

Aboriginal Cultural Heritage Management – Preliminary Investigation of Emerald Lake Precinct February 2021



Figure 1 1884 map of Emerald Township Reserve

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PRELIMINARY INVESTIGATION SCOPE AND METHODOLOGY

This preliminary Aboriginal cultural heritage management investigation has been conducted on behalf of Cardinia Shire Council. The project area is the Emerald Lake Precinct in Emerald Victoria. The preliminary investigation is to inform about:

- Planning for civic and recreational infrastructure within the Emerald Lake Precinct and compliance with Victorian Aboriginal Cultural Heritage Legislation and Aboriginal Heritage Regulations 2018.
- Informing about 'Areas of Cultural Heritage Sensitivity' within the Emerald Lake Precinct.
- Identifying what types of Aboriginal cultural heritage management assessments may be required for planned civic and recreational infrastructure within the Emerald Lake Precinct.
- Contact information for Victorian Traditional Owner engagement and consultation.
- Identifying Aboriginal cultural heritage awareness and management processes and guidelines for the Emerald Lake Precinct.

The methodology for this preliminary Aboriginal cultural heritage management investigation involves:

- Providing property information about the Emerald Lake Precinct.
- Victorian Traditional Owner engagement and consultation.
- Summary review of the Victorian Aboriginal Cultural Heritage Legislation and the Aboriginal Heritage Regulations 2018. The summary review outlines the legislative requirements to undertake a Cultural Heritage Management Plan with regards to civic and recreational infrastructure projects. The review also provides information about Nobelius Heritage Park and Aboriginal cultural heritage management process within the Historical Overlay that may be triggered.
- A search of the Victorian Aboriginal Heritage Register to identify if any registered Aboriginal Cultural Heritage Places have been identified within Emerald Lake Precinct project area.
- A review of any previous Aboriginal cultural heritage assessments that have been conducted within Emerald Lake Precinct. This is to identify if any cultural heritage management conditions exist for the Emerald Lake Precinct that may be required to be followed.
- A general landform mapping chronology review. This specifically involves a review of landform maps that have been conducted within the Emerald region. The purpose of this landform mapping review is to identify waterway landforms, that are recognized as 'Areas of Cultural Heritage Sensitivity' within the Aboriginal Heritage Regulations 2018. For the Emerald Lake Precinct, prior waterways and waterways are 'Areas of Cultural Heritage Sensitivity'.
- A preliminary field inspection of the Emerald Lake Precinct landform to inform about 'Areas of Cultural Heritage Sensitivity' and potential areas where Aboriginal cultural heritage may be present within the landform.
- Identifying proposals for developing Aboriginal cultural heritage awareness and management processes and guidelines for the Emerald Lake Precinct.

EMERALD LAKE PRECINCT PROJECT AREA

The location of the subject area is Emerald Lake Precinct in Emerald Victoria. The Emerald Lake Precinct includes Emerald Lake Park and Nobelius Heritage Park. The below property cadaster information is from the Victorian local government planning scheme about both properties within the Emerald Lake Precinct.

ITEM	DESCRIPTION
Emerald Lake Property Address & Property Number (PN)	50 Emerald Lake Road Emerald 3782 PN - 2270002750
Nobelius Heritage Park Property Address & Property Number (PN)	5 Crichton Road Emerald 3782 PN - 2204350100
Emerald Lake Precinct Property size	547258 sq. m (54.7 ha)
Parish	Parish of Gembrook
Planning Zone	Public Park and Recreation Zone
Planning Overlays	Area of Cultural Heritage Sensitivity Overlay – Waterways (Wattle creek) Bushfire Management Overlay Nobelius Heritage Park Heritage Overlay (HO) HO 273 Emerald Lake Park and Landscape Heritage Overlay (HO) HO 106 Significant Landscape Overlay



Figure 2 Location of Emerald Lake Precinct with Nobelius Heritage Park (Reserve) and Emerald Lake Park.

VICTORIAN ABORIGINAL TRADITIONAL OWNER ENGAGEMENT & CONSULTATION

The Emerald Lake Precinct is not within a Registered Aboriginal Party Area. There are three Aboriginal Traditional Owner community organisations who have a cultural interest and connection to Emerald. These include:

- Wurundjeri Woiwurrung Cultural Heritage Aboriginal Corporation.
- Bunurong Land Council Aboriginal Corporation.
- Boonwurrung Foundation.

Based on information from the Victorian Aboriginal Heritage Register, the Wurundjeri Woiwurrung Cultural Heritage Aboriginal Corporation and Bunurong Land Council Aboriginal Corporation are both Registered Aboriginal Parties and, are current applicants applying for RAP status of the Emerald Lake Precinct. The Boonwurrung Foundation does not have a current RAP application for the Emerald Lake Precinct.

Kaptify encourages Cardinia Shire Council to continue to consult and engage all three Aboriginal Traditional Owner communities on matters relating to Aboriginal cultural heritage management. Engagement and consultation with all three Aboriginal Traditional Owner organisations are important steps in developing and nurturing working relationships with Wurundjeri, Boonwurrung and Bunurong Traditional Owner communities. Examples of consultation and engagement at the Emerald Lake Precinct can include:

- Participation, consultation, and engagement with three Aboriginal Traditional Owner organisations in Cultural Heritage Management Plans undertaken at Emerald Lake Precinct.
- Undertaking Traditional Owner Cultural Heritage Management Induction and Training with Shire contractors and staff at Emerald Lake Precinct.
- Developing Aboriginal cultural heritage management contingency plan guidelines and processes where Aboriginal cultural heritage is identified within the Emerald Lake Precinct.
- Facilitating a General Cultural Awareness program that includes, public art, educational programs, and events, welcome to country public event.
- Interpretation signage about Aboriginal cultural values.

Victorian Traditional Owner Organisations	Website Contact Details
Wurundjeri Woiwurrung Cultural Heritage Aboriginal Corporation	www.wurundjeri.com.au
Bunurong Land Council Aboriginal Corporation	www.bunuronglc.org
Boonwurrung Foundation	www.boonwurrung.org

The Victorian Aboriginal Heritage Council is the regulatory body that approves Registered Aboriginal Party applications. For information about Victorian Traditional Owners visit www.aboriginalheritagecouncil.vic.gov.au

References with report: All assessments referred to within document can be accessed via the Victorian Aboriginal Heritage Register <https://www.aboriginalvictoria.vic.gov.au/victorian-aboriginal-heritage-register>

VICTORIAN ABORIGINAL CULTURAL HERITAGE LEGISLATION

The Victorian Aboriginal cultural heritage legislation protects and preserves Aboriginal cultural heritage in Victoria. The legislation is the *Aboriginal Heritage Act 2006* and *Aboriginal Heritage Regulations 2018 (AHR 2018)*. Cardinia Shire Council as a land management authority are required to comply with the *Aboriginal Heritage Regulations 2018*. Compliance with the AHR 2018 includes the requirements to undertake assessments involving a Cultural Heritage Management Plan, a Preliminary Aboriginal Heritage Test, or a Cultural Heritage Permit. These types of assessments (CHMP, PAHT or CHP) may be required for Cardinia Shire Council planned civic and recreational infrastructure projects and programs within the Emerald Lake Precinct. It is important that Shire staff review the *Aboriginal Heritage Regulations 2018* when planning for civic and recreational infrastructure developments within the Emerald Lake Precinct.

To better protect and conserve Aboriginal cultural heritage, Aboriginal cultural heritage contingency plans would be of value for civil maintenance contractors engaged within the Emerald Lake Precinct. An Aboriginal cultural heritage management contingency plan provides Shire contractors and Shire staff with guidance, procedures and processes, for the scenario where Aboriginal cultural heritage is unexpectedly discovered during a council works program within Emerald Lake Precinct. Aboriginal cultural heritage management contingency plan can be prepared internally at Shire and can be reviewed for comment by the Victorian Traditional Owner organisations.

ABORIGINAL HERITAGE REGULATIONS 2018

The *Aboriginal Heritage Regulations 2018 (AHR 2018)* prescribe when a Cultural Heritage Management Plan is required. There are two triggers for a CHMP which are:

- The proposed civic and recreational infrastructure activity is identified as a 'High Impact Activity'.
- The project area in question which is called an 'Activity Area' in the AHR 2018 is within an 'Area of Cultural Heritage Sensitivity'. An 'Area of Cultural Heritage Sensitivity' is a particular sensitive landform that may contain Aboriginal cultural heritage or is a locality of a registered Aboriginal cultural heritage place.

A sponsor of a CHMP (Cardinia Shire Council) can also undertake a voluntary CHMP if for example there is a high likelihood Aboriginal cultural heritage will be discovered during a civic or recreational infrastructure project activity.

A sponsor can also pursue a Cultural Heritage Permit or Preliminary Aboriginal Heritage Test in some cases for civic or recreational infrastructure projects. It is encouraged that Traditional Owner consultation be undertaken to identify the need for a Cultural Heritage Permit or Preliminary Aboriginal Heritage Test.

As a rule of thumb, a CHMP is not required for a 'High Impact Activity' which is in an 'Area of Cultural Heritage Sensitivity' where the landform has been subject to significant ground disturbance. As an example, if an existing walking trail which is a 'High Impact Activity', and is located in an 'Area of Cultural Heritage Sensitivity' requires resurfacing, a CHMP is not required. A CHMP would be required if an existing walking track is made bigger and extends over the original footprint of the original walking trail extent. Planned drainage upgrades within the Emerald Lake Precinct would also follow the same rule of thumb.

AREAS OF CULTURAL HERITAGE SENSITIVITY

An area of 'Area of Cultural Heritage Sensitivity' is a landform that is likely to contain Aboriginal cultural heritage. The Emerald Lake Precinct contains prior waterways and waterways which are landforms recognized as 'Areas of Cultural Heritage Sensitivity'. The Victorian Aboriginal Heritage Record map (see FIG 5 & 6) shows the current landform extent of 'Areas of Cultural Heritage Sensitivity' within the Emerald Lake Precinct. Below is the listing within the *Aboriginal Heritage Regulations 2018* for prior waterways and waterways:

Aboriginal Heritage Regulation No 26 Waterways -

- Subject to sub regulation (2), a waterway or land within 200 metres of a waterway is an area of cultural heritage sensitivity.
- If part of a waterway or part of the land within 200 metres of a waterway has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

Aboriginal Heritage Regulation No 27 Prior waterways -

- Subject to sub regulation (2), a prior waterway or land within 200 metres of a prior waterway is an area of cultural heritage sensitivity.
- If part of a prior waterway or part of the land within 200 metres of a prior waterway has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

HIGH IMPACT ACTIVITY

A 'High Impact Activity' is a proposed civic and recreational infrastructure development that will significantly harm and disturb an 'Area of Cultural Heritage Sensitivity' landform. The following civic and recreational infrastructure development are prescribed as a 'High Impact Activity' that Cardinia Shire Council may be planning for within the Emerald Lake Precinct.

Aboriginal Heritage Regulation No 46 Buildings and works for specified uses -

(1) The construction of a building or the construction or carrying out of works on land is a high impact activity if the construction of the building or the construction or carrying out of the works— (a) would result in significant ground disturbance; and

(b) is for, or associated with, the use of the land for any one or more of the following purposes—

(iii) a car park;

(viii) an education centre;

(xxvii) a utility installation, other than a telecommunications facility, if— (A) the works are a linear project that is the construction of an overhead power line with a length exceeding one kilometre or for which more than 10 power poles are erected; or

(B) the works are a linear project that is the construction of a pipeline with a length exceeding 500 metres; or

(C) the works are a linear project with a length exceeding 100 metres (other than the construction of an overhead power line or a pipeline with a pipe diameter not exceeding 150 millimetres); or (D) the works affect an area exceeding 25 square metres;

Aboriginal Heritage Regulation No 47 Constructing specified items of infrastructure -

(1) The construction of any one or more of the following is a high impact activity if the construction would result in significant ground disturbance—

(b) a bicycle track with a length exceeding 500 metres;

(c) a fuel break where a permit is required to remove or destroy native vegetation;

(f) a roadway with a length exceeding 100 metres;

(g) a walking track with a length exceeding 500 metres;

(h) a telecommunications line consisting of an underground cable or duct with a length exceeding 500 metres.

Historical Heritage Management

The Heritage Act 1995 manages, preserves and protects Victorian historical heritage. Planned civil and recreational infrastructure works within Nobeliuss Heritage Park will require an approved Heritage Permit. A component of the Heritage Permit may require Victorian Traditional Owner engagement and consultation. It is important that any planned civil and recreational infrastructure works that require a Heritage Permit from Heritage Victoria have Aboriginal cultural heritage management contingency plans in place to manage any discovery of Aboriginal cultural heritage during works.

SEARCH OF THE VICTORIAN ABORIGINAL HERITAGE REGISTER

A search of the Victorian Aboriginal Heritage Register was undertaken by Heritage Advisor Adam Magennis on the 14th October 2020. The search identified:

- There are no registered Aboriginal cultural heritage places within the Emerald Lake Precinct.

SUMMARY OF PREVIOUS ARCHAEOLOGICAL ASSESSMENTS WITHIN EMERALD LAKE PRECINCT

Assessment 1

CHMP 15134 Puffing Billy Master Plan Upgrades, Belgrave to Gembrook (Leah Tepper and Asher Ford 2017) CHMP sponsor: Puffing Billy Railways.

The proposed building works at Emerald Lake Precinct included:

- Construction of a 2 storey Lakeside Discovery Centre.
- Creation of car parking and vehicle drop off area with a pedestrian connection to the rail station.
- Construction of a new signal box on the existing platform.
- Track work to facilitate connection to and operations with the new Discovery Centre.

The archaeological survey and excavation assessment results are not of value. This is because no archaeological subsurface testing was undertaken to identify the nature of the underlying soil profile within the Emerald Lake Precinct and survey work does not describe the nature of the landform in the Emerald Lake Precinct.



Figure 3 CHMP activity area within Emerald Lake Precinct.

Assessment 2

An Aboriginal Archaeological Heritage Values Impact Assessment of the installation of the transfer main between Emerald Lake Road Emerald and Wright Road Avonsleigh. (Joanna Freslov & Kirsty Lewis (2002) Sponsor: LRM Contractors Pty Ltd.

An archaeological survey was undertaken between Emerald Lake, Emerald and Wright Road, Avonsleigh. The project was a 42metre underground transfer main. Two landforms surveyed were Wattle Creek terrace and Wattle Creek Benched landform area. There were limited soils exposures during the survey with poor ground surface visibility. The Wattle creek terrace landform was identified as being disturbed but identified as a landform area most likely to contain Aboriginal archaeological material. The Wattle Creek benched wooded area connecting to Emerald Lake was identified as unlikely for the presence of Aboriginal cultural heritage material. Due to a low effective survey coverage. The archaeological survey did not rule out the surveyed landform as having the possibility for Aboriginal cultural heritage material to be identified within the current project area. Heritage monitoring works were recommended during the removal of vegetation and the topsoil stripping to depths of 30cms within the Wattle Creek terrace landform. Wattle Creek 1 (VAHR 7922-0711) is a registered Aboriginal cultural heritage place, that was recorded in 2002 during monitoring of works of the transfer main, which is located 700m west of Emerald Lake Precinct. Wattle Creek 1 (VAHR 7922-0711) is a subsurface place which contains 1 quartz and 1 silcrete artefact. The presence of these artefacts indicate that stone tool knapping has occurred within the landform at this place. Stone tool knapping is an activity associated with the manufacturing and maintenance of stone tools for hunting and other lifestyle purposes.

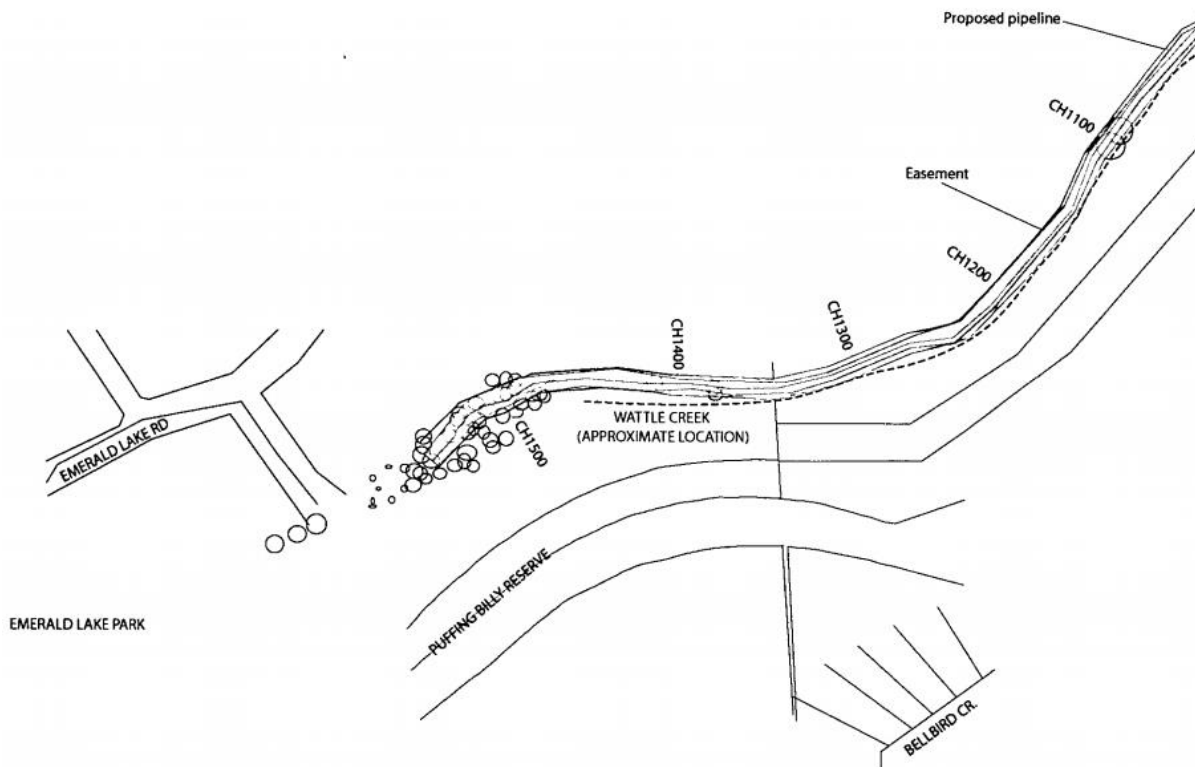


Figure 3: Survey coverage

Figure 4 Survey area coverage with Emerald Lake Precinct. Wattle creek landform was identified as having low-moderate potential for Aboriginal cultural heritage.

REVIEW OF MAPPING CHRONOLOGY OF EMERALD LAKE PRECINCT

The main purpose of this mapping review is to identify the Emerald Lake Precinct 'Areas of Cultural Heritage Sensitivity' and in the Emerald region. This is with a specific focus on highlighting named waterways that have been surveyed and mapped since European settlement of Emerald. Unnamed or prior Waterways are also highlighted in maps which are not identified within the 'Areas of Cultural Heritage Sensitivity' overlay.

The current waterways which are 'Areas of Cultural Heritage Sensitivity' for the Emerald Lake Precinct and within the planning scheme overlay are highlighted in FIG 5 & FIG 6. FIG 5 and FIG 6 are maps from the Aboriginal Cultural Heritage Registration Information System which is administered by Aboriginal Victoria. Waterways that have been formally identified are Wattle creek, Cockatoo creek and Bourkes creek. Wattle creek is within the Emerald Lake Precinct. As can be seen in FIG 5 and FIG 6, not all waterway bodies (unnamed and prior waterways) have been highlighted as 'Areas of Cultural Heritage Sensitivity'. There are several waterways with blue lines that fall outside of the current 'Areas of Cultural Heritage Sensitivity' for Emerald.

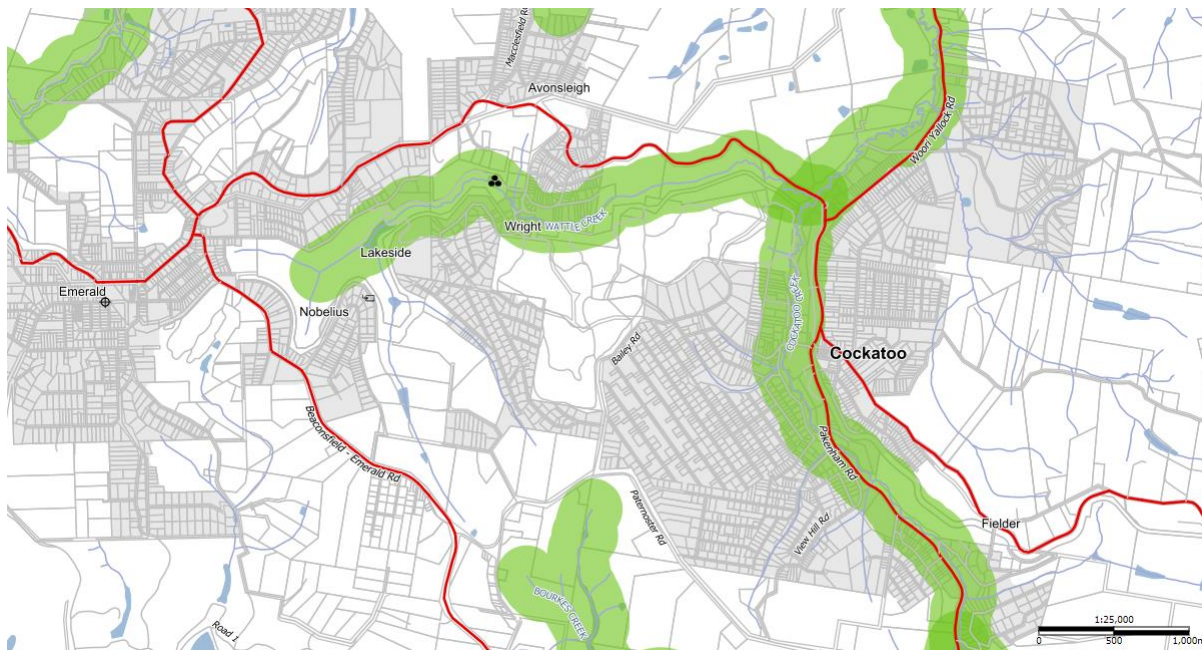


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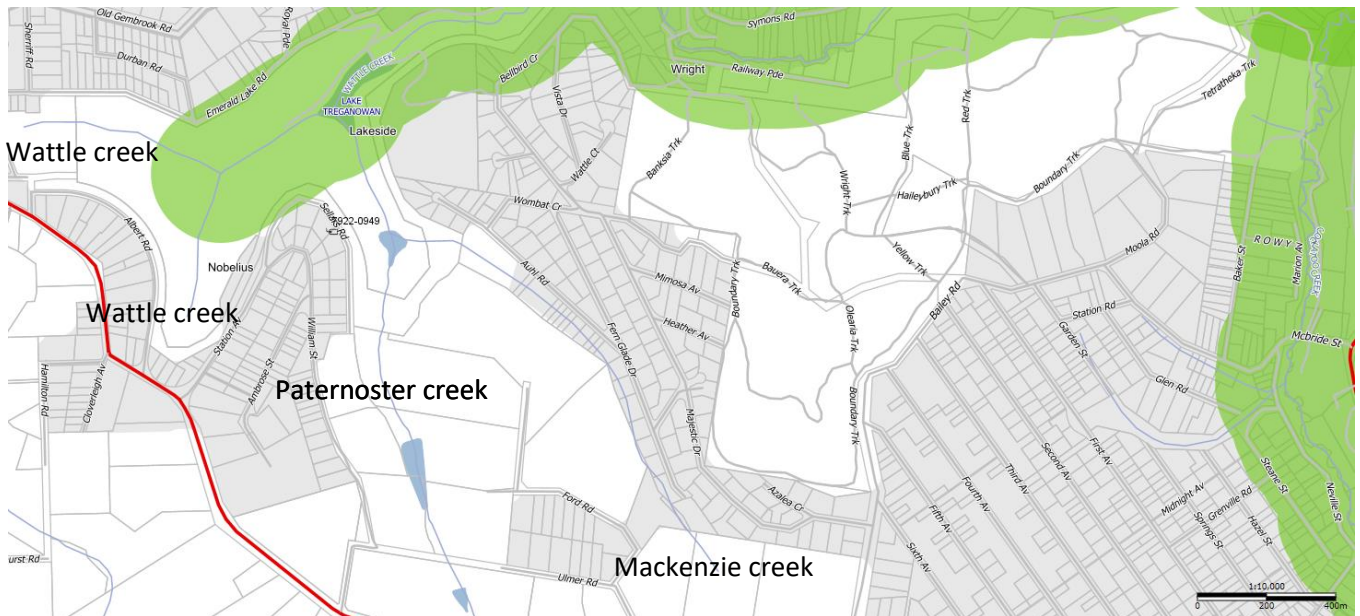


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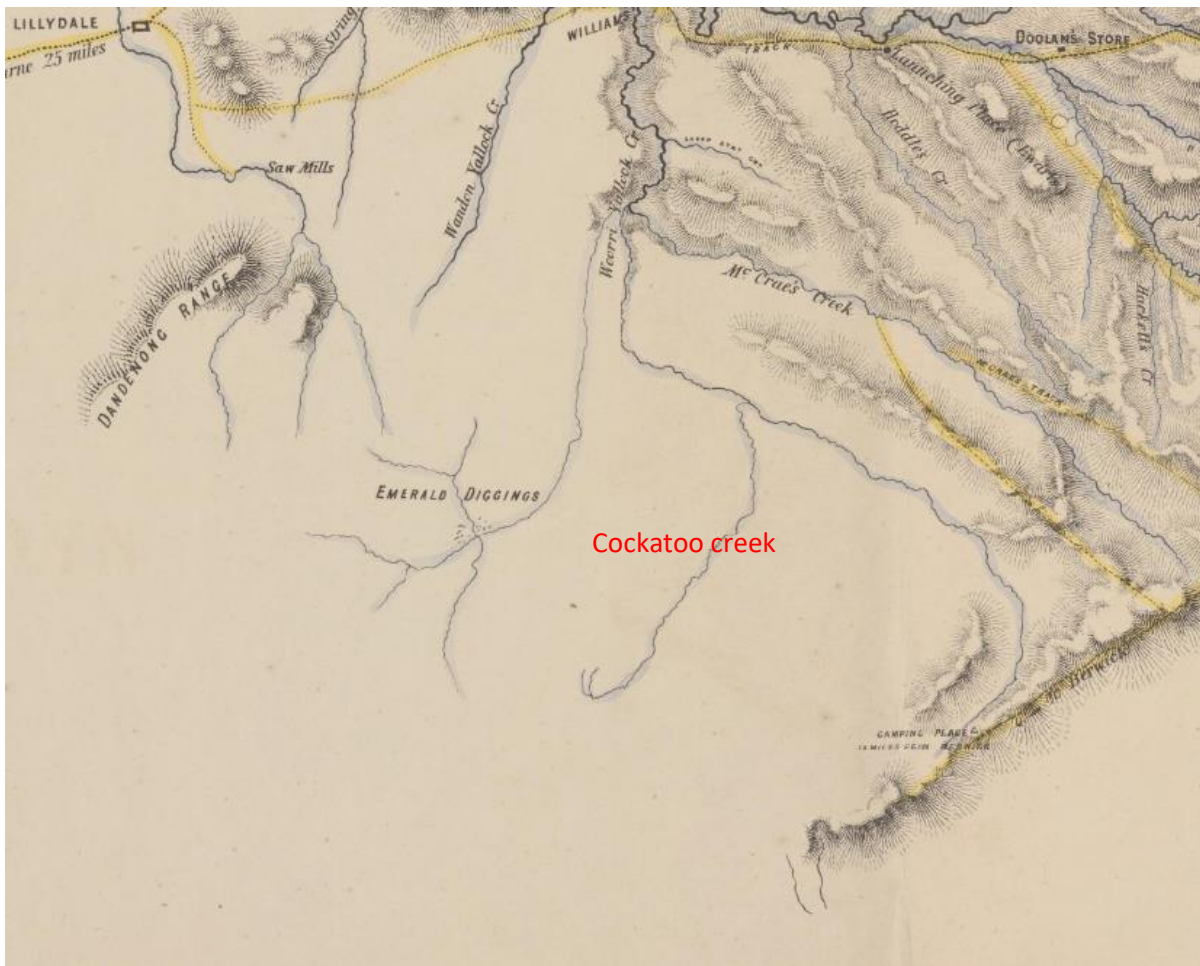


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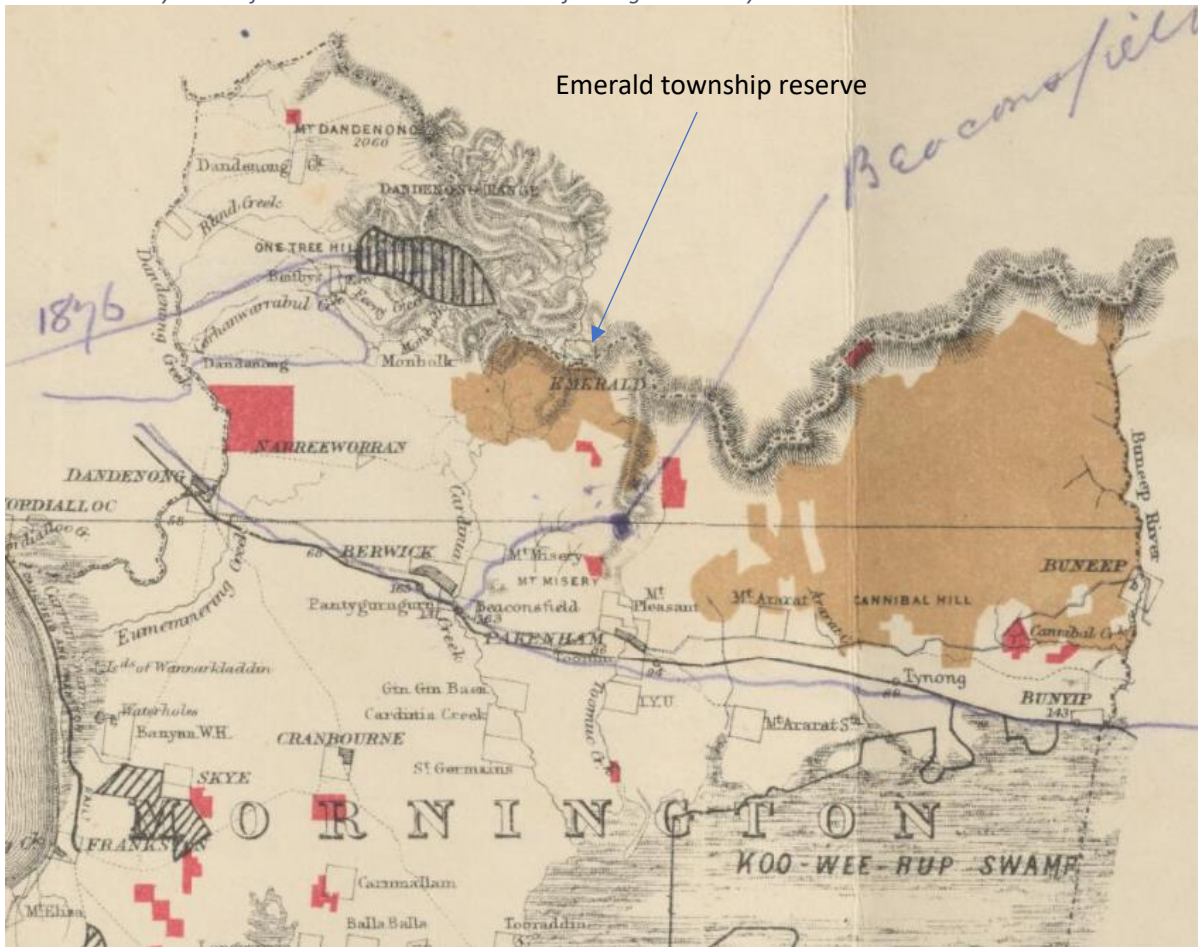


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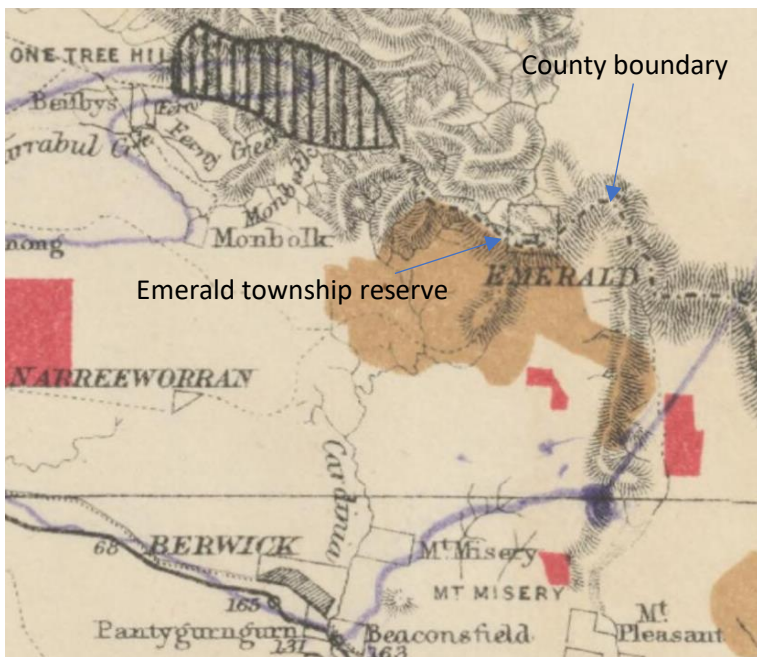


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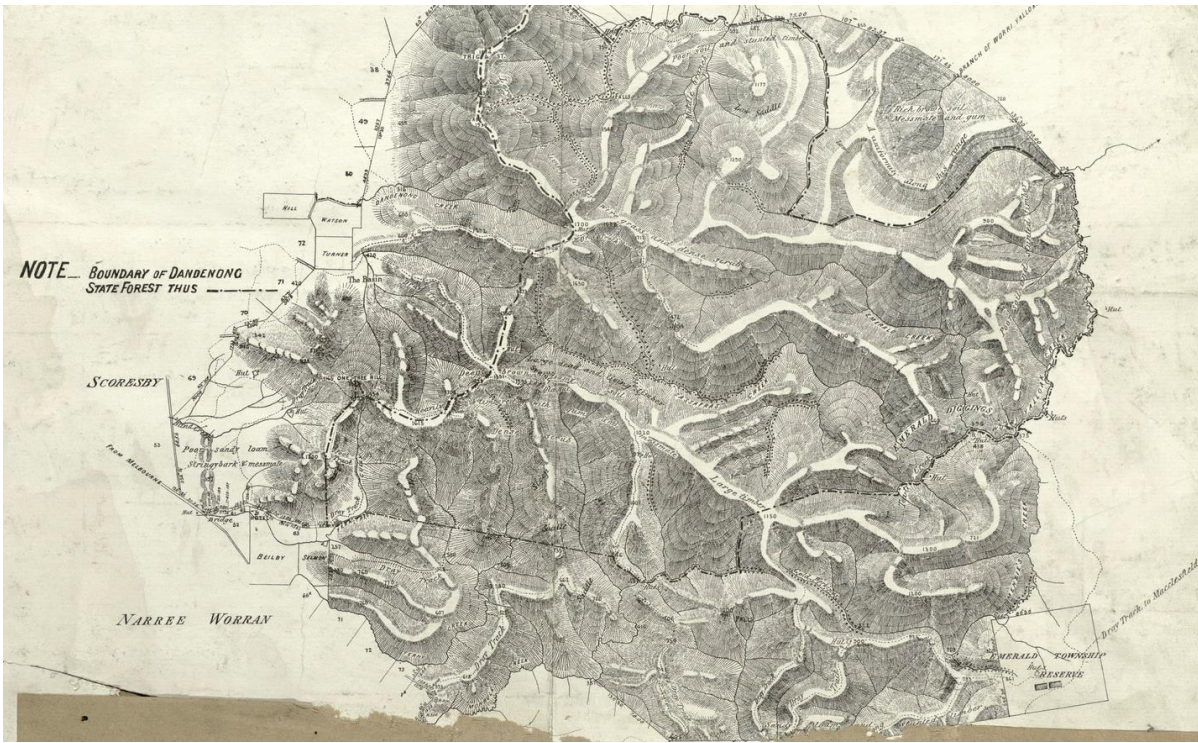


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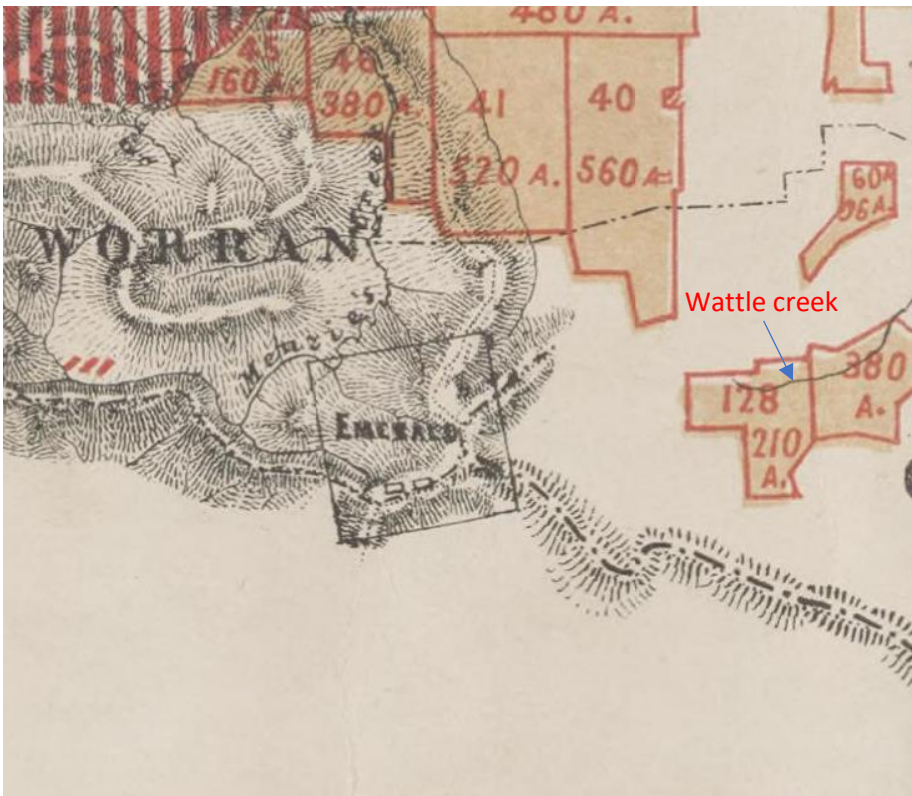


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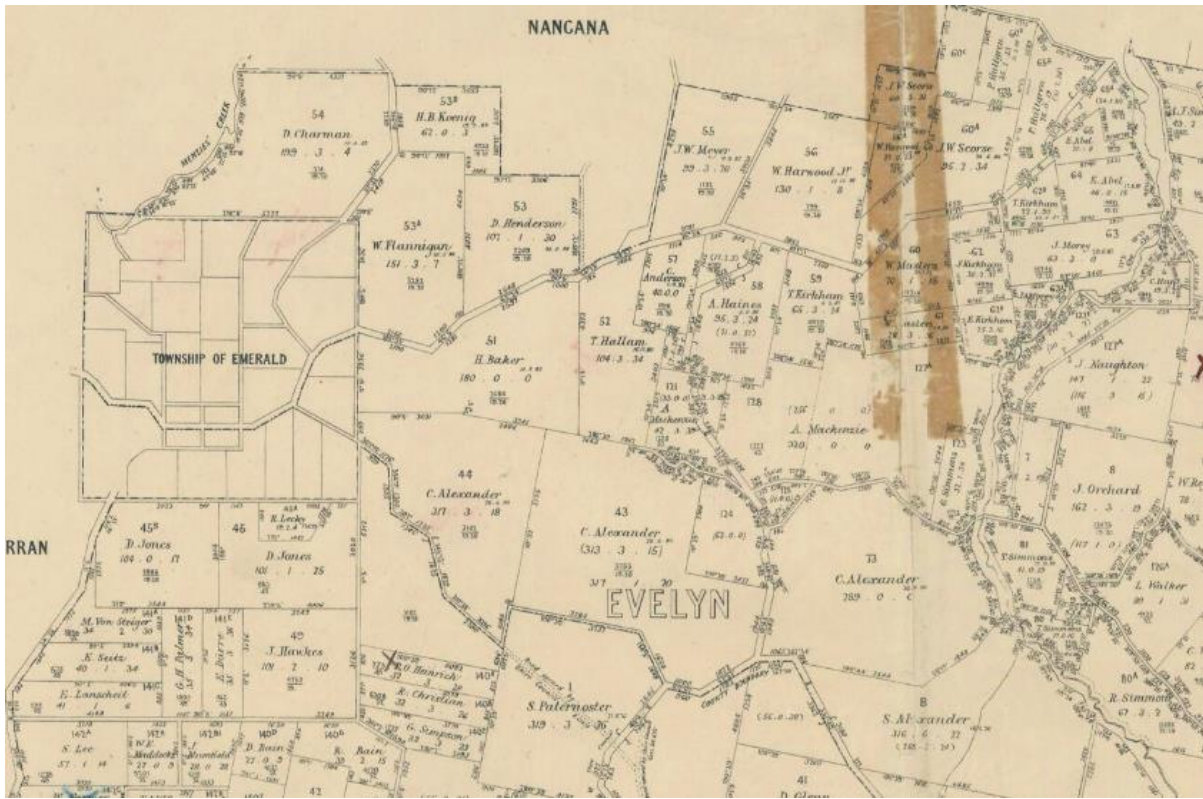


Figure 16 1892 Township of Emerald. Land parcel allotments developed. Showing Menzies and Cockatoo creeks. No Wattle creek, Paternoster creek or Mackenzie creek.

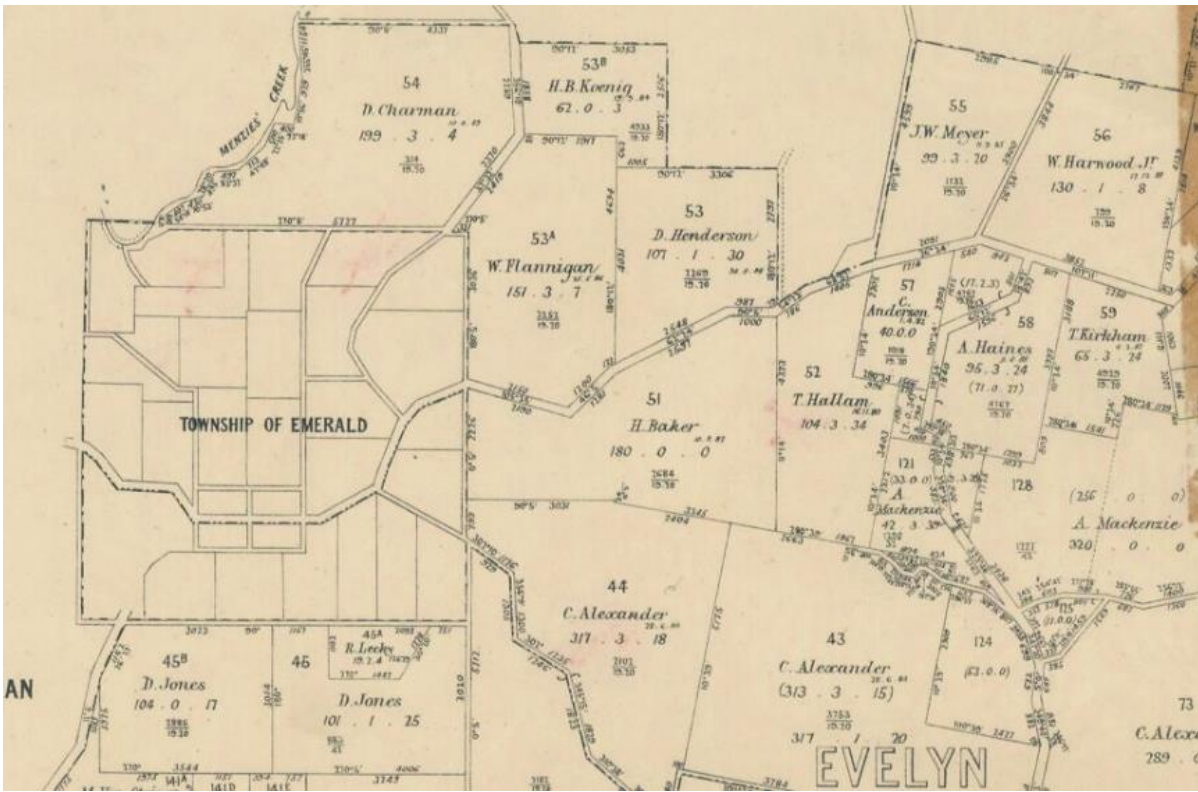


Figure 17 1892 Township of Emerald. H. Baker and C. Alexander early European land holders of Emerald Lake Precinct showing no creek lines.

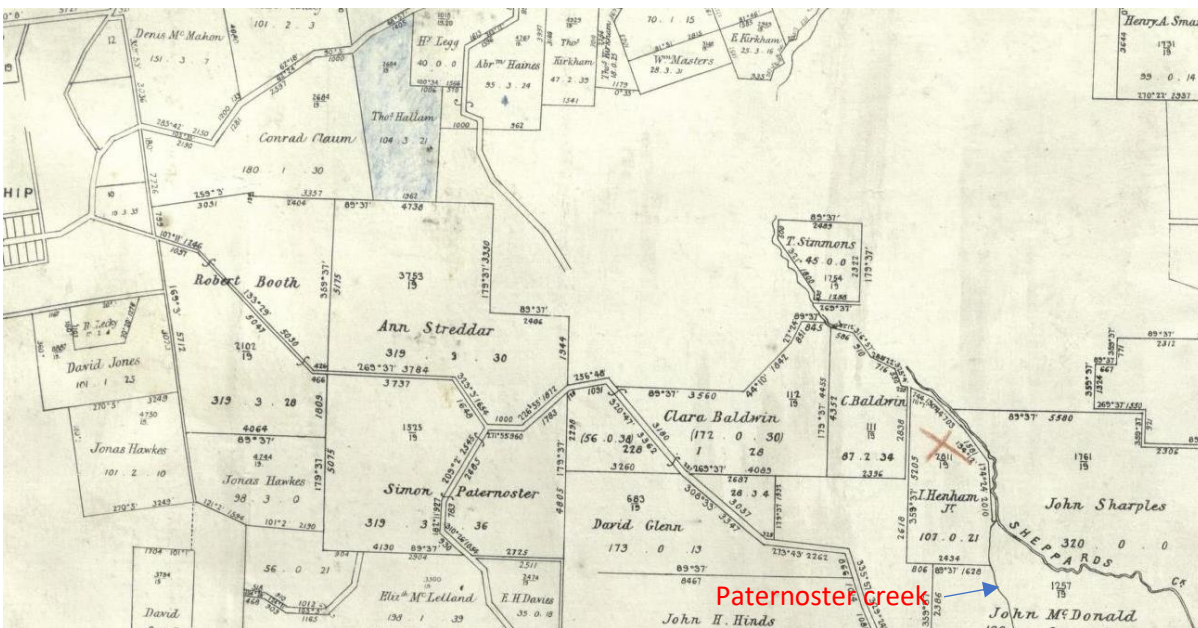


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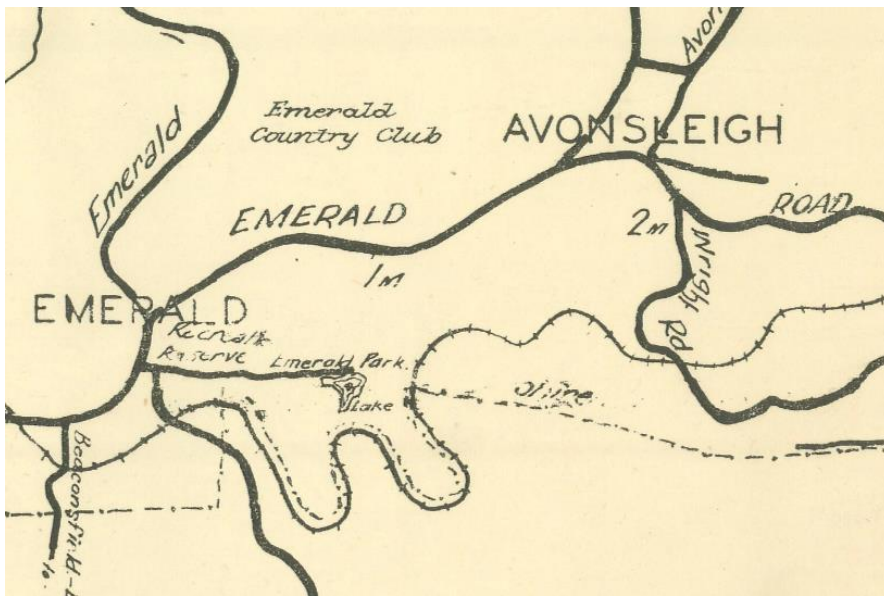


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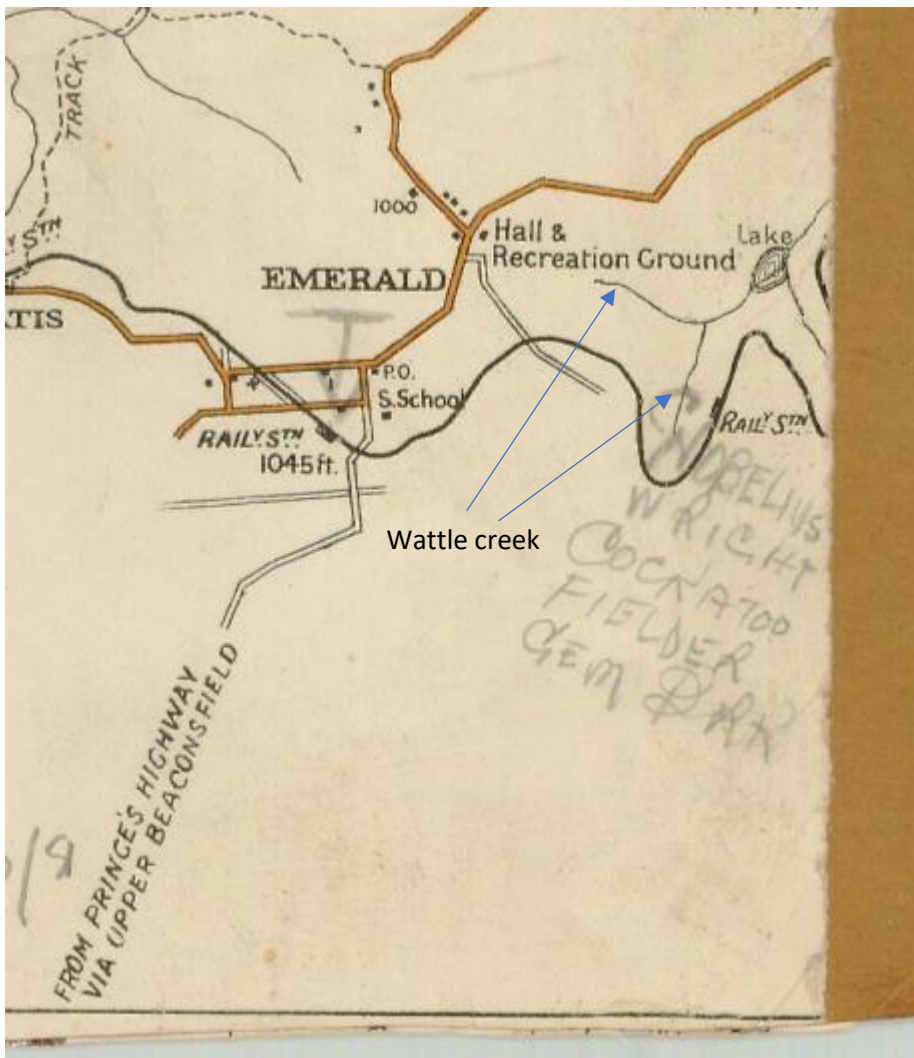


Figure 20 1928 map showing Lake and Wattle creek.

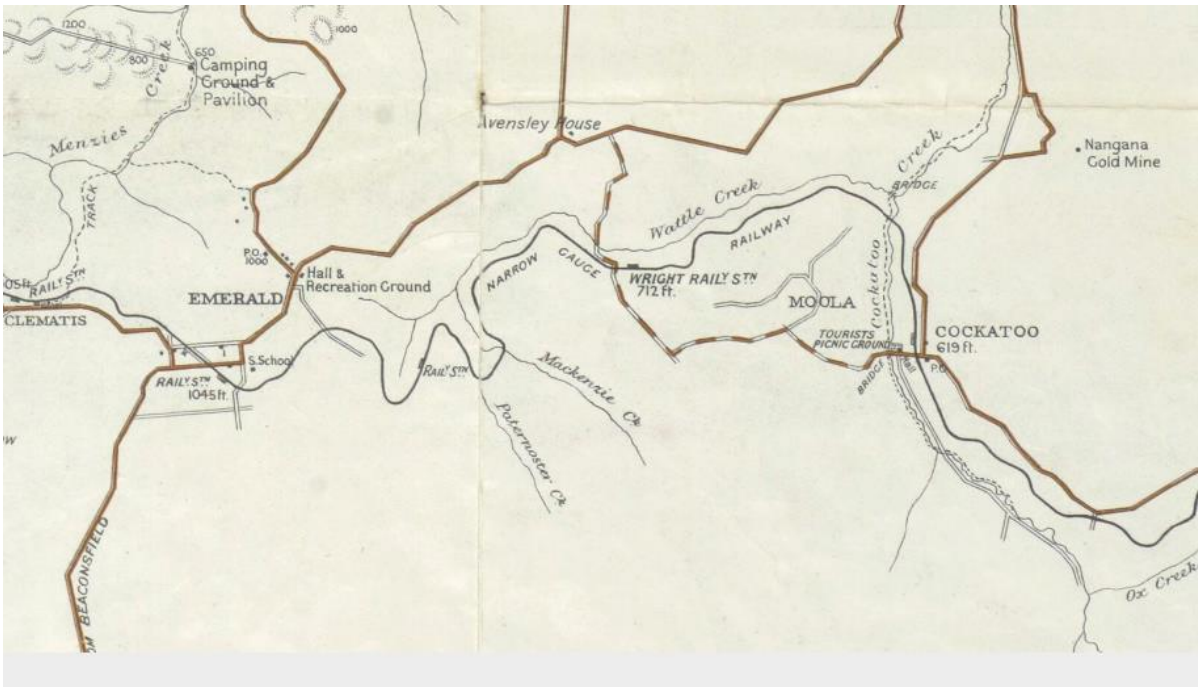


Figure 21 1938 map showing Wattle creek, Paternoster creek and Mackenzie creek.

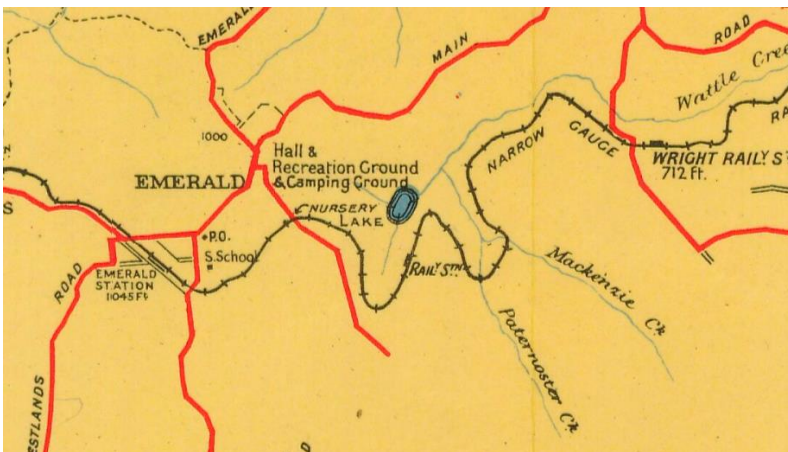


Figure 22 1938 map issued for public interest and tourism. The map names Wattle creek, a lake and railway tracks. Paternoster creek and Mackenzie creek also named.

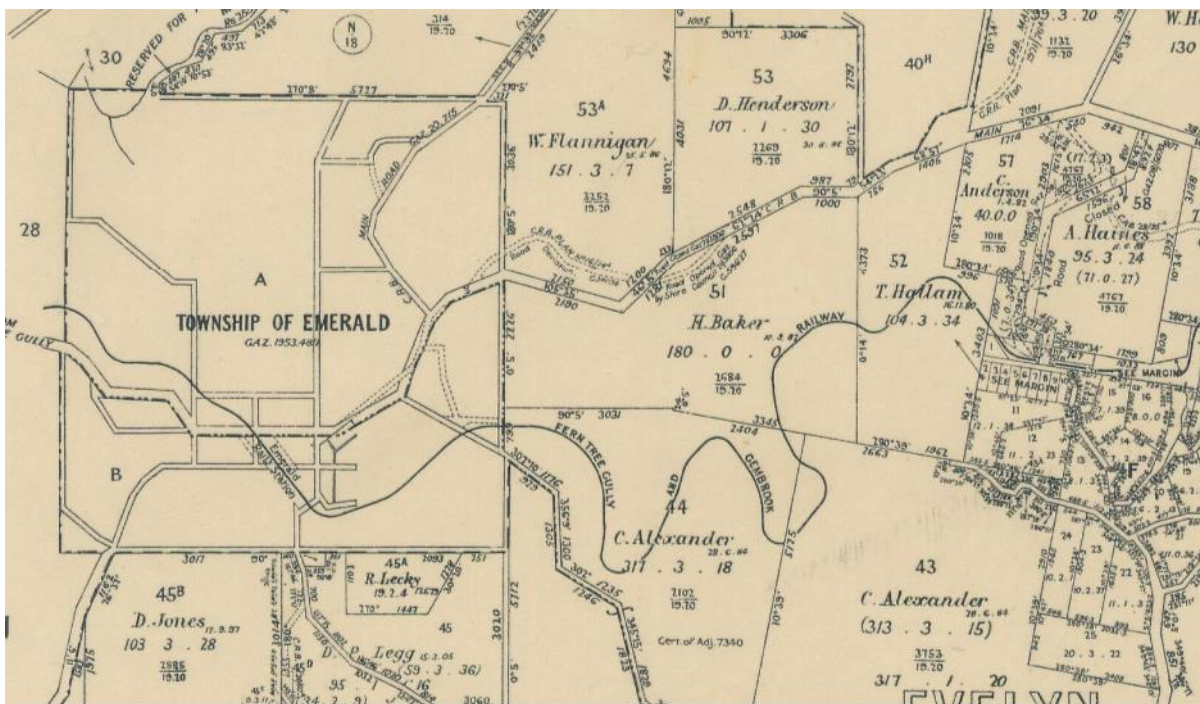


Figure 23 1954 map by Department of Crown Lands and Survey showing railway and subdivisions to the east of the project area.

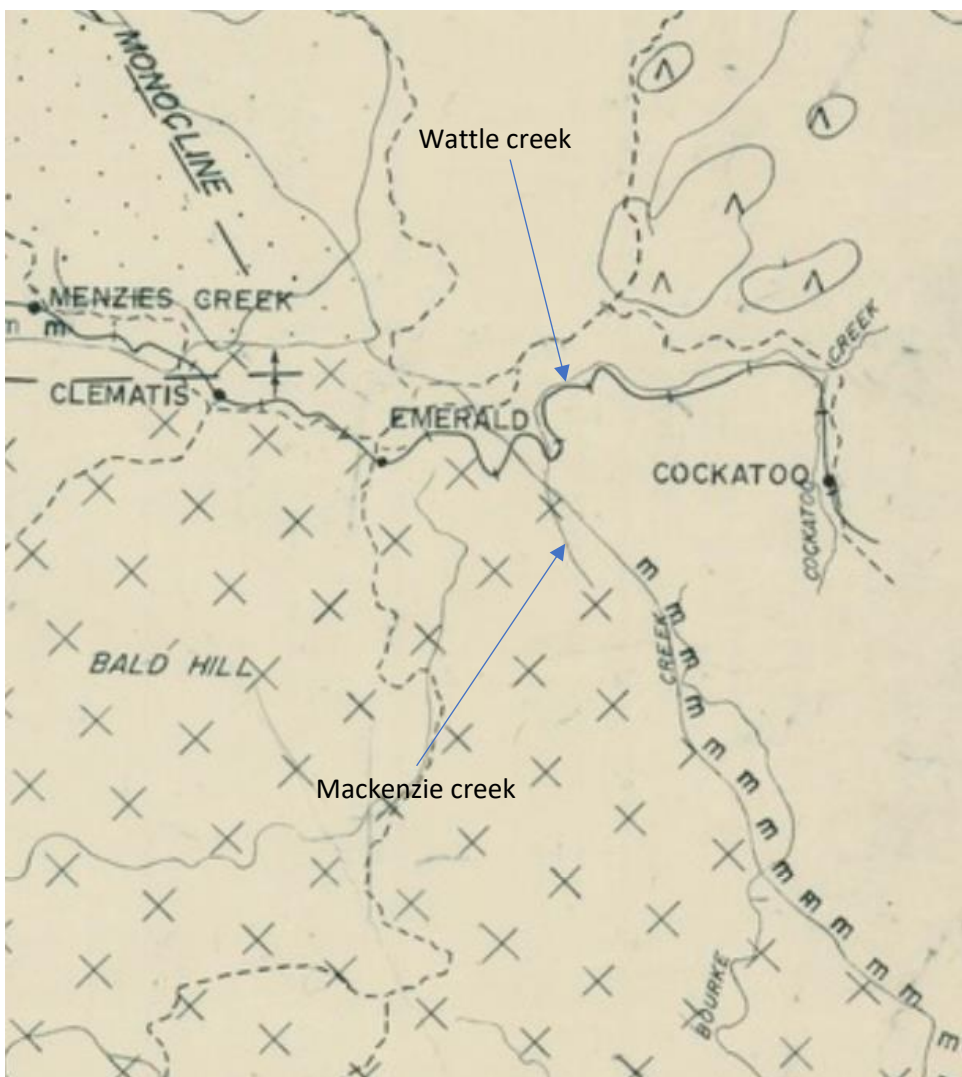


Figure 24 1970 early Geology record of Emerald showing Wattle creek, Cockatoo creek and Bourke creek. Early recording of Mackenzie creek.



Figure 25 1972 aerial image (courtesy CDA Design Group) showing Emerald Lake Precinct and surrounds. Shows landform area of Aboriginal archaeological potential (AAP).



Figure 26 1972 aerial image (courtesy CDA Design Group) showing Emerald Lake Precinct and Wattle creek. Shows landform area of Aboriginal archaeological potential (AAP).



Figure 27 1972 aerial image (courtesy CDA Design Group) showing Emerald Lake Precinct. Shows landform area of Aboriginal archaeological potential (AAP).

PRELIMINARY FIELD INSPECTION OF EMERALD LAKE PRECINCT

A preliminary field inspection of the landform of Emerald Lake Precinct was undertaken by Heritage Advisor Adam Magennis on Monday 16th November 2020. The purpose of the field inspection was to identify potential areas where Aboriginal cultural heritage may likely to be identified within the landform. The below series of photos are examples of the landform where Aboriginal cultural heritage may likely to be identified. Although the landform has been impacted by vegetation clearance, a previous orchard, civil infrastructure and garden ground maintenance, does not mean Aboriginal cultural heritage is absent from the Emerald Lake Precinct. It is likely that Aboriginal cultural heritage is in locations within the landform:

- In lower elevated landform areas along Wattle creek and surrounding Emerald Lake and Nobelius Lake.
- In gradual moderately sloping landform areas within 200m from Wattle creek and Emerald Lake and Nobelius Lake.



Photo 1 Landform area example that has a slightly gradual slope.



Photo 2 Landform area example that has a flattish slightly gradual slope near Wattle creek line.



Photo 3 Landform area example along Wattle creek that has flattish landform areas.



Photo 4 Landform area example that has flattish areas with slight slope at top of Wattle creek line tributary in the locations where underground drainage is absent.



Photo 5 Landform area example that has a slightly gradual slope with flattish area along Wattle creek.



Photo 6 Landform area example that has flattish or slightly gradual slope.



Photo 7 Landform area example that has a slightly gradual slope.



Photo 8 Flatter areas surrounding Emerald Lake where underground stormwater piping is absent.



Photo 9 Landform area example that is slightly sloping.



Photo 10 Landform area example that has been slightly modified but is flat.



Photo 11 The amphitheatres are examples of highly modified landforms where Aboriginal cultural heritage is likely to be absent.

SUMMARY OF KEY INFORMATION

The key information from this preliminary investigation has considered the Aboriginal Heritage Regulations 2018 and requirements to undertake a Cultural Heritage Management Plan (CHMP). Essentially a CHMP is triggered and legislatively required if a civil or recreational infrastructure project is a 'High Impact Activity' and the project area is located within an 'Area of Cultural Heritage sensitivity'.

The Emerald Lake Precinct has an identified 'Area of Cultural Heritage sensitivity' being the landform of Wattle creek. Any proposed civil or recreational infrastructure works that are 'High Impact' within the 'Area of Cultural Heritage Sensitivity' of Wattle creek may trigger a CHMP.

The CHMP process allows for Traditional Owner engagement, consultation and participation in the assessment and, provides opportunities to develop cultural heritage management processes. We encourage Cardinia Shire Council to continue to engage and work with the Traditional Owner organisations in all aspects of Aboriginal cultural heritage management. Other opportunities can be explored in partnership with Traditional Owners with regards to promoting cultural awareness within the precinct. This may include themes involving Welcome to Country and Acknowledgement plaques, interpretative education signage and art workshops. An opportunity exists to explore with Traditional Owners is the potential for a cultural heritage induction training programme for staff and contractors.

There are no registered Aboriginal Cultural Heritage Places within the Emerald Lake Precinct. Throughout the Emerald region, there is a low percentage of registered Aboriginal Cultural Heritage Places. This is mainly because there have been limited Cultural Heritage Management Plans or other Aboriginal survey assessments undertaken within Emerald. It is also because there have been limited 'High Impact' activities triggered because the 'Area of Cultural Heritage Sensitivity' overlay does not cover all named and prior waterways within the Emerald region.

The preliminary inspection of the landform identified potential landform areas that could potentially contain Aboriginal cultural heritage. Although the landform has been through previous vegetation clearance and modification, the lower landform areas along Wattle creek and connected tributaries that cut into the surrounding escarpment are of moderate potential.

To better protect and conserve Aboriginal cultural heritage, Aboriginal cultural heritage contingency plans would be of value for civil maintenance contractors engaged within the Emerald Lake Precinct. An Aboriginal cultural heritage contingency plan provides Shire contractors and Shire staff with guidance, procedures and processes when Aboriginal cultural heritage is unexpectedly discovered during a council works program within Emerald Lake Precinct.

The 'Areas of Cultural Heritage Sensitivity' overlay (see FIG 28) within Emerald Lake Precinct could be updated to include the overall extent of the Wattle creek, Paternoster creek and Mackenzie creek. Updating the Aboriginal cultural heritage sensitivity overlay could also explore an opportunity in reviewing the general planning scheme of the Emerald region to accurately reflect established named and prior water way courses. The review exercise of Areas of Cultural Heritage Sensitivity of the planning scheme contributes to Cardinia Shire Councils understandings about the local Aboriginal archaeological record and, the nature and extent of landform Areas of Cultural Heritage Sensitivity within the Cardinia Shire Council LGA area.

It is common knowledge within the Wurundjeri, Bunurong and Boonwurrung community, that Aboriginal settlement within the Emerald and surrounds, is within the landforms that are in close proximity to freshwater waterways and along the escarpments, ridgelines, peaks and knolls of the Dandenong ranges. Archaeological evidence of Aboriginal settlement would include artefacts places containing surface and subsurface place components, cooking hearths, various scar trees and ancestral burials. It is likely that as a result of Aboriginal settlement along Wattle creek within the Emerald Lake Precinct, that the landform is likely to contain stone tool artefact places and potentially cooking hearths.

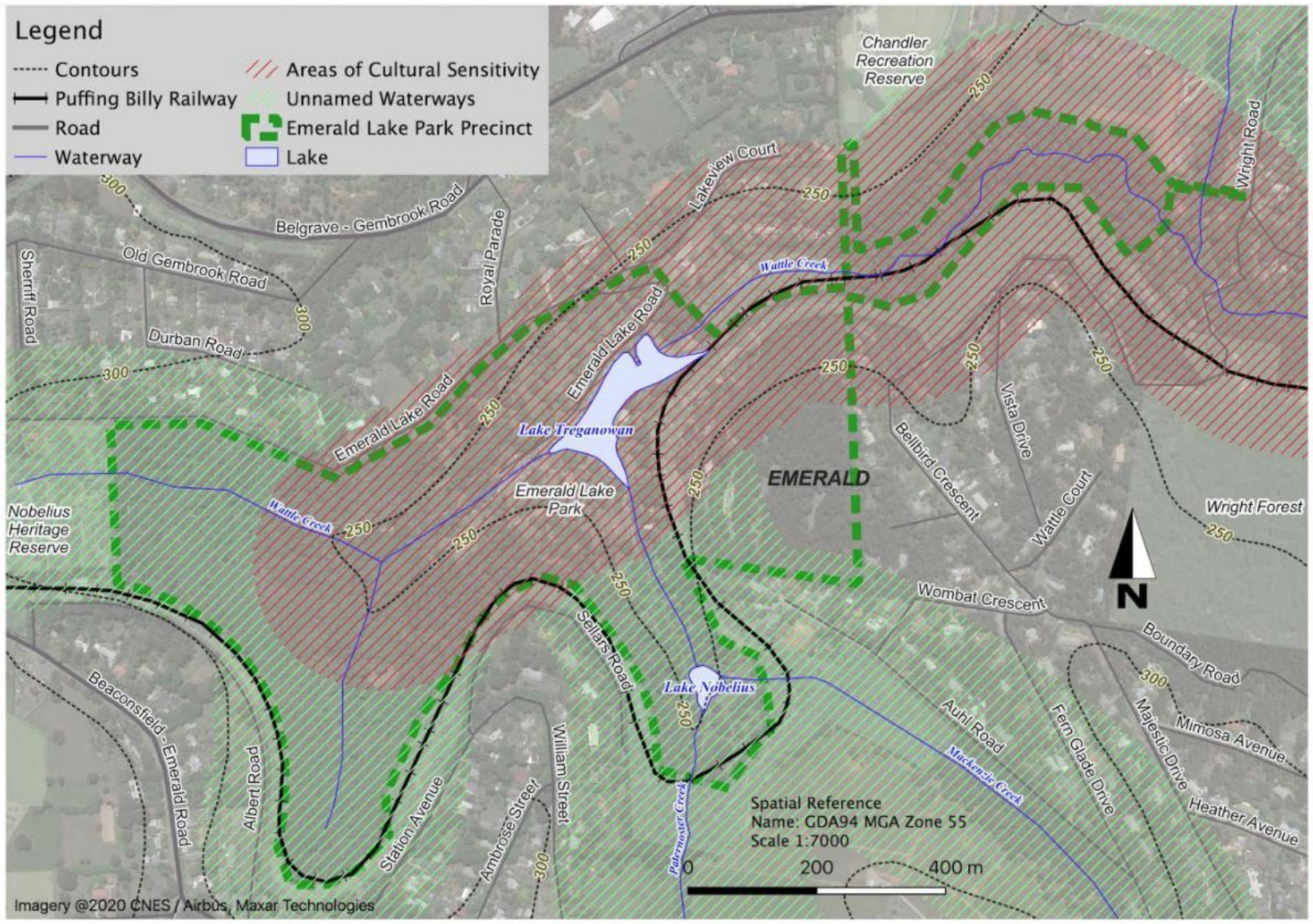


Figure 28 Showing current landform Area of Cultural Heritage Sensitivity overlay for Wattle creek within Emerald Lake Precinct. Unnamed waterways overlay in green should include Wattle creek, Paternoster creek and Mackenzie creek.

END DOCUMENT