

VMFRP



Table 4.3: Summary of zones and overlays relevant to project components

Zone ID	Zone Name	Project component
Area 1		
PCRZ	Public Conservation and Resource Zone	Lake Powell Pipeline and hardstand Containment Bank ER1, S4, S5, S7, S104, S106, S108, S109, Belsar Road, J1G Spillways ER1- No. 1 Fishway ER1-No 1 Regulator ER1-No 2, ER1-No. 3, S4, S5, S7, S14, S105, S108S109 ER1 Laydown area Temporary Pump Hardstand and Rock-lined Pump Pool (at existing private pump site) Access tracks Inundation Area
FZ	Farming Zone	Containment Bank Belsar Road Belsar Road Culvert, Belsar Road Culvert 2 Laydown area Access tracks Inundation Area
RDZ1	Road Zone, Category 1	Pipeline works, Access tracks and inundation area entering the Murray Valley Highway
ESO1	Environmental Significance Overlay (Schedule 1 – Waterway, Wetlands and Lakes Environs)	Lake Powell Pipeline Hardstand Containment Bank – ER1, S7, S106, S14 Regulator S7 Inundation Area Access tracks Inundation area.
VPO1	Vegetation Protection Overlay (Schedule 1 – Remnant Vegetation)	Lake Powell Pipeline and hardstand Containment Bank Belsar Road Belsar Road Culvert 2 Spillway ER1- No. 1

Zone ID	Zone Name	Project component
		Regulator ER1-No 2, ER1 Laydown area Access tracks Inundation Area
LSIO	Land Subject to Inundation Overlay	All project components
BMO	Bushfire Management Overlay	Containment bank S106, S108, S109, S14 Regulator S108, S109 Access tracks
Area 2		
PCRZ	Public Conservation and Resource Zone	Containment Bank Belsar Road Regulator ER1-No 2, ER1-No. 3, S4, S5, S7, S14, S105, S108S109, Belsar Road, ER1 Laydown area Temporary Pump Hardstand and Rock-lined Pump Pool (at existing private pump site) Access tracks Inundation Area
FZ	Farming Zone	Access tracks Inundation Area
RDZ1	Road Zone, Category 1	Access tracks Inundation Area
ESO1	Environmental Significance Overlay (Schedule 1 – Waterway, Wetlands and Lakes Environs)	Containment Bank J1A Regulator J1A No. 1 Inundation Area Access tracks
VPO1	Vegetation Protection Overlay (Schedule 1 – Remnant Vegetation)	Access tracks Inundation Area
LSIO	Land Subject to Inundation Overlay	Containment Bank J1A, J1B, J1D, J1E, J1H, J1F Regulator J1A No. 1, J1A No. 2, J1B, J1D, J1E, J1F

Zone ID	Zone Name	Project component
		Spillway J1A No 1, J1A No 2, J1H Inundation Area Access tracks
Area 3		
PCRZ	Public Conservation and Resource Zone	Containment Bank J1C, J1G Regulator J1C, J1G Access tracks Inundation Area
FZ	Farming Zone	Access tracks Inundation Area
RDZ1	Road Zone, Category 1	Access tracks
ESO1	Environmental Significance Overlay (Schedule 1 – Waterway, Wetlands and Lakes Environs)	Containment Bank J1C, J1G Regulator J1C, J1G Inundation Area Access tracks
VPO1	Vegetation Protection Overlay (Schedule 1 – Remnant Vegetation)	Access tracks Inundation area
LSIO	Land Subject to Inundation Overlay	Containment Bank J1C, J1G Regulator J1C, J1G Access tracks Inundation Area
BMO	Bushfire Management Overlay	Access tracks
Area 4		
PCRZ	Public Conservation and Resource Zone	Lake Carpul Regulator Proposed pipeline corridor Murray Valley Highway Culvert No 1

Zone ID	Zone Name	Project component
		Lake Powel Regulator Containment Bank – Lake Powell Regulator Access tracks Inundation Area
RDZ1	Road Zone, Category 1	Lake Carpul Regulator Murray Valley Highway Culvert No 1 Lake Powel Regulator Containment Bank – Lake Powell Regulator Access tracks
LSIO	Land Subject to Inundation Overlay	Lake Carpul Regulator Murray Valley Highway Culvert No 1 Lake Powel Regulator Containment Bank – Lake Powell Regulator Access tracks Inundation area

Table 4.4 Purpose of zones and overlays

Relevant zone/overlay	Purpose	Project response
Clause 36.03 Public Conservation and Resource Zone (PCRZ)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework. To protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values. To provide facilities which assist in public education and interpretation of the natural environment with minimal degradation of the natural environment or natural processes. To provide for appropriate resource-based uses. 	<p>The PCRZ covers the majority of the area of investigation and the proposed inundation area.</p> <p>The project is considered to be consistent with the purpose of the PCRZ “to protect and conserve the natural environment and natural processes”.</p> <p>The aim of the project is to restore a more natural inundation regime to improve the ecological condition of high ecological value floodplain and anabranch habitats mostly located within natural features reserves that are managed primarily for conservation and recreational purposes by Parks Victoria.</p>

Relevant zone/overlay	Purpose	Project response
Clause 35.07 Farming Zone (FZ)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework. To provide for the use of land for agriculture. To encourage the retention of productive agricultural land. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. To encourage the retention of employment and population to support rural communities. To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision. To provide for the use and development of land for the specific purposes identified in a schedule to this zone. 	<p>The area of investigation associated with some sections of access tracks, Containment Banks, Spillways and Regulators, as well as a portions of the proposed inundation area are located in the FZ.</p> <p>Much of this farming land is under agreement on title to encourage and protect the conservation values of the land, rather than for extensive agricultural activity.</p> <p>Proposed works within the FZ will be limited to existing access tracks. The maintenance of existing access tracks and establishment of temporary construction laydown areas is consistent with the purpose of the FZ in that these activities will not adversely affect the predominant use of the land for agriculture.</p> <p>It is understood that the project can be operated to avoid managed inundation of privately owned land within the FZ through control of the proposed regulating structures and pumping rates, and that inundation of privately owned land within the FZ will only be undertaken in accordance with flood easements or agreements with affected landowners. On this basis, the project is considered to be consistent with the purpose of the FZ in that managing inundation in accordance with landowner agreements should ensure that any current use of the land will not be adversely affected by the project.</p>
Clause 36.04 Road Zone, Category 1 (RDZ1)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework. To identify significant existing roads. To identify land which has been acquired for a significant proposed road. 	<p>There are two small sections of the area of investigation associated with access track connection with the Murray Valley Highway. More substantial works are proposed to allow for the Lake Powell pipeline, which will include the construction of culverts and containment banks and regulators.</p> <p>Any major works required on land in RDZ1 associated with the Murray Valley Highway will require formal involvement and consent from the Roads Corporation (Regional Roads Victoria) to ensure consistency with the purpose of this zone and the functioning of the roadway.</p> <p>The proposed inundation area within RDZ1 is located within the LSIO. On this basis, the project is not likely to be inconsistent with the purpose of RDZ1, however consultation with Regional Roads Victoria will be required to ensure that operation of the project does not adversely impact on the functioning of the Murray Valley Highway.</p>

Relevant zone/overlay	Purpose	Project response
Clause 42.01 Environmental Significance Overlay (Schedule 1 - Waterway, Wetlands and Lakes Environs) (ESO1)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework. To identify areas where the development of land may be affected by environmental constraints. To ensure that development is compatible with identified environmental values. <p><u>Schedule 1 Environmental objectives</u></p> <ul style="list-style-type: none"> To protect and enhance the natural environment and cultural heritage qualities of the Murray River and its anabranches as a major waterway of local, regional, state, national and international significance. To maintain the quality and availability of water within waterways and water bodies. To ensure that any use, development or works in the environs of waterways, wetlands and lakes are of a scale, character and form that is compatible with the high environment quality of these systems. To promote tourist and recreational activities in the vicinity of watercourses, wetlands and lakes subject to the design, siting and landscaping of development to protect the values of these environments. To protect and enhance the biodiversity, ecological, and cultural values of waterway, wetland and lake environments. To protect the visual and environmental qualities of waterways, wetlands and lakes, restricting the use and development of land in these areas to maintain these qualities. To maintain the ability of waterways to carry natural flows. To prevent the erosion and siltation of waterways and adjoining land. 	<p>The ESO1 covers the length of the Murray River Reserve on land immediately adjoining the Murray River. Some proposed works associated with construction banks, proposed regulators, temporary pump hardstands, and some access tracks will occur within the ESO1. Due to the nature of their role in diverting, retaining and releasing floodwaters, construction of these proposed infrastructure components within the ESO1 is unavoidable. The location of temporary construction activities however is more flexible and therefore all temporary construction laydown areas have been located outside the ESO1.</p> <p>Parts of the proposed inundation area associated with the Boryanica Creek, Nargooyia Creek and Yungera Creek are located within the ESO1, however this is only a small portion of the floodplain inundation area across the site.</p> <p>The project aims to restore a more natural inundation regime to improve the ecological condition of high ecological value floodplain and anabranch habitats, mostly located with natural features reserves that are managed primarily for conservation and recreational purposes by Parks Victoria. As such, the project is considered to be consistent with the purpose and objectives of the ESO1, specifically those aiming to:</p> <ul style="list-style-type: none"> protect and enhance the natural environment and cultural heritage qualities of the Murray River and its anabranches protect and enhance the biodiversity, ecological, and cultural values of waterway, wetland and lake environments maintain the ability of waterways to carry natural flows protect and enhance the biodiversity, ecological, and cultural values of waterway, wetland and lake environments.

Relevant zone/overlay	Purpose	Project response
	<ul style="list-style-type: none"> To provide for the use and development of land adjacent to Lake Boga for tourist and recreational purposes, while protecting the natural beauty and amenity of the area. 	
Clause 42.02 Vegetation Protection Overlay (Schedule 1 – Remnant Vegetation)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework. To protect areas of significant vegetation. To ensure that development minimises loss of vegetation. To preserve existing trees and other vegetation. To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance. To maintain and enhance habitat and habitat corridors for indigenous fauna. To encourage the regeneration of native vegetation. <p><u>Schedule 1 Vegetation protection objectives</u></p> <ul style="list-style-type: none"> To protect remnant native vegetation and habitat, including understorey, and facilitate revegetation of native vegetation. To protect and enhance native habitat, particularly areas providing habitat or potential habitat for rare or threatened flora and fauna species. To encourage and maintain biodiversity and linkages between existing remnant vegetation. To recognise the catchment-wide land and water management benefits of native vegetation retention. To provide a 'net gain' principle for native vegetation in Swan Hill Rural City. To retain native vegetation in any land use or development proposal when there is an alternative to native vegetation removal. To protect and enhance native vegetation used by Regent Parrot for habitat. 	<p>Project infrastructure is proposed to be located in VPO1.</p> <p>Proposed works within the VPO1 will be limited to existing access tracks and other limited works. Provided track maintenance works are limited to within the area of disturbance associated with the existing access tracks, and avoid or minimise impacts to native vegetation, the proposed works are likely to be consistent with the purpose and objectives of VPO1.</p> <p>Provided the works are operated in accordance with private and public land manager agreements and consents with affected land and infrastructure owners, the project is not likely to be inconsistent with the purpose of the VPO.</p> <p>The project aims to restore a more natural inundation regime to the floodplain area with the objectives of maintaining native plant cover and diversity, maintaining threatened native flora presence, and maintaining the health of native trees, amongst other objectives. As such, operation of the project including managed inundation of land within the VPO1, is considered to be consistent with the purpose and objectives of the VPO1.</p>

Relevant zone/overlay	Purpose	Project response
	<ul style="list-style-type: none"> To implement the principles and environmental objectives of the Victorian Native Vegetation Management: A Framework for Action and Victoria's Biodiversity Strategy. 	
Clause 44.04 Land Subject to Inundation Overlay (LSIO)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority. To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity. 	<p>The area of investigation and proposed inundation area are entirely located on land affected by the LSIO.</p> <p>The project aims to restore a more natural inundation regime to Boryanica and Nargooia Creeks and associated floodplain areas, including the removal of some existing blockages and installation of regulators to manage the frequency and duration of managed inundation events to more closely align with natural conditions. The project is designed to provide for erosion protection where necessary based on modelled flow velocities.</p> <p>The project is designed to facilitate changes to flood levels and velocities compared to existing conditions. However, provided the works are operated in accordance with private and public land manager agreements and consents with affected land and infrastructure owners, the project is not likely to be inconsistent with the purpose of the LSIO.</p>
Clause 44.06 Bushfire Management Overlay (BMO)	<ul style="list-style-type: none"> To implement the Municipal Planning Strategy and the Planning Policy Framework. To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire. To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented. To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level. 	<p>The area of investigation and proposed inundation area are not largely affected by the BMO.</p> <p>The project does not conflict with the primary purpose of the BMO which is to minimise risk of bushfire to life and property. The project is consistent with the purpose of the BMO.</p>

4.4 Particular and general exemptions

Table 4.5 provides a summary of particular and general provision exemptions under the planning scheme that apply to works for the project.

Table 4.5: Approval exemptions

Relevant land use/activity	Clause of the planning scheme	Exemption	Relevant condition
Minor utility installation	Clause 62.01 Uses not Requiring a Permit	Use	Does not apply to use of land in the PCRZ.
Minor utility installation	Clause 62.02-1 Buildings and works not requiring a permit	Buildings and works/earthworks	Does not apply to buildings and works within the PCRZ.
Roadworks	Clause 62.02-2 Buildings and works not requiring a permit unless specifically required by the planning scheme	Buildings and works	Does not apply to buildings and works within the PCRZ.
Native vegetation	Clause 52.17-1 Permit requirement	Remove, destroy or lop native vegetation	<p>If the table to Clause 52.17-7 specifically states that a permit is not required.</p> <p>To the removal, destruction or lopping of native vegetation specified in the schedule to this clause.</p>
	Clause 52.17-2 Application requirements	Remove, destroy or lop native vegetation	An application to remove, destroy or lop native vegetation must comply with the application requirements specified in the <i>Guidelines for the removal, destruction or lopping of native vegetation</i> (DELWP, 2017)
	Clause 52.17-7 Table of exemptions	Remove, destroy or lop native vegetation	<p>Conservation work</p> <p>To the minimum extent necessary to enable the carrying out of conservation work:</p> <ul style="list-style-type: none"> Which provides and overall improvement for biodiversity; and With written agreement of the Secretary to the DELWP (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987) <p>Crown land</p> <p>To the minimum extent necessary to manage Crown land:</p> <ul style="list-style-type: none"> By or on behalf of the Secretary to the DELWP (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987), or Parks Victoria, and in accordance with the Procedure for the removal, destruction or lopping of native vegetation on Crown land; or

Relevant land use/activity	Clause of the planning scheme	Exemption	Relevant condition
			<ul style="list-style-type: none"> With written permission from the Secretary to the DELWP (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).
			<p>Dead native vegetation</p> <p>Native vegetation that is dead. This exemption does not apply to a standing dead tree with a trunk diameter of 40 cm or more at a height of 1.3 m above ground level</p>
			<p>Grasses</p> <p>Native grass that is to be mowed or slashed for maintenance only, provided that the grass is:</p> <ul style="list-style-type: none"> Located within a lawn, garden or other landscaped area; or Maintained at a height of at least 10 cm above ground level.
			<p>Lopping or pruning native vegetation, for maintenance only provided no more than 1/3 of the foliage of each individual plant is lopped or pruned. This exemption does not apply to:</p> <ul style="list-style-type: none"> The pruning or lopping of the trunk of a native tree; or Native vegetation on a roadside or railway reservation.
			<p><u>New buildings and works in the Farming Zone and Rural Activity Zone</u></p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the construction of a building or works used for Agricultural production, including a dam, utility service, bore and accessway, in the Farming Zone or the Rural Activity Zone. New buildings and works in the Farming Zone and Rural Activity Zone. The maximum extent of native vegetation that may be removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:</p> <ul style="list-style-type: none"> 1 ha of native vegetation which does not include a tree. 15 native trees with a trunk diameter of less than 40 cm at a height of 1.3 m above ground level. 5 native trees with a trunk diameter of 40 cm or more at a height of 1.3 m above ground level. <p>This exemption does not apply to the construction or operation of a pivot irrigation system or horticultural trellising.</p>

Relevant land use/activity	Clause of the planning scheme	Exemption	Relevant condition
			<p>Pest animal burrows</p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows in the Farming Zone or the Rural Activity Zone:</p> <ul style="list-style-type: none"> ▪ In accordance with written agreement of an officer of the department responsible for administering the Flora and Fauna Guarantee Act 1988; or ▪ Provided the maximum extent of native vegetation removed, destroyed or lopped on contiguous land in the same ownership in a five year period does not exceed any of the following: <ul style="list-style-type: none"> ▪ 1 ha of native vegetation which does not include a tree; or ▪ 15 native trees with a trunk diameter of less than 20 cm at a height of 1.3 m above ground level.
			<p>Planted vegetation</p> <p>Native vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding. This exemption does not apply to native vegetation planted or managed with public funding for the purpose of land projection or enhancing biodiversity unless the removal, destruction or lopping of the native vegetation is in accordance with written permission of the agency (or its successor) that provided the funding.</p>
			<p>Regrowth</p> <p>Native vegetation this is to be removed, destroyed or lopped that has naturally established or regenerated on land lawfully cleared of naturally established native vegetation, and is:</p> <ul style="list-style-type: none"> ▪ Less than 10 years old; or ▪ Bracken (<i>Pteridium esculentum</i>); or ▪ Within the boundary of a timber production plantation, as indicated on a Plantation Development Notice or other documented record, and has established after the plantation; or ▪ Less than ten years old at the time of a property vegetation plan being signed by the Secretary to the DELWP (as constituted under Part 2 of the Conservation Forests and Lands Act 1987), and is: <ul style="list-style-type: none"> ▪ Shown on that plan as being 'certified regrowth'; and

Relevant land use/activity	Clause of the planning scheme	Exemption	Relevant condition
			<ul style="list-style-type: none"> On land that is to be used or maintained for cultivation or pasture during the term of that plan. <p>This exemption does not apply to land where native vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disasters.</p> <p>Road Safety</p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by and on behalf of a public authority or municipal council to maintain the safe and efficient function of an existing road in accordance with the written agreement of the Secretary to the DELWP (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).</p> <p>Site area</p> <p>Native vegetation that is to be removed, destroyed or lopped on land, together with all contiguous land in one ownership, which has an area of less than 0.4 ha. This exemption does not apply to native vegetation on a roadside or rail reservation.</p> <p>Surveying</p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by, or on behalf of, a licenced surveyor (with the meaning of section 3 of the Surveying Act 2004) using hand-held tools to establish a sightline for the measurement of land.</p> <p>Traditional owners</p> <p>Native vegetation that is to be removed, destroyed or lopped by a person acting under, and in accordance with:</p> <ul style="list-style-type: none"> A natural resource agreement under Part 6 of the <i>Traditional Owner Settlement Act 2010</i>; or An authorisation order made under sections 82 or 84 of the <i>Traditional Owner Settlement Act 2010</i> as those sections were in force immediately before the commencement of section 24 of the <i>Traditional Owner Settlement Amendment Act in 2016</i> (1 May 2017). <p>Utility Installations</p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary:</p> <ul style="list-style-type: none"> To maintain the safe and efficient function of a Minor Utility Installation; or By or on behalf of a utility service provider to maintain or construct a utility installation in accordance with the written agreement of the

Relevant land use/activity	Clause of the planning scheme	Exemption	Relevant condition
			<p>Secretary to the DELWP (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987).</p> <p>Vehicle access from public roads</p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the construction or maintenance of a vehicle access across a road reserve from a property boundary to a public road.</p> <p>This exemption only applies to properties which share a common boundary with the road reserve, and the total width of clearing must not exceed 6m.</p> <p>This exemption does not apply where there is a practical opportunity to site the accessway to avoid the removal, destruction or lopping of native vegetation.</p> <p>In this exemption, roadside and public road have the same meanings as in section 3 of the <i>Road Management Act 2004</i>.</p> <p><i>Note: Under the Road Management Act 2004, the written consent of the coordinating road authority is required to conduct any works, including removing a tree or other vegetation, in, on, under or over a road.</i></p> <p>Weeds</p> <p>Native vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal or destruction of a weed listed in the schedule to Clause 52.17.</p> <p>The maximum extent of native vegetation that may be removed, destroyed or lopped under this exemption on contiguous land in the same ownership in a five year period must not exceed any of the following:</p> <ul style="list-style-type: none"> 1 hectare of native vegetation which does not include a tree. 15 native trees with a trunk diameter of less than 20 cm at a height of 1.3 m above the ground level.

Exemptions for use and development under Clause 62.01, Clause 62.02-1 and Clause 62.02-2 of the planning scheme do not apply to the majority of project components as they are located within the PCRZ, but do apply to project components in all other zones, including the FZ and RDZ1.

There is some potential for small-scale exemptions listed in Clause 52.17-7 to apply to the removal, destruction or lopping of native vegetation for the project (e.g. regrowth, weeds, planted vegetation). Some wide-scale exemptions may also apply in relation to 'Conservation Work', 'Crown Land' and 'Utility Installations', however the application of these exemptions would require written agreement from the Secretary to DELWP.

Exemptions under 'Utility Installation' requires the works to be done by or on behalf of a utility service provider.

Clause 72 of the planning scheme defines utility service provider as:

A person, other than a public authority or municipal council, having responsibility under an Act for the generation, transmission, distribution or supply of electricity, gas, power, telecommunications, water supply, drainage and sewerage services.

All native vegetation removal must comply with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) (the Guidelines).

4.5 Zone and overlay exemptions

Table 4.6 identifies the relevant zone and overlay approval exemptions that apply or may apply to the proposed project works.

Table 4.6: Zone and overlay exemptions

Relevant Zone / Overlay	Exemption	Relevant condition
Clause 36.03 Public Conservation and Resource Zone (PCRZ) Clause 36.03-2 Permit requirement	Buildings and works	<p>A building or works shown in an Incorporated plan which applies to the land.</p> <p>A building or works specified in Clause 62.02-1 or 62.02-2 carried out by or on behalf of a public authority or municipal council, if the public authority or municipal council is carrying out functions, powers or duties conferred by or under the <i>Local Government Act 1989</i>, the <i>Reference Areas Act 1978</i>, the <i>National Parks Act 1975</i>, the <i>Fisheries Act 1995</i>, the <i>Wildlife Act 1975</i>, the <i>Forests Act 1958</i>, the <i>Water Industry Act 1994</i>, the <i>Water Act 1989</i>, the <i>Marine Act 1988</i>, the <i>Port of Melbourne Authority Act 1958</i> or the <i>Crown Land (Reserves) Act 1978</i>.</p> <p>A building or works carried out by or on behalf of a public land manager or Parks Victoria under the <i>Local Government Act 1989</i>, the <i>Reference Areas Act 1978</i>, the <i>National Parks Act 1975</i>, the <i>Fisheries Act 1995</i>, the <i>Wildlife Act 1975</i>, the <i>Forests Act 1958</i>, the <i>Water Industry Act 1994</i>, the <i>Water Act 1989</i>, the <i>Marine Act 1988</i>, the <i>Port of Melbourne Authority Act 1958</i> or the <i>Crown Land (Reserves) Act 1978</i>.</p>
Clause 32.07 Farming Zone (FZ) Clause 32.07-1 Table of uses, Section 1 Permit not required	Use (minor utility installation)	Any use listed in Clause 62.01
Clause 35.07 Farming Zone (FZ) Clause 35.07-4 Buildings and works	Buildings and works (earthworks)	Earthworks specified in a schedule to this zone, if on land in a schedule (see below).
Schedule to the Farming Zone	Buildings and works (earthworks)	<p>Permit required for the following earthworks on all land, excluding earthworks carried out in accordance with an approved whole farm plan:</p> <ul style="list-style-type: none"> Earthworks which change the rate of flow or the discharge point of water across a property boundary Earthworks which increase the discharge of saline groundwater.

Relevant Zone / Overlay	Exemption	Relevant condition
Clause 36.04 Road Zone, Category 1 (RDZ1) Clause 36.04-1 Table of uses, Section 1 Permit not required	Use (minor utility installation)	Any use listed in Clause 62.01
Clause 42.01 Environmental Significance Overlay Clause 42.01-2 Permit requirement	Buildings and works	If a schedule to this overlay specifically states that a permit is not required (see below for Schedule 1 to the Environmental Significance Overlay).
Schedule 1 to the Environmental Significance Overlay Clause 3.0 Permit requirement	Buildings and works	Any buildings or works located more than 100 m from Murray River and 60 m from any other waterway, wetland or lake.
		Repairs and routine maintenance to existing buildings and works
		Works undertaken by Swan Hill Rural City, a government department or a public authority for municipal purposes, stream improvement, drainage, channel repairs, flooding regulation, erosion control, water supply, sewerage supply, telecommunications or minor utility installation.
		Buildings or works associated with a minor utility installation, low impact telecommunications facility or passive recreation.
Clause 42.01 Environmental Significance Overlay Clause 42.01-2 Permit requirement	Remove, destroy or lop any vegetation, including dead vegetation	If a schedule to this overlay specifically states that a permit is not required
Clause 42.01-3 Table of exemptions	Remove, destroy or lop any vegetation, including dead vegetation	<u>Noxious weeds</u> Vegetation that is a noxious weed subject of a declaration under section 58 or section 58A of the Catchment and Land Protection Act 1994. This exemption does not apply to the Australian Dodder (<i>Cuscuta australis</i>).
		<u>Pest animal burrows</u> Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary to enable the removal of pest animal burrows. In the case of native vegetation the written agreement of an officer of the department responsible for administering the <i>Flora and Fauna Guarantee Act 1988</i> is required before the vegetation can be removed, destroyed or lopped.
		<u>Planted vegetation</u> Vegetation that is to be removed, destroyed or lopped that was either planted or grown as a result of direct seeding for Crop raising or Grazing animal production.
		<u>Regrowth</u> Vegetation that is to be removed, destroyed or lopped that has naturally established or regenerated on land

Relevant Zone / Overlay	Exemption	Relevant condition
		<p>lawfully cleared of naturally established vegetation, and is:</p> <ul style="list-style-type: none"> Bracken (<i>Pteridium esculentum</i>) <p>This exemption does not apply to land on which vegetation has been destroyed or otherwise damaged as a result of flood, fire or other natural disaster.</p> <p><u>Road safety</u></p> <p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by or on behalf of a public authority of municipal council to maintain the safe and efficient function of an existing public road in accordance with the written agreement of the Secretary to DELWP (as constituted under Part 2 of the <i>Conservation, Forests and Lands Act 1987</i>).</p> <p><u>Surveying</u></p> <p>Vegetation that is to be removed, destroyed or lopped to the minimum extent necessary by, or on behalf of, a licenced surveyor (within the meaning of section 3 of the <i>Surveying Act 2004</i>) using hand-held tools to establish a sightline for the measurement of land.</p>
Clause 42.02 Vegetation Protection Overlay Clause 42.02-2 Permit requirement	Remove, destroy or lop any vegetation, including dead vegetation	If a schedule to this overlay specifies that a permit is required and does not specify that a permit is not required (see below for Schedule 1 to the Vegetation Protection Overlay, Section 3.0 Permit Requirement).
Clause 42.02-3 Table of exemptions	Remove, destroy or lop any vegetation, including dead vegetation	Same as relevant exemptions listed for Clause 42.01-3 Table of exemptions above.
Schedule 1 to the Vegetation Protection Overlay Section 3.0 Permit requirement	Remove, destroy or lop any vegetation, including dead vegetation	A permit is required to remove, destroy or lop any native vegetation, including any dead trees that are standing.
Schedule 1 to the Environmental Significance Overlay Clause 3.0 Permit requirement	Buildings and works	<p>Any buildings or works located more than 100 m from Murray River and 60 m from any other waterway, wetland or lake.</p> <p>Repairs and routine maintenance to existing buildings and works</p> <p>Works undertaken by Swan Hill Rural City, a government department or a public authority for municipal purposes, stream improvement, drainage, channel repairs, flooding regulation, erosion control, water supply, sewerage supply, telecommunications or minor utility installation.</p> <p>Buildings or works associated with a minor utility installation, low impact telecommunications facility or passive recreation.</p>
Clause 44.04 Land Subject to Inundation Overlay	Buildings and works	If a schedule to this overlay specifically states that a permit is not required.

Relevant Zone / Overlay	Exemption	Relevant condition
44.04-2 Buildings and works		To flood mitigation works carried out by the responsible authority or floodplain management authority.
Schedule to the Land Subject to Inundation Overlay 1.0 Permit requirement	Works (earthworks)	Earthworks that do not raise ground level topography by more than 300 mm. Earthworks greater than 300 mm in height created during the construction of a dam of less than 3000 cubic metres capacity
Clause 44.06 Bushfire Management Overlay 44.06-2 Permit requirement	Buildings and works	If a schedule to this overlay specifically states that a permit is not required

4.6 Planning triggers

Table 4.7 identifies the planning approval triggers for the project under the Swan Hill Planning Scheme. Relevant exemptions identified in report sections 4.4 and 4.5 may apply.

Table 4.7: Summary of potential planning permit triggers, Swan Hill Planning Scheme

Swan Hill Planning Scheme	Planning approval trigger (Y/N/NA)		
Planning control	Use	Buildings and works	Vegetation removal
Clause 36.03 Public Conservation and Resource Zone (PCRZ)	Y	Y	NA
Clause 35.07 Farming Zone (FZ)	Y	Y	NA
Clause 36.04 Road Zone, Category 1 (RZ1)	Y	Y	NA
Overlays			
Clause 42.01 Environmental Significance Overlay (Schedule 1 Waterway, Wetlands and Lakes Environs) (ESO1)	NA	Y	Y
Clause 42.02 Vegetation Protection Overlay (Schedule 1 – Remnant Vegetation) (VPO1)	NA	N	Y
Clause 44.04 Land Subject to Inundation Overlay, Schedule to the Land Subject to Inundation Overlay (LSIO)	NA	Y	N
Clause 44.04 Bushfire Management Overlay (BMO)	NA	N	N
Particular provisions			
Clause 52.17 Native Vegetation	NA	NA	Y
Clause 52.29 (Land Adjacent to A Road Zone, Category 1, or A Public Acquisition Overlay for A Category 1 Road)	NA	Y	NA

In accordance with the triggers identified in Table 4.7, the project will require planning approval in relation to;

- Use

- Buildings and works, including earthworks;
- Removal, destruction or lopping of native vegetation, and
- Removal, destruction or lopping of any vegetation, including dead vegetation in ESO1.

Clause 36.03 (Public Conservation and Resource Zone)

A planning permit is required for:

- Use as a utility installation (including minor utility installation) in accordance with Clause 36.03-1 Table of Uses of the Public Conservation and Resource Zone. The use does not meet the Section 1 (Permit not required) condition requiring the work to be conducted by or on behalf of a public land manager or Parks Victoria. It therefore falls into a Section 2¹ use triggering a planning permit.
- Buildings and works for a utility installation in the PCRZ triggered under Clause 36.03-2 as the proposed use does not meet the exemption condition for this use requiring the buildings and works to be conducted by or on behalf of a public land manager or Parks Victoria. However, no planning approval is required for buildings and works associated with a minor utility installation and roadworks, or any other buildings and works specified in Clause 62.02-1 or Clause 62.02-2 in the PCRZ, as the proposed works will be undertaken by a public authority (i.e. LMW) carrying out its functions under the *Water Act 1989*.

Clause 35.07 (Farming Zone)

Planning approval will be required for:

- Use of land for a utility installation in the FZ as it is specified as a Section 2 (Permit required) use in Clause 35.07-1. Planning approval will not be required for the use of land for a minor utility installation in the FZ in accordance with the general exemption in Clause 62.01 (Uses not requiring a permit).
- Building and works for a utility installation in the FZ under Clause 35.07-4 as a utility installation is a Section 2 use and no relevant exemptions apply. Planning approval will not be required for buildings and works for a minor utility installation in the FZ in accordance with the general exemption in Clause 62.02-1.
- Buildings and works for earthworks in the FZ under Clause 35.07-4 if the earthworks will change the rate of flow or the discharge point of water across a property boundary or increase the discharge of saline groundwater.

Clause 36.04 (Road Zone)

Planning approval will be required for:

- Use of land for a utility installation in the RDZ1 as it is specified as a Section 2 (Permit required) use in Clause 36.04-1. Planning approval will not be required for the use of land for a minor utility installation in the RDZ1 in accordance with the general exemption in Clause 62.01 (Uses not requiring a permit).
- Building and works for a utility installation in the RDZ1 under Clause 36.04-2 as a utility installation is a Section 2 use and no relevant exemptions apply. Planning approval will not be required for buildings and works for a minor utility installation in the RDZ1 in accordance with the general exemption in Clause 62.02-1.

Clause 42.01 (Environmental Significance Overlay)

Planning approval will be required for:

- Building and works in the ESO1 under Clause 42.01-2 unless an exemption in Schedule 1 to this overlay applies. Most relevantly under Schedule 1, no planning approval will be required for buildings and works in the ESO1 associated with a minor utility installation or buildings or works located more than 100 m from Murray River and 60 m from any other waterway, wetland or lake.

¹ 'Utility installation' is not described as 'Any other use not in Section 2 or 3' under Section 3 Prohibited use as it is listed separately in Section 1 of the use table.

- Removal, destruction or lopping of any vegetation in the ESO1 under Clause 42.01-2 unless an exemption in Clause 42.01-3 applies.

Clause 42.02 (Vegetation Protection Overlay)

Planning approval will be required for:

- Removal, destruction or lopping of any native vegetation in the VPO1 under Clause 42.02-2 unless an exemption in Clause 42.02-3 applies or the 'works are undertaken by Swan Hill Rural City, a government department or a public authority for municipal purposes, stream improvement, drainage, channel repairs, flooding regulation, erosion control, water supply, sewerage supply, telecommunications or minor utility installation'.

Clause 44.04 (Land Subject to Inundation Overlay)

Planning approval will be required for:

- Building and works in the LSIO under Clause 44.04-2 unless an exemption in the schedule to this overlay applies. Most relevantly under the schedule, no planning approval will be required for buildings and works in the LSIO for earthworks that do not raise ground level topography by more than 300 millimetres.

Clause 52.17 (Native Vegetation)

Planning approval will be required:

- To remove, destroy or lop native vegetation under Clause 52.17 unless all native vegetation to be removed, destroyed or lopped is subject to an exemption. An exemption from planning approval for all native vegetation impacted by the project would only be available if the written agreement of the Secretary to the DELWP (as constituted under Part 2 of the *Conservation, Forests and Lands Act 1987*) is obtained in relation to the conservation work or utility installation exemption.

Clause 52.29 (Land Adjacent to A Road Zone, Category 1, or A Public Acquisition Overlay for A Category 1 Road)

Planning approval will be required:

- To construct works that involve the creation and / or alteration of access to the Murray Valley Highway, which is in RDZ1 and managed by Regional Roads Victoria. This would likely be limited to maintenance of any access tracks intersecting with the Murray Valley Highway.

4.7 Referral requirements

Referral to a determining referral authority² and/or recommending referral authority³ may be required.

Table 4.8 lists the referral and notice requirements that apply to the works in accordance with the relevant provisions of the planning scheme, and what this means for the planning approvals process.

Table 4.8: Referral and Notice Requirements

Planning controls	Notice and referral requirements	Referral body
Clause 42.01 Environmental Significance Overlay (ESO1)	An application for removal or destruction of native vegetation	Secretary to the DELWP as a determining referral authority
Clause 42.01 Schedule 1 or the Environmental Significance Overlay (ESO1)	<ul style="list-style-type: none"> 100 m of the Murray River (Goulburn Murray Water) 	Goulburn Murray Water and DELWP as determining referral authorities

² Determining referral authority: If a determining referral authority objects then the responsible authority must refuse to grant a permit, and if a determining referral authority specifies conditions, those conditions must be included in any permit granted.

³ A responsible authority must consider the recommending referral authority's advice but is not obliged to refuse the application or to include any recommended conditions.

Planning controls	Notice and referral requirements	Referral body
4.0 Referral of permit applications	<ul style="list-style-type: none"> 50 m of any public land managed by the Department of Sustainability and Environment (now DELWP) 	DELWP as a determining referral authority
Clause 4 of Schedule 1 to Clause 42.02 (VPO)	<p>An application for removal of native vegetation:</p> <ul style="list-style-type: none"> In an area of high or very high conservation value under the Victorian Native Vegetation Management: A Framework for Action, 2002. If the native vegetation is identified as threatened flora and habitat or providing habitat for threatened fauna under the <i>Flora and Fauna Guarantee Act 1988</i>. If the native vegetation is identified in a depleted, endangered or vulnerable ecological vegetation class identified in the Department of Sustainability and Environment (now DELWP) ecological vegetation communities mapping. If the area of native vegetation to be removed is 4,000 sqm or greater. If the native vegetation is within 50 m of any public land managed by the Department of Sustainability and Environment (now DELWP). If the native vegetation is within 100 m of the Murray River. 	Secretary to DELWP.
Clause 44.04 Land Subject to Inundation Overlay (LSIO)	An application must be referred to the relevant floodplain management authority under Section 55 of the Act ⁴ unless in the opinion of the responsible authority, the proposal satisfies requirements or conditions previously agreed in writing between the responsible authority and the floodplain management authority.	Mallee Catchment Management Authority as a recommending referral authority
Clause 44.06 Bushfire Management Overlay (BMO)	An application to be referred under Clause 66.03 of the planning scheme referring to an application	Country fire authority as a determining referral authority

⁴ In this case The Act refers to the *Planning and Environment Act 1987*.

Planning controls	Notice and referral requirements	Referral body
	other than an application to construct a building or carry out works associated with a dwelling.	
Particular provisions		
Clause 52.17 Native Vegetation	In accordance with Section 52(1)(c) of the Act, notice of an application to remove, destroy or lop native vegetation under Clause 52.17 of this scheme.	Secretary to DELWP as a recommending referral authority
Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road	All applications to create or alter access to a Road Zone, Category 1 must be referred to Regional Roads Victoria.	Regional Roads Victoria as a determining referral authority
Clause 66.02-2 Native vegetation	An application must be referred to the Secretary to DELWP to: <ul style="list-style-type: none"> Remove, destroy or lop native vegetation in the Detailed Assessment Pathway as defined in the guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017). Remove, destroy or lop native vegetation if a property vegetation plan applies to the site. Remove, destroy or lop native vegetation on Crown land which is occupied or managed by the responsible authority. 	Secretary to the DELWP (as constituted under Part 2 of the Conservation, Forests and Lands Act 1987) as a recommending referral authority
Clause 67.03 Notice Requirements – Native Vegetation	Notice on an application for a permit to remove, destroy or lop native vegetation under Clause 52.17, which, except for the provisions of Clause 67, would be made to the Minister in accordance with section 96 of the Act. This does not apply if the application is of a kind which must be referred to the Secretary under section 55 of the Act.	The Secretary to the Department administering the Flora and Fauna Guarantee Act 1988.

4.8 Incorporated documents

The following documents incorporated at Clause 72.04 of the planning scheme are likely to be relevant to the planning, design and operation of the project:

- Code of Practice for Bushfire Management on Public Land, 2012
- Construction Techniques for Sediment Pollution Control, Environment Protection Authority, May 1991
- Guidelines for the removal, destruction or lopping of native vegetation (DELWP, 2017)
- Local Government Planning Guide for Dry Land Salinity - Department Conservation and Natural Resources, 1995.

4.9 Other relevant strategies and policies

A review of relevant regional strategies that apply to the area of investigation is provided in Table 4.9. Key messaging of these strategies/policies are considered in future land use planning for the region.

Table 4.9: Relevant regional strategies

Regional strategy	Purpose	Relevant messages
Mallee Regional Catchment Strategy 2013-2019 (Mallee RCS)	<p>To provide an integrated planning framework for land, water and biodiversity management for the 10 catchment management regions of the Victoria.</p> <p>Key objectives include;</p> <ul style="list-style-type: none"> ▪ Maintaining and enhancing long term productivity, while also conserving the environment. ▪ Ensuring that the quality of the state's land and water resources and associated plant and animal life are maintained and enhanced. ▪ To establish processes that can be used to assess the condition of the state's land and water resources and the effectiveness of land protection measures ▪ To establish processes to encourage and support participation of landholders, resource managers and other members of the community in catchment management and land protection. <p>This Mallee RCS establishes a vision, 20-year objectives and 6-year strategic directions. The RCS does not set specific management activities or on ground targets as these are included in the supporting strategies and action plans developed to align to the Mallee RCS.</p>	<p>The Murray River, Narcooyia Creek and Bonyaricall Creek are identified as 'priority river assets' in the Mallee RCS for which the 20-year objective is:</p> <p><i>"To protect and enhance the environmental values of the Mallee's watercourses, their associated riparian ecosystems and, in turn, the social, economic and environmental services that they provide to the community."</i></p> <p>Key threats to the condition of these assets are identified as:</p> <ul style="list-style-type: none"> ▪ Altered flow regimes; ▪ Salinity; ▪ Invasive plants and animals; ▪ Recreational activities; and ▪ Adjacent land use practices. <p>Belsar Island is identified as a 'priority wetlands' in the Mallee RCS with the objective to protect and enhance the environmental values of the Mallee's wetlands, therefore influencing the social, economic and environmental services that these wetlands provide to the community. The RCS will continue to implement actions from the Northern and Western Region Sustainable Water Strategies that apply to the Mallee wetlands and groundwater dependent ecosystems.</p> <p>The Mallee RCS also identifies objectives and strategic directions in relation to the following assets in the region: threatened species and communities, terrestrial habitats, soils, agricultural land, groundwater, culture and heritage and community capacity.</p>
Mallee Waterway Strategy 2014-2022	<p>The MWS is prepared under the <i>Water Act 1989</i> to outline the Mallee CMA's strategy for performing its functions as a waterway manager under that Act.</p> <p>The MWS provides a regional planning document for the management of waterways and surrounding riparian land in the Mallee region through to</p>	<p>The Belsar wetlands are recognised as important wetlands within The Directory of Important Wetlands Australia (DIWA). The Directory requires that the wetlands meet at least six nationally agreed criteria covering biogeographic representativeness, important ecological or hydrological functions, provision of animal habitat during times of vulnerability, supporting more that 1% of</p>

Regional strategy	Purpose	Relevant messages
	<p>2022 to align with the Victorian Waterway Management Strategy.</p> <p>The MWS:</p> <ul style="list-style-type: none"> ▪ Sets regional goals for waterway management that align with the Mallee RCSs broader objectives ▪ Identifies high value waterways and, from these, determines a subset which are a priority for management over the eight year planning period ▪ Details strategic work programs for priority waterways to guide investment over the eight-year period ▪ Identifies the roles and responsibilities of regional stakeholders in the implementation of these work programs <p>Establishes principles to guide the implementation of a seasonally adaptive approach to annual delivery processes.</p>	<p>the national population of any taxa, support of threatened taxa or communities and historical or cultural significance. These sites are classified as nationally important.</p> <p>The strategy identifies the Belsar wetlands as of Good to Moderate condition as measured by 2009/10 Index of Wetland Condition (IWC)</p>
<p>Mallee Floodplain Management Strategy 2018-2028 (Mallee FMS)</p>	<p>The Mallee FMS provides a regional planning document for floodplain management and a guide for investment priorities to manage local flood risks.</p> <p>The Mallee FMW applies the policies, actions and accountabilities outlined in the Victorian Floodplain Management Strategy, including:</p> <ul style="list-style-type: none"> ▪ Applying a regional assessment of flood risks across the region ▪ Identifying potential actions to mitigate identified flood risks ▪ Documenting regional priorities for the next three years and associated responsibilities, timeframes and costs ▪ Establishing a monitoring and evaluation framework to determine the success of implementing the Strategy <p>Providing the framework for collaboration with cross boundary stakeholders (regional and state) for the management of floodplains and flood events.</p>	<p>The project is included in the Belsar-Yungera Regional Works Plan Unit, which is assessed as having a 'low' risk in relation to damage from riverine flooding in rural areas. The main actions identified for this unit relate to using the Murray River flood study to confirm likely flood level and risk to townships; and to then review and update local flood mapping and planning scheme maps based on study results.</p> <ul style="list-style-type: none"> ▪ Hydrodynamic modelling of the project will be required to determine whether the project will increase flood risks and if so, how these risks may be mitigated.
<p>Mallee Region New Irrigation Development Guidelines 2017</p>	<p>To provide a comprehensive guide for use in the process of assessing and approving irrigation development applications.</p>	<ul style="list-style-type: none"> ▪ Expansion of irrigation recognised as being a major threat to the riverine environment in relation to river salinity. ▪ Belsar identified as low impact zone where salinity impacts due to irrigation are lowest.

Regional strategy	Purpose	Relevant messages
Mallee Dryland Sustainable Agriculture Strategy 2017-23	To strengthen sustainable agriculture in the region and provide a regional approach to sustainable agriculture.	<ul style="list-style-type: none"> ▪ Maintenance of soil health and productive capacity recognised as a significant issue for the Mallee region. ▪ Soils associated with the Mallee Land Forms – high concentrations of wind-blown material. Subsoils can be highly alkaline, inhibiting plant root growth. ▪ Climate variability a critical issue influencing the regions biophysical, social and productive landscapes with risks to farming. Proposed action is to encourage a culture of diverse, adaptive and flexible farming systems.
Mallee Natural Resource Management Plan for Climate Change 2016	To provide a planning framework to foster adaptation in relation to climate change. Primary aim is to re-evaluate the region's priority landscapes and management actions.	<ul style="list-style-type: none"> ▪ Belsar part of the Murray River & Floodplain: Nyah to Robinvale catchment assets ▪ Inappropriate water use and land use change could be exacerbated through climate adaptation processes as land managers change management techniques in response to new climatic paradigms. ▪ Identified as constrained regenerative capacity in a changing climate due to the area's reliance on ongoing direct human intervention for maintaining ecological capacity.

5. NSW planning framework

5.1 NSW Environmental Planning and Assessment Act 1979

Development in NSW is assessed in accordance with the provisions of the NSW *Environmental Planning and Assessment Act 1979* (NSW EP&A Act) and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). The EP&A Act institutes a system for environmental assessment, including approvals and environmental impact assessment for proposed developments. The need or otherwise for development control is set out in environmental planning instruments. The key environmental planning instruments that are relevant to the proposed works are discussed below and indicate that the project is permissible with the development consent of the Balranald Shire Council under clause 126A of the State Environmental Planning Policy (Infrastructure) 2007. It therefore requires approval under Part 4 of the EP&A Act and a Statement of Environmental Effects must be submitted as part of the development application.

Integrated development

Under section 4.46 of the EP&A Act, development that requires both development consent and one or more listed approvals or licences is 'integrated development'. This proposal is classified as integrated development as the project requires a permit under section 201 of the *Fisheries Management Act 1994* (refer to section 2.3) in addition to development consent under the EP&A Act. The EP&A Act provides that, upon receipt of an application for integrated development, copies of the application must be forwarded by the consent authority to each 'approval body'. The integrated approval bodies will review the development application and Statement of Environmental Effects and advise the consent authority whether they will grant the relevant approval or licence and identify any general terms of approval. Any development consent granted must be in accordance with the general terms of approval given by the integrated approval bodies.

5.2 State environmental planning policies

5.2.1 State Environmental Planning Policy (Infrastructure) 2007

The following sections indicate that the proposal would be permissible with development consent due to the application of Division 4 of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP (NSW)).

The proposed works will involve installing temporary pumping hardstand areas as part of Area 1 and 3 works. The hardstand areas would be located in Victoria and the temporary suction lines would extend into the Murray River in NSW.

A water reticulation system is a type of water supply system and is defined as *a building or place used for the transport of water, including pipes, tunnels, canals, pumping stations, related electricity infrastructure and dosing facilities*.

Under clause 126A of Division 4 of the Infrastructure SEPP (NSW), development for the purpose of water reticulation systems may be carried out by any person with consent on any land.

Under clause 125(5) of Division 4 of the Infrastructure SEPP (NSW), *a reference to development for the purpose of a water supply system of any kind includes a reference to development for any of the following purposes if the development is in connection with the water supply system—*

(e) *water intakes, pumping stations, pipelines, channels, tunnels, canals and aqueducts,*

(k) *environmental management works,*

As the proposed suction lines for the temporary pumping would be used to transport water and would be part of a water reticulation system (clause 125(5)(e)) they are permissible with development consent due to the application of clause 126A.

The proposed work would be undertaken in the Balranald Shire and the consent authority is Balranald Shire Council.

A development application would need to be submitted to the Balranald Shire Council and this would need to be supported by a Statement of Environmental Effects that addresses section 4.15 of the NSW EP&A Act.

5.2.2 State Environmental Planning Policy No. 44 – Koala Habitat Protection

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP (NSW) 44) aims to encourage conservation and management of areas of natural vegetation that provide habitat for koalas. As the Murray River Shire is included in Schedule 1 of the SEPP (NSW), SEPP (NSW) 44 potentially applies to the project. SEPP (NSW) 44 does not apply to land dedicated under the *National Parks and Wildlife Act 1974* or *Forestry Act 1916* (refer to Clause 5(2)).

SEPP (NSW) 44 only applies to development that requires consent. The provisions of SEPP (NSW) 44 would need to be considered when preparing the Statement of Environmental Effects.

5.2.3 Murray Regional Environmental Plan No.2 – Riverine Land

The proposal would be undertaken on land that is subject to the Murray Regional Environmental Plan No.2 (MREP). The MREP aims to conserve and enhance the riverine environment of the River Murray for the benefit of all users. Under the MREP, the term 'River Murray' refers to the river and its tributaries and this includes the land in NSW upon which the proposed works would be undertaken.

Clause 5 of MREP states that it does not permit development which is prohibited by another environmental planning instrument. Section 5.2.1 indicates that the proposed works are permissible with consent under the Infrastructure SEPP (NSW).

The Statement of Environmental Effects would address relevant provisions of the MREP, including but not limited to those listed in Table 5.1.

Table 5.1: Relevant clauses in the Murray Regional Environmental Plan No.2 Riverine Land to be addressed in the Statement of Environmental Effects

Clause in the MREP	Relevance to the project
12 – General provisions for consultation	<p>This clause lists consultation that is required for certain development and is additional to consultation required under other clauses in the MREP. Consultation is potentially required under this clause for the following reasons:</p> <ul style="list-style-type: none"> ▪ If the development would impact on endangered fauna under the NSW <i>National Parks and Wildlife Act 1974</i> consultation with the Department of Planning, Industry and Environment, Biodiversity Conservation Division is required. ▪ If the development would affect boating safety consultation with the NSW Roads and Maritime Services is required.
13 – Planning Control and Consultation Table	<p>This clause identifies the planning controls for development that is subject to the MREP. The project may trigger planning controls under this clause including:</p> <ul style="list-style-type: none"> ▪ 13(3) – Bank and/or bed work. This relates to work that involves excavation, dredging or alteration of the alignment of shape of the bank or bed of the River Murray. ▪ 13(8) – Desnagging operations (including snag maintenance). This relates to any work to move or remove trees of woody debris from the water of the River Murray. ▪ 13(10) Flood control works. This relates to works which change the natural or existing condition or topography of land (such as the construction or alteration of levees, channels and mounds) and which are likely to affect the hydrology of the River Murray system.

Clause in the MREP	Relevance to the project
	This clause lists consultation requirements and clause 11 details how that consultation is to be undertaken.

5.3 Balranald Local Environmental Plan 2010

The Belsar-Yungera Floodplain Restoration Project is located on land that is zoned W1 Natural Waterways under the Balranald Local Environmental Plan 2010 (Balranald LEP). Environmental protection works are the only activity that is permitted without development consent within the W1 zone.

Activities that are permitted with consent in the W1 zone are Aquaculture; Boat sheds; Building identification signs; Business identification signs; Community facilities; Environmental facilities; Flood mitigation works; Information and education facilities; Moorings; Recreation areas; Recreation facilities (outdoor); Research stations; Restricted premises; Water recreation structures and Water supply systems.

Activities are prohibited in the W1 zone if they are not permissible with consent or without consent. A water reticulation system is part of a water supply system and is permissible with consent in the W1 zone.

The suction line for the temporary pump station would not be permanent infrastructure and would be installed only when the pumps are operating, which is understood to be for about a 2-3 month period. Under clause 2.8(2) of the Balranald LEP, despite any other provisions of the LEP, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 182 days (whether or not consecutive days) in any period of 12 months. If use of the pumps would be within this 182 day period, clause 2.8(2) would apply, enabling Council to issue development consent. This would not affect the planning pathway because development consent is required for a water reticulation system in the W1 zone.

The Statement of Environmental Effects would address relevant provisions of the Balranald LEP, including but not limited to those listed in Table 5.2.

Table 5.2: Relevant clauses in the Balranald LEP to be addressed in the Statement of Environmental Effects

Clause in the Balranald LEP	Relevance to the project
2.3 – Zone objectives and Land Use Table	The Statement of Environmental Effects would need to address the land use objectives for the W1 Natural Waterways zone
6.1 – Biodiversity	This clause applies to land identified on the Natural Resources Sensitivity - Biodiversity Map that is part of the LEP. The project is located on land that is mapped as wetlands and of high conservation value for native vegetation on this map. This clause lists matters that Council must consider before granting consent to development on land mapped as wetlands and of high conservation value for native vegetation.
6.2 – Riparian land, waterways and groundwater vulnerability	This clause applies to land identified as 'Waterways' on the Waterways Map that is part of the LEP, and is within 40 m of the top of the bank of that waterway. The project is located on land that is mapped as a waterway on this map. This clause lists matters that Council must consider before granting consent to development on land mapped as a watercourse.
6.4 – Flood Planning	The project would be undertaken on land in river front areas. Development is permissible on land in the river front area for (c) environmental protection works
6.5 – Development on River Front Areas	The project would be undertaken on land subject to flooding. The clause lists matters that Council must consider before granting development consent on land that is flood liable.
6.6 – Development on river beds and banks	This clause applies to land comprising the bed of the river and up to the top of the bank of the river and is relevant because the project would involve development on the bed and bank of the Murray River. This clause lists matter that Council must

Clause in the Balranald LEP	Relevance to the project
	consider before granting consent to development that is on the bed and bank of the river.

6. Potential impacts and mitigation

The purpose of the project is for conservation, specifically to restore a more natural inundation regime to improve the ecological condition of high ecological value floodplain and anabranch habitats mostly located within national parks and natural features reserves that are managed primarily for conservation and recreational purposes by Parks Victoria.

A summary of potential land use related impacts have been assessed and mitigation measures proposed in Table 6.1. These potential land use related impacts are generally predicted to be associated with:

- Temporary disruptions to access to private land and infrastructure, recreational areas and commercial activities (apiary) during construction and managed environmental watering
- Damage or losses associated with inundation of private land and infrastructure during managed environmental watering events.

To evaluate the likelihood and consequence of these potential impacts, and determine the level of risk, further modelling of the extent, frequency and duration of inundation for the proposed operating scenarios based on the latest design is required along with further engagement with potentially affected land and asset owners.

Table 6.1: Summary of potential land use impacts and proposed mitigation measures

Potential impacts	Proposed mitigation measures
Construction phase	
Removal of vegetation (within VPO1) and temporary loss of land for farming on a small area of private land for establishment of Construction Laydown Area (Regulator B2 SE).	<p>Avoid disturbance of land containing native vegetation within the VPO1 due to potential conflicts with the purpose and objectives of the VPO1.</p> <p>Engage with private landowners and ensure construction management plans include appropriate measures to minimise disruption to ongoing farming activities and avoid permanent degradation of farming land.</p> <p>Obtain agreements with private landowners prior to commencement of works.</p>
Possible disruptions to access to private infrastructure (e.g. irrigation pump sites and channels) during construction, including during maintenance of access tracks (Note: No access tracks proposed to be used during construction of the project appear to provide sole access to residential dwellings).	<p>If required review access limitations during construction and identify opportunities to maintain or provide alternative access, where practicable.</p> <p>Engage with private land and infrastructure owners potentially affected by construction works and ensure construction management plans include appropriate measures to avoid or minimise access disruptions to private land and infrastructure.</p> <p>Prepare and implement a stakeholder management strategy to ensure potentially affected private land and infrastructure owners are aware of the extent and timing of construction works, and establish communication protocols to provide adequate notification prior to any access disruptions.</p>
Possible disruptions to recreational access to the Murray River and other parts of the River Murray Reserve during construction.	<p>Conduct further assessment to predict access limitations during construction and in consultation with the public land manager (Parks Victoria) identify opportunities to maintain or provide alternative access, where practicable.</p> <p>Engage with Parks Victoria to ensure construction management plans include appropriate measures to manage access disruptions within the River Murray Reserve.</p> <p>Prepare and implement a stakeholder management strategy to ensure the public land manager (Parks Victoria) is aware of the</p>

Potential impacts	Proposed mitigation measures
	extent and timing of construction works, and can plan accordingly (e.g. signage, notification to park users).
Possible disruption to access to water along some sections of Narcooyia Creek, Bonyaricall Creek, and Lake Powell during construction of in-stream works.	Engage with potentially affected water frontage licence and water licence holders to determine potential impacts and associated mitigations and provide adequate notification prior to any potential disruptions to creek flow during construction.
Displacement of apiary sites located within the construction footprint and possible disruption to other apiary activities during construction.	Engage with apiary licence holders in conjunction with Parks Victoria as the public land manager, to identify opportunities to temporarily or permanently relocate the affected apiary site if it cannot be avoided during construction.
Potential for temporary amenity effects (increased noise, dust etc) on residents and flora and fauna in close proximity to work sites or access tracks during construction.	Prepare and implement a construction environmental management plan including appropriate noise and dust management measures in accordance with EPA Publication 480: Environmental guidelines for major construction sites.
Operational phase	
Inundation of private land zoned for farming purposes during managed inundation events causing possible damage or loss of crops, or property improvements.	Review proposed operating scenarios to confirm extent, frequency and duration of inundation potentially affecting private infrastructure. Continue to engage with potentially affected private landowners regarding planned environmental watering events and outcomes, to obtain flood easements or agreements prior to commencing operations that may involve flooding of private land during managed events.
Possible damage to private pump infrastructure within or adjacent to Narcooyia Creek and Bonyaricall Creek and / or disruptions to access to private infrastructure during managed inundation events.	Conduct further assessment of access limitations during planned operating scenarios and in consultation with the public land manager (Parks Victoria), identify opportunities to maintain or provide alternative access, where practicable. Engage with potentially affected private infrastructure owners, to ensure operating plans include appropriate measures to avoid or minimise impacts to infrastructure during managed inundation events. Prepare and implement a stakeholder management strategy, to ensure private infrastructure owners are aware of the extent and timing of upcoming watering events and can plan accordingly.
Possible disruptions to recreational access to the Murray River and other parts of the River Murray Reserve during managed inundation events, which may reduce opportunities for active and passive recreation, potentially reducing tourism expenditure .	Conduct further assessment of access limitations during planned operating scenarios and in consultation with the public land manager (Parks Victoria), identify opportunities to maintain or provide alternative access, where practicable. Liaise with Parks Victoria as the public land manager to ensure operating plans include appropriate measures to avoid or minimise access disruptions during managed inundation events. Prepare and implement a stakeholder management strategy, including Parks Victoria, DELWP and tourism operators, to ensure they are aware of the extent of upcoming watering events and can plan accordingly (e.g. signage / notification of park users).
Potential for an increase in the frequency and / or duration of flooding within sections of the floodplain area that may affect areas in the Murray Valley Highway road reserve (Road	Review proposed operating scenarios to confirm extent, frequency and duration of inundation within the Murray Valley Road corridor.

Potential impacts	Proposed mitigation measures
Zone, Category 1) compared to existing conditions during managed inundation events.	Engage with Regional Roads Victoria to avoid or minimise any potential for impacts of managed inundation on the functioning of the Murray Valley Highway. Obtain any necessary permits or consents from Regional Roads Victoria.
Possible inundation or disruption to access to up to four (4) apiary sites during managed inundation events.	Engage with apiary licence holders in conjunction with Parks Victoria as the public land manager, to ensure operating plans include appropriate measures to avoid or minimise disruption to apiary activities during managed inundation events. Prepare and implement a stakeholder management strategy, to ensure potentially affected commercial operators, are aware of the extent and timing of upcoming watering events and can plan accordingly.

7. Conclusion

The Belsar – Yungera Floodplain Complex includes the Belsar and Yungera Islands downstream of the Murrumbidgee, Wakool and River Murray junctions, approximately 30 km of the Euston Weir near the town of Robinvale in north western Victoria.

The Belsar and Yungera Islands are formed from southern anabranches of the Murray River and include the Narcooyia Creek, Bonyaricall Creek, and Yungera Creek on Yungera Island. Narcooyia Creek and Bonyaricall Creek are managed as irrigation channels for surrounding land use. The Lake Powell and Lake Carpul Nature Conservation Reserve and Murray River Reserve also form part of the area of the floodplain complex. Lake Powell and Lake Carpul are ephemeral wetlands that are highly dependent on flood waters from the Murray River for inundation. The lakes and surrounds are protected by conservation and are highly dependent on natural inundation from Bonyaricall Creek. Both lakes are recognised for their high ecological value in providing habitat for established stands of black box and river red gum communities.

The project aims to restore a more natural inundation regime to the floodplain complex. The project has the potential to generate significant benefits to the ecological regime of the area as well as benefits to the recreational users of the River Murray Reserve by improving the health and structure of floodplain vegetation and restoring connectivity and improving in-stream habitats.

An assessment of the potential permit triggers under the Swan Hill Planning Scheme has identified that the project will require planning approval in relation to:

- Use
- Buildings and works, including earthworks
- Removal, destruction or lopping of native vegetation
- Removal, destruction or lopping of any vegetation, including dead vegetation in ESO1

In addition, the proposed works involve installing a temporary hardstand area. The hardstand area for the temporary pump would be located in Victoria and the temporary suction line would extend into the Murray River in NSW, within the Balranald Shire. A development application would need to be submitted to the Balranald Shire Council and this would need to be supported by a Statement of Environmental Effects that addresses section 4.15 of the NSW EP&A Act.

An assessment of the potential land use impacts has identified that the project has the potential to result in:

- Restrictions / limitations to access to private land and recreational users as a result of construction activities and inundation from operations. Access to the project area during construction and operation will mostly be via existing roads and tracks. This may limit access for private land owners and recreational users of the area when the tracks are used during construction and / or affected by inundation during operations.
- Restrictions / limitations to access to water bodies that provide a water supply to the area
- Potential impact to the objectives of covenants and caveats on land titles supporting project infrastructure and / or inundation
- Impact to flora and fauna within the construction footprint and/or inundation area in areas of ESO
- Potential disruption to the operation of and access to apiary sites during construction and inundation activities
- Damage to existing pumping infrastructure or private infrastructure on private land parcels
- Damage to farming crops from inundation, affecting land productivity and economic viability

To mitigate the likelihood and consequence of these potential impacts, construction of the project would be undertaken in accordance with a CEMP. This CEMP will require the development of a risk management process to use throughout the construction phase.

Engagement with private land and infrastructure owners is critical during detailed design stage and prior to works occurring. It is important that any encumbrances and land agreements on affected land be well understood and considered as part of final design of works to avoid limitations during construction and operation. Construction management plans must include appropriate measures to avoid or minimise access disruptions to private land and infrastructure as much as possible. Notification and engagement is also required with all parties to covenants and caveats on affected land parcels to ensure impacts to the objectives of these instruments are avoided where possible and any agreements are arranged.

Inundation primarily would occur on Crown land, however there are some parcels of private land that are within the inundation extent for the project. Inundation of private land would only be undertaken if flooding agreements can be established with the affected private landowners. Consultation with affected water licence holders, commercial apiary operators, recreational operators and Parks Victoria is also recommended in relation to operational plans to minimise or address impact on current land use activities in the project area.

It is recommended that a stakeholder management strategy be adopted to ensure appropriate engagement prior and during construction, with mechanisms in place for ongoing engagement prior to and during inundation events that will feed into the CEMP and EWMP. This would include early and ongoing engagement with Parks Victoria so that construction and operational management plans include appropriate measures to manage access disruptions.

Overall, and with implementation of these measures, the project will not have a significant adverse effect on land use values. The project supports both state and local planning policy, particularly in relation to the protection and enhancement of biodiversity, waterbodies and wetlands and significant landscapes of the area. The intention of improving on the health of these riverine environments will also support the economic development of the region which is already focused on tourism-based nature-based activities associated with ecological value.

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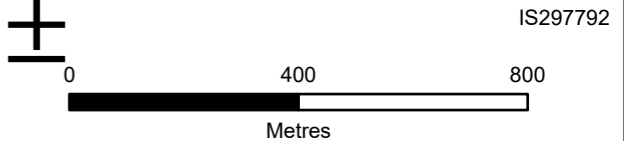
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Appendix A: Site Description



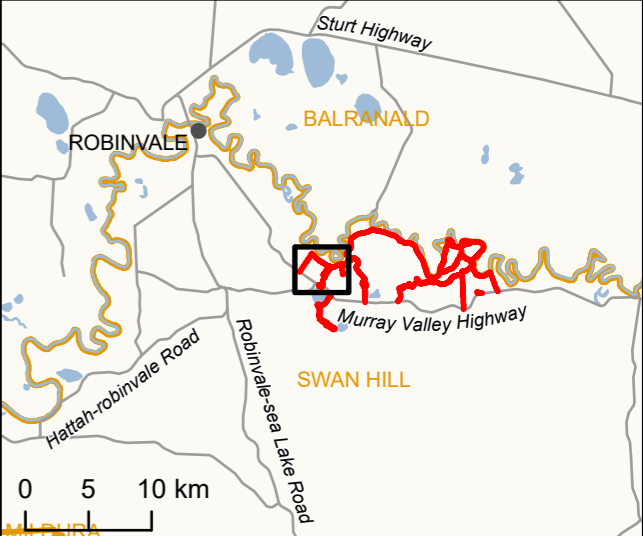
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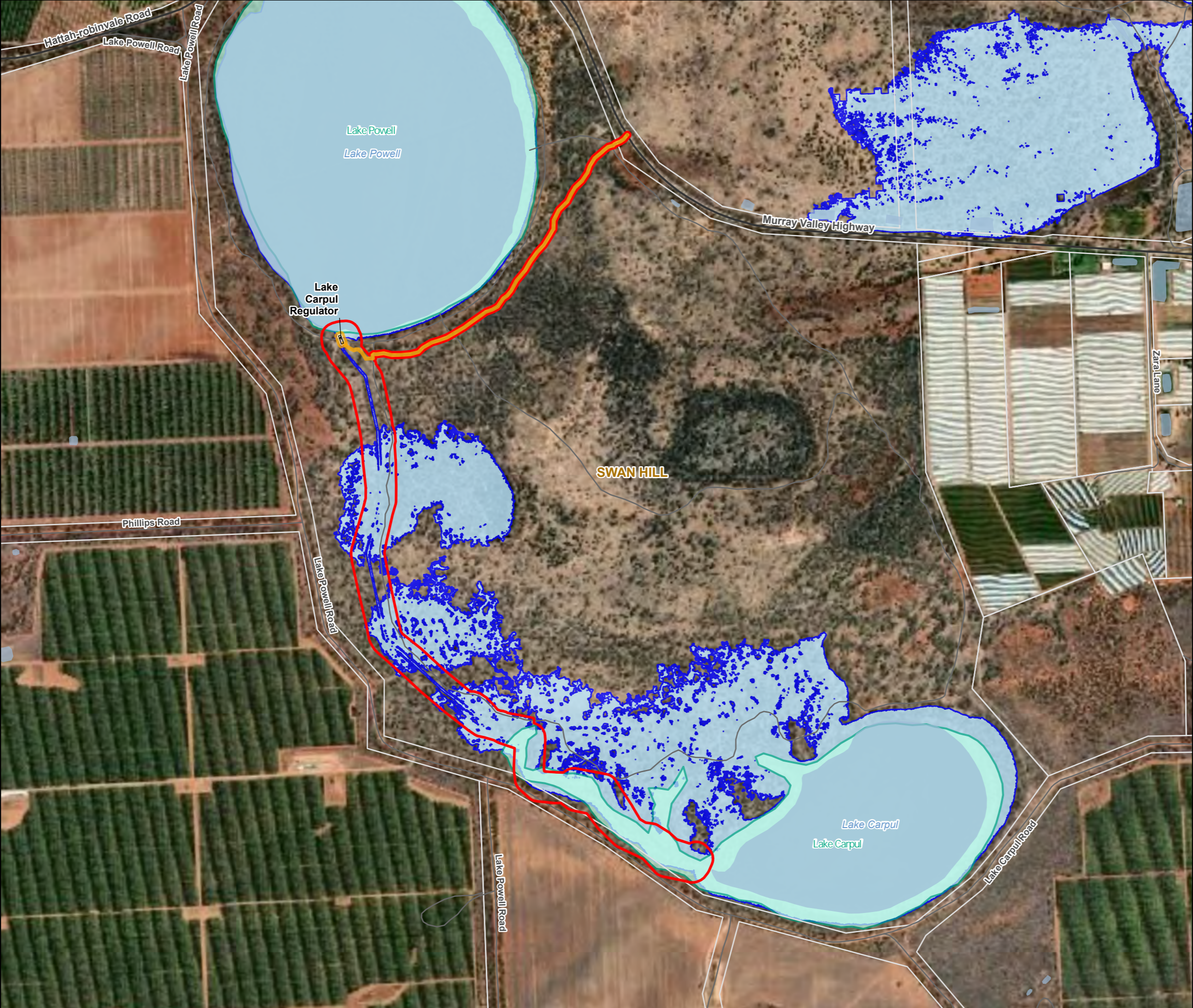
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- Minor Road
- Waterbody
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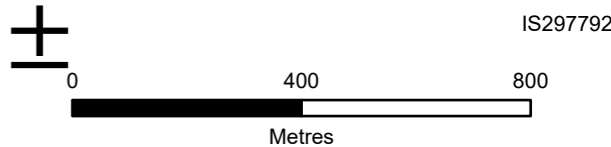
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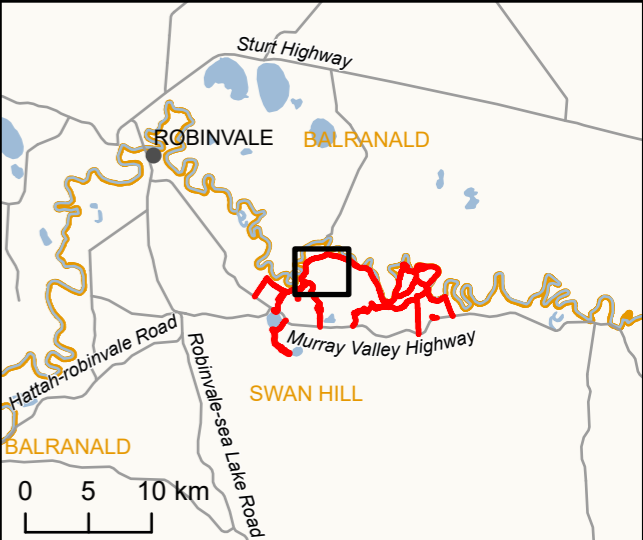
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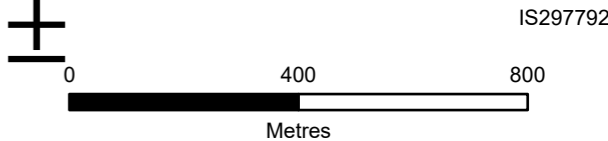
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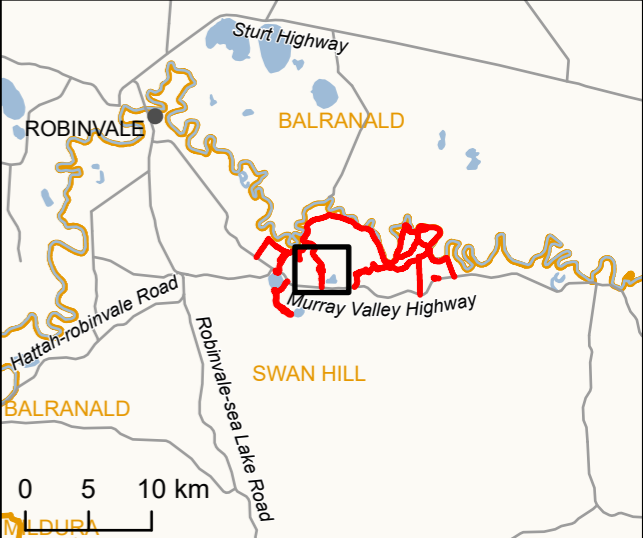
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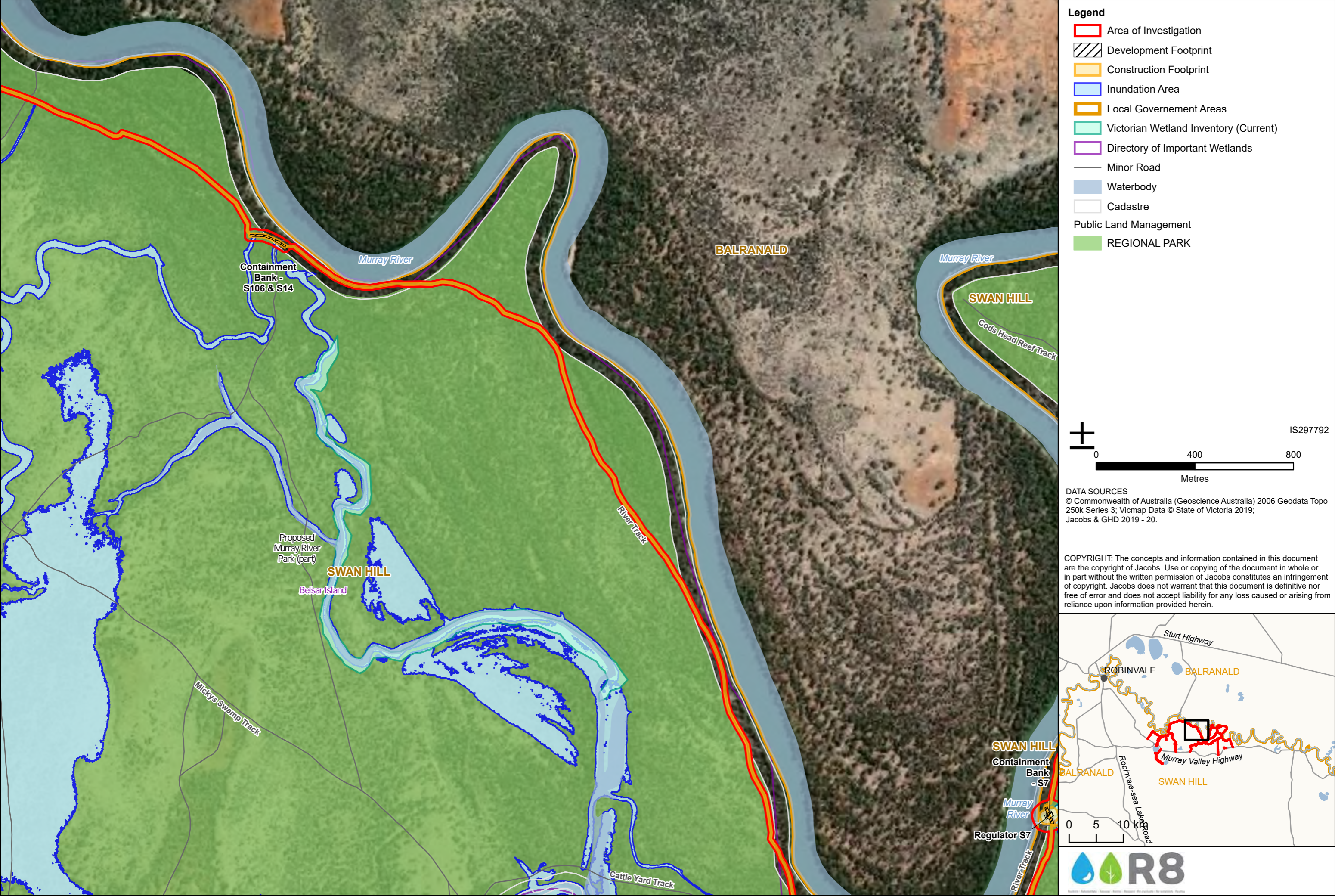
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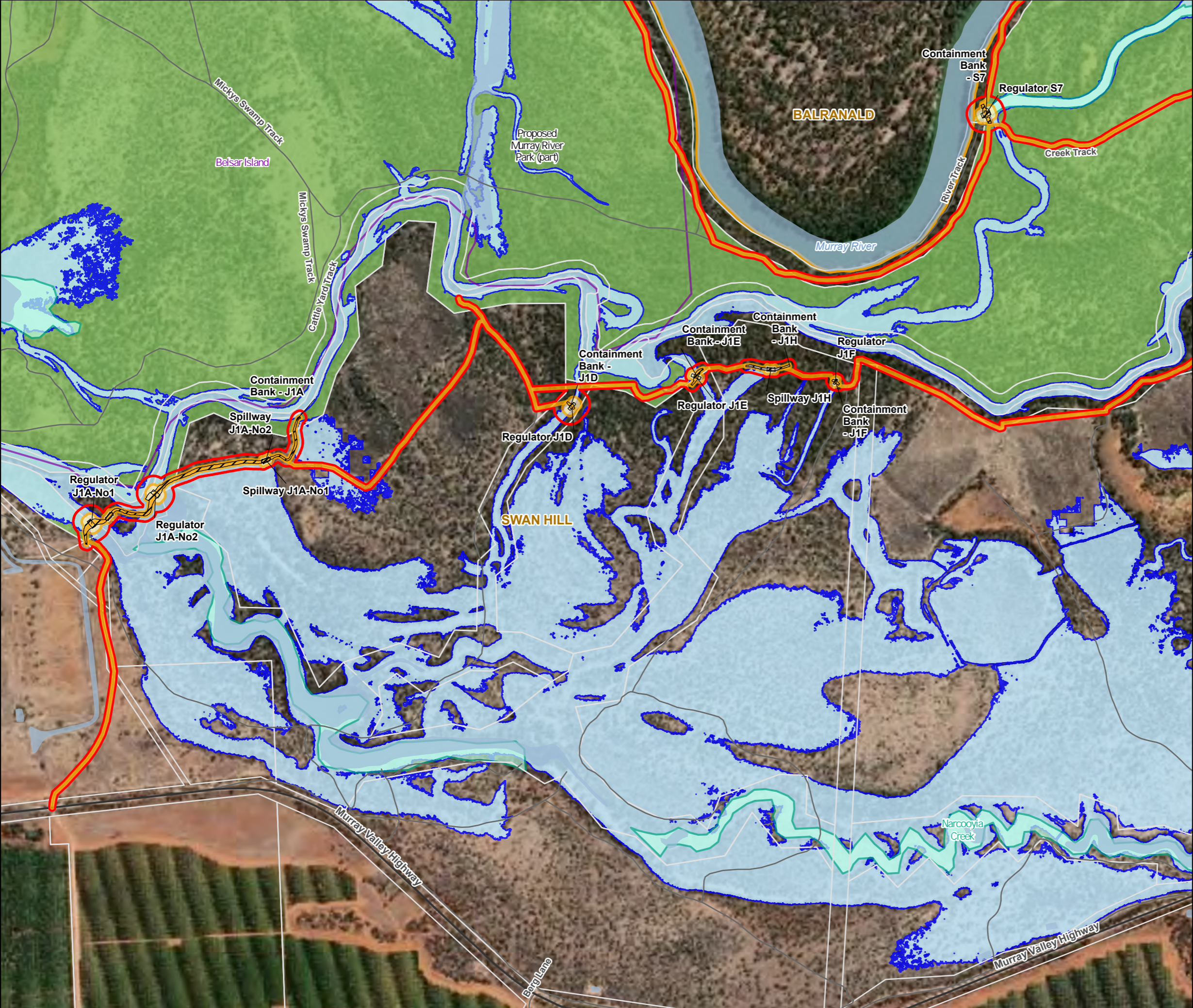


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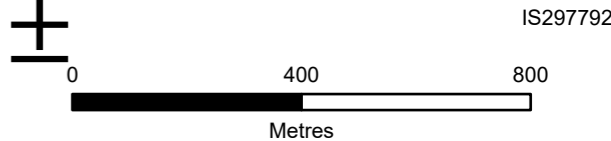






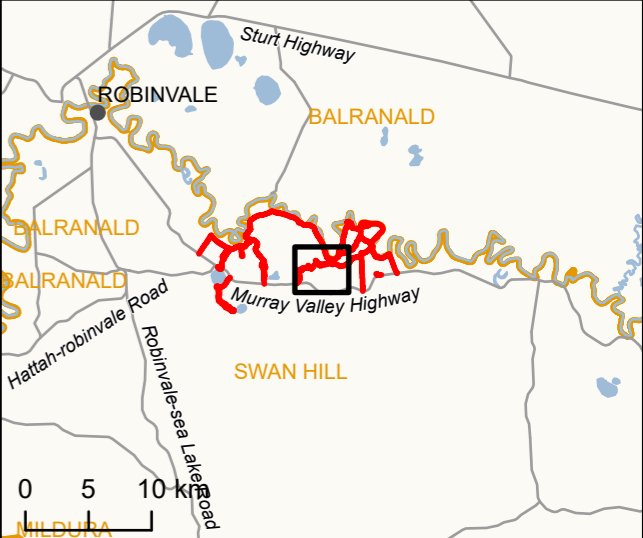
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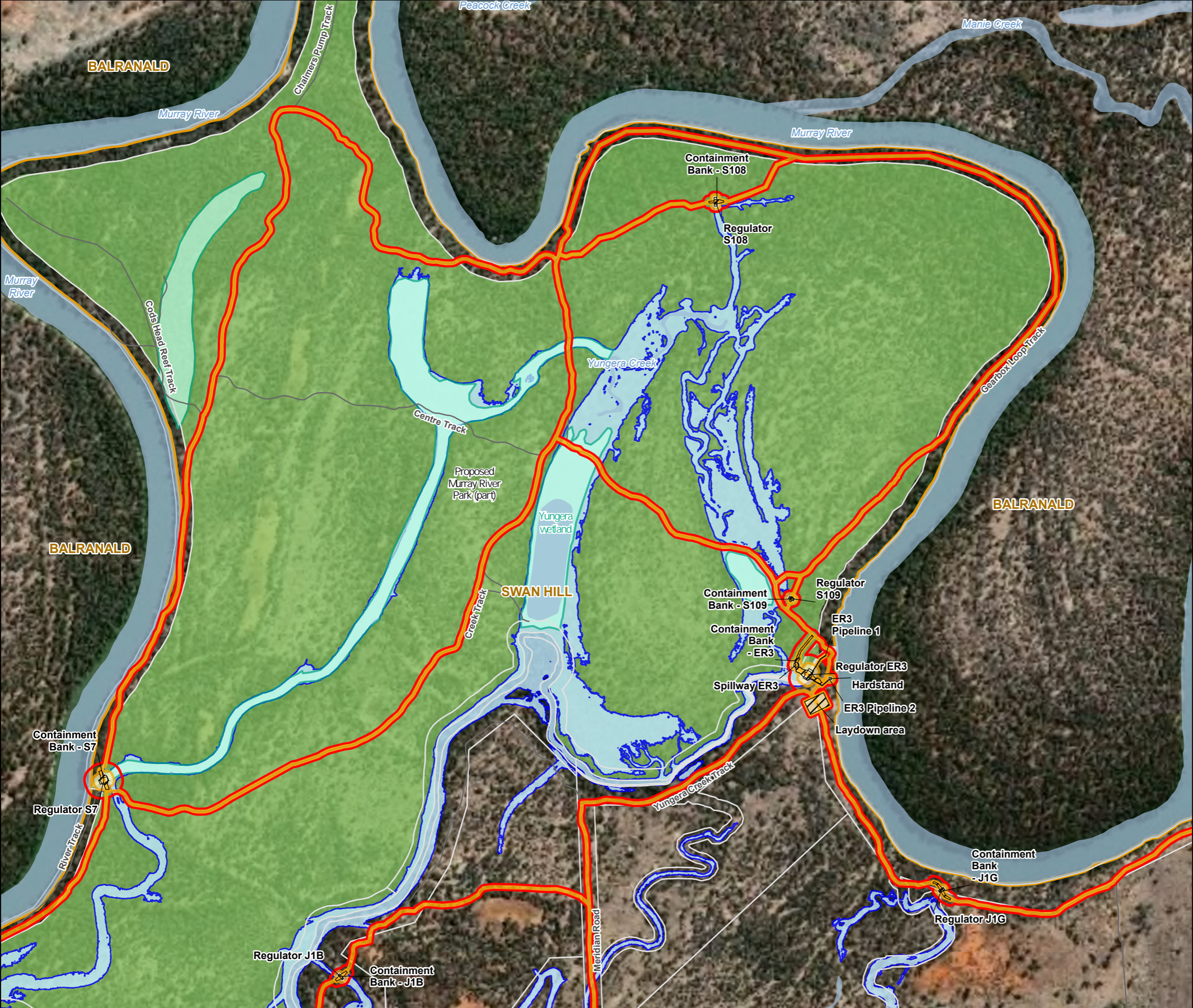
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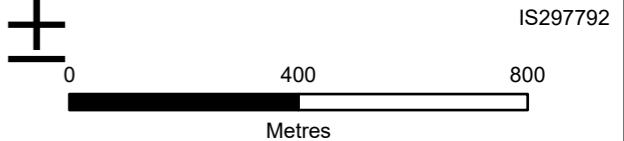
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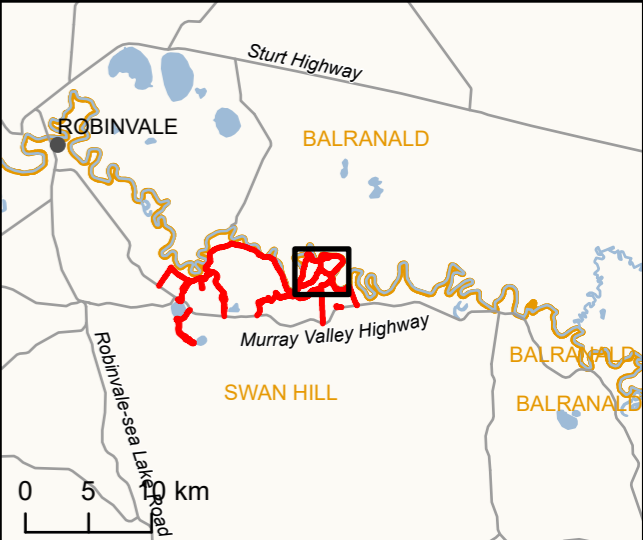
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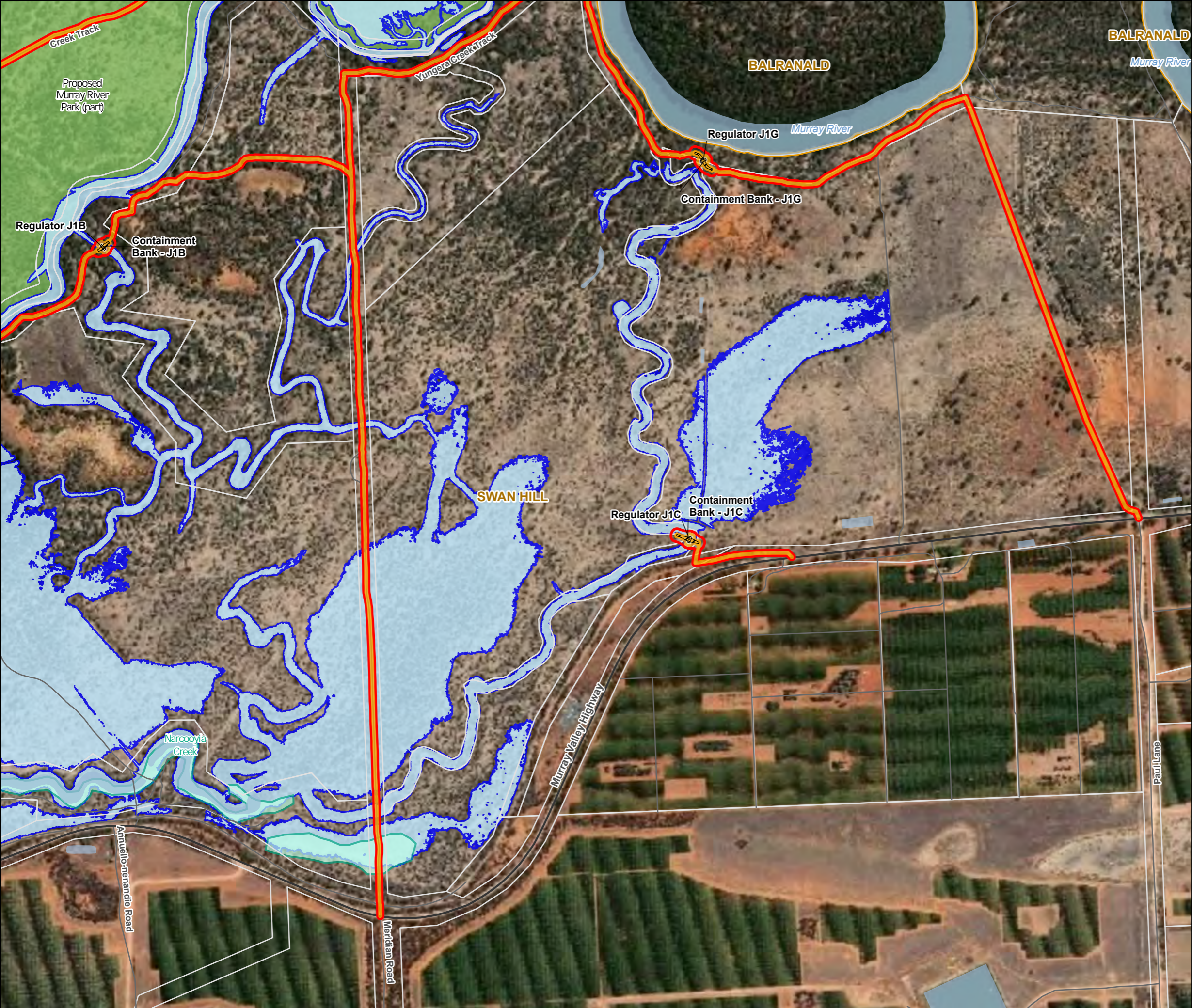
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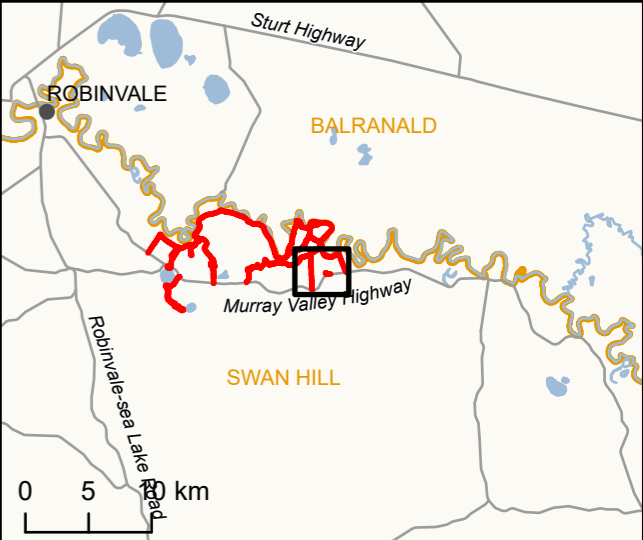
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Appendix B: Section 173 Agreements, Caveats and Covenants of land in the Area of Investigation