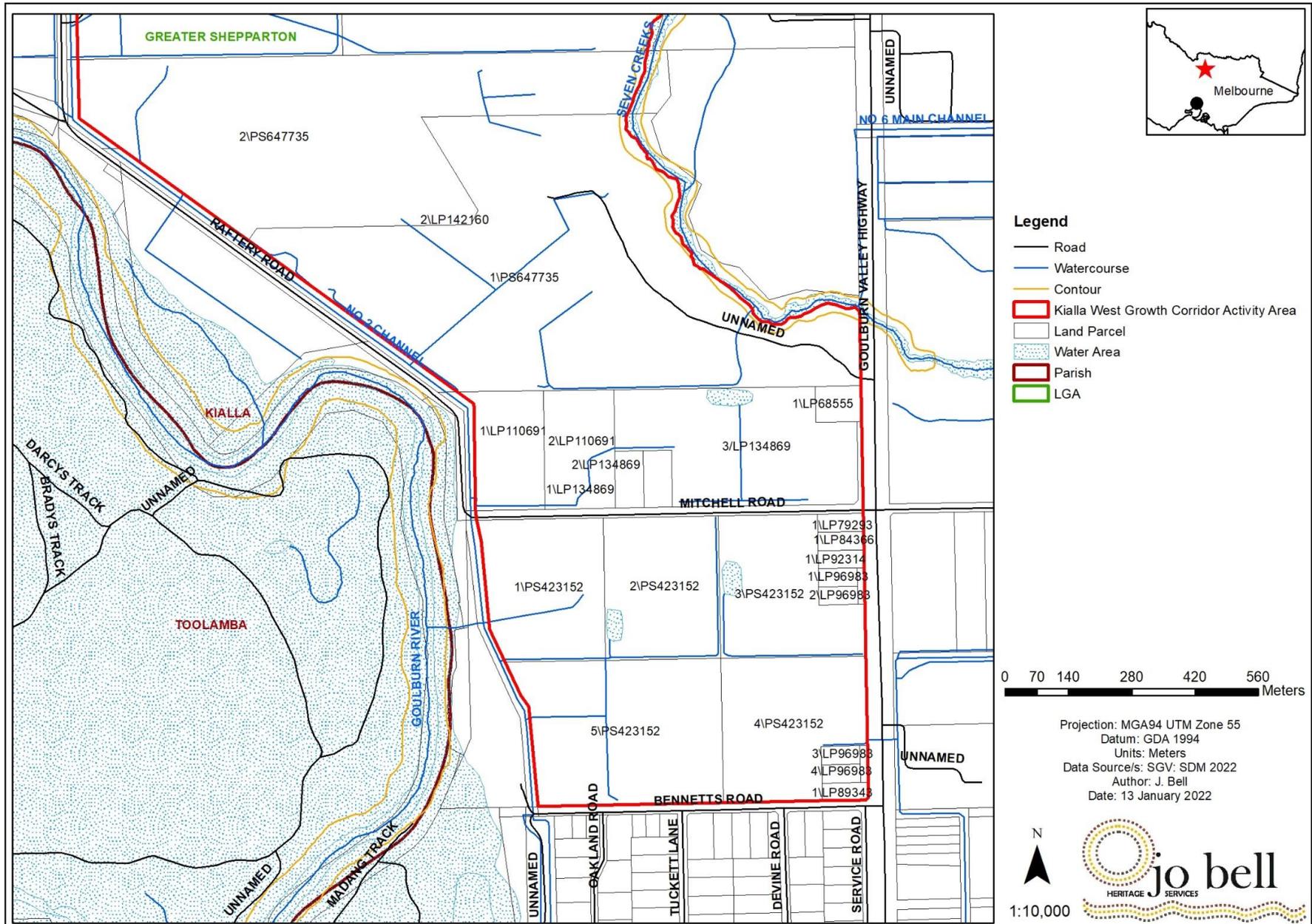


Figure 2c: Parcel plan of the activity area – southern portion

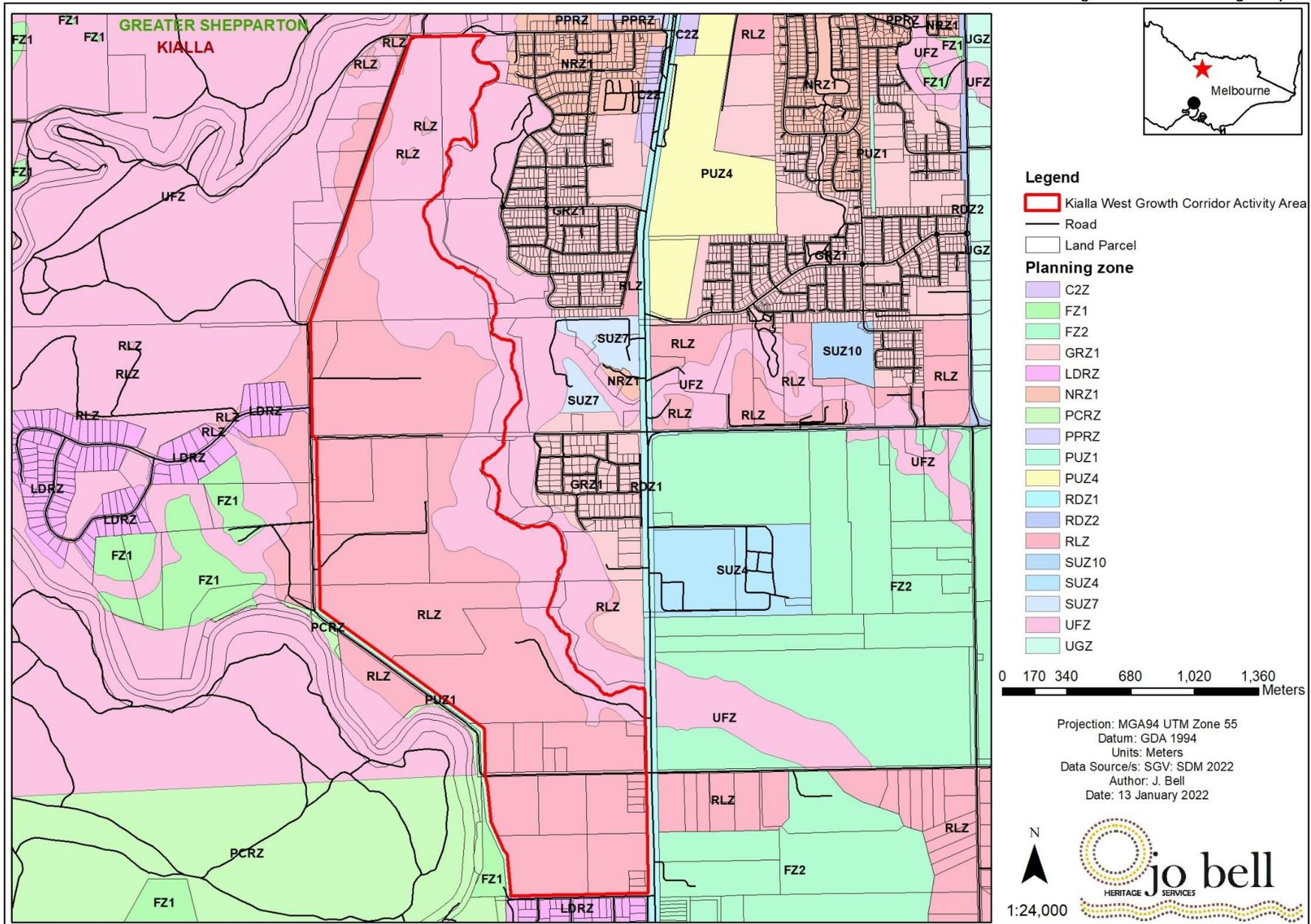


Figure 3: The activity area showing the planning zones

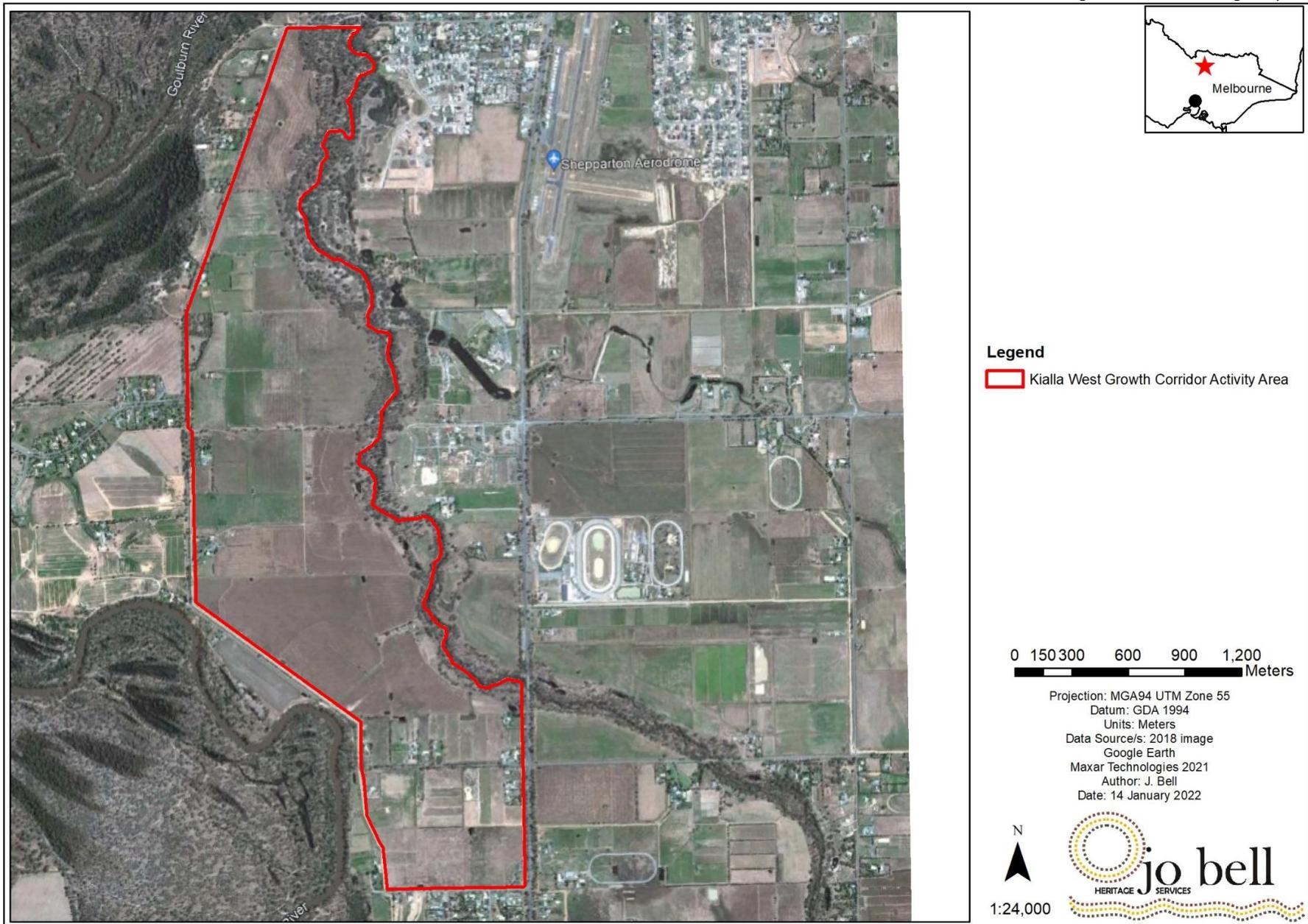


Figure 4: Existing conditions of the activity area

3.0 DOCUMENTATION OF CONSULTATION

On 17 December 2021, Jo Bell contacted Wade Morgan (Coordinator, Cultural Heritage Unit, YYNAC) in relation to the project and to organise the inception meeting. This was arranged for 20 January 2022.

The inception meeting was held via *Microsoft Teams* on 20 January 2022. Participants of the inception meeting are listed in Table 1. The project was discussed at length and background research tabled for discussion.

Name	Organisation represented
Wade Morgan	YYNAC
Jo Bell	Director & Senior Archaeologist, JBHS

Table 1: Attendees at the inception meeting, held 20 January 2022

As the area had been subject to detailed assessment in 2014 as part of the preparation of CHMP 12964, further physical assessment was not required as part of this ACHIA.

On completion of the ACHIA report, a phone meeting was held on 14 June 2022 between Vanessa Charles (YYNAC) and Jo Bell to discuss the content of the report, the outcomes of the project and a redacted version of the document.

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 and based on the fact that a comprehensive CHMP had previously been prepared for the area (Grinter & Bell 2014).

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 Shepparton Formation has been cut into by more recent unnamed alluvial deposits dating to the Holocene epoch (last 10,000 years) and relate directly to the Seven Creeks floodplain. Unnamed alluvial deposits associated with the Goulburn River lie immediately to the west of the activity area (GeoVic Online 2022). 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. 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 majority of the activity area with 'meander belt below plain level, sometimes source-bordering dunes' associated with the modern floodplain landscape (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).

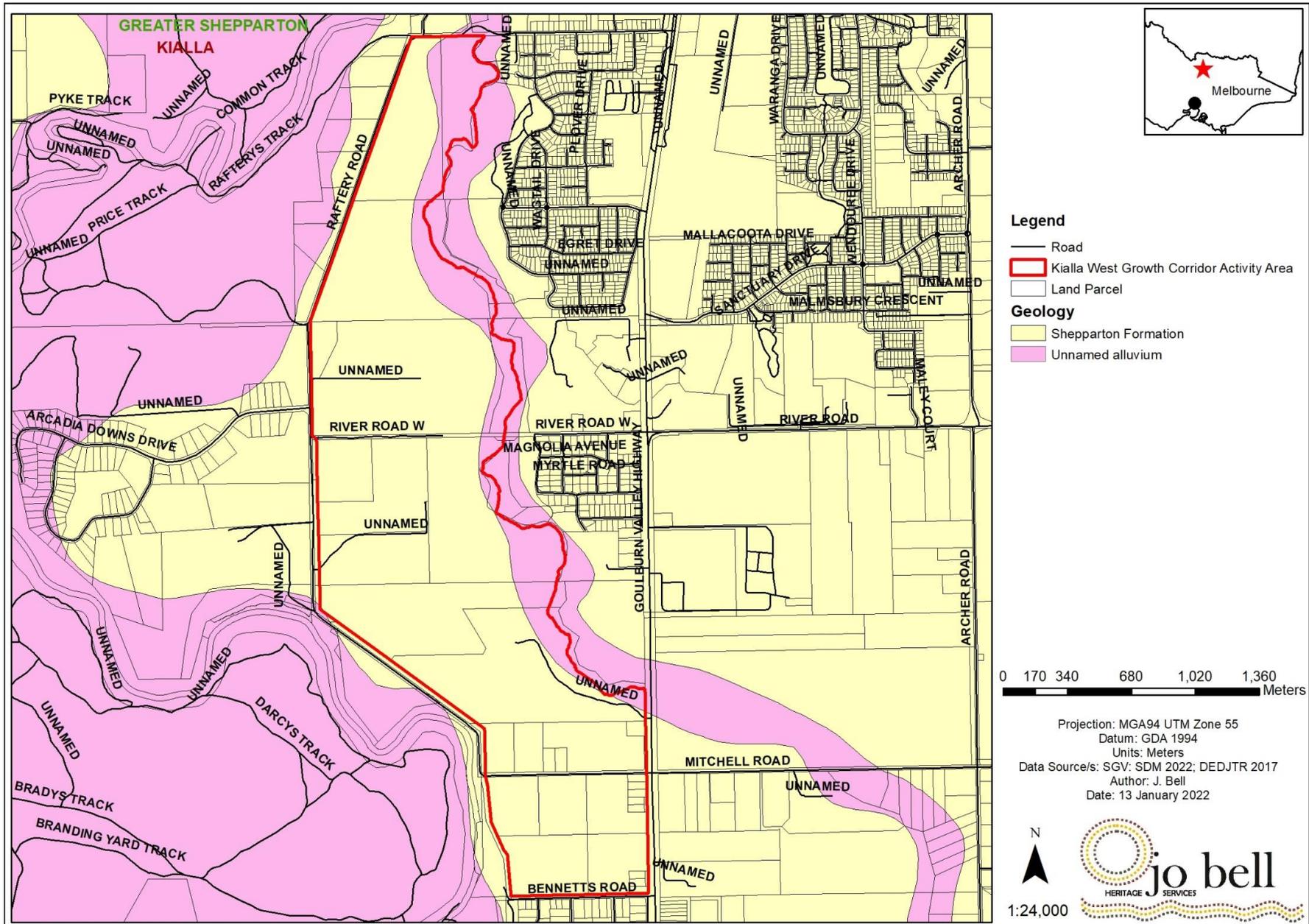


Figure 5: Geology within the activity area

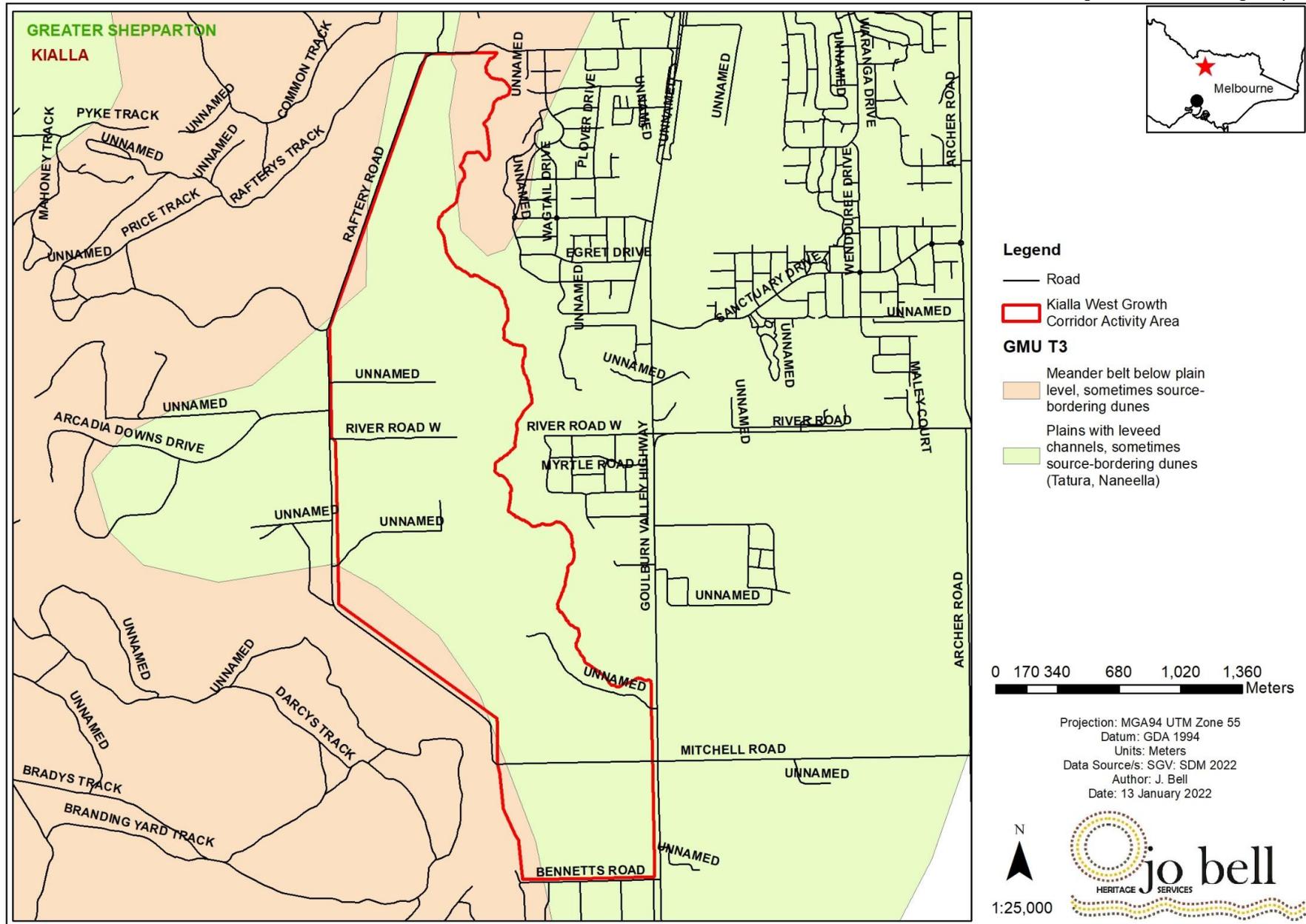


Figure 6: Local geomorphological context (tier 3 description) of the activity area

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).

Along the Seven Creeks however, vegetation comprised Creekline Grassy Woodland (EVC 68) and Floodplain Riparian Woodland (EVC 56) species. Both are dominated by River Red gum and to a lesser extent, Yellow Box, over an understorey dominated by medium to small tufted graminoids such as Common tussock-grass and Kangaroo Grass, with rushes, sedges and Common Reeds closer to the waterway (*ibid*) (DSE EVC / Bioregion Benchmark Fact Sheet).

The current EVC mapping indicates very little remnant vegetation away from the creek line (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) 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 (1984:125). 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 '*Kaiela*' 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.

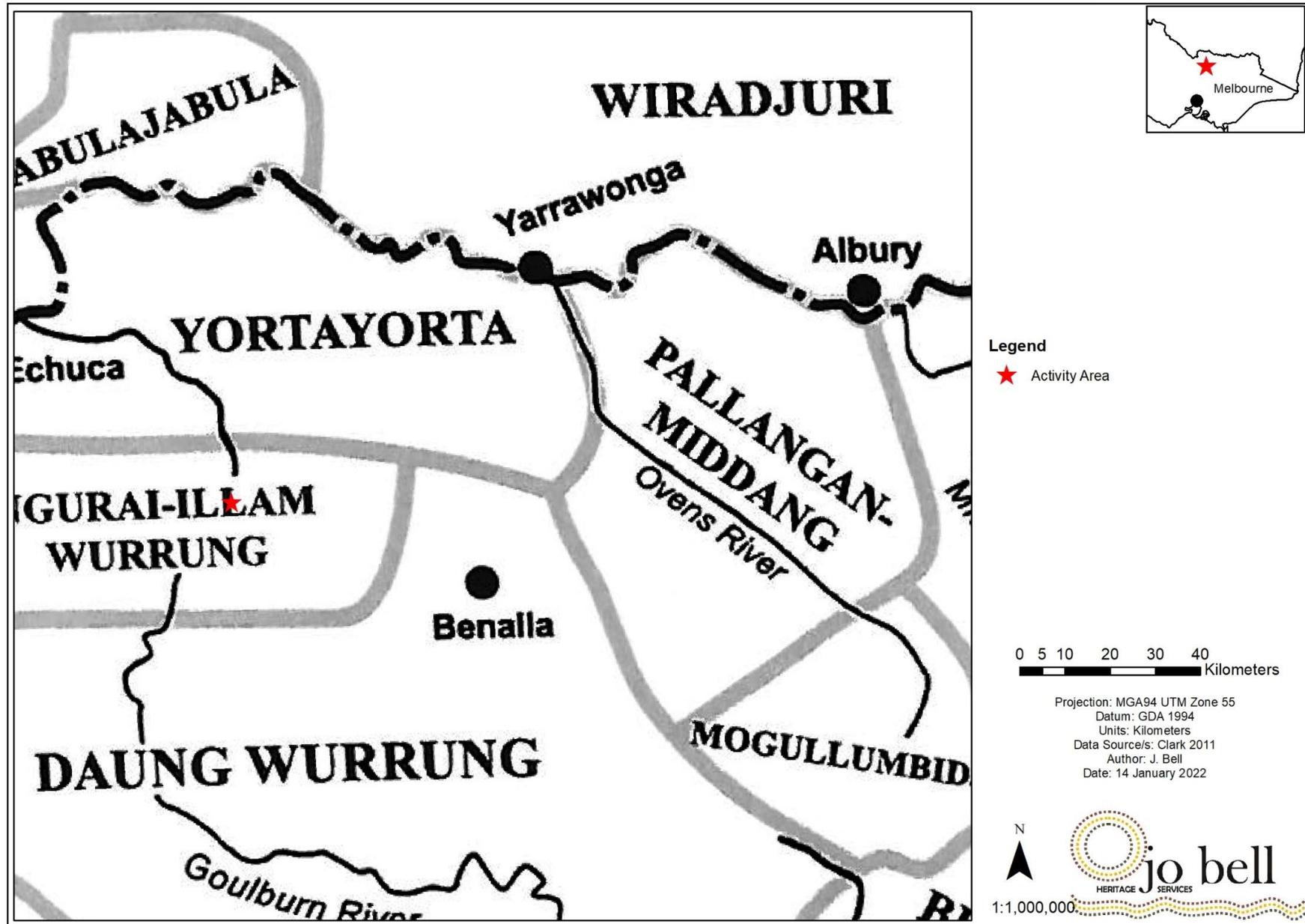


Figure 7: Clark's (2011) Eastern Victorian Aboriginal Languages and Dialects map

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*).

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.

A Kialla parish plan dating to between 1876 and 1890, records landholders for the activity area as Joseph Kinkead (CA59B2 & CA61C); John Harrison (CA59B1 & CA61A); George McNabb (CA61B); George Alcorn (CA73); Robert Bredin (CA76); and Edward Pinnuck (CA77A). CA77D is not labelled.

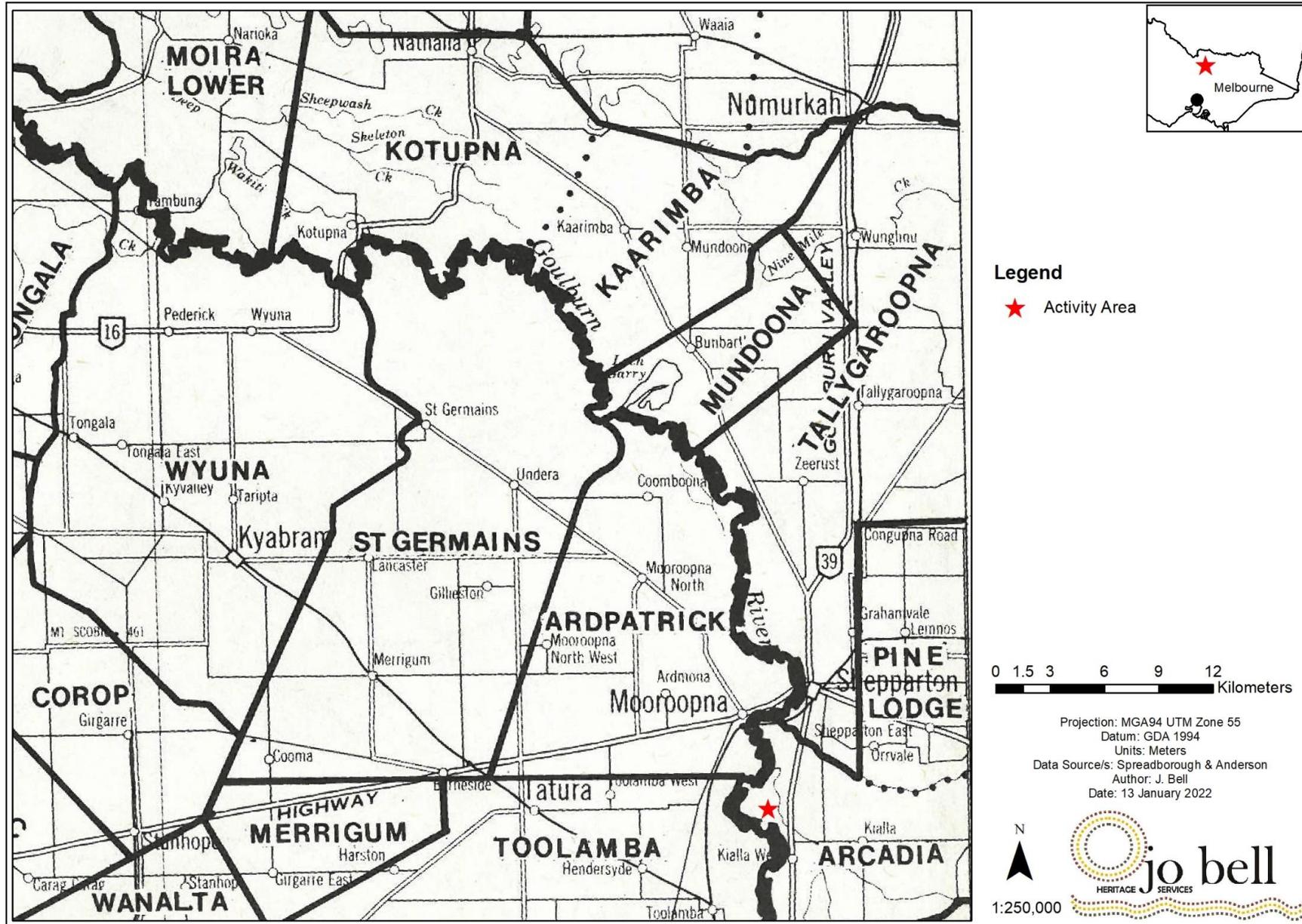


Figure 8: Pastoral runs in the region

The 1967 Kialla parish plan (Figure 9) records landholders for the activity area as Andrew Kinkead (CA59B2 & CA61C); John Harrison (CA59B1 & CA61A); George McNabb (CA61B); George Alcorn (CA73); Robert Bredin (CA76); Thomas Guthrie (CA77A); and A Guthrie & TM Knight Ex^x & Ex^{or} of T Guthrie (CA77D).

Along the Seven Creeks, the plan reads: 'Crown land forming bed of creek and 100 links from each bank permanently reserved for public purposes'. However, please note the public purposes reserve does not apply to Lots 61B and 61C as the bed and banks of Seven Creeks were freehold at the time the lots were granted in 1880.

4.6.7 Historic Aerial photographs

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

A 1945 aerial run shows the activity area as farmland, with one residence only. 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 the riparian zone adjacent the Seven Creeks has sparse to moderate vegetation cover. A low-lying area / wetland can be seen in the north of the activity area (Figure 10).

A 1974 aerial showing the area in flood was obtained to further investigate the low-lying areas within the subject land. This indicated a wider Seven Creeks floodplain within the activity area far beyond the existing riparian vegetation, the encroachment of the Goulburn River floodplain into the activity area from the north and west and connective floodways also in the northwest of the activity area (Figure 11).

Google Earth was also reviewed. The 2018 image indicates predominantly open farmland with existing riparian vegetation along the Seven Creeks (see Figure 4). Very little has changed between the 2018 and 2021 images (Figure 12).

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 January 2022 by Jo Bell.

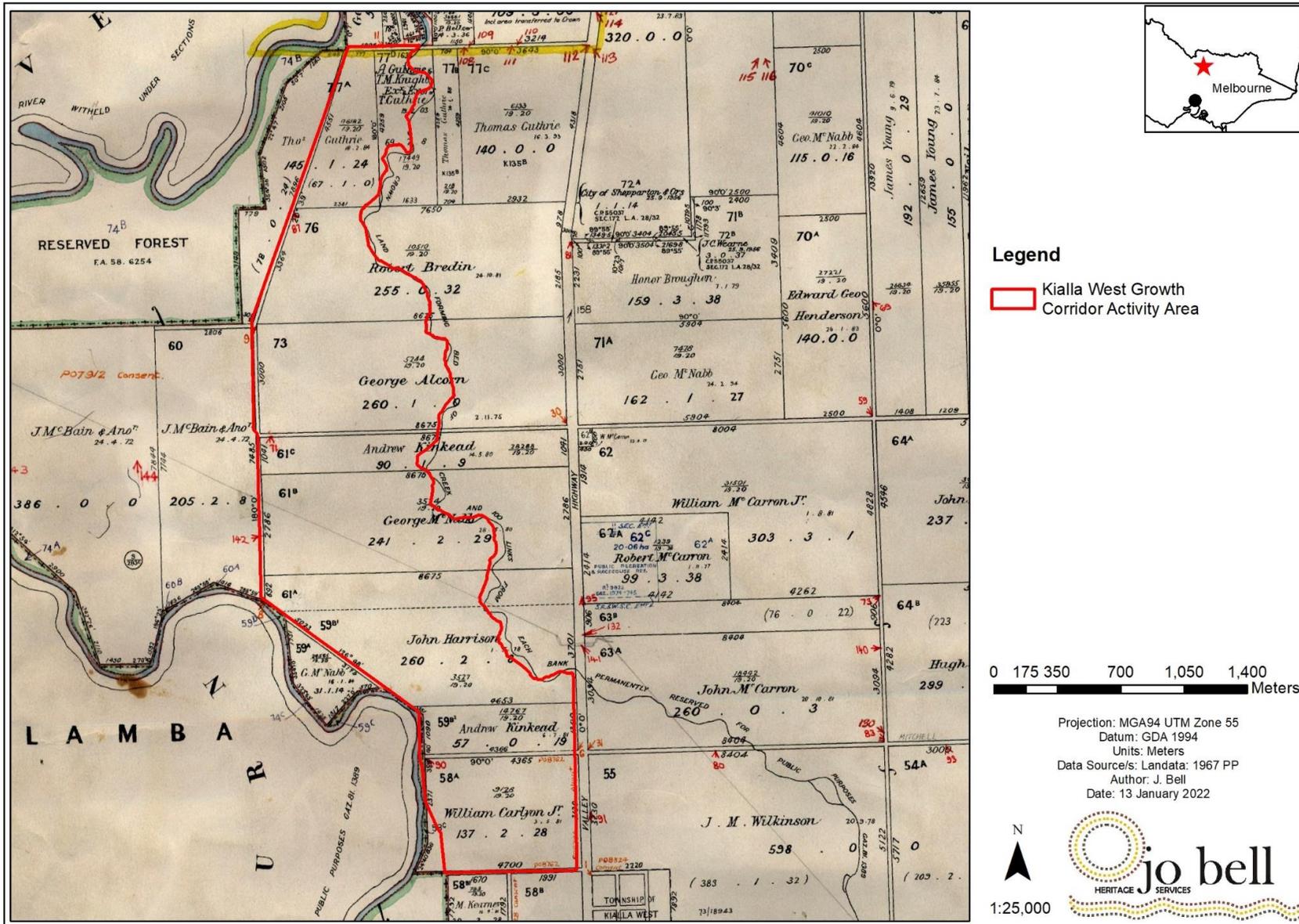


Figure 9: 1967 Kialla Parish Plan of the activity area

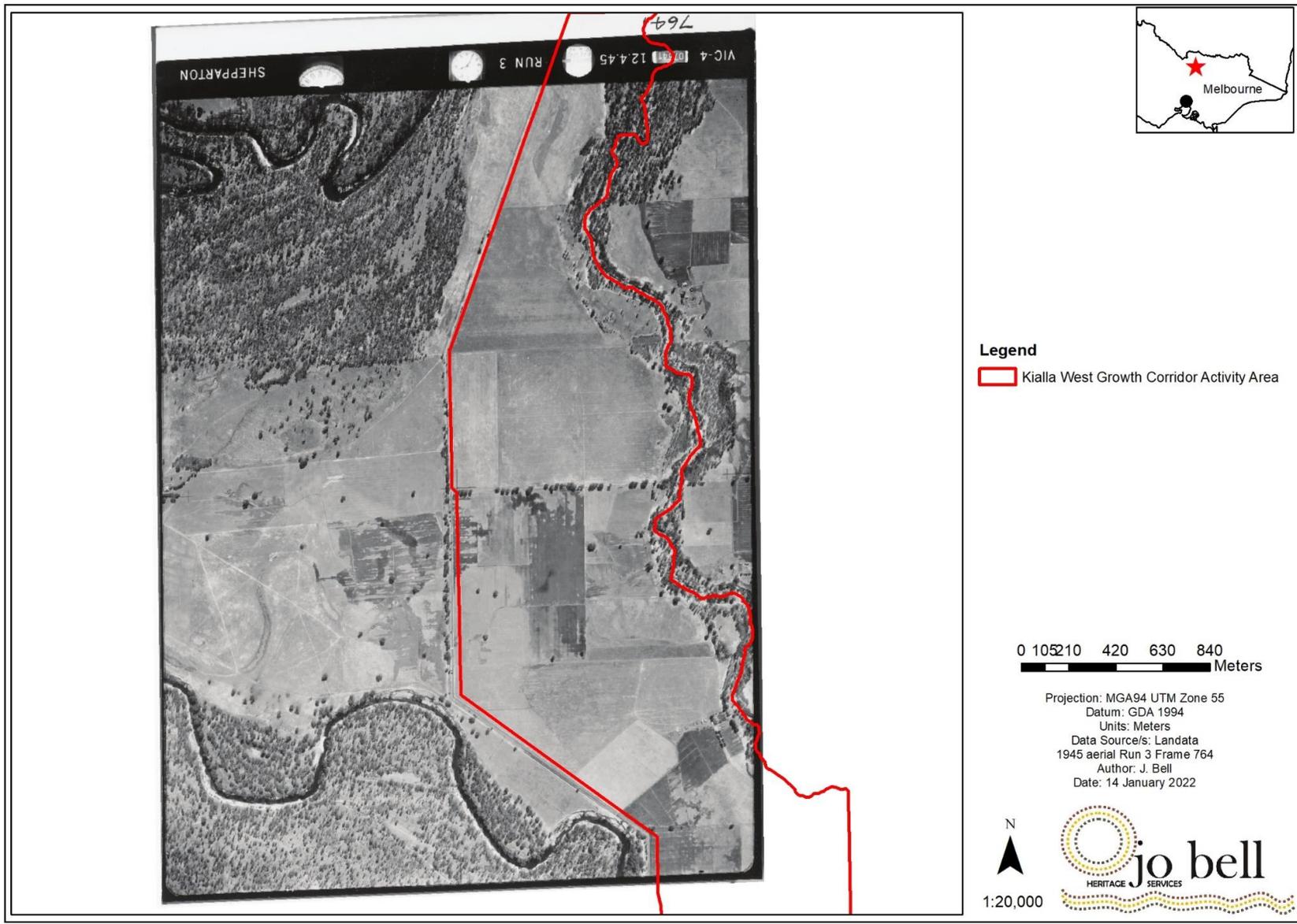


Figure 10: 1945 aerial showing the central portion of the activity area

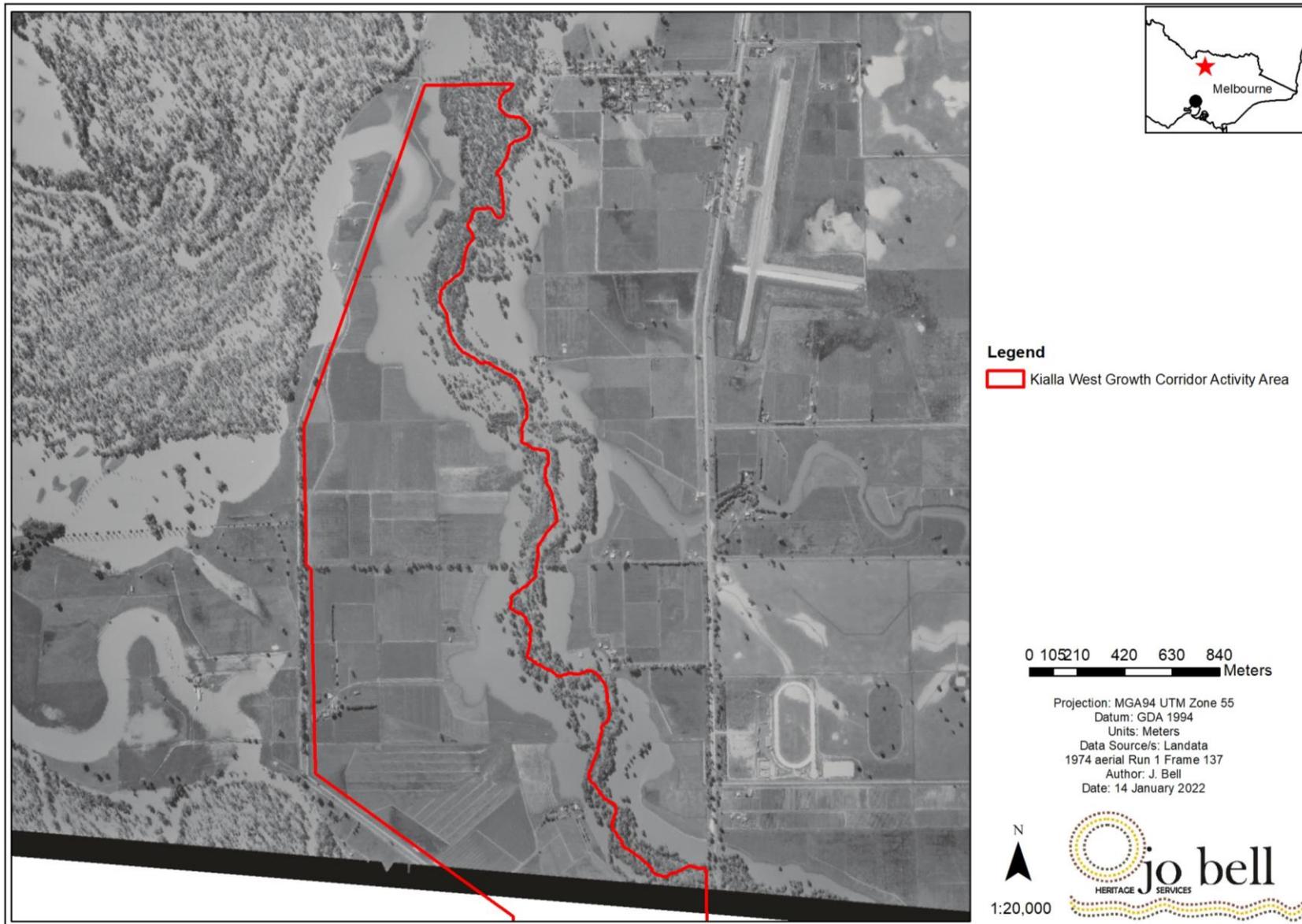


Figure 11: 1974 aerial showing the activity area in flood

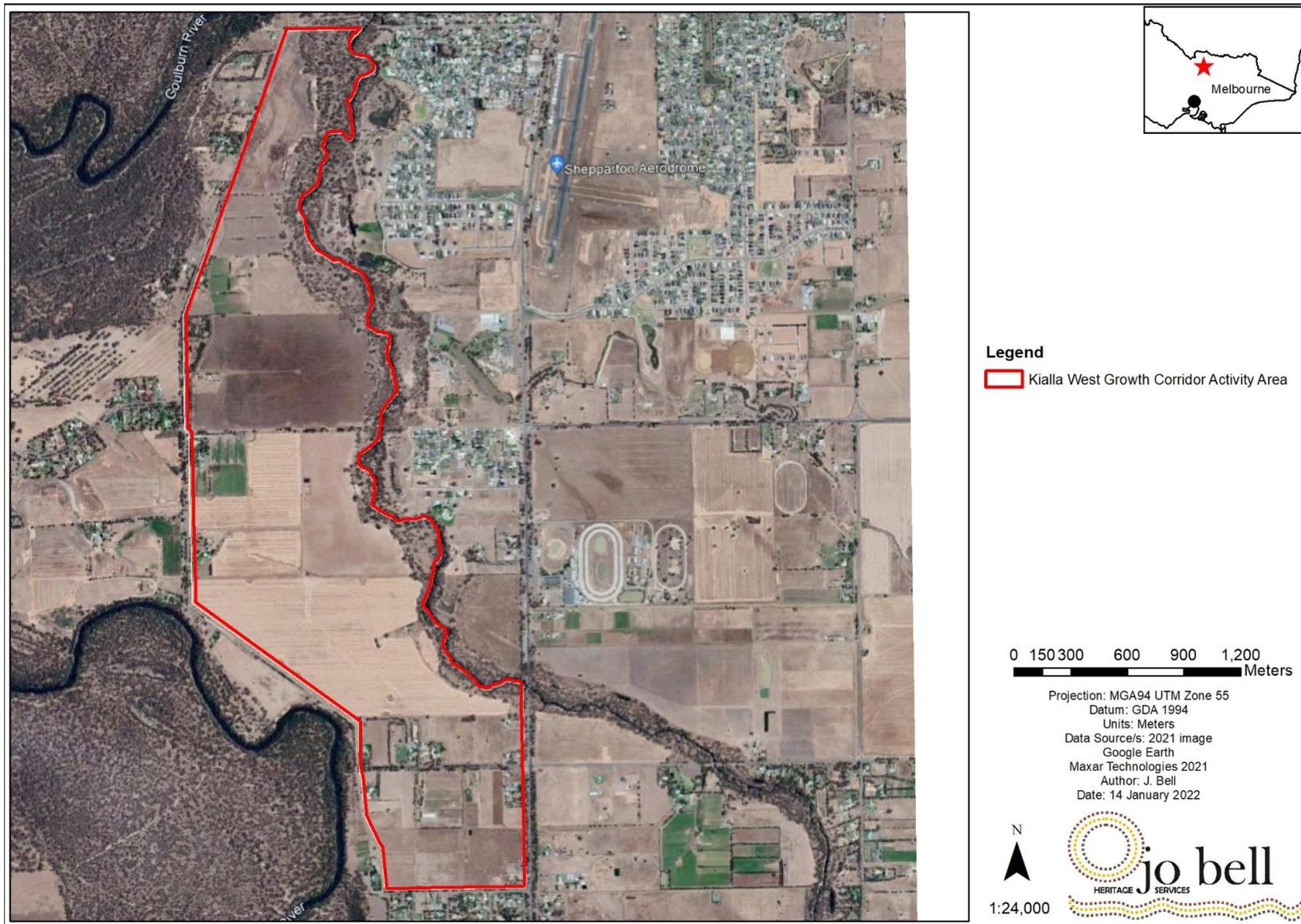


Figure 12: 2021 Google Earth image showing the activity area

4.7.2 Previous Archaeological Investigations

There are 28 archaeological and/ or cultural heritage reports listed on the VAHR for the geographic region. These include:

- * 11 desktop/papers/due diligence assessment reports;
- * 6 survey reports; and
- * 11 CHMPs (5 standard and 6 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 12964 prepared for the activity area by Jo Bell Heritage Services in 2014. 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 at least a portion of the activity area had been subject to previous investigation although no cultural heritage had been found. At the time, the VAHR identified one scarred tree within 200m of the activity area. Standard assessment was carried out over nine days. A total of sixteen Aboriginal cultural features were identified, including a low-density artefact distribution (LDAD), a cultural place (ring tree) and 18 scarred trees. Complex assessment included excavation of four 1m² test pits. These were located in two areas identified as having potential to contain buried Aboriginal cultural heritage; and at two locations containing the LDADs. Additionally, two shovel test pits were investigated at the two remaining artefact locations. No further Aboriginal places were uncovered in the activity area during the complex assessment.

4.7.3 Registered Aboriginal Places

The activity area is in an area of mapped cultural heritage sensitivity, associated with 15 registered Aboriginal places and two waterways (Seven Creeks and the Goulburn River) (Figure 13).

Within a 2km radius of the activity area, there are 72 Aboriginal cultural features across 48 registered Aboriginal places. These include:

- 2 Aboriginal Cultural Places
- 15 Artefact Scatters;
- 2 Earth Features;
- 21 LDADs;
- 31 Scarred Trees; and
- 1 Shell Midden.

There are 15 Aboriginal places registered within the activity area and a further four within 200m of the activity area (38 features in total). These include:

- 1 Aboriginal Cultural Place
- 19 LDADs; and
- 18 Scarred Trees.

A further scarred Yellow Box tree is situated within the activity area but has not yet been registered due to the proximity of a wasp nest (see Bell 2014 – CHMP 12964).

There are no historical references listed for the geographic region.

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 quarry, 1 rock arrangement and 1 exposure).
Bird, C. 1992 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.
Lomax, K. & D. Lusty 1994 Goulburn River Archaeological Survey	Nine locations on the Lower Goulburn River and Floodplain Survey using sampling strategy	Floodplain, plain and lake/lunette landforms	Artefact scatters, mounds, scarred trees and a shell midden were identified. The floodplain landform proved challenging in identifying surface cultural heritage due ground cover and an aggrading geomorphology. On the plains landforms, cultural material, including scarred trees, mounds and stone artefacts were expected to be found near water with sub-surface material close to current land surfaces with similar patterning on lake / lunette landforms.

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
Muhlen-Shulte, R. 1995 Archaeological background report for the Shepparton bypass EES study, Stage 1	Shepparton and surrounding area Desktop	Riverine plain-various	26 artefact scatters, 17 scarred trees, one human remains, one shell midden and one earth mound. Most of the sites are located on the floodplain, though levees, sand dunes, riverbanks, terraces and sand ridges also feature.
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.
Brown, S. 1996 Shepparton bypass planning study phase 2: Cultural heritage. Volume 2.	To the east and west of Shepparton Survey	Various	Survey found 14 artefact scatters, 2 artefact scatter/shell middens, 8 scarred trees and 1 Historic Aboriginal Place.
Debney, T; O. Nicolson, M. Sheehan & L. Amorosi 2000 Goulburn Valley Highway – Shepparton Bypass Review of Western Routh Planning Study: Archaeology and Cultural Heritage	South and west of Shepparton and Mooroopna Survey	Floodplains and Plains	8 Aboriginal sites were recorded as a result of the field survey: 6 scarred trees, 1 isolated artefact and an artefact collection. Areas were identified as having the potential to contain buried Aboriginal cultural heritage and recommended for sub-surface testing.

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
Tulloch, J. & T. Debney 2004 An Archaeological Survey of Lot 18 Riverview Drive, Kialla Victoria.	Lot 18 Riverview Dr Kialla (immediately north of current Activity Area) Survey	Plain, and riverine floodplain	Proposed housing development. 1 scarred tree identified. Recommended monitoring of areas along Seven Creeks to a depth of 300mm and retaining scarred tree in public open space
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
Sutherland, G. 2012 Shepparton South Growth Corridor Shared Pathway, Kialla. CHMP 12020	Kialla Adjacent Seven Creeks between Riverview Drive and Creek St, north of the current activity area. Desktop and Standard Assessments	Riverine floodplain	Considerably disturbed. No cultural heritage 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

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
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
Orr, A. & R. Butler 2015 Camping and Caravan Park, 215 Mitchell Road, Kialla. CHMP 13387	Approx. 35acres east of Goulburn Valley Highway and north of Mitchell Road, Kialla Desktop and Standard Assessments		Variable ground surface visibility during the standard assessment. Two stone artefacts (7925-0639) and six culturally-altered trees (7925-0640-0643) were identified. Complex assessment was not considered required.
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.
Barker, M & J. Young 2016 Proposed Residential Subdivision at 480 Raftery Road, Kialla	12.68ha between Raftery Road and Goulburn River, north of Mitchell Road Desktop, Standard and Complex Assessments	Plain and floodplain	Standard assessment identified no cultural heritage. Complex assessment included 2 1m ² test pits and 54 STPs. No cultural heritage was identified and it was determined that there was a low potential for cultural deposits to be found.
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 ² test pits and 48 shovel probes investigated. No cultural heritage was identified.

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
Bell, J. & J. Lushey 2019 Proposed Camping and Caravan Park, 215 Mitchell Road, Kialla. CHMP 15805	Approx. 104ha east of Goulburn Valley Highway, north of Mitchell Road and west of Archer St, Kialla Desktop, Standard & Complex Assessments	Plain and Floodplain of Seven Creeks.	This was an expanded version of Orr & Butler's 2015 report. During the standard assessment a further LDAD (2 artefacts) were identified. Complex assessment was undertaken: 1x 1m ² test pit and 4 radial STPs at and around an artefact location that would be impacted. No further material was identified. All other places within the activity area could be avoided.
Bell, J. 2019 Shepparton South Growth Corridor Shared Path from Riverwood Estate to Raftery Road, Kialla. CHMP 16346	2.8km long shared path on crown land adjacent Seven Creeks Desktop and Standard Assessments	Seven Creeks bank and floodplain	Very good to excellent ground surface visibility. One scarred tree is located within the activity area (7925-0367), although this will not be harmed. No new Aboriginal 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.

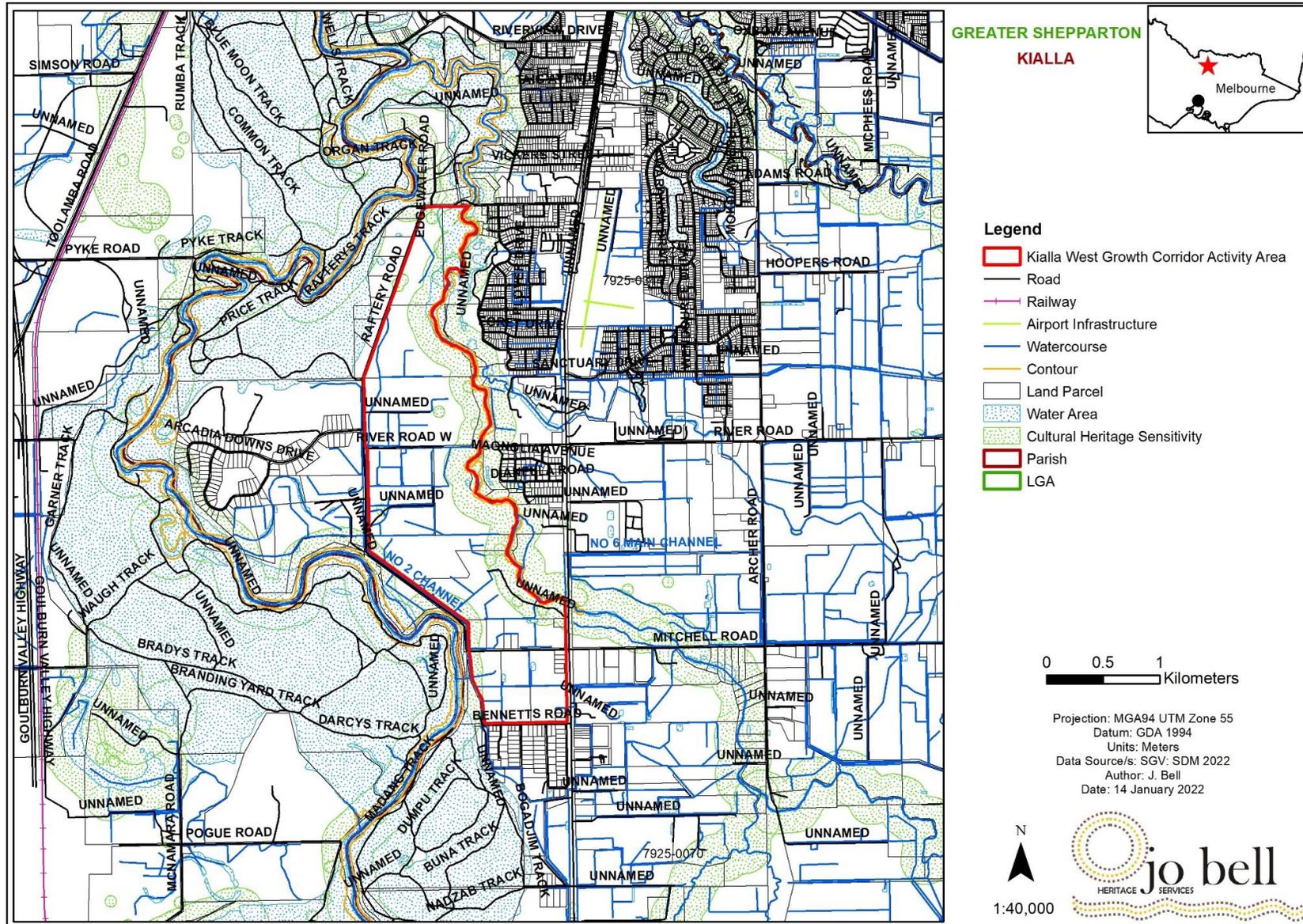


Figure 13: Areas of cultural heritage sensitivity within the activity area

5.0 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.

5.1 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.

5.2 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.

5.3 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.

5.4 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).

6.0 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 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 two types of cultural heritage sensitivity areas within the precinct boundary that are specified in the Regulations. These include the Goulburn River and Seven Creeks as waterways; and registered Aboriginal places.

On face value, any works, or activities, specified in Division 5 of the Regulations that encroach on an area of cultural heritage sensitivity as specified in the Regulations and indicated in Figure 13, will require a CHMP to be prepared. That is, unless it can be shown that the area has been subject to significant ground disturbance; a PAHT has been prepared and certified that a CHMP is not required; or a CHP is deemed an appropriate and legal alternative.

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

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8.0 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.