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Our Ref: 5634.000

18 February 2026

Mr Ed Nathan  
Project Director  
Cbus Property Pty Ltd  
Level 7, 447 Collins Street,  
Melbourne, Victoria 3000

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**Re: Residential Development at 43 & 63-67 River Street, Richmond, Victoria –  
Cultural Heritage Statutory Obligations**

Dear Ed Nathan,

I am writing in response to your request for an investigation into the cultural heritage statutory obligations regarding the land situated at 43 & 63-67 River Street, Richmond, Victoria [the activity area] (**Map 1**). This land is currently proposed for the high-density residential development, construction of basement, carparks and landscaping works. [the activity].

The activity will include the proposed works:

- Demolition of the existing buildings
- Removal of topsoil and fill to the finish levels.
- Excavation for footings and basements, and earthworks for the utility services to be connected with the new facility.
- Construction of new driveways, carpark and fencing of the activity area.
- Removal of non-native vegetation
- Construction of residential building.

This summary focuses on the statutory obligations under the *Aboriginal Heritage Act 2006*, *Aboriginal Heritage Regulations 2018*, *Heritage Act 2017*, *Planning and Environment Act*

*1987* and *Native Title Act 1993*. It includes a review of the Victorian Aboriginal Heritage Register (VAHR), the Victorian Heritage Database (VicPlan), and the relevant Heritage Overlay on the Planning Scheme for previously recorded sites and relevant reports.

The advice in this letter examines legislative requirements in relation to cultural heritage. It does not assess the likelihood of unknown Aboriginal or European cultural heritage being present within the activity area.

The advice contained in this letter is based on our interpretation of the above Acts and Regulations and is considered to be true and accurate. This letter is not legal advice.

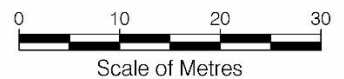
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Aerial Photograph: Courtesy of DPI Website (2021)



## Legend:

 Activity Area Boundary  
0.96 hectares (approx)

Parish: Jika Jika  
LGA: Yarra

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## Map 1 Activity Area Location

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## Aboriginal Cultural Heritage

### Cultural Heritage Management Plan (CHMP) Triggers

Pursuant to Regulation 7, *Aboriginal Heritage Regulations 2018*, a CHMP is required for an activity if:

- (a) All or part of the activity area for the activity is an area of cultural heritage sensitivity; *and*
- (b) All or part of the activity is a high impact activity.

If only one of these two conditions apply, then the preparation of a mandatory CHMP is not required. Areas of cultural heritage sensitivity are specified in Division 3 and Division 4 of Part 2 of the Regulations. High impact activities are specified in Division 5 of the Regulations.

A CHMP is also required:

1. If the Minister directs a CHMP to be prepared pursuant to Section 48 of the Act;
2. If an Environmental Effects Statement, Impact Management Plan or Comprehensive Impact Statement is required pursuant to Section 49 and 49A of the Act; or
3. If the Secretary has certified a preliminary Aboriginal Heritage Test (PAHT) that has determined that an activity requires a CHMP pursuant to Section 46(e) of the Act.

None of these three conditions are known to currently exist.

### High Impact Activities

Division 5 of the Regulations lists high impact activities. A review shows that the activity *is* a high impact activity pursuant to Regulation R.46 (1)(2)(iii)(xxi)

#### 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;
    - (xxi) a residential building;
- (2) The terms used in subregulation (1)(b) have the same meaning as they have in the VPP.
- (3) Despite subregulation (1), the construction of a building or the construction or carrying out of works on land is not a high impact activity if it is for, or associated with, a purpose listed under subregulation (1)(b) for which the land was being lawfully used immediately before 28 May 2007.;

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Since the activity is a high impact activity, a mandatory CHMP is required *only if* all or part of the activity area is an area of cultural heritage sensitivity and the area of cultural heritage sensitivity has not been subject to significant ground disturbance.

### Exempt Activities

Division 2 of the Regulations lists exempt activities. A review shows that the activity is / is not an exempt activity.

### Areas of Cultural Heritage Sensitivity

Divisions 3 and 4 of the Regulations list areas of cultural heritage sensitivity. These are also shown on the Aboriginal Cultural Heritage Register Information System (ACHRIS) and VicPlan Interactive Map (Department of Transport and Planning). A review of the Regulations, ACHRIS and VicPlan shows that *all* of the activity area is an area of cultural heritage sensitivity.

#### 26 Waterways

- (1) Subject to subregulation (2), a waterway or land within 200 metres of a waterway is an area of cultural heritage sensitivity.
- (2) 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.

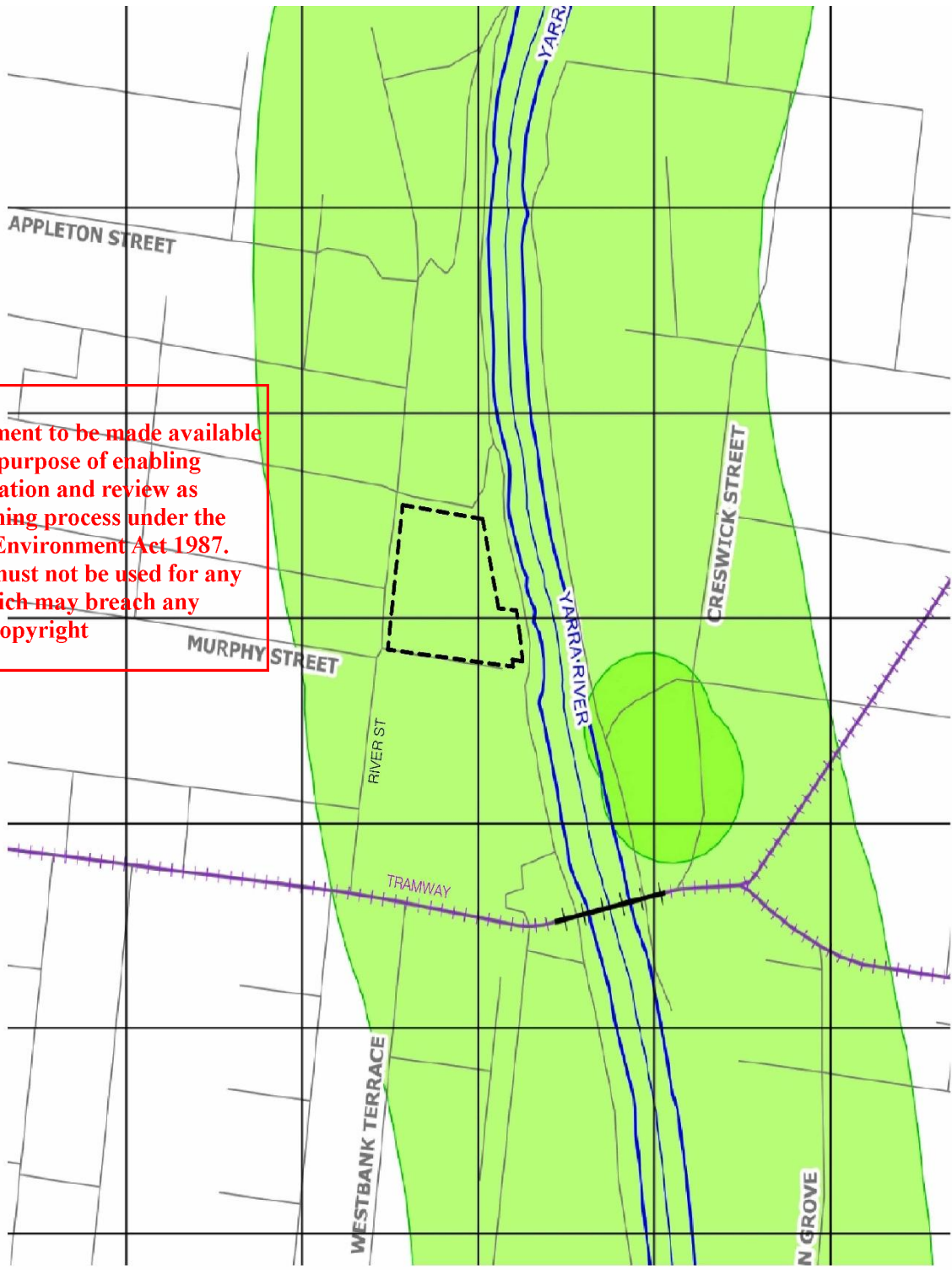
The activity area is within 200 metres of Yarra River.

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**Legend:**

 Activity Area Boundary  
0.96 hectares (approx)

 Area of Aboriginal Cultural Heritage Sensitivity

Parish: Jika Jika  
LGA: Yarra

Map Courtesy of DPI Website



**Map 2 Activity Area (Black Dashed Line) With Aboriginal Cultural Sensitivity**

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Since *all* of the activity area is an area of cultural heritage sensitivity and the activity is a high impact activity, a mandatory CHMP is required. However, if the area of cultural heritage sensitivity has been subject to significant ground disturbance (SGD), then it is not an area of cultural heritage sensitivity. This means a mandatory CHMP is *not* required because the condition in Regulation 7(a) has not been met (see CHMP Triggers above). SGD in relation to the activity area is discussed below.

## ACHRIS Search

A search of ACHRIS shows that there are **no** registered Aboriginal heritage places within the activity area or within 50m of the activity area boundary. ACHRIS also shows that the activity area has **not** previously been subject to archaeological assessment.

## Significant Ground Disturbance (SGD)

If the activity is a high impact activity and part of the activity area is a legislated area of cultural heritage sensitivity, then a mandatory CHMP is required. However, if the entire area of cultural heritage sensitivity in the activity area has been subject to SGD, then it is not an area of cultural heritage sensitivity. This means that a mandatory CHMP is *not* required because the condition in relation to the area of cultural heritage sensitivity in Regulation 7(a) has not been met (see CHMP Triggers above).

SGD is defined in Regulation 5 as follows:

*significant ground disturbance* means 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;

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Topsoil is not defined in the Regulations and has its ordinary meaning. It is not a geological term, but a common name used in a gardening context. The definition and reference for 'topsoil' used here is as follows (Murphy & Murphy 2000: 70-82):

A1 horizon is the surface soil and is generally referred to as **topsoil**. It has an accumulation of organic matter, a darker colour and maximum biological activity relative to other horizons. This is usually the most useful part of the soil for plant growth and re-vegetation. It is typically from 5 to 30cm thick.

The *Practice Note Significant Ground Disturbance* published by Aboriginal Victoria states that the burden of proving SGD is the responsibility of the applicant. It outlines four levels of investigation:

- Level 1: Common knowledge
- Level 2: Publicly available records
- Level 3: Further information from the applicant
- Level 4: Expert advice or opinion

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To determine whether or not SGD has occurred, the land use history has been conducted.

## Land Use History

Traditionally, the activity area has been associated with the Wurunjeri Woi Wurrung language group however with the establishment of European occupation of the Melbourne region, traditional Aboriginal lands were severely impacted and subjected to modified subsistence pattern (Clark 1990). Land clearing was evident across the entire geographical region to establish the squatters' pastoral runs.

### 19<sup>th</sup> Century

The earliest land sales of the Richmond area happened around 1839 (O'Connor et al/1984) to be developed as farmlands but the slump in the wool demand economically impacted the pastoralist of Richmond as a result by 1852 extensive subdivision began for the land to be divided into smaller lots. Further Crown allotments were subdivided for new influx of workers, reserves were created for police, land was also divided for churches, recreation purposes, schools, produce markets. Additionally, 31 quarry sites were also set aside on the Crown allotments abutting the river. smaller lots, reserves, Victorian Goldrush period increased the influx of people as a result, Richmond region including the activity area was developed for industrial use as well. By 1855, Richmond was a separate municipality with many streets, large suburban villas and gardens along with well established retail services along Bridge Road (south of the activity area) and in Swan Street such as butchers, drapers, shoemakers, hotels etc. Late 1870s and 1880s, Richmond was subjected to industrialisation and significant increase of the residential development. It was proclaimed as a town in 1872 with tram services working along Bridge Road, and Victoria Street.

### 20<sup>th</sup> Century

Throughout the 20<sup>th</sup> century, the activity area and its surrounding were transformed into a well-established cityscape, featuring various lanes and significant intersecting streets. By 1921 (Figure 1), this network of thoroughfares had been firmly developed.

From the early 1900s, the activity area was used as a tannery (MMBW plan no. 1080). This industrial use led to the construction of several buildings specifically associated with tannery operations within the site. Aerial photograph from 1945 (Figure 2) shows a distinct arrangement of three interconnected buildings, with pathways and open spaces along their sides. Additionally, smaller shed-like structures were located at the front of the activity area, suggesting the presence of ancillary facilities or storage.

By 1975 (Figure 3), notable changes had taken place within the activity area. One of the three clusters of buildings that had previously stood along the western boundary was demolished, marking a significant transformation of the site. The area underwent extensive site clearance, resulting in the removal of sheds and other smaller ancillary structures. A decade late during 1985 (Figure 4), the aerial image provides further evidence of ongoing redevelopment. At this stage, the activity area featured clearly defined driveways located near the south-eastern corner and along the northern boundary. Additionally, a new building had been constructed in the centre of the site, highlighting continued changes to the layout and usage of the activity area during this period. These works of demolition and

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construction would have impacted the natural soil condition within the activity area. The groundworks would have require removal of soil and introduction of fill material within the activity with use of large excavators and other similar machinery.

These constructions and redevelopment continued throughout the 21<sup>st</sup> century with minor additions and improvement along the driveways and in the centre of the activity area. Few ancillary structures present along the northern boundary during 1985 (**Figure 4**) could be seen demolished in the 2010 (**Figure 5**). Overall, the activity area has been subject of continuous small and big episodes of development and redevelopment.

The segment of the activity area situated directly next to the Yarra River has undergone considerable alteration over time. This section once characterised by dense vegetation coverage, contributing to the natural landscape over the years has also experienced a transition in its vegetation: the thick vegetation could be seen replaced by sparse grassy area, indicating a significant shift in land use. Eventually, these grassy expanses gave way to further development, resulting in the construction of concrete driveways and car parks. These changes underscore a pattern of ongoing modification and highlight the substantial impact that development has had on the natural environment within this part of the activity area.

Present day image of the activity area (**Figure 6**) shows that it is fully developed with modern building and associated structures. It has concrete driveways, surrounded by modern fencing. The enclosed activity area has also been subjected to landscaping features by introduction of non-native trees. Additionally, the activity area and its immediate surroundings have also been impacted by installation and regular maintenance of utility services.

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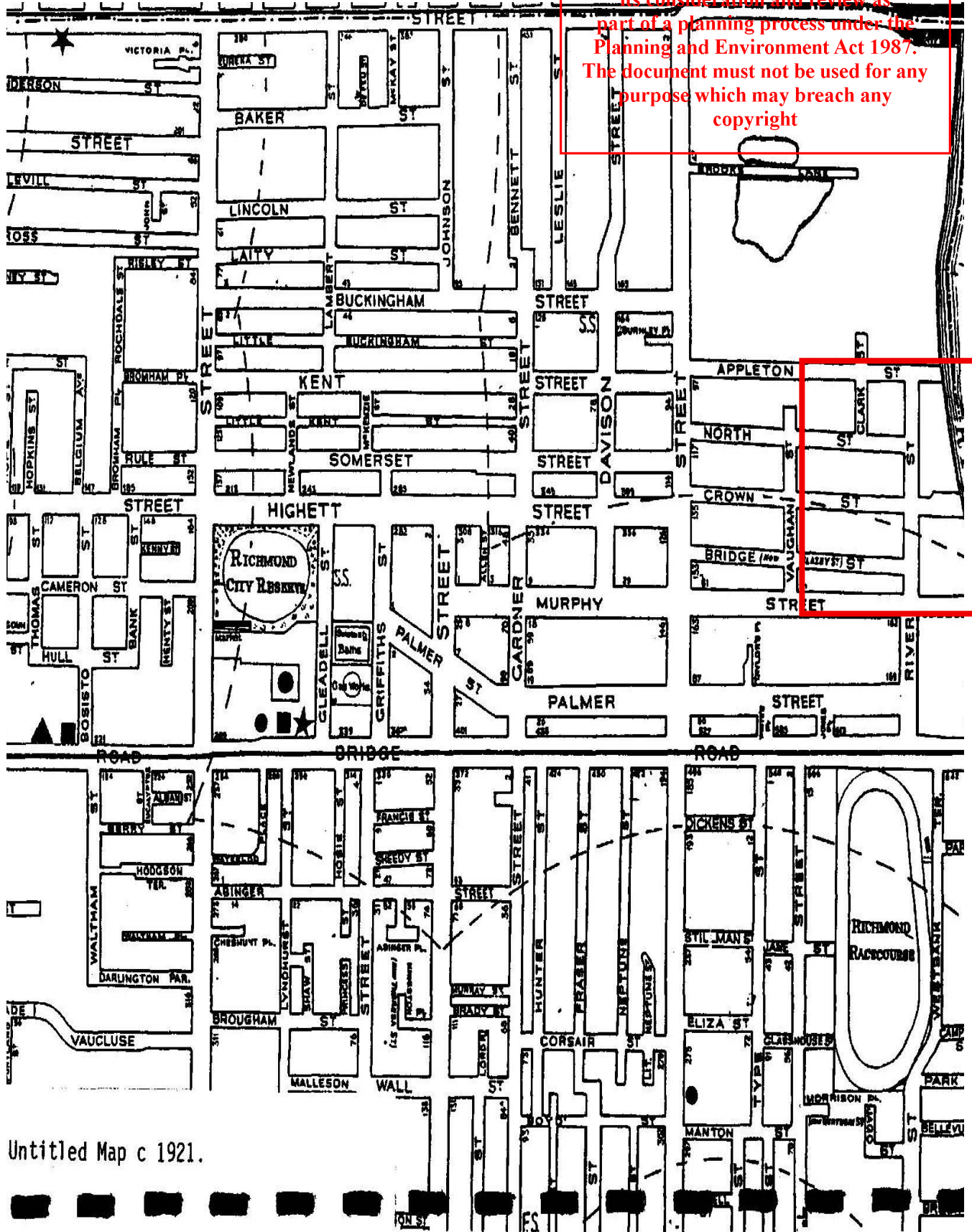


Figure 1 Activity area (red) Untitled map c 1921 (O'Connor et al 1985)

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Ringwood A3A, Zone 7, Aerial Survey of Victoria, 1945

## Legend:

 Activity Area Boundary  
0.96 hectares (approx)

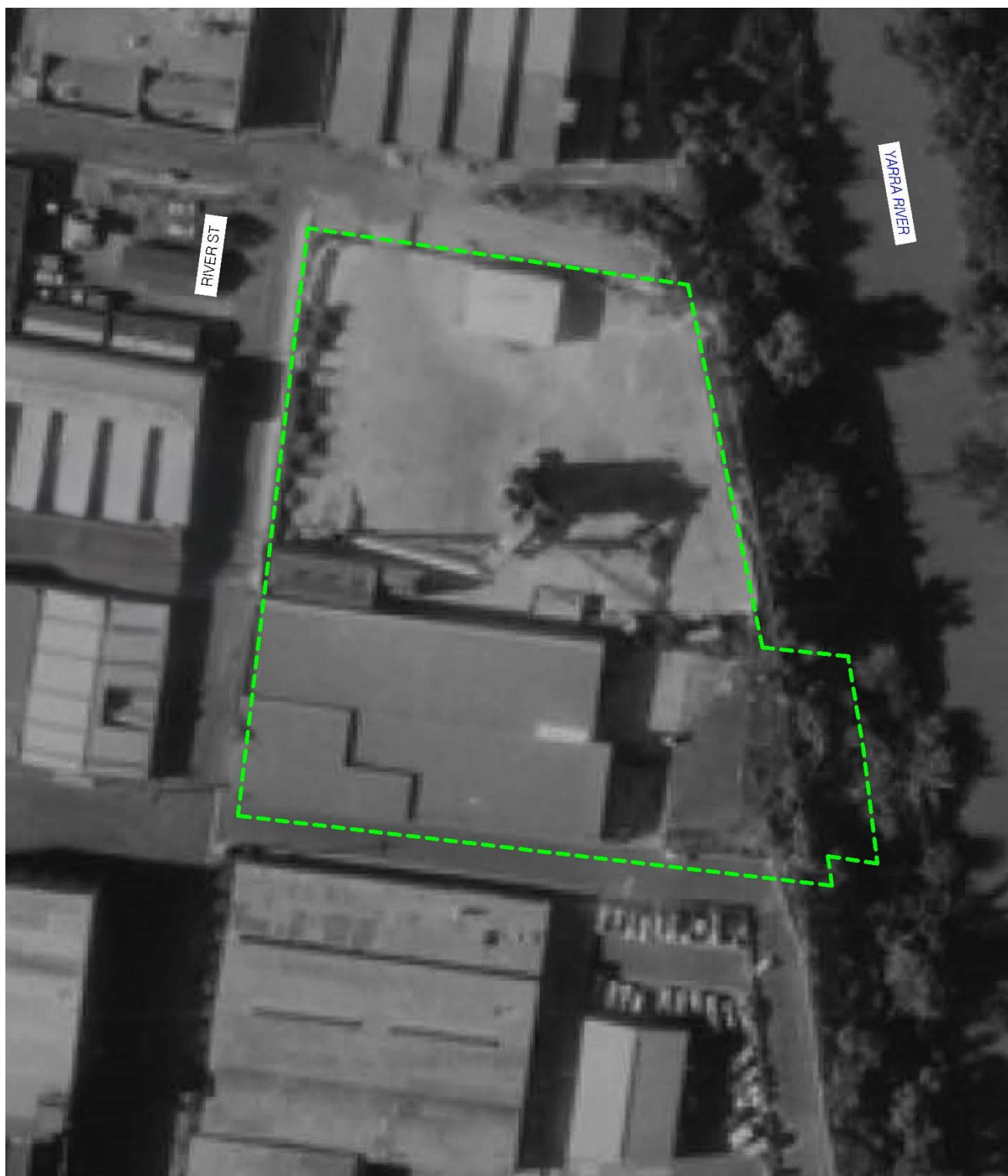
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LGA: Yarra



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**Figure 2 1945 Aerial Image of the Activity Area (Black)**

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33052, Run 30, Photo 136, Source: DEECA, Date: 1975



## Legend:

 Activity Area Boundary  
0.96 hectares (approx)

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LGA: Yarra

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**Figure 3 1975 Aerial Image of the Activity Area (Green)**

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3935, Run 5, Photo 155, Source: DEECA, Date: 1985

## Legend:

 Activity Area Boundary  
0.96 hectares (approx)

Parish: *Jika Jika*  
LGA: *Yarra*



Scale of Metres



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**Figure 4 1985 Aerial Image of the Activity area (Green)**

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Figure 5 2010 Aerial View of the Activity area (Google Earth)

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**Figure 6 Present Day Street View of the Activity area (Google Earth)**

The land use history has identified the following episodes of ground disturbance:

1. **Pre 1921s:** The site was initially cleared for pasture and farm use.
2. **1945s:** The site was then set up to be used for industrial/ commercial use.
3. **1975:** The site was subjected to demolition and construction of new buildings, shed like structures and driveways
4. **1985s onwards:** Construction of modern buildings, concreted pathways surrounding the built-up area along with developed driveways and landscaped gardens and fenced area.

The above investigation has demonstrated the following:

- The geographical region of the activity area and surroundings has experienced a substantial shift from rural to urban commercial growth. The traditional occupation of the region changed into an urban commercial zone by construction of several industrial buildings and associated structures (**Figure 2**).
- It appears to be modified several times from 1940s onwards. The activity area has been cleared of vegetation with introduction of non-native trees along the boundaries. Structures have been demolished from the activity area and concrete car park along with sheds has been developed (**Figure 3-5**).
- The activity area is currently set up within a commercially built-up zone with modified urban buildings. Since the 1980s, it has been subjected to several construction and demolition phases. These buildings would have also required installation of utility services along with footings for new buildings. These developments and changes requiring machinery use would have resulted in the significant ground disturbance and removal of natural soil of the activity area.
- Significant ground disturbance has been clearly established.

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## Has Significant Ground Disturbance Occurred?

Several Victorian Civil and Administrative Tribunal (VCAT) hearings have addressed the issue of SGD. For example, in relation to subdivision, the Azzure decision (VCAT 2009) determined that if there was no 'smoking gun' evidence, SGD could reasonably be determined through comparative and contextual information, including urban context; timing of subdivision; the shape, size, topography and configuration of lots in the subdivision; the development of buildings on the site and the pattern of use over time; the provision of underground drainage and services; the style and configuration of houses and gardens; and the lack of remnant vegetation.

The above investigation has shown that SGD has occurred in the activity area. The land use history has demonstrated that the activity area has been subjected to series of developmental phases. The past historic aerial image of the activity area clearly indicates that it has undergone major transformation from a rural locality (**Figure 1-5**) to a fully developed modern day industrial area with modified concrete pathways, grassed lawns, concrete driveways and fenced backyard (**Figure 6**). Prior to the series of building construction, the activity area was mostly associated with pastoral activity like majority of the geographical region and later subjected to ground excavations associated with the construction of these buildings, sheds and driveways modification along with the installation of utility services and levelling works.

It is therefore reasonable to extrapolate from the evidence presented above that ground disturbance has occurred across the entire activity area and this disturbance has been caused by machinery and satisfies the definition of SGD in Regulation 5.

### Statutory Obligations under the *Aboriginal Heritage Act 2006*

The above investigation demonstrates that the proposed activity at 63-67 River Street, Richmond does **not** require the preparation of a mandatory CHMP because no part of activity area is **not** a legislated area of cultural heritage sensitivity, and the activity is **not** a high impact activity.

If the Sponsor wishes to mitigate any risk of lengthy delays caused by the discovery of Aboriginal cultural heritage during the conduct of the activity, then a voluntary CHMP can be commissioned.

If any unexpected Aboriginal cultural heritage is discovered during the ground disturbance works, then works must cease at this location and a Cultural Heritage Permit must be obtained. Works are only required to cease within a 10m buffer of the location of the find.

### Statutory Obligations under the *Native Title Act 1993*

Native Title is the recognition by Australian law that Indigenous people have the right to their land, water, traditional laws and customs. In order to acquire Native Title, a Native Title determination decision must be administered by the Federal Court or High Court of Australia. Claims can only be made on un-allocated Crown Land or water. Native Title cannot be ascribed to past or present allocated Crown Land such as residential freehold or public land such as roads, schools or hospitals.

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A search of the Aboriginal Cultural Heritage Register Information System (ACHRIS) demonstrates that under the *Native Title Act 1993*, no National Native Title Tribunal scheduled or registered applications, or native title determinations are relevant to the activity area (**Map 2**). Additionally, the land is not vacant or unallocated, and no future Native Title claims can include the activity area. Therefore, no action is required regarding the *Native Title Act 1993*.

## Historic Cultural Heritage

### Statutory Obligations under the *Heritage Act 2017* and *Planning and Environment Act 1987*

All historic sites are protected under the *Heritage Act 2017* which requires appropriate Consents or Permits to be obtained before any historic site is disturbed. In addition, all historic sites must be reported to the Executive Director of the Heritage Council. Any archaeological site older than 75 years is considered to have potential archaeological value. Historic archaeological sites with above low scientific significance are listed on the Heritage Inventory. Historic sites with State Significance to the Government of Victoria are listed on the Victorian Heritage Register.

Local councils are responsible for issuing Permits for the use and development of local heritage places under the *Planning and Environment Act 1987*. Heritage places are listed on the Heritage Overlay on the Local Council Planning Scheme. The Heritage Overlay includes places of local significance as well as places of State Significance to the Government of Victoria on the Victorian Heritage Register.

### Historic Heritage Databases Search

A search of Heritage Victoria's Victorian Heritage Database (VHD), the VicPlan online map and Yarra Council Planning Scheme Online Heritage Overlay shows (**Figure 7**) shows that there are **no** previously recorded historic sites in or immediately adjacent to the activity area however, the activity area is situated adjacent to the heritage overlay as listed below.

Sites on the Heritage Overlay:

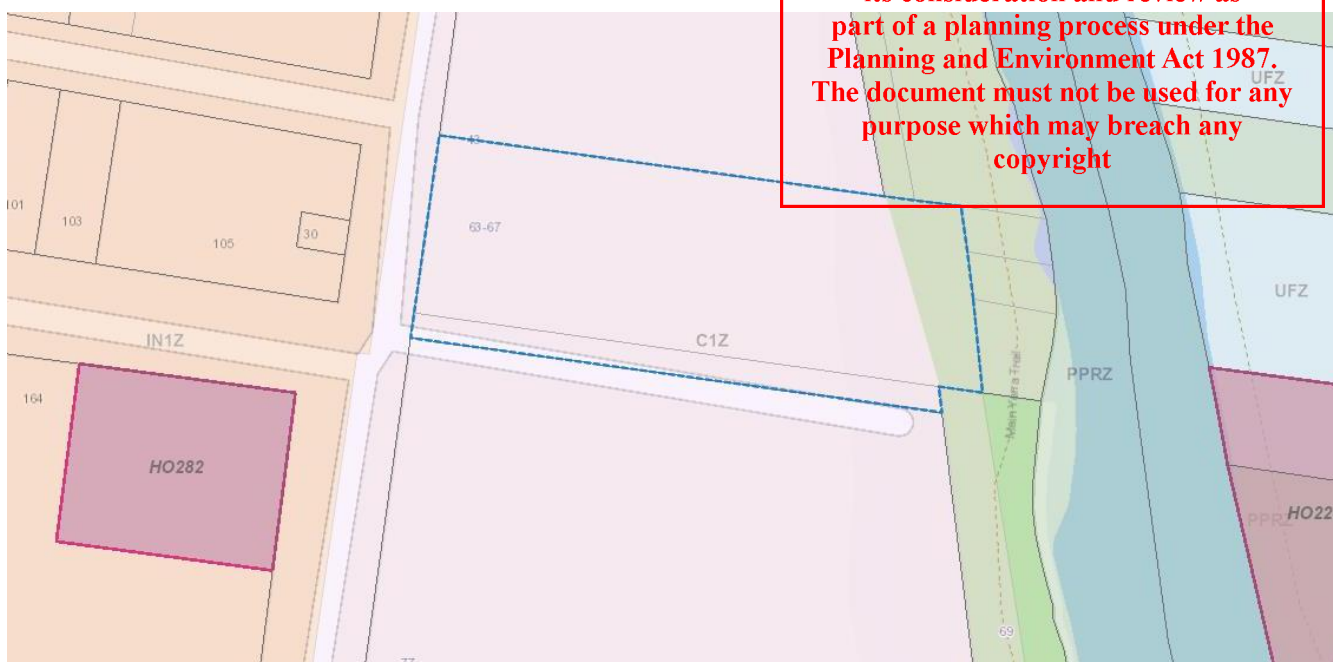
- **HO282: J. KENNON & SONS WOOL STORE (FORMER)**

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**Figure 7 Activity Area (Blue outline) With Heritage Overlays (Pink) (Vic Plan 2026)**

The proposed activity will not impact Heritage Overlays.

## Summary of Statutory Obligations

This investigation has reviewed the statutory obligations in relation to the relevant Aboriginal and historic heritage Acts and Regulations. The obligations are summarised in the table below.

**Table 1 Summary of Cultural Heritage Statutory Obligations**

Aboriginal	<i>Is the activity a high impact activity?</i>	Yes, Regulation (1)(2)(iii)(xxi) R.46
	<i>Is part of the activity area a legislated area of cultural heritage sensitivity?</i>	No, SGD has been demonstrated.
	<i>Is a mandatory CHMP required?</i>	No
Historic	<i>Are there any Heritage Inventory (HI) or Victorian Heritage Register (VHR) places within or immediately abutting the activity area?</i>	No
	<i>Are there any Yarra Council Heritage Overlays within or immediately abutting the activity area?</i>	No

	<i>Are any Permits or Consents required from Heritage Victoria required prior to the activity commencing?</i>	No
	<i>Are any Permits required from Yarra Council required to manage a Heritage Overlay prior to the activity commencing?</i>	No

Tardis provides the following heritage advice in relation to the activity:

**Aboriginal Cultural Heritage:**

The proposed activity does not require a mandatory CHMP prior to the activity commencing. If the proponent of the activity wishes to mitigate the risk of the discovery of any Aboriginal cultural heritage during the conduct of the activity, a voluntary CHMP can be commissioned.

**Historic Heritage:**

There are no further historic archaeological or heritage matters that need to be addressed prior to the works commencing.

Yours sincerely,



Sejal Pandya  
Project Archaeologist

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## REFERENCES

- Murphy BW & CL  
Murphy 2000 'The Soil Profile.' In PEV Chapman & BW Murphy eds. *Soils: Their Properties and Management*. 2<sup>nd</sup> Edition. Oxford University Press: 79-82.

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