



## Kialla North Growth Corridor

# Aboriginal Cultural Heritage Impact Assessment - Redacted



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Date of Completion: 12 July 2022

## EXECUTIVE SUMMARY

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

The Growth Corridor area comprises an approximate total area of 1,663ha of land, bounded by Broken River crown reserve in the north; Doyles Road in the east; River Road in the south; and Archer Road in the west. A small section of land extends beyond Archer Road in the west, just south of Adams Road (Figures 2a-2e inclusive).

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 Broken River as a waterway; and registered Aboriginal places. Additionally, further areas of sensitivity have been identified from aerial imagery.

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 15 (*green stippling*), 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. Furthermore, it is strongly recommended that the areas indicated in Figure 15 by *purple stippling* should be treated in the same way.

Moreover, 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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Wade Morgan	Natural Resource Manager, Cultural Heritage Management, Yorta Yorta Nation Aboriginal Corporation
Janarli Bux	Cultural Officer, Yorta Yorta Nation Aboriginal Corporation
McKenzie Joachim	Cultural Officer, Yorta Yorta Nation Aboriginal Corporation
Jo Bell	Director & Archaeologist, JBHS: background research, fieldwork, reporting and GIS
Jenny Fiddian	Archaeologist, JBHS: Fieldwork and reporting.
Tina Brown	Administration Manager, JBHS: Editing

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- *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 (GSCC or Council) is currently working on precinct planning and design work for the Kialla North Growth Corridor (KNGC or activity area) (Figure 1) 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, subject to further investigations. Flooding was identified as the single planning issue to be addressed under the Strategy and a report was prepared by Water Technology Pty Ltd and GMR Engineering (2016).

According to the project brief (2021), the conceptual masterplan, developed by Water Technology and GMR Engineering, investigated flooding impacts and prepared a conceptual level masterplan as an indicative future guide for development of the land. The land was rezoned to the Urban Growth Zone – Part A as part of Amendment C195 in August 2017.

Council and the Victorian Planning Authority (VPA) prepared the *Shepparton Mooroopna 2050: Regional City Growth Plan 2021* (Growth Plan) to provide a vision and guide for the sustainable development of Shepparton and Mooroopna to the year 2050. The Growth Plan confirms the role of the KNGC and allocates a short-term designation to the preparation of a Precinct Structure Plan (PSP) and Development Concept Plan (DCP) to allow for the subdivision and development of the land. The PSP and DCP will determine appropriate densities for further residential development and appropriate regional infrastructure required to support such development (Project Brief 2021).

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 Mitchell Stoter, Senior 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 Joanne Bell and Jenny Fiddian. Jo has a BA (Hons) in Archaeology and over twenty years of professional experience in the cultural heritage industry. Jenny has a BA (Hons) in Archaeology and a Master of Arts (Archaeology). She has over twenty-five years professional experience in heritage management, including development and research projects (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).

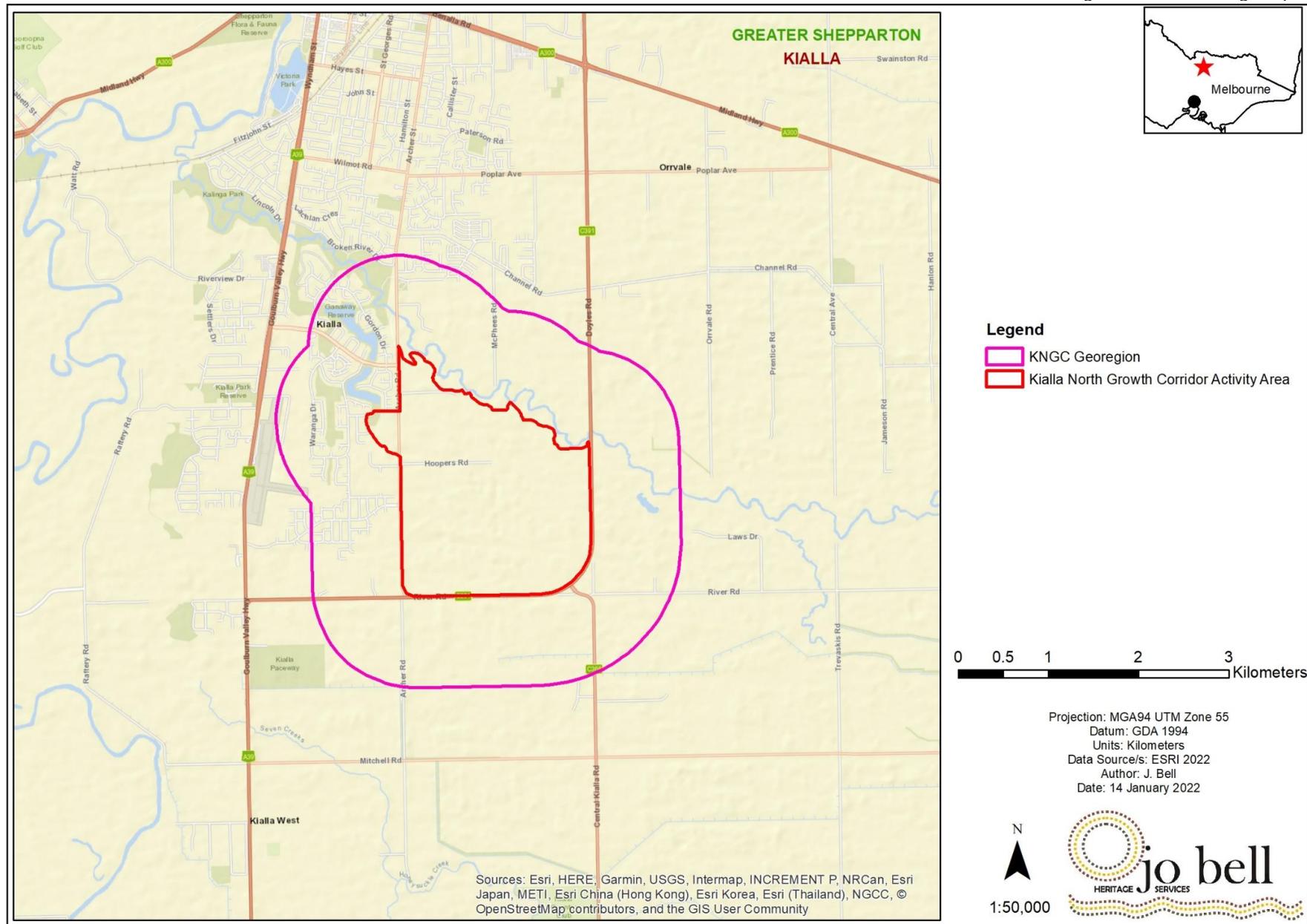


Figure 1: Location of Activity Area within the geographic region

## 2.0 ACTIVITY AND ACTIVITY AREA

### 2.1 Proposed Activity and Extent of Activity Area

The corridor comprises approximately 1,663ha of land, bounded by Broken River crown reserve in the north; Doyles Road in the east; River Road in the south; and Archer Road in the west. A small section of land extends beyond Archer Road in the west, just south of Adams Road (Figure 2 series).

Cadastral details include:

- Lot 1 LP135012
- Lots 1-2 PS840869
- Lots 1-2 LP132646
- Lot 1 LP135831
- CA 2097
- CA2096
- CA2099
- CA68C
- CA67A
- Lots 1-2 PS400436
- Lot 1 PS306686
- Lots 1 and BL2\PS829013
- Lots 1-3 LP135012
- RES3 PS548983
- Lot 2 PS522080
- RES1 PS633293
- RES1 PS643232
- RES1 PS827738
- Lot 2 PS628420
- Lot 3 LP13358
- Lots 1-2 LP130924
- Lots 1-3 TP243081
- Lots 1-2 LP220091
- Lot 1 TP605995
- Lots 1-2 PS834060
- Lot 1 LP65775
- Lots 1-2 LP137230
- Lots 6 & 12 LP13358
- Lots 1-4 LP96186
- Lots 1 & BL2\PS842691
- Lots 1-2 PS405638
- Lots 2-3 LP134979
- Lot 1 LP60710
- Lo 1 TP 198756
- Lots 1-2 LP207831
- Lots 1-3 LP141946
- Lots 1-2 PS435752
- Lots 1-2 LP130535
- Lot 2 LP32599
- Lot 3 LP89967
- Lots 1-4 PS531674
- Lot 2 PS823129
- Lots 2-3 PS336916
- Lots 2-4 PS312488
- Lot 1 PS312489
- Lot 1 PS310153
- Hoopers Road road reserve
- Parish of Kialla

Under the City of Greater Shepparton Local Planning Scheme, the land is currently zoned Urban Growth Zone (UGZ), Urban Floodway Zone (UFZ) and a small section of Farm Zone (FZ) in the west (Figure 3).

### 2.2 Existing Conditions

Google Earth imagery from 2021 provides an indication of the existing conditions of the activity area, including land use, *i.e* namely farming (Figure 4).

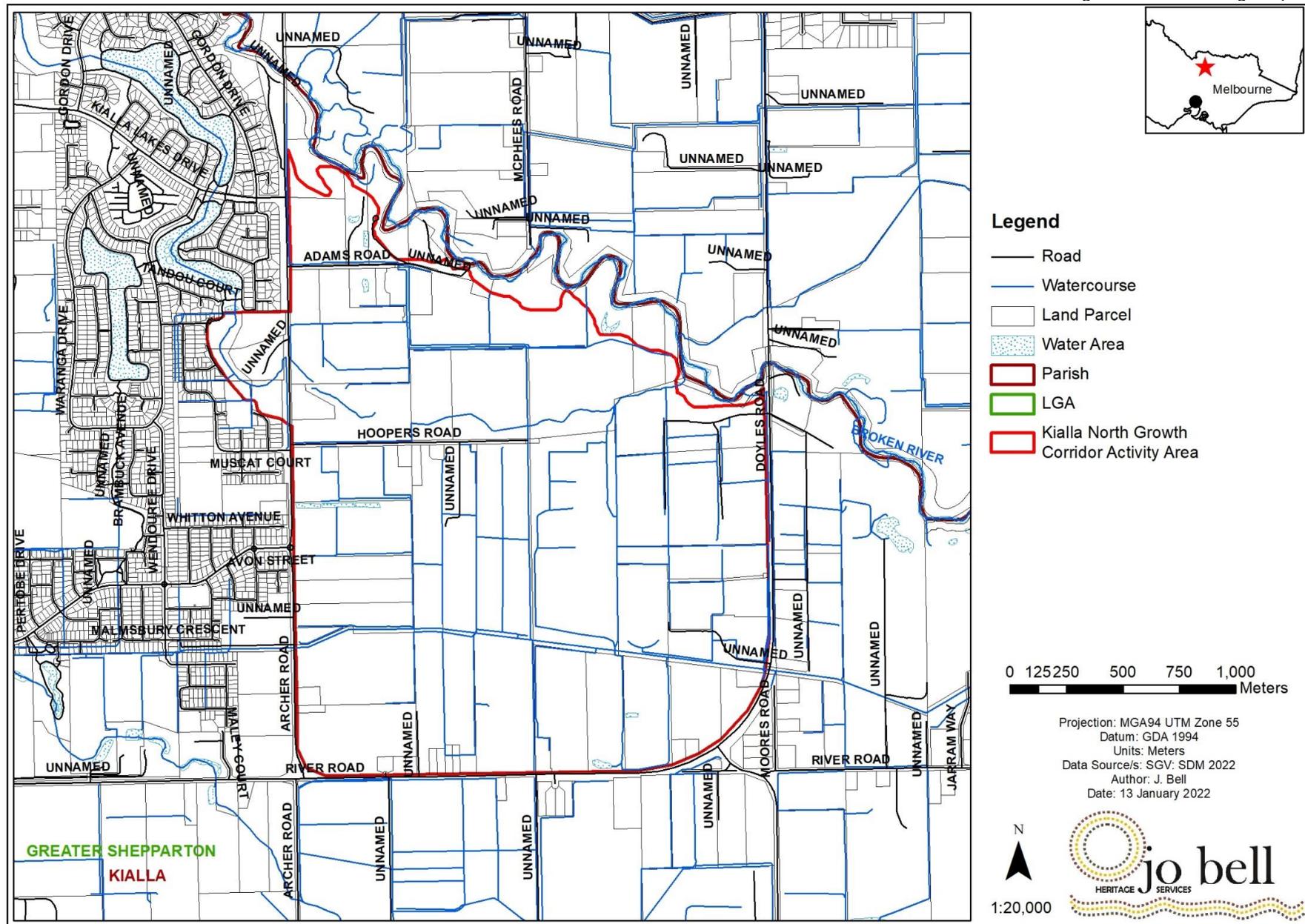


Figure 2a: Parcel plan of the Activity area -overview

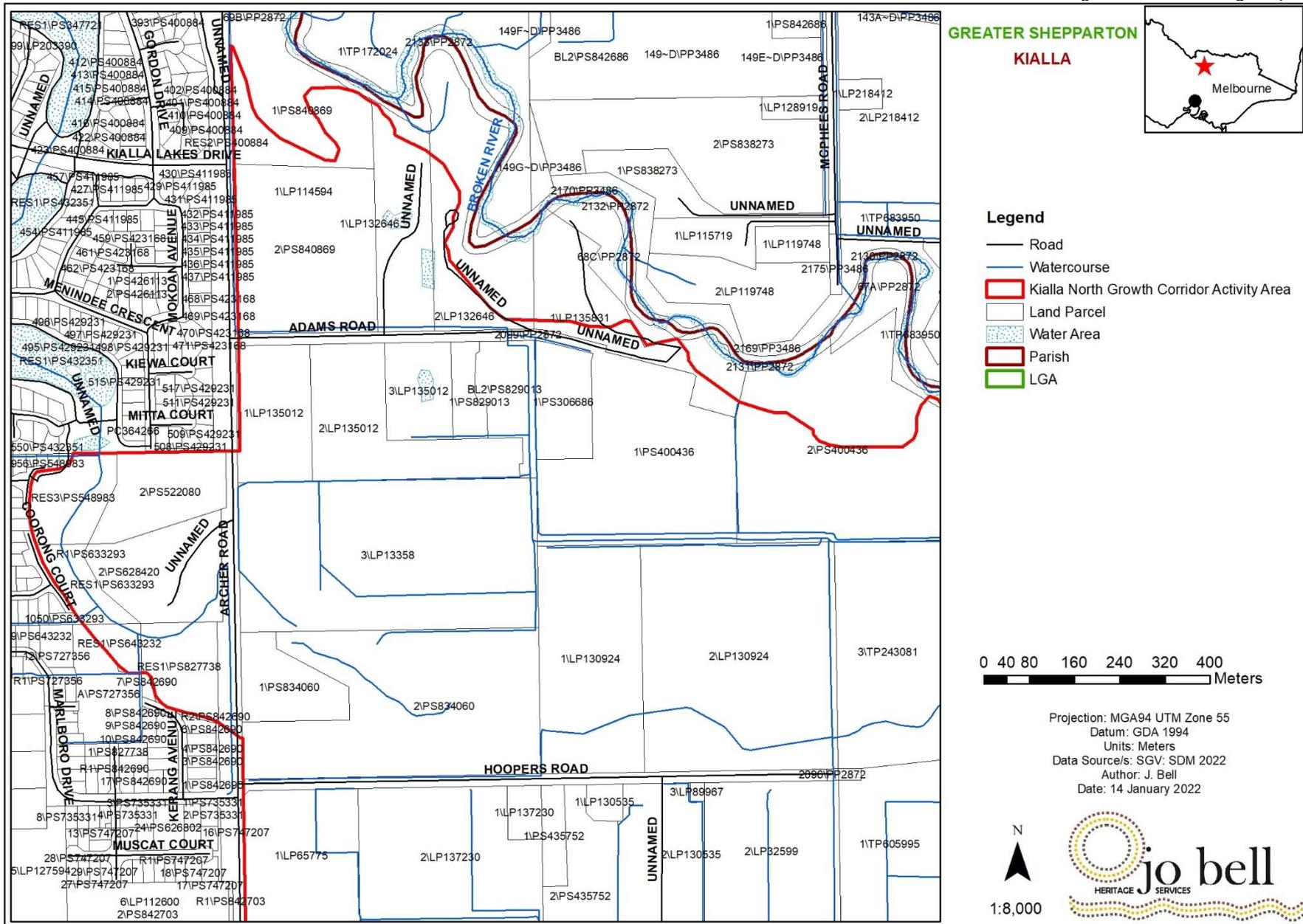


Figure 2b: Parcel plan of the Activity area – northwest section

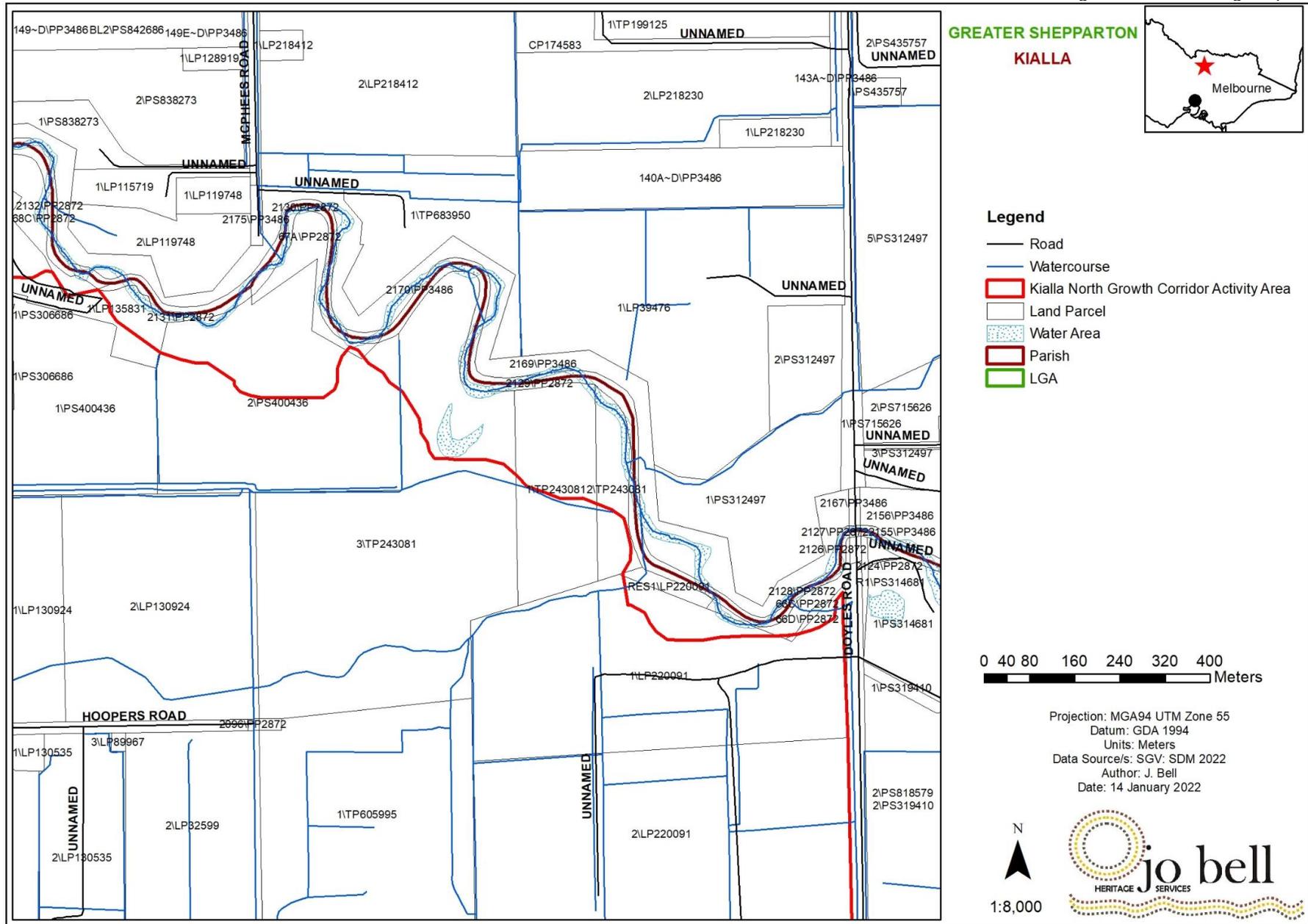


Figure 2c: Parcel plan of the Activity area – northeast section

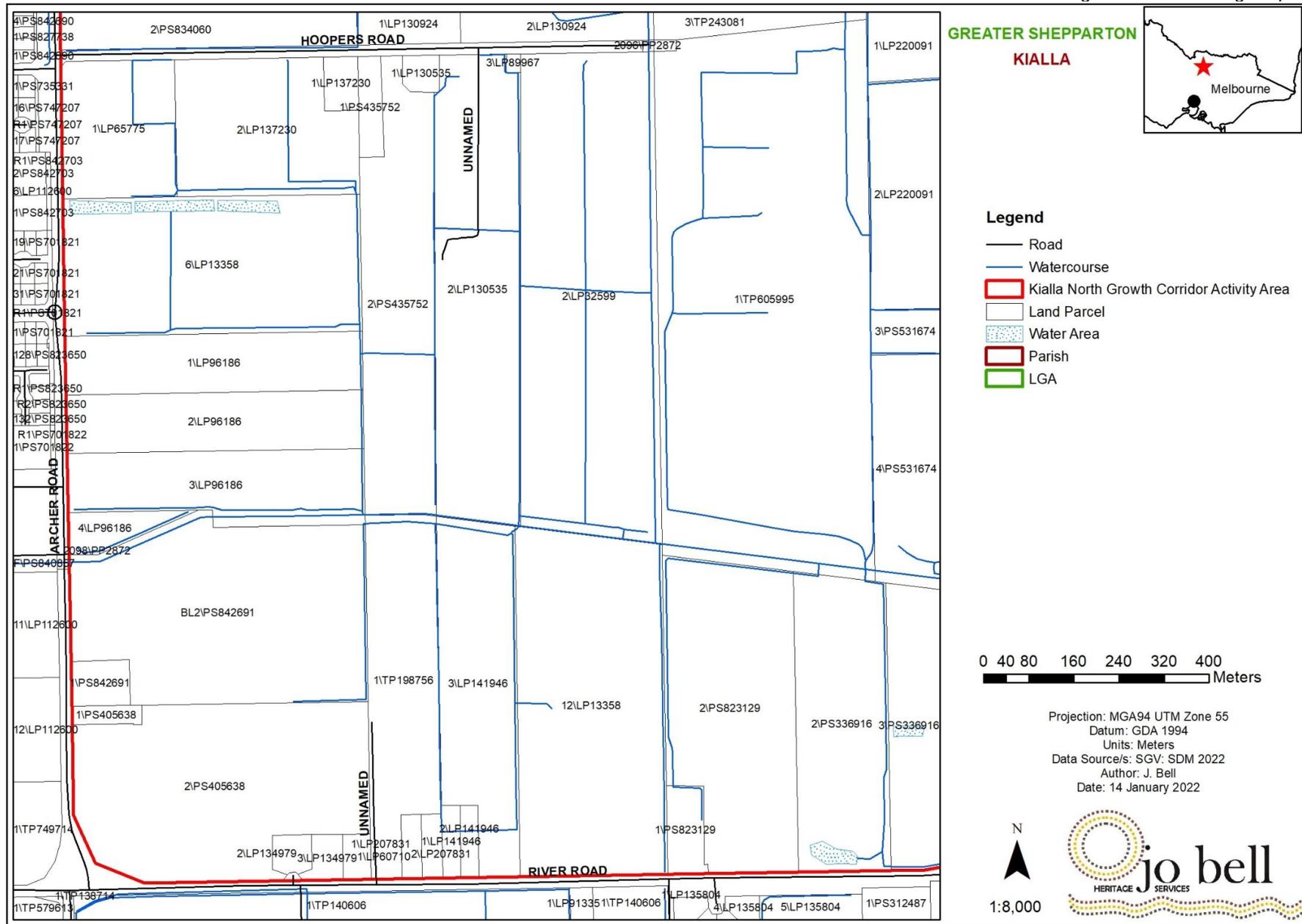


Figure 2d: Parcel plan of the Activity area – southwest section

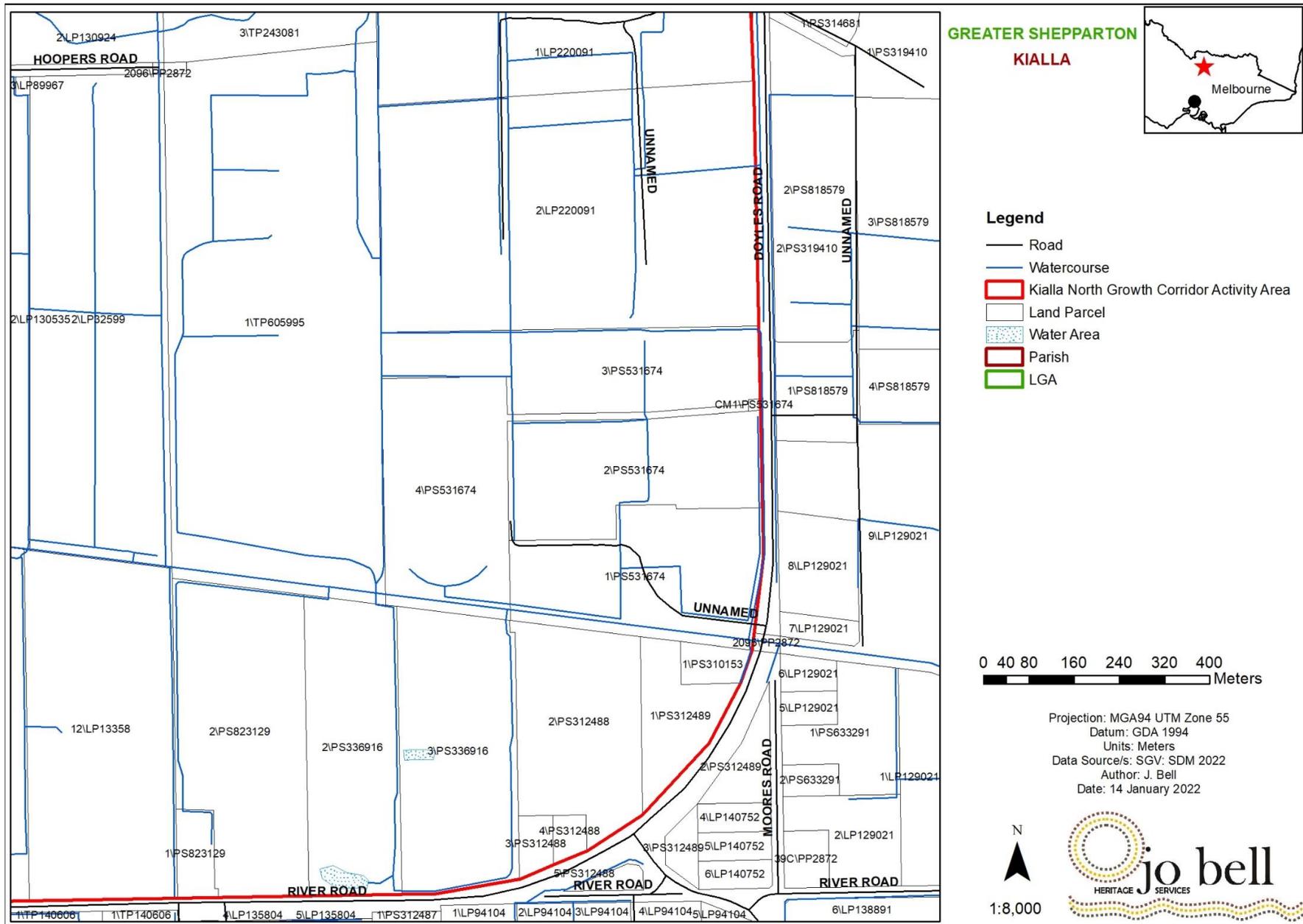


Figure 2e: Parcel plan of the Activity area – southeast section

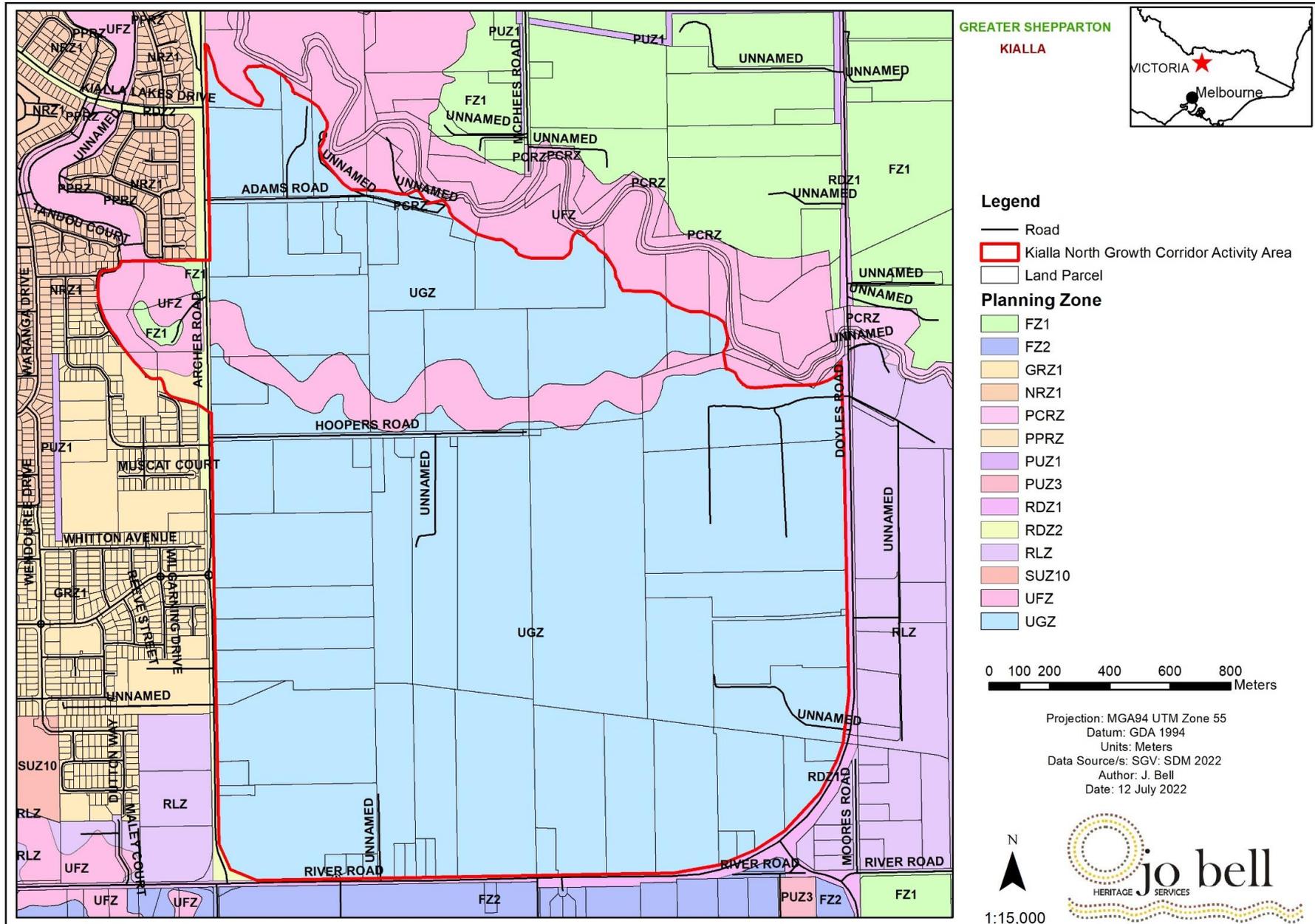


Figure 3: The Activity Area showing the planning zones

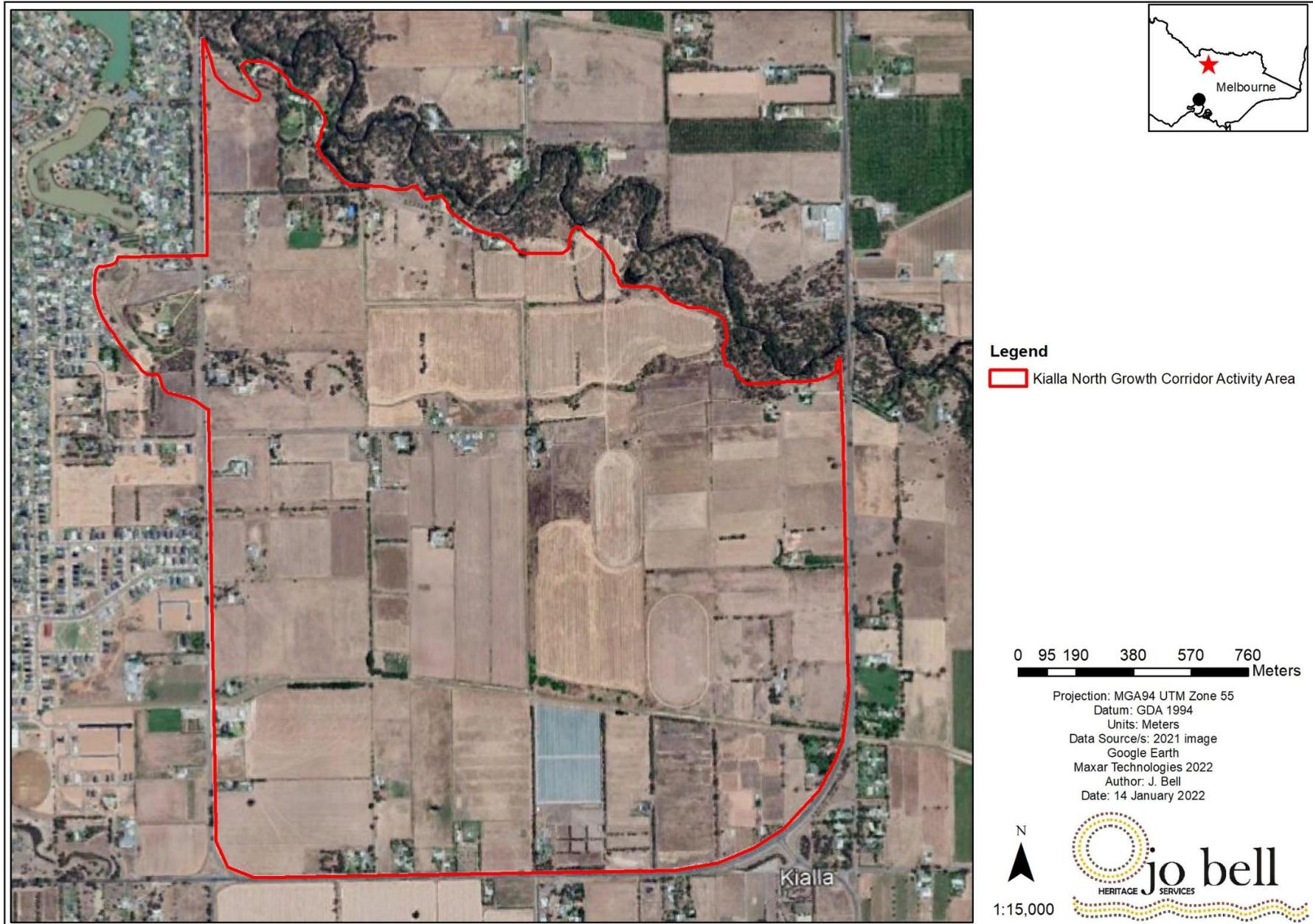


Figure 4: Existing Conditions of the Activity Area

### 3.0 DOCUMENTATION OF CONSULTATION

On 17 December 2021, Jo Bell contacted Wade Morgan (Natural Resource Manager, Cultural Heritage Management, 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. Areas of potential sensitivity, not identified through the Regulations, were identified on aerial imagery and highlighted for site inspection.

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

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

The site inspection was originally booked for 9-10 March 2022 but was rescheduled to 1 June 2022.

The site inspection was carried out on 1 June 2022 by Jenny Fiddian (JBHS archaeologist) with Janarli Bux and McKenzie Joachim (YYNAC) in attendance.

Name	Organisation represented
Janarli Bux	YYNAC
McKenzie Joachim	YYNAC
Jenny Fiddian	JBHS

Table 2: Participants of the site inspection, carried out on 1 June 2022

Following inspection at each of the accessible properties, the field participants discussed the results and whether the property contained any further areas of cultural heritage sensitivity which may require further investigation in future, if development plans are considered.

## **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). At the eastern end of Adams Road, 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 Broken River floodplain, which lies along the northern boundary (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 central portion of the activity area lies on 'older alluvial plains,' which essentially correspond to the Shepparton Formation geology. The northern portion, associated with the Broken River, is described as 'modern floodplains', whilst the southern portion lies on alluvial fans and aprons associated. At the more localised level (Tier 3), the activity area is further described as a 'meander belt below plain level, sometimes source-bordering dunes' along the riverine corridor of the Broken River. 'Plains with leveed channels, sometimes with source-bordering dunes' is described for almost all of the remaining 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).

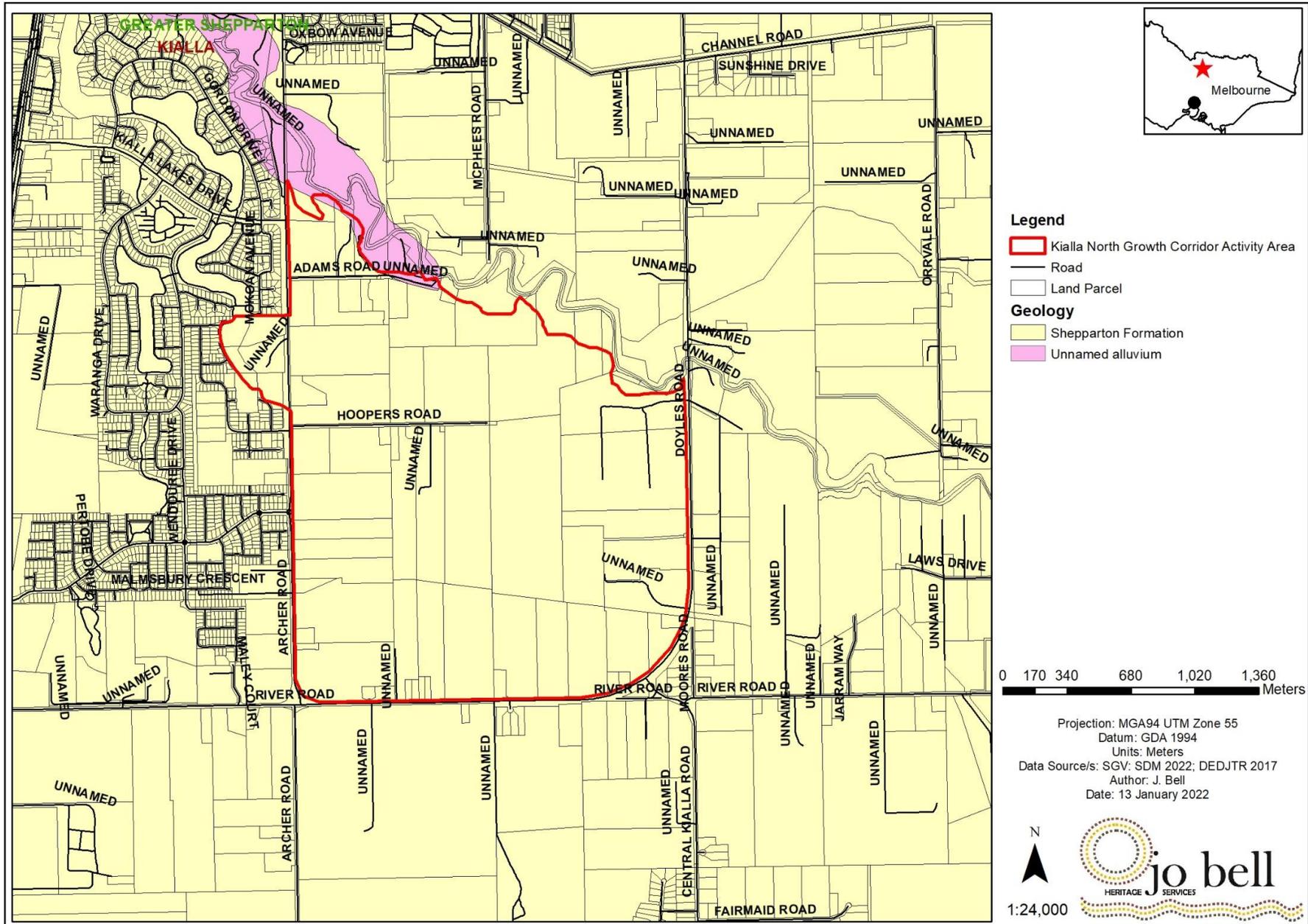


Figure 5: Geology within the activity area

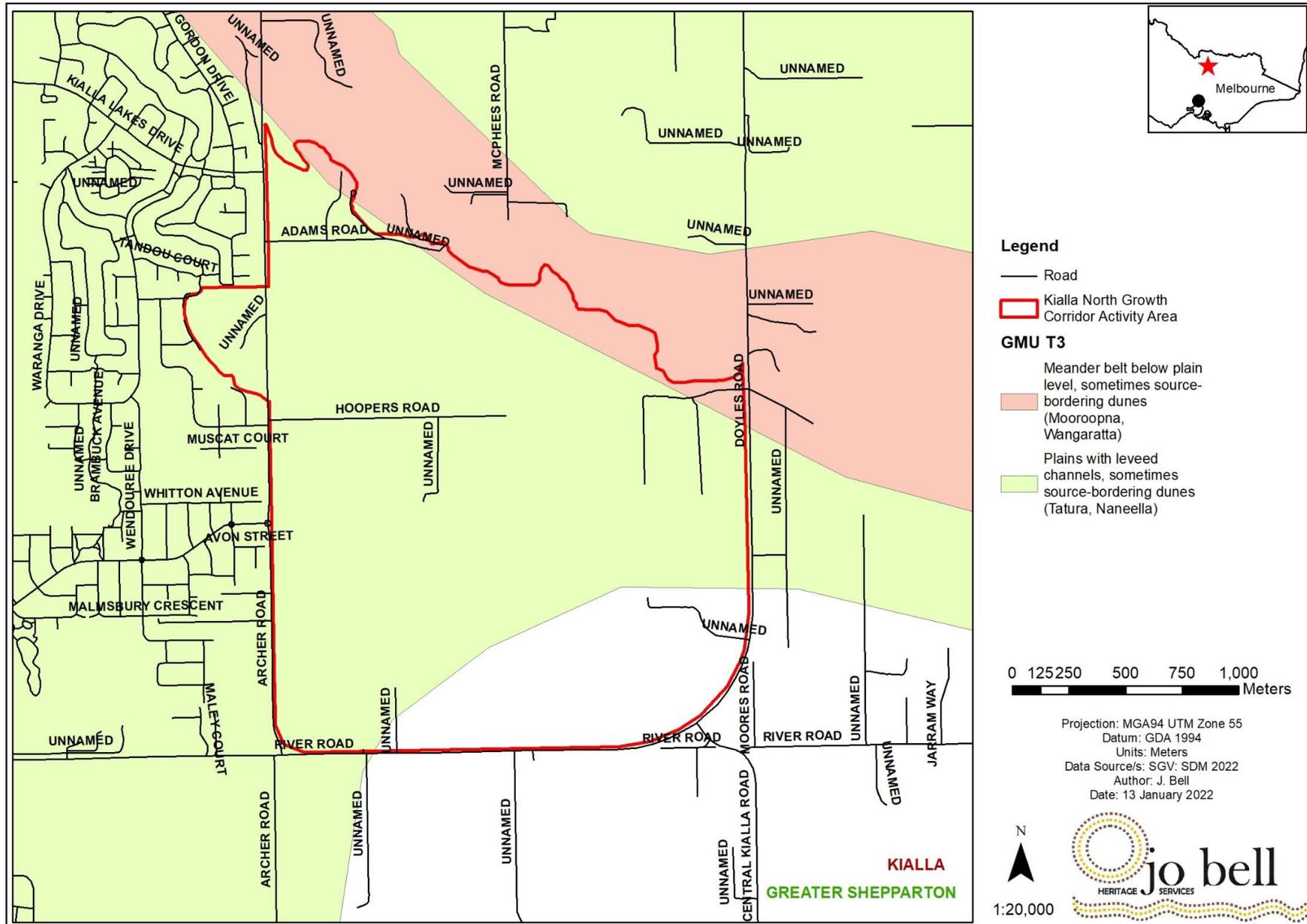


Figure 6: Local Geomorphological Context (Tier 3 description) of the activity area

## 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).

Along the Broken River however, vegetation comprised Floodplain Riparian Woodland / Creekline Grassy 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*).

The current EVC mapping indicates very little remnant vegetation away from the Broken River (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. Intermarriage 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

According to historical documents and linguistic analyses, 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 there 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, Mooroopna, 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 many 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 were 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, 1,200 acres of the former reserve was 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.

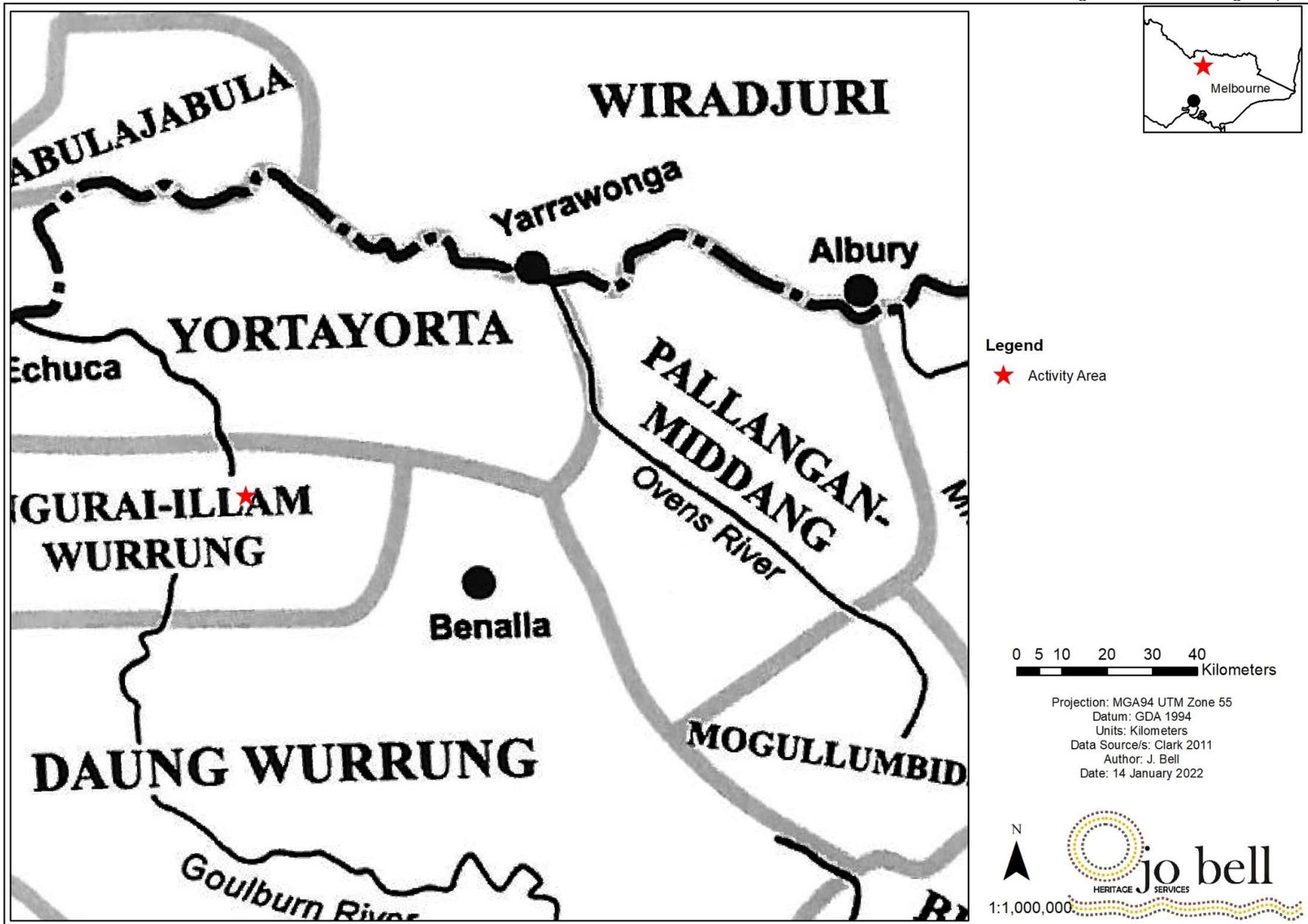


Figure 7: Clark's (2011) Eastern Victorian Aboriginal Languages and Dialects map

## 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*).

According to the memories of Isabel Pearce, a daughter of one of the early settler families on the Orrvale / East Shepparton irrigation blocks, settlers were beginning to take up blocks east and northeast of Shepparton in 1912 under the auspices of the State Rivers and Water Supply Commission.

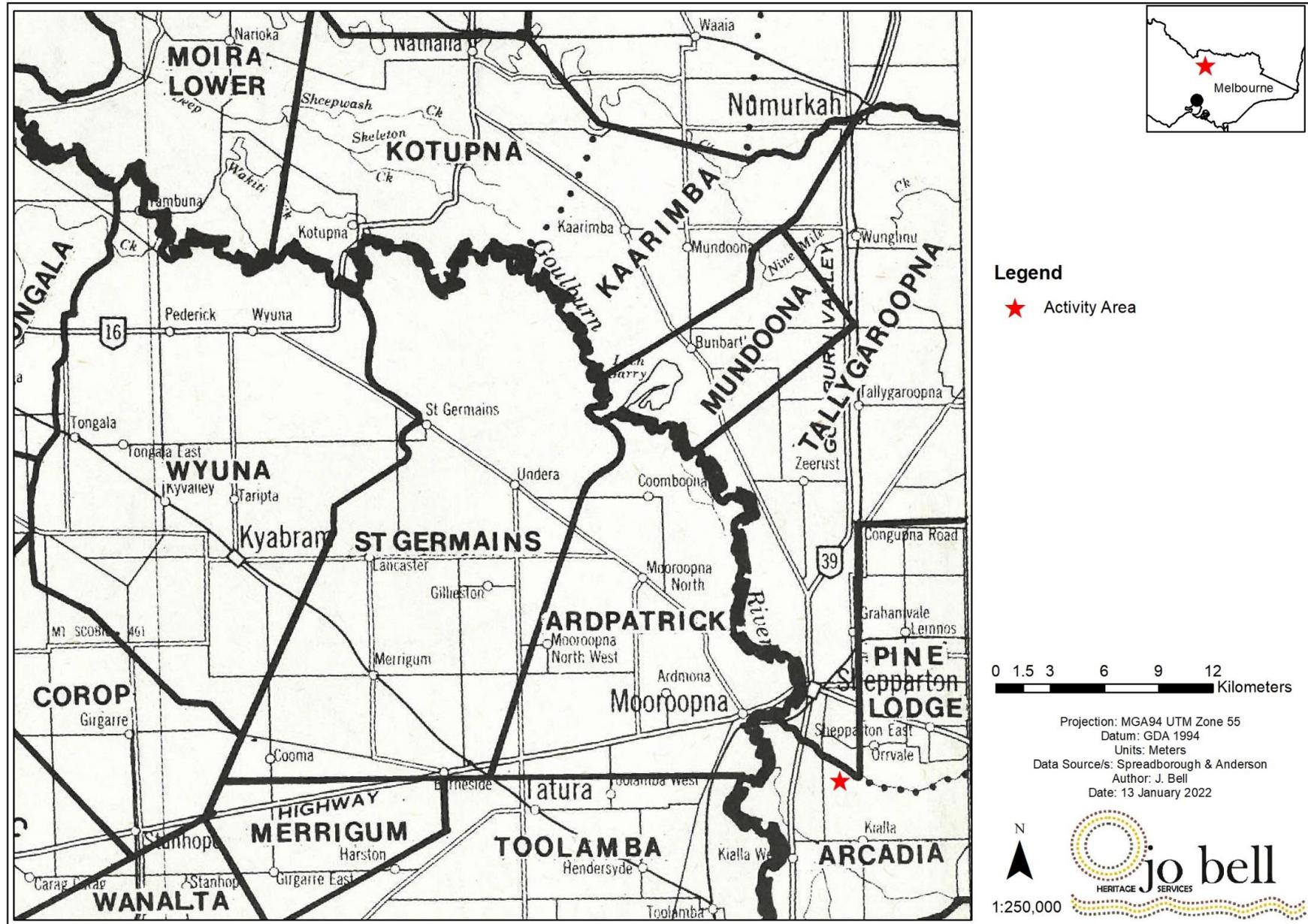


Figure 8: Pastoral Runs in the region

Pearce (Houston 2005) tells that 'the Government had taken up about 10,000 acres of wheat and grazing land and subdivided it into blocks of an average of 25-30 acres'. These blocks were all served by newly dug irrigation channels. According to Pearce, the Closer Settlement Scheme had been intended for dairying, but the low price of butter and the small size of the blocks meant that the settlers planted fruit trees instead.

#### **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 1967 Kialla parish plan (Figure 9) was the only plan that could be obtained, which shows land ownership at this time. The activity area comprised only eight titles. There has been considerable subdivision in the area since the 1960s.

#### **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 cleared farmland with irrigation and channelisation evident (Figures 10a-c). The area is divided into various paddocks. Very few trees are found in the wider area, although the riparian zone adjacent the Broken River, outside the activity area is moderately vegetated. Prior stream systems are also evident south of the Broken River.

A March 1974 aerial, prior to the floods of May the same year, show irrigated orchards as well as cleared cropping and grazing country (Figure 11). The prior streams evident from the 1945 images are still clearly visible. The surrounding area remains open farmland also.

Google Earth was also reviewed. The 2010 image indicates a dry period (Figure 12). There has been a change in land-use during the intervening period with many of the orchards removed and replaced by cereal crops and what appears to be trotting tracks. The Kialla Lakes subdivision has been constructed to the northwest, utilising the prior stream geomorphology within the development. Further subdivision has begun to encroach on the area. The 2021 image indicates further development to the west of the activity area (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 January 2022 by Jo Bell.

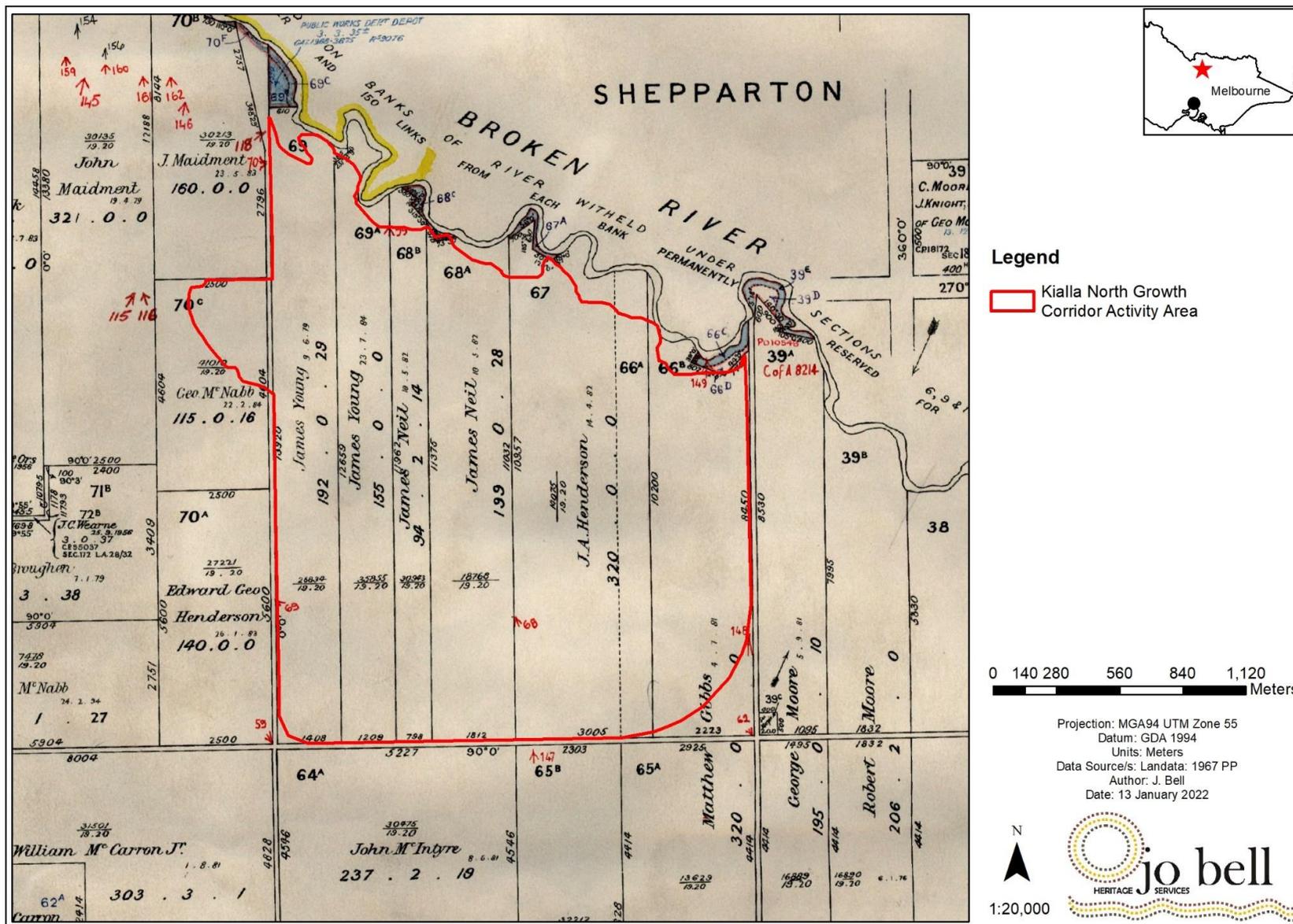


Figure 9: 1967 Kialla Parish Plan of the activity area

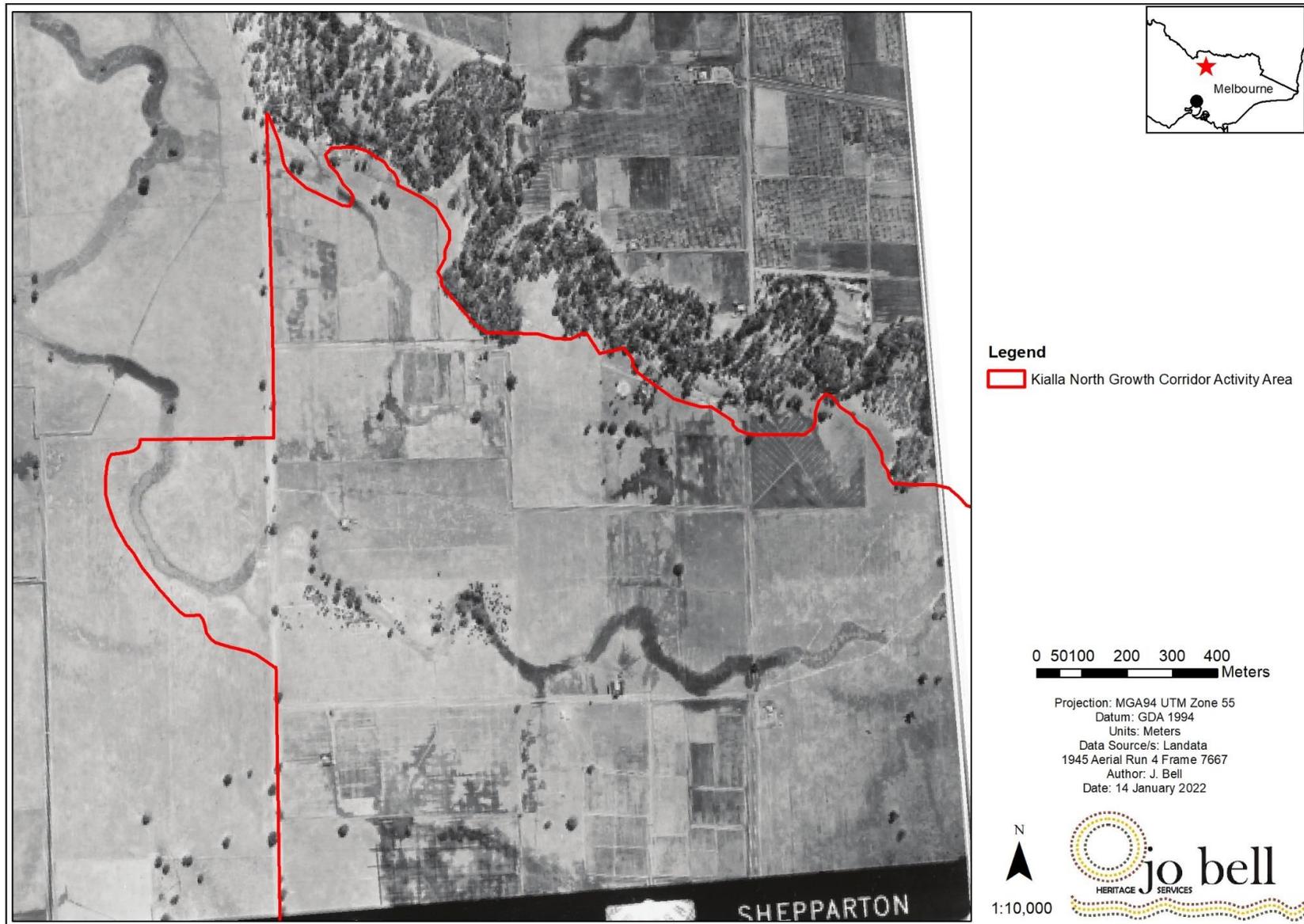


Figure 10a: 1945 aerial showing the northwest portion of the activity area. Note the prior stream channel

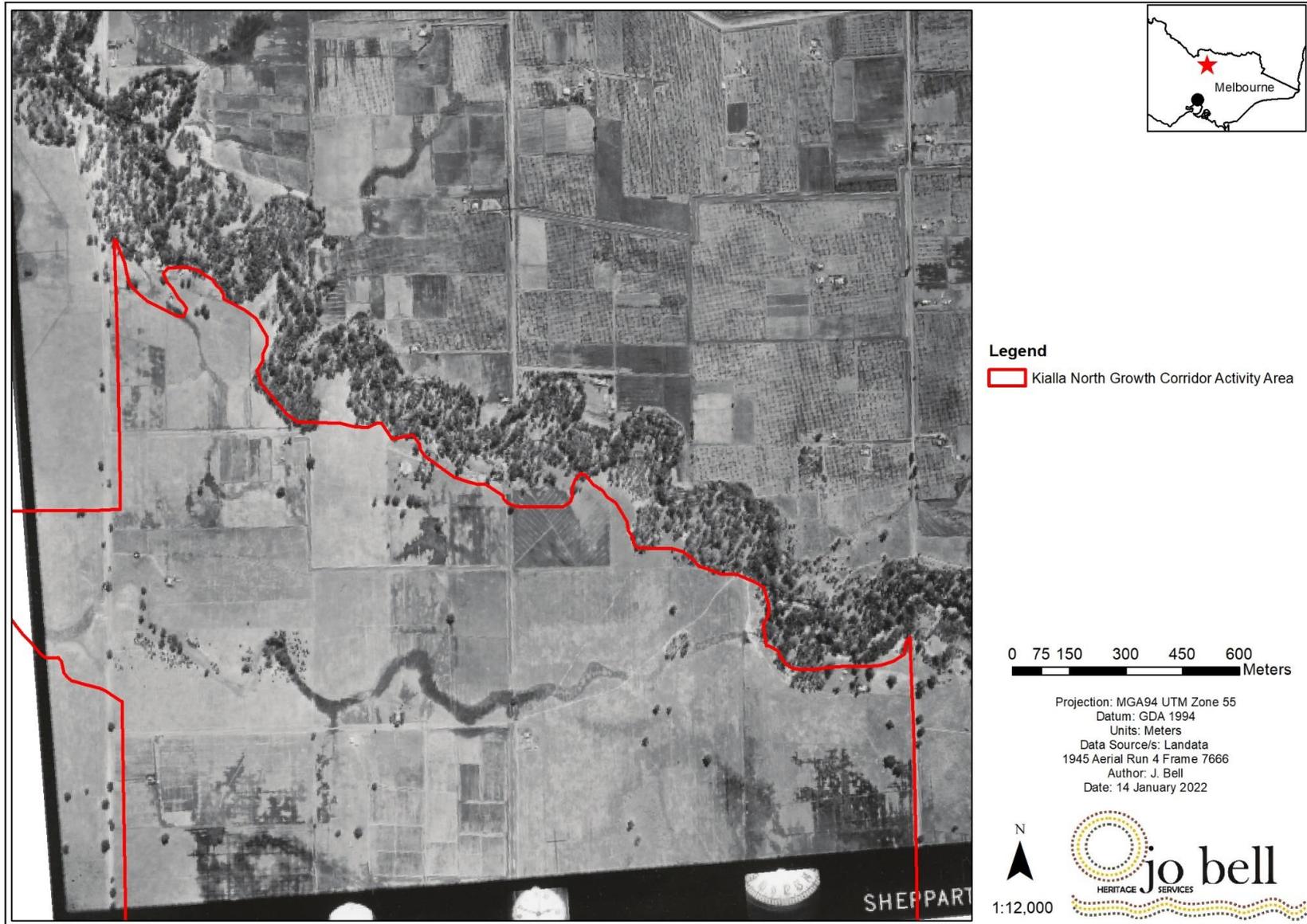


Figure 10b: 1945 aerial showing the northern portion of the activity area. Note the prior stream channel



Figure 10c: 1945 aerial showing the southern portion of the activity area. Note the prior stream channels

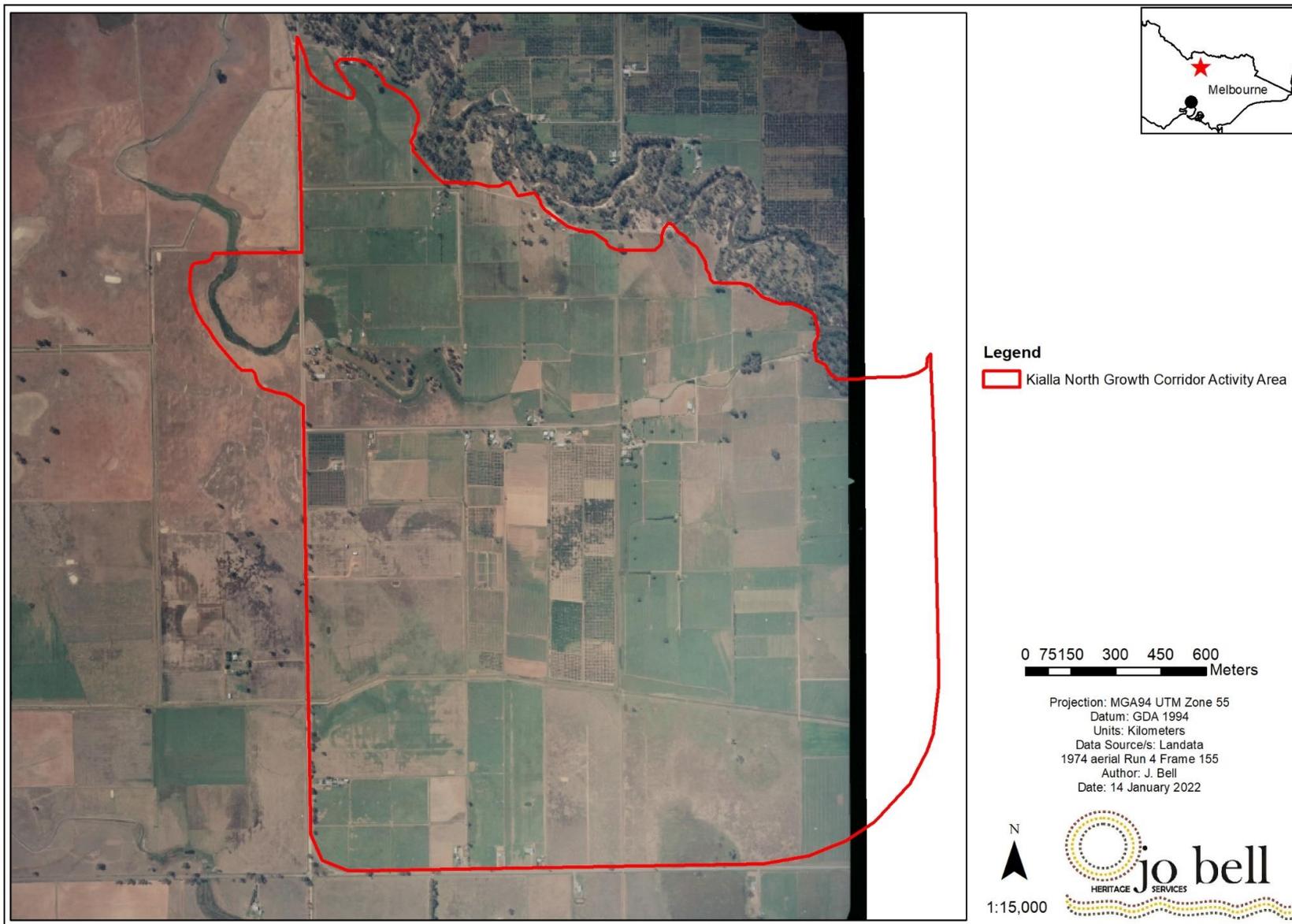


Figure 11: 1974 aerial showing the activity area prior to the widespread flooding of the same year. Note the prior stream channels

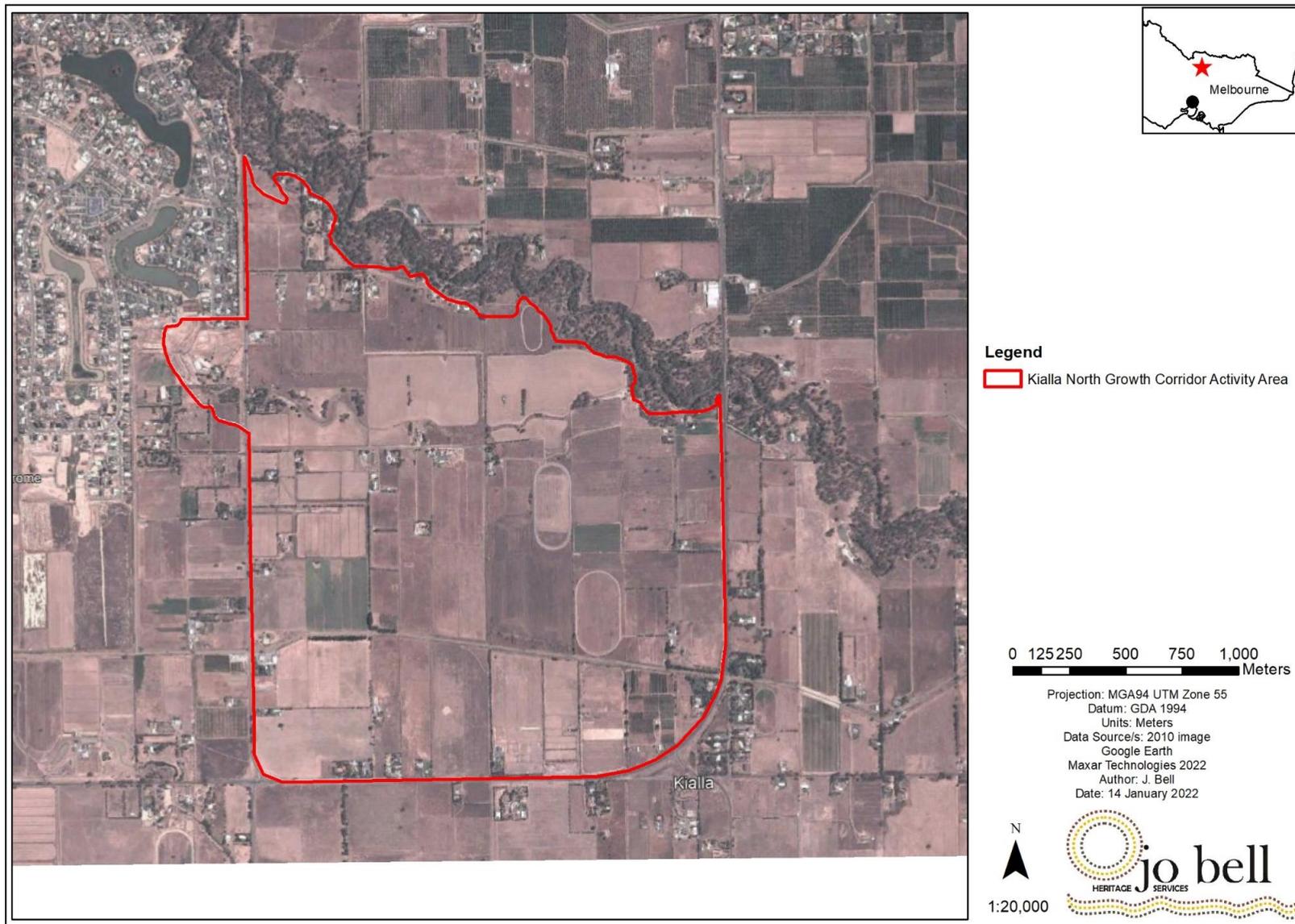


Figure 12: 2010 Google Earth image showing the activity area. Note the development of Kialla Lakes around the prior stream channel to the west

#### 4.7.2 Previous Archaeological Investigations

There are 18 archaeological and/ or cultural heritage reports listed on the VAHR for the geographic region. These include:

- \* 9 desktop/papers/due diligence assessment reports;
- \* 6 survey reports; and
- \* 3 CHMPs (all standard).

Investigations include regional studies and general desktop investigations with more localised projects for residential developments, water infrastructure, and the Shepparton bypass. Table 3 summarises the *relevant* reports and investigations carried out in the geographic region.

Of most relevance is the report prepared by Andrew Long in 1996, which included survey of a small portion of the activity area and resulted in the registration of VAHR 7925-0344. This is located approximately 150m north of the northern planning precinct boundary on the east side. The study was to investigate the cultural heritage of the western and eastern corridors of the Shepparton Bypass. During the survey, 63 Aboriginal places were recorded as well as 13 historical sites. Aboriginal places included artefact scatters and isolated artefacts, eroding cultural deposits in creek / river banks and scarred trees. Areas of archaeological potential included slopes defining the edges of the Goulburn and Broken Rivers floodplains; source bordering dunes adjacent to the floodplain corridors; sand drifts on floodplain floors; silt ridges, levee banks and raised edges of minor billabongs and creeks on the floodplain floor; the Seven Creeks floodplain; raised edges on flat land adjacent to or at a distance from the floodplains; and prior and ancestral channels of the Goulburn and Broken Rivers.

#### 4.7.3 Registered Aboriginal Places

The activity area is in an area of mapped cultural heritage sensitivity specified in the Regulations and associated with one registered Aboriginal place and a waterway (Broken River) (Figure 13). Interestingly, the prior stream is not identified as an area of cultural heritage sensitivity, although clearly it would have been a significant feature in the landscape in the past.

Within a 1km radius of the activity area, there are 17 Aboriginal cultural features across 9 registered Aboriginal places. These include:

- 4 Artefact Scatters;
- 9 LDADs; and
- 4 Scarred Trees.

There is one Aboriginal place within the activity area and a further one within 200m of the activity area. These are both scarred trees. There are no historical references listed for the geographic region.

#### 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 (Figure 14).

Table 3: Relevant 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. 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.
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.

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
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, including one within 150m north of the study area.
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.
Murphy, A. & L. Amorosi 2004 Proposed Residential Estate, Between Archer Road and Goulburn Valley Highway, Kialla.	c.84ha at Kialla Survey	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
Edmonds, V. 2004 Two Proposed Water Storages at Shepparton, North East Victoria	6500m <sup>2</sup> at each location Maculata Drive and south of Kialla Lakes Drive  Survey	Flat plain and low-lying swampland	Two areas investigated for proposed water storages including pump station and pipe network. Maculata Drive location was heavily disturbed with excellent gsv. The Kialla Lakes location was previously swampland and has been filled and levelled. Low gsv. No cultural heritage identified and low potential predicted.

Study / Investigation Author / Title	Location / Survey Type	Landform	Results
Rhodes, D. & Paynter, N. 2005 Report on an Archaeological Survey of a Proposed Residential Development Site, Channel Road, Shepparton	Shepparton  Survey	Plain	No Aboriginal cultural heritage found.
Kaskadanis, C., Jenkins, R. & M. Jacobs 2008 East Shepparton Pressurised Pipeline Scheme, City of Greater Shepparton	East Shepparton  Survey	Riverine floodplain	No Aboriginal cultural heritage was identified.
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.
Shiner, J. & E. Walther 2016 459 River Road Kialla Proposed Residential Subdivision. CHMP 13908	Farmland at Kialla  Desktop and Standard Assessment	Plain	Three previously recorded places within the activity area, only one of which could be relocated. Two new places identified – an LDAD and a ST. None will be disturbed by the proposed development.

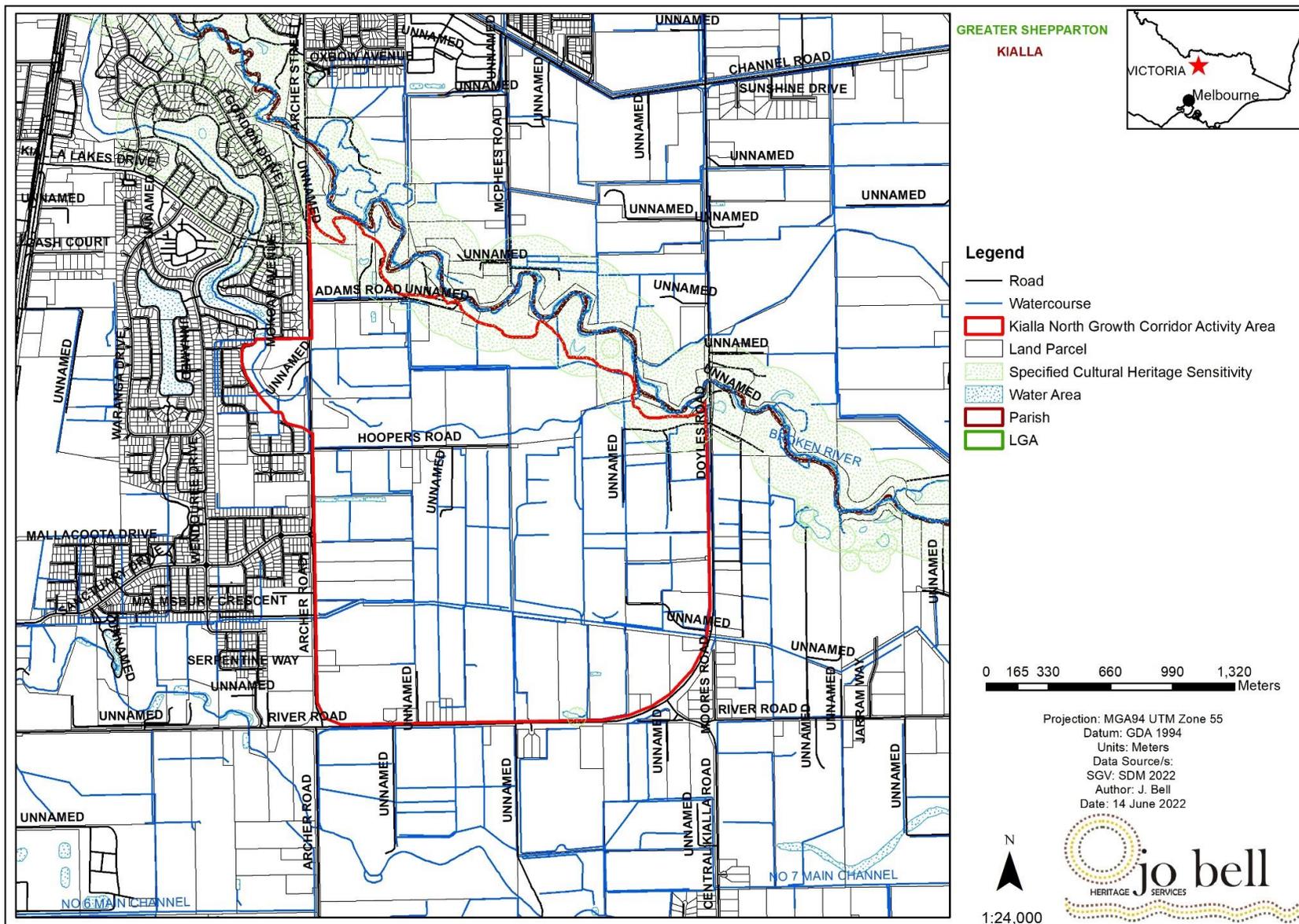


Figure 13: **REDACTED** Areas of cultural heritage sensitivity identified in the Regulations 2018

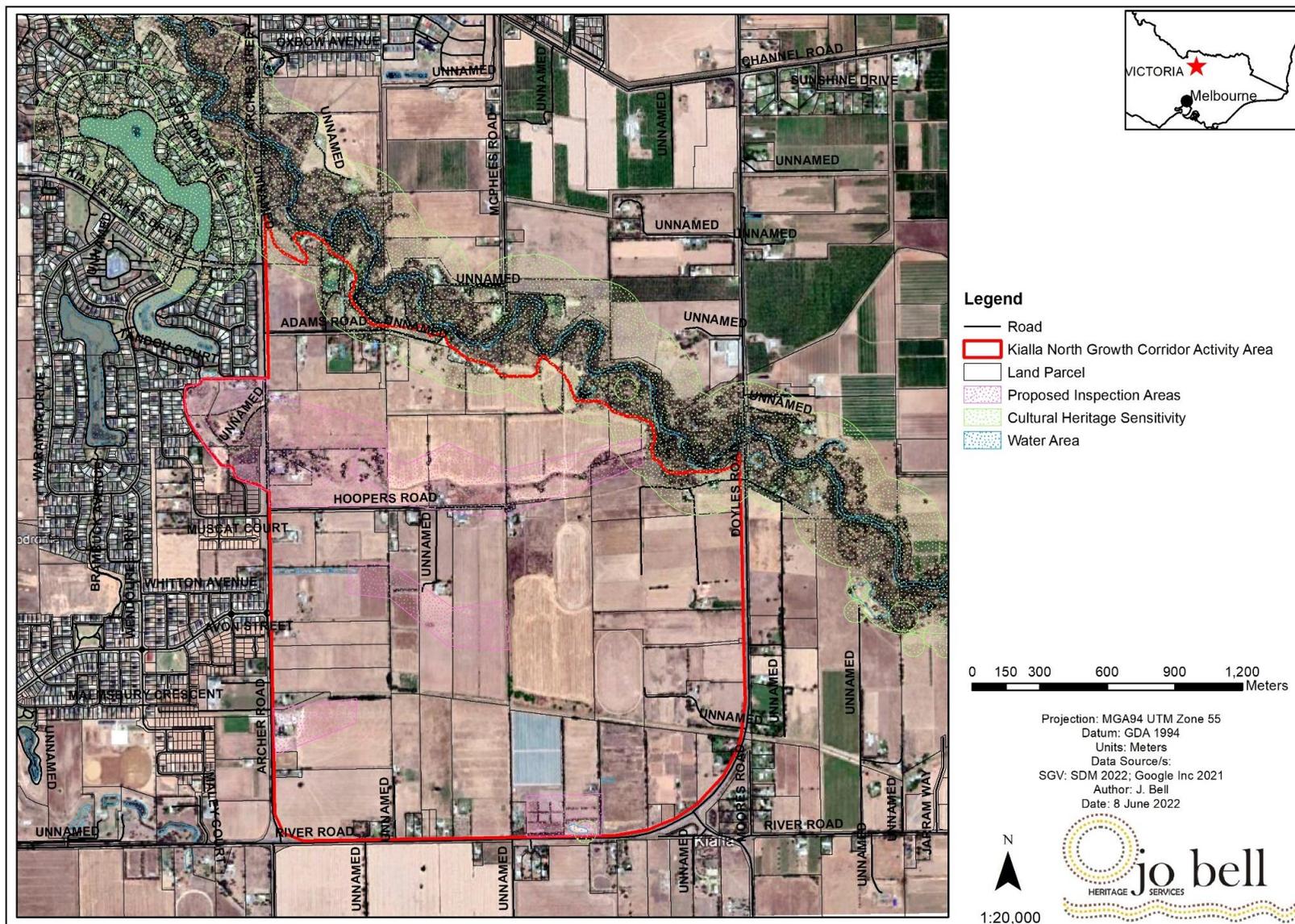


Figure 14: Areas of cultural heritage sensitivity identified in the Regulations 2018 and other potentially sensitive areas identified from historic aerial imagery

## **5.0 SITE INSPECTION**

The site inspection was undertaken on 1 June 2022 by Jenny Fiddian (JBHS), Janarli Bux and McKenzie Joachim (YYNAC Cultural Officers).

### **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 14). Landowners from seven properties granted access.

### **5.2 Results**

Seven 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 three of the seven properties inspected. These were associated with an anabranch (prior stream channel) of the Broken River (Figure 15). The remaining properties comprised flat plain landforms with no evidence of prior waterways, soaks or springs. Furthermore, there was no extant mature native vegetation and each of the properties had sustained at least some ground surface impacts. Ground surface visibility was limited across much of the activity area.

#### **5.2.1 Oral History**

Neither Janarli Bux nor McKenzie Joachim (YYNAC) were 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. Crops were the mainstay of the area, as illustrated by aerial imagery from 1945 to the present day. Cultural heritage has previously been associated with the Broken River. One registered Aboriginal place has been identified within the activity area.

Areas of Aboriginal cultural heritage sensitivity, as specified in the Regulations, are located within the Kialla North Growth Corridor. Additionally, aerial imagery has identified other areas, namely the anabranch (prior stream channel) of the Broken River and other waterway landforms, which have the potential to contain Aboriginal cultural heritage.

It is strongly recommended that further investigation should be undertaken for any high impact activities that are carried out within the areas specified in Figure 15 as being potentially sensitive (both green and pink stippled areas).

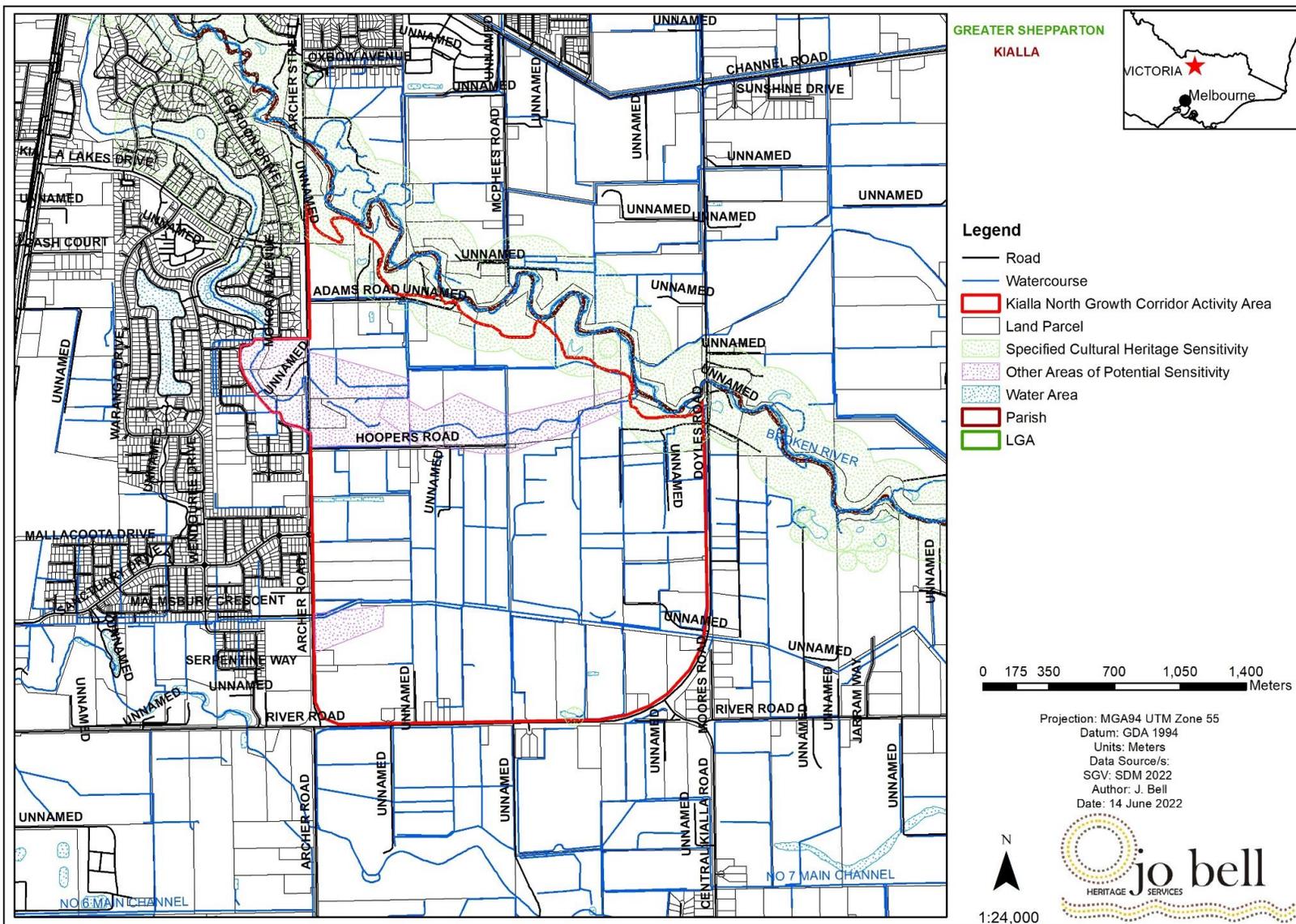


Figure 15: Areas of cultural heritage sensitivity identified in the Regulations 2018 and other potentially sensitive areas identified from historic aerial imagery (updated based on site inspection)

## 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 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 Broken River as a waterway; and registered Aboriginal places. Additionally, further areas of sensitivity have been identified from aerial imagery.

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 15 (*green stippling*), 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. Furthermore, it is strongly recommended that the areas indicated in Figure 15 by *purple stippling* should be treated in the same way.

Moreover, 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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## **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.

**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.