



Reference: 22040

11 April 2023

Tom Falconer  
Assistant Development Manager  
The GPT Group  
Email: [tom.falconer@gpt.com.au](mailto:tom.falconer@gpt.com.au)

Dear Tom,

**RE: NON-ABORIGINAL HERITAGE ASSESSMENT FOR  
YIRIBANA LOGISTICS ESTATE WEST, 771-797 MAMRE ROAD, KEMPS  
CREEK,  
NEW SOUTH WALES**

Austral Archaeology Pty Ltd (Austral) has been commissioned by The GPT Group (the proponent) to undertake a Non-Aboriginal Heritage Assessment (NAHA) for the proposed Yiribana Logistics Estate West industrial development at 771-797 Mamre Road, Kemps Creek, New South Wales (NSW). The study area consists of lots 23 and 24, DP258414, situated within the Penrith City Council Local Government Area (LGA) [Figure 1 and Figure 2].

The proposed development consists of the construction of a pump station, 3 warehouses, associated carparks and access roads. Two sealed roads are to be constructed, one running along the northern boundary before cutting across the centre of the site heading south, and one running north to south.

This NAHA will focus on identifying locations within the study area where archaeological material may be present, and which may be impacted by the proposed development.

## **1. UNDERSTANDING OF THE PROJECT REQUIREMENTS**

Austral understands that this project is being undertaken under the approval pathway of a State Significant Development (SSD) under Part 5 of the *Environmental Planning and Assessment Act 1979* (EPA Act).

The study area comprises a large vacant lot characterised by farmland and is surrounded by industrial complexes, residences and large farmland properties.

To understand the historical archaeological potential within the study area, this report provides an assessment of the site usage from the 19<sup>th</sup> century onwards. The historical research that forms the basis of this assessment incorporated an inspection of title documents, crown plans and historical aerial images available through NSW Department of Lands, as well as primary research through the National Library of Australia, Sydney City Libraries, NSW State Library and NSW State Heritage Register. This process has quantified the nature, extent and significance of any historical heritage values that may be present within the study area. Whether any relics may be present that may require approvals under Section 140 under the *NSW Heritage Act 1977* (Heritage Act) as part of the proposed development.

The report is underpinned by the philosophy of the International Council on Monuments and Sites (ICOMOS) and the *Burra Charter: Australia ICOMOS Charter for Places of Cultural Significance, 2013* (Burra Charter), as well as the practices and guidelines of Heritage NSW.

## 2. STATUTORY CONTEXT

The study area is not listed on any relevant heritage lists; however, it is located 1.4 kilometres north of “‘Bayly Park’, house” (Item No. 12) listed on the *Western Sydney Employment Area State Environmental Planning Policy [SEPP] 2009*, 1.2 kilometres north-east of ‘The Fleurs Radio Telescope Site’ (Item No. 832) and the ‘Luddenham Road Alignment’ (Item No. 18) listed on the *Western Sydney Aerotropolis SEPP 2020*. The heritage listed items that are within close proximity to the study area are shown in Figure 3.

Archaeological remains on sites not listed on the State Heritage Register (SHR) are addressed under Section 139 of the Heritage Act, which states that “a person must not disturb or excavate any land knowing or having reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit”.

Relics are defined by the Heritage Act to be:

*any deposit, artefact, object or material evidence that:*

- (a) *relates to the settlement of the area that comprises NSW, not being Aboriginal settlement, and*
- (b) *is of State or local heritage significance.*

An excavation permit is also required if a relic has been discovered during excavation without a permit (Section 139(2) of the Heritage Act). Section 139 of the Heritage Act applies to all relics which are not listed on the SHR or protected by an Interim Heritage Order (IHO). Relics protected by an SHR listing or an IHO are subject to approval required by Section 57(1) of the Heritage Act and require a Section 60 Application which is not applicable in this instance.

If an excavation permit is required by Section 139 of the Heritage Act, an application is made under Section 140 of the Act. To obtain an excavation permit, the Section 140 application must include an archaeological assessment and Research Design. The archaeological assessment establishes the archaeological sensitivity of the site, its significance and the likely impact of the proposed development. The Research Design outlines the method proposed to mitigate the impact of the development (such as monitoring, test excavation, sampling, or open area excavation). The Research Design also provides research questions which the archaeological resource has the potential to answer. An archaeological assessment and Research Design need to be prepared in accordance with the Heritage Council’s relevant guidelines, including *Historical Archaeological Sites* (NSW Department of Planning/Heritage Council of NSW 1993) and the *Historical Archaeology Code of Practice* (NSW Department of Planning, Heritage Council of NSW 2006).

The Heritage Act also contains provisions for the unintentional disturbance of archaeological relics. Under Section 146 of the Heritage Act, the Heritage Council must be immediately notified in the event of relics being unintentionally located or disturbed. Works may be required to cease, pending consultation and further research.

### 3. HISTORICAL CONTEXT

The following historical background is designed to contextualise a site-specific history which will aid in the understanding of the heritage values of the study area. This work will provide a useful and concise summary of the history of the study area. Portions of the historical context has been quoted verbatim from the Urbis Pty Ltd (Urbis) Heritage Impact Statement (HIS) prepared for the adjacent Yiribana Logistics Estate (Urbis Pty Ltd 2021)) as it provides a concise summary of the historical development of the site. *Italics signifies passages of text quoted directly from the Urbis HIS while standard text signifies passages containing additional research undertaken by Austral.*

#### HISTORY OF THE AREA

*Following initial settlement by colonial Europeans at Sydney Cove in 1788, extensive inland exploration occurred, which sought to navigate and explore the new colony via major rivers. The Parramatta and the Georges Rivers were the first to be explored, however in 1789 Watkin Tench led a party west from the new settlement at Parramatta (originally Rose Hill) to the Blue Mountains. During this exploration Tench was the first European to encounter the Nepean River and traverse much of the Cumberland Plain and Nepean Valley. The exploration was largely strategic, as navigating rivers to find suitable transportation and trade routes was crucial in the early days of the colony. Fertile soils situated nearby rivers were also of paramount for agricultural prosperity at this time. In 1813 the area was again explored by Gregory Blaxland, William Charles Wentworth and William Lawson, who crossed the Blue Mountains and confirmed the presence of expansive plains beyond the Great Dividing Range. Shortly after, the Great Western Highway was surveyed and constructed, following the route walked by the explorers. The construction of the road encouraged extensive land subdivision and settlement throughout the Cumberland Plain, creating a diverse rural settlement. The region included wealthy free settlers such as Gregory Blaxland and Nicholas Bayly, military officers, missionaries such as Samuel Marsden, in addition to convicts and former convicts. The area was rapidly converted for diverse agricultural land-use, becoming the foundation of pastoral industries in Australia. The area, particularly around the Hawkesbury and Nepean, supplied much of the colony with fruits, vegetables, meat, grains, and eventually the first wool and wine to be produced in Australia.*

#### HISTORY OF KEMPS CREEK

The following history of Kemps Creek has been reproduced from the Penrith City Local History (Penrith City Council n.d.) website:

*The name of this suburb is taken from Anthony Fenn Kemp (1773-1868), who was granted two adjoining properties in this district. The largest, granted in 1820 was of 500 acres (202 hectares) [Parish of Melville] and was named Mt Vernon, presumably after George Washington's home in Virginia in America. While the other, granted in 1810, was of 300 acres (121 hectares) and is in both the Parish of Melville and Cabramatta, straddling Elizabeth Drive and Mamre Road. In 1816, Kemp sold his land and left New South Wales for Tasmania. Kemps Creek township, located outside of the Penrith LGA, is situated on Kemp's former estate.*

## HISTORY OF THE STUDY AREA

### 3.1.1 PHASE 1: 1805 – 1888

The study area lies almost entirely within a grant of 300 acres (121.5 hectares) awarded to Richard Fitzgerald on 18 December 1805, with a nominal amount lying within the adjacent grant to the south which was awarded to Nicholas Bayly (or Bayley) on 1 January 1810. The Crown Grants in which the study area is located are outlined in Figure 4 and Figure 5.

*Richard Fitzgerald arrived in Sydney as a convict in 1791, arriving on the William and Anne, which travelled as part of the Third Fleet. On account of his experience with agriculture in England, Fitzgerald was frequently stationed on public farms, where he was largely successful. He was subsequently appointed as the superintendent of convicts and agriculture for the districts of Parramatta and Toongabbie. As part of his rise, he was granted several land parcels within Cabramatta and Rouse Hill, and in December 1805 he was granted 300 acres (121 hectares) of land within the Parish of Melville, forming part of the study area. This land was named Restitution Farm. In 1826 reports in The Monitor including an advertisement for the sale of Livestock suggest that Fitzgerald was living in Windsor. In 1831 he received additional land grants, including one in the nearby Parish of Gidley, and two in Londonderry. Throughout his career Fitzgerald ran numerous properties throughout the colony. This included several estates in Wollar (near Bathurst and Lithgow), at Emu Plains, and the Macarthur Estate at Camden Park. He worked closely with Mrs Macquarie and was a close friend of Governor Macquarie. In 1836 he was granted a 2000-acre (879 hectare) grant at Dabee, which adjoined one belonging to Mrs Macquarie. He ran both properties and was described as “the legal representative of Mrs Macquarie, in this colony,” attesting to his respected position in society. There is no recorded historical evidence to suggest a homestead or additional structures were built at Restitution Farm, however there may have been some informal land use including establishment of boundary fences, minor land clearance, and some grazing of livestock. There appears to have been an informal conveyance of the property to Nicholas Bayly in 1810, with the estate later leased to Henry Bayly from 1836.*

*Following Nicholas Bayly’s death in 1823, the Bayly Park Estate was purchased by Richard Jones for £3,400. The estate was renamed Fleurs. Jones had extensive livestock at the property, including dairy cattle, pigs and poultry. The property was maintained by a Superintendent, Mr Stevenson, suggesting Jones lived elsewhere. Bayly Park House may have been lived in by Stevenson as part of his role running the property. Jones sold the estate in 1840 following the collapse of the wool market. Jones’ sale advertisement described the land as “the best land in the country of Cumberland”, with 1823 acres (738 hectares) cleared (Figure 5). Listed structures on the site included a stone dwelling, detached servant’s quarters, stone and brick outbuildings including a laundry and kitchen, a garden and vineyard. Additional buildings included a dairy, storeroom, butcher, wine room with cellar, coach house, tool storeroom, stables, labourer’s quarters, a blacksmiths shop, and a cottage for the estate’s gardener. Specific locations of these buildings are not indicated on any known maps or plans of the site. It is likely however that these structures were situated in close proximity to the main homestead, as was typical of many homesteads within the Cumberland Plain. Note, Bayly Park house is located south of the study area, at 919-929 Mamre road and likely served as the focal point for occupation of estate.*

*In 1852 Fleurs was purchased by John Savery Rodd but was potentially inhabited or leased by Robert Cork (Figure 6). The land was again advertised for sale by Rodd in 1866, however it does not appear to have been successfully sold at this time. The 1866 advertisement was similar to that included in 1852, with no new buildings listed in the sale notice, suggesting that no new buildings were constructed within the estate during Rodd’s ownership. Land titles records show that in 1870 the land was like inherited by a relative of Rodd, also a John Rodd. The land was sold in the following year, where it was purchased by Andrew Brown. The land was likely inhabited by Elizabeth Rettalick and Joseph Weston, however. The land had a string of owners in the 1870s and 1880s, before it eventually came into the control of the Penrith auctioneer, T.R. Smith. Smith subdivided the land in 1883, however it was sold to the land spectator Thomas Morse in 1887. Morse subdivided the property in 1888 into 20-acre (8 hectare) blocks, advertised as ‘ready for the plough’ and suitable for farms or orchards.*

### 3.1.2 PHASE 2: 1888 – 1930

Between 1888 and 1916, the land encompassing the study area switched ownership between multiple buyers as part of large investments of property. No significant use of the study area has been specified throughout these purchases (Vol-Fol 912-55). On 1 April 1916, Donald Bruce Macintyre, a grazier from Queensland purchased the entirety of the original Fleurs estate (Figure 7). On 21 September 1916, Macintyre sold the property to Henry Horton, a grazier from Dulwich Hill. There is no evidence that Horton used the study area for anything other than grazing. In 1927, Horton leased his land to E. Killen & Sons Limited, a large company associated with the pastoral industry.

### 3.1.3 PHASE 3: 1930 – PRESENT

In 1930, the study area was purchased by Joseph Henry Bawn and Richard Setter Stone on behalf of their company, Greenfields Pty Ltd. The subsequent ownership history highlights the 2 men mortgaging and transferring the property between themselves and the company. This pattern of ownership continued into the 1950s. In 1963, the Commissioner for Main Roads resumed a portion of the land for the construction of South Creek Road (now Mamre Road) [Vol-Fol 6886-54]. From this point until 1978, the study area continued to be transferred and re-mortgaged by Greenfields Pty Ltd who used the land as collateral in other purchases. In 1978 the properties along Mamre Road were combined under DP 258414, creating the lot boundaries that exist today.

## SUBSEQUENT HISTORICAL DEVELOPMENT WITHIN THE STUDY AREA

The study area has remained virtually untouched by development throughout much of the 20<sup>th</sup> century. In conjunction with the title history, the historical aerials of the study area demonstrate minimal modern activity. The earliest historical aerial imagery of the study area is from 1947. The study area at this time had been cleared of vegetation and appears to have been partially used for grazing (Figure 8) with an unnamed tributary of South Creek running west to east throughout the property. The 1955 historical aerial reiterates the undeveloped nature of the study area, with the only change being the damming of the creek (Figure 9). By 1978, the study area was cleared of all vegetation and the dam removed. The land within the study area at this time also appear to have been ploughed (Figure 10). The first evidence of structures within the study area is in 1984 in the southern portion of the study area. By the early 1990s, the study area remained in use for agricultural purposes, with commercial greenhouses present; however, this was mostly focused on the south-eastern corner of the property. The agricultural use of the study area continued to be limited to the south-eastern corner of the property throughout the 2000s and into the present day, with the surrounding land remaining vacant.

In summary, the study area is likely to have served as grazing land or been used for other agricultural pursuits for the entirety of the 19<sup>th</sup> and 20<sup>th</sup> century. The lack of evidence for intense historical use of the study area has resulted in the property being deemed to have low potential for non-Aboriginal heritage to be present (Figure 11).

## 4. VISUAL INSPECTION AND SENSITIVITY MAPPING

In order to ground-truth the desktop assessment, a visual inspection of the study area was conducted by Declan Coman (Archaeologist, Austral) and Dominique Bezzina (Archaeologist, Austral) on 11 May 2022. The study area (lots 23 and 24, DP258414) occupies approximately 38.74 hectares of land. The study area is situated within a large agricultural acreage consisting of gentle slopes, floodplains, terraces and riparian corridor landforms associated with South Creek (Figure 12). It is surrounded by low to medium density industrial developments. Kemps Creek as a suburb is characterised by large agricultural farms currently under development for the purpose of establishing industrial enterprises. The study area is bordered by South Creek to the west, agricultural lots to the north and south, and Mamre Road to the east.



The study area currently contains 3 residential houses and associated outbuildings, alongside ploughed market gardens in the south-eastern corner near Mamre Road. It is accessible via driveways from Mamre Road. The study area was adequately surveyed through conducting pedestrian traverses by 2 Austral staff members. The most significant disturbance in the study area comprises the clearing of land for agricultural and residential purposes, the establishment of vehicle tracks and other informal tracks across the study area. The south-eastern corner of the study area has been subject to disturbances from residential buildings, sheds, market gardens and landscaping. The remaining area of the property was characterised by thick grass coverage, with the only exposed areas limited to the banks of South Creek. The archaeological survey did not identify any potential for historical archaeological deposits to be present.

There are no sightlines or viewsheds between the study area and listed heritage items in the wider area.

## 5. RECOMMENDATIONS

Based on the evidence outlined in this assessment it is recommended that:

- 1) As this assessment has identified that there is low potential for non-Aboriginal archaeological material to be present on the study area, there are no requirements for additional investigations to be undertaken in regard to impacts to potential non-Aboriginal archaeological material. Construction work may proceed with caution.
- 2) If historical archaeological relics not assessed or anticipated by this letter are found during the works, all works in the immediate vicinity are to cease instantly, and Heritage NSW be notified. A qualified archaeologist will be contacted to assess the situation and consult with Heritage NSW regarding the most appropriate course of action.
- 3) A copy of this letter is to be provided to council as required to demonstrate compliance with any relevant conditions of consent associated with this project.

Please do not hesitate to contact me if you wish to discuss any aspect of this submission.

Yours sincerely,



Peta Rice

Archaeologist

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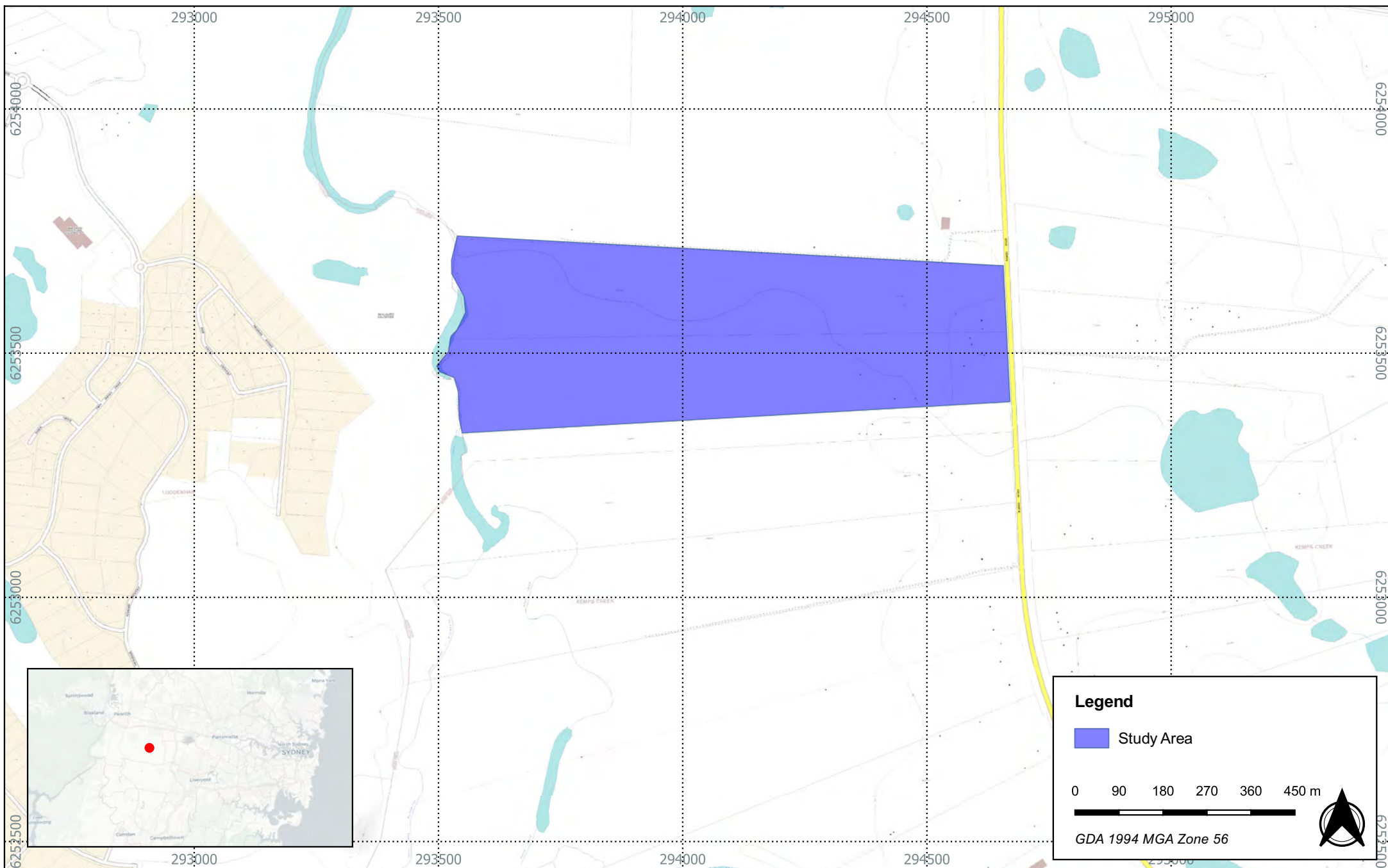
## 6. REFERENCES

NSW Department of Planning, Heritage Council of NSW 2006, *Historical Archaeological Excavations: Code of Practice*, State of New South Wales, Sydney.

NSW Department of Planning/Heritage Council of NSW 1993, 'Historical Archaeological Sites: Investigation and Conservation Guidelines'.

Penrith City Council n.d., *Penrith City Local History - Kemps Creek*, viewed 3 March 2023, <<https://penrithhistory.com/suburb-profiles/kemps-creek/>>.

Urbis Pty Ltd 2021, *Yiribana Logistics Estate, 754 - 770 & 784-786 Mamre Road, Kemps Creek*, Prepared for The GPT Group.



**Figure 1 - Location of the study area**

22040 - 771-797 Mamre Road, Kemp's Creek - NAHA

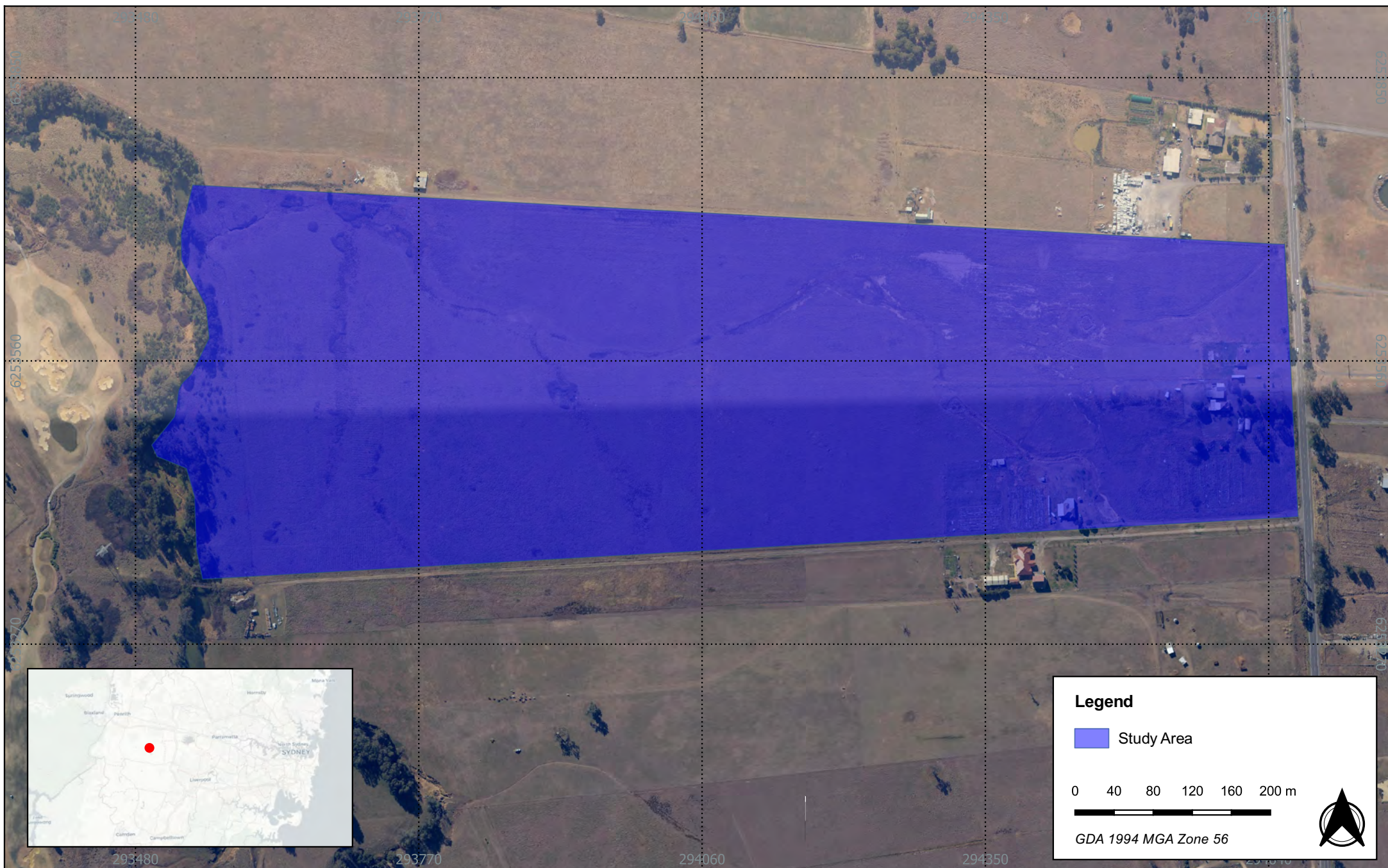
Source: NSW LPI Basemap, CartoDB Positron

Drawn by: ARH Date: 2022-04-06



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**Figure 2 - Detailed aerial of the study area**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

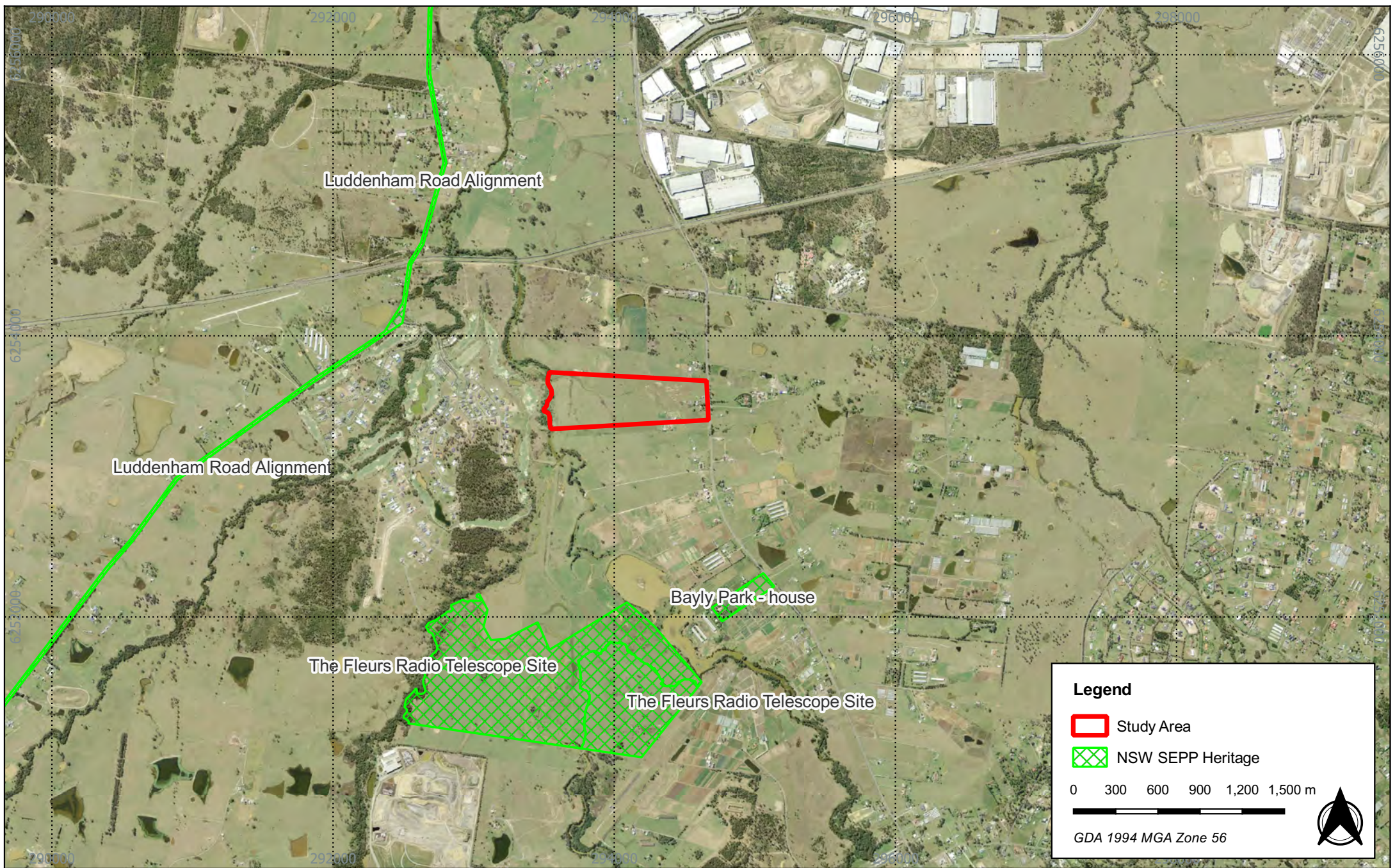
Source: NSW LPIAerial, CartoDB Positron

Drawn by: ARH Date: 2022-04-06



**AUSTRAL**  
ARCHAEOLOGY





**Figure 3 - NSW SEPP heritage items in close proximity to the study area**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

Source: NSW LPI Aerial, NSW SEPP Heritage

Drawn by: ARH Date: 2023-03-09

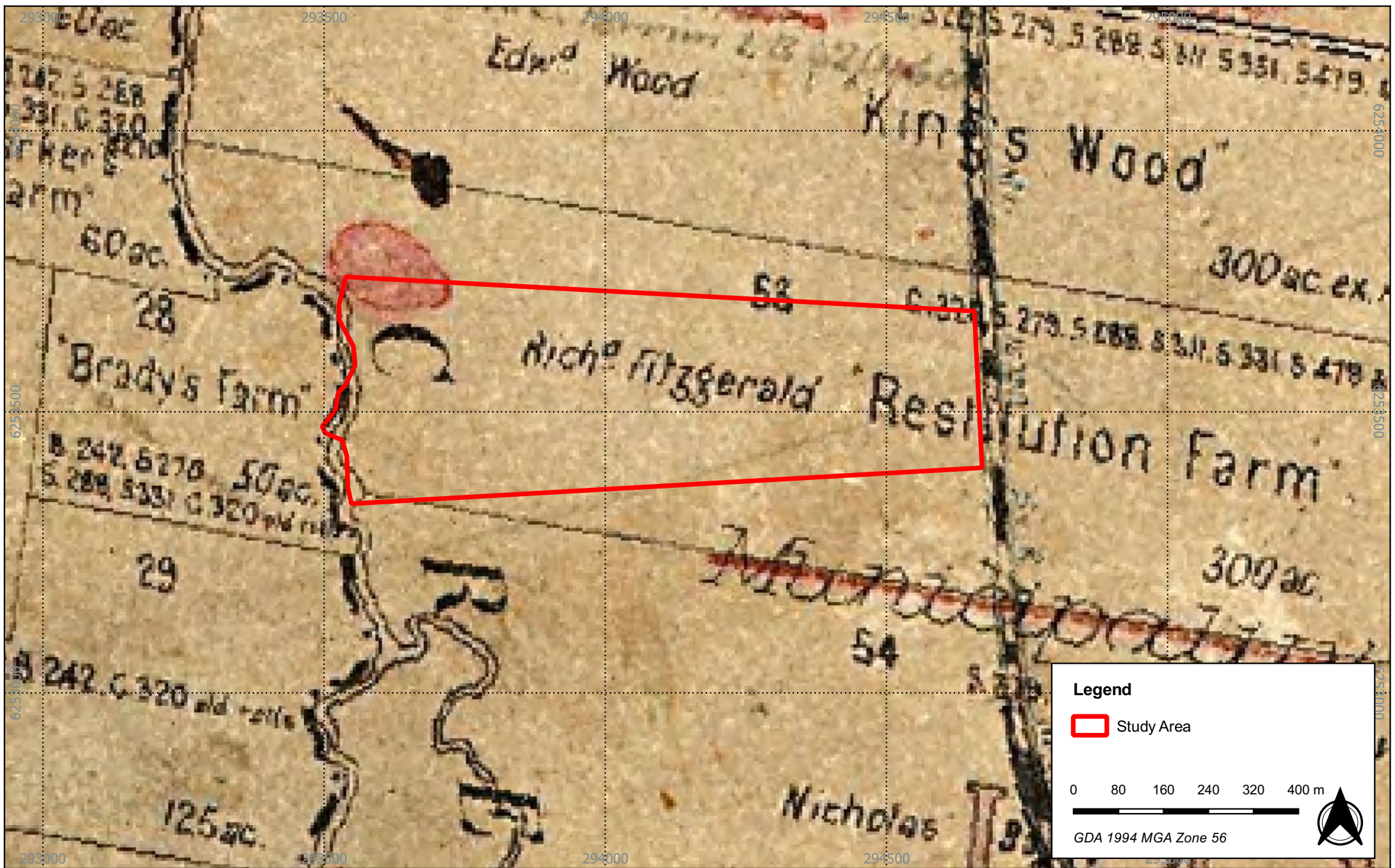


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**Figure 5 - 1938 Parish Map showing the study area overlaid on original Crown Grants**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

Source: HLRV

Drawn by: ARH Date: 2023-03-09



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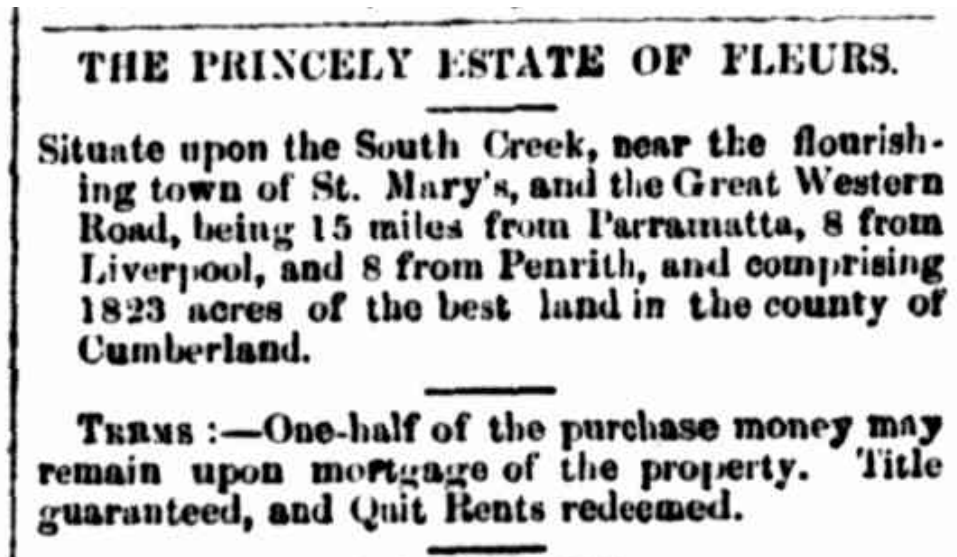
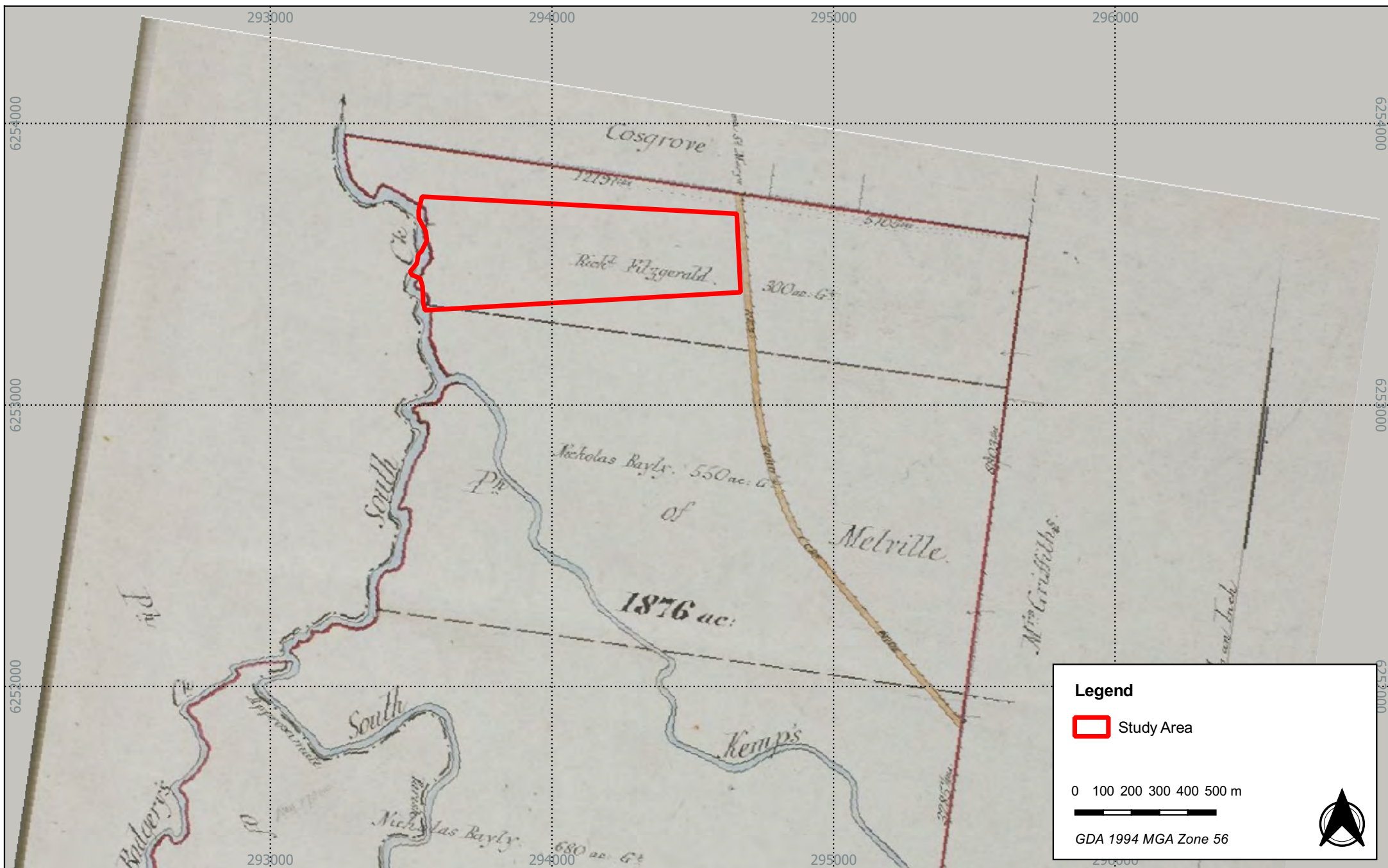


Figure 6      Advertisement in the *Empire* for the sale of Fleurs estate in 1852





**Figure 7 - Study area in relation to boundaries of the Fleurs Estate**

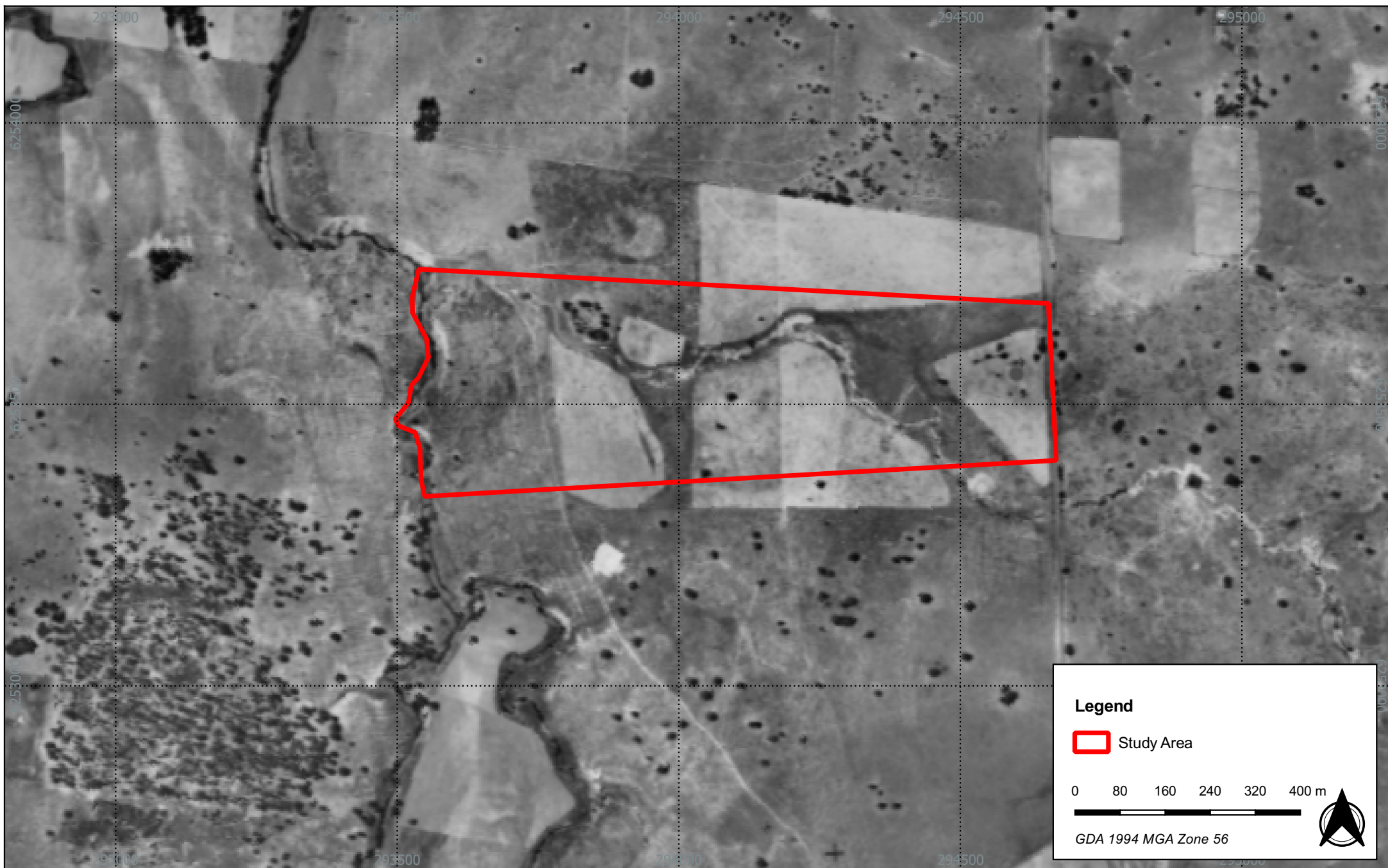
22040 - 771-797 Mamre Road, Kemps Creek - NAHA

Source: HLRV

Drawn by: ARH Date: 2023-03-09



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**Figure 8 - 1947 Historical aerial of the study area**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

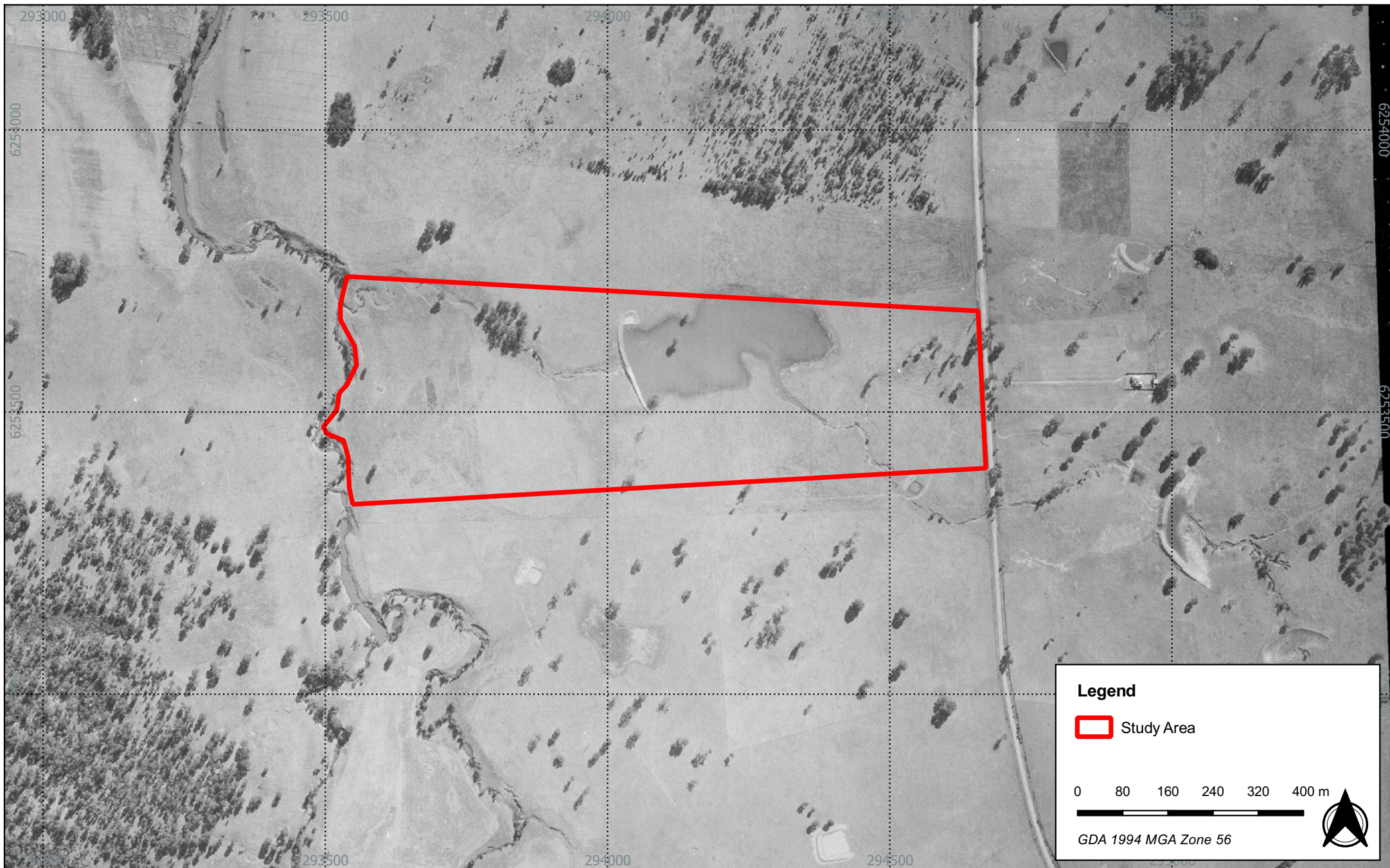
Source: NSW Historical Imagery Viewer

Drawn by: ARH Date: 2023-03-22



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**Figure 9 - 1955 Historical aerial of the study area**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

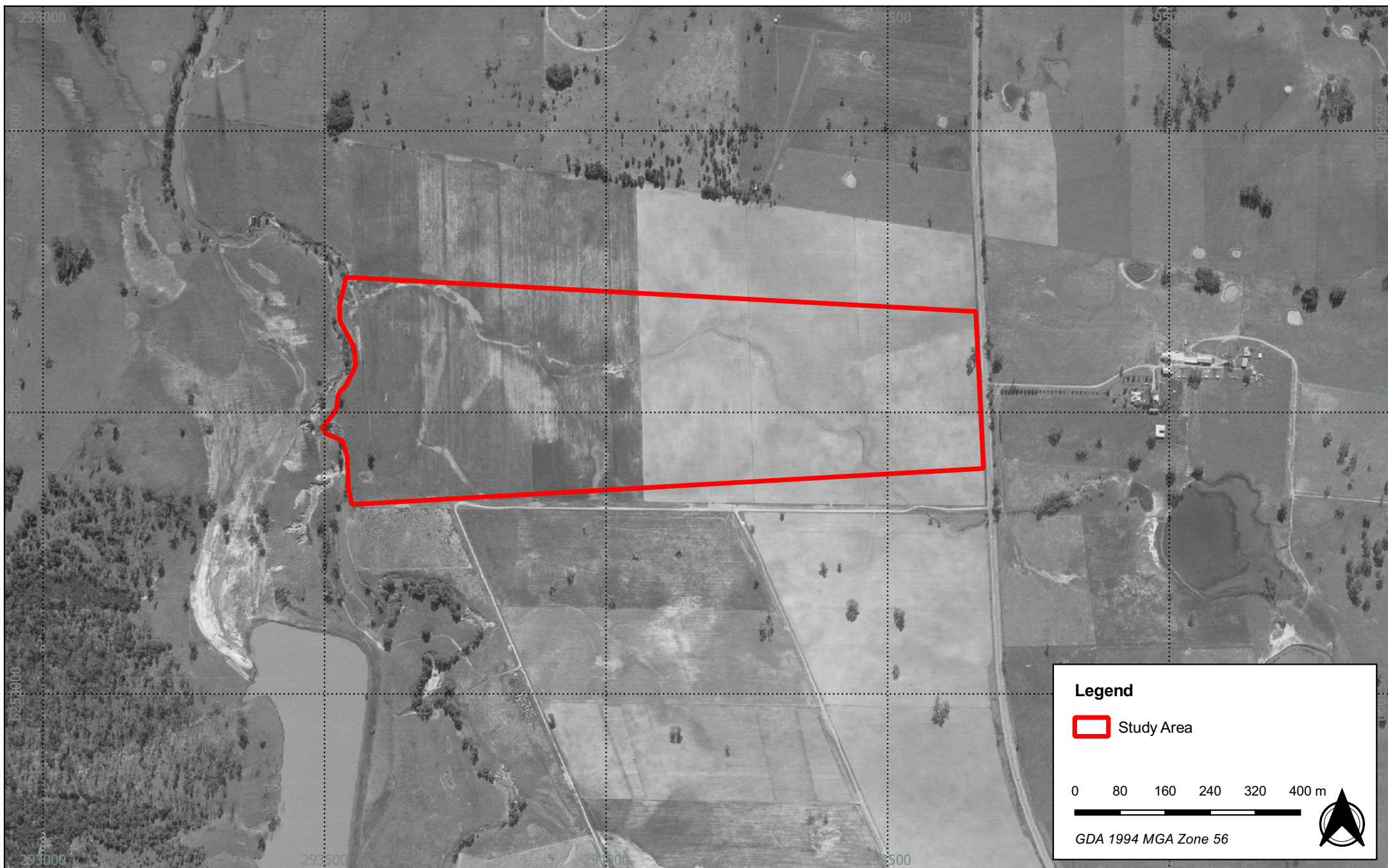
Source: NSW Historical Imagery Viewer

Drawn by: ARH Date: 2023-03-09



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**Figure 10 - 1978 Historical aerial of the study area**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

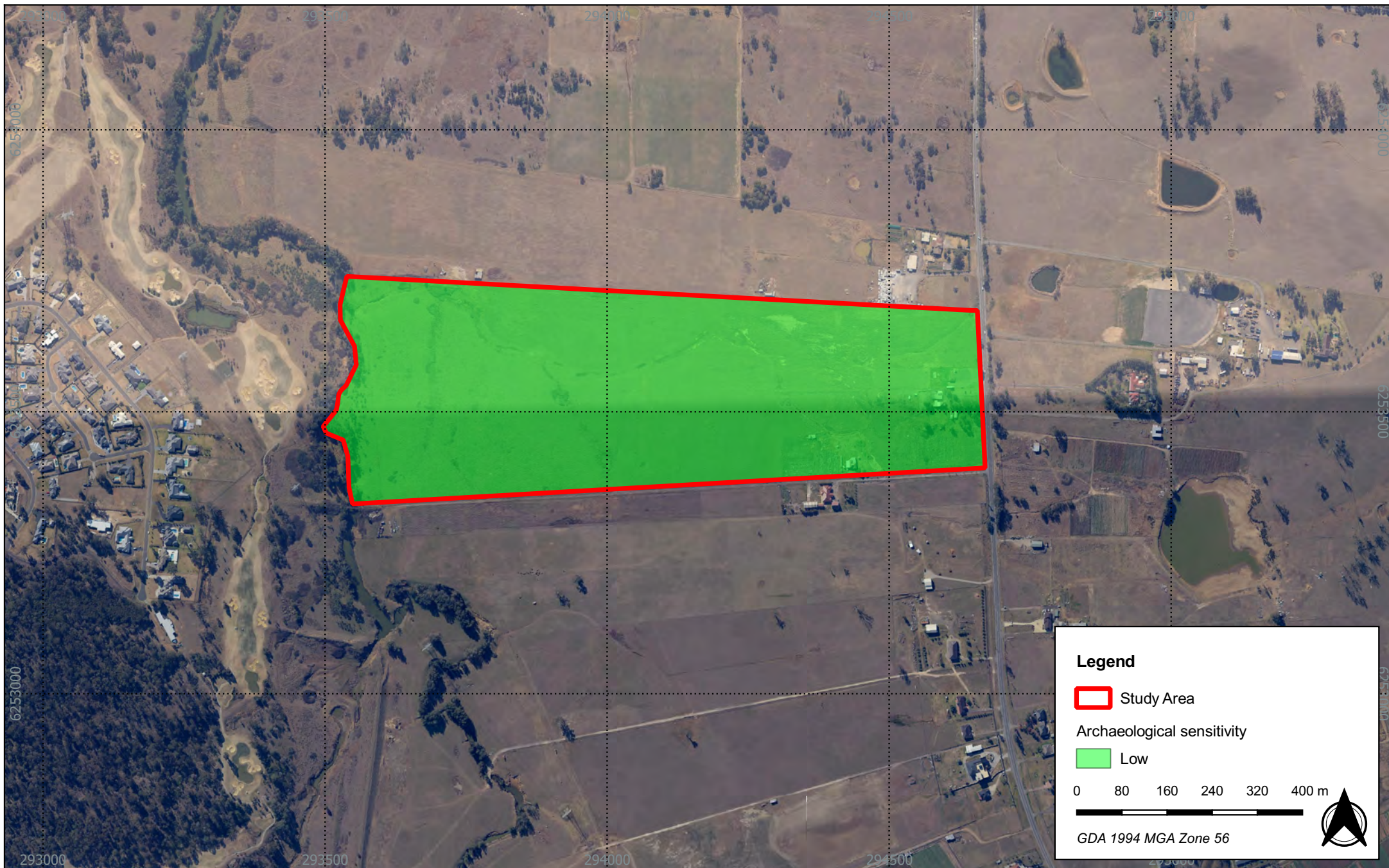
Source: NSW Historical Imagery Viewer

Drawn by: ARH Date: 2023-03-09



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**Figure 8 - Archaeological potential of the study area**

22040 - 771-797 Mamre Road, Kemps Creek - NAHA

Source: NSW LPI Aerial

Drawn by: ARH Date: 2023-03-23



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**Figure 12**      **Landscape context of the study area**



**Figure 13**      **Example of old creek bed running throughout the study area**



**Figure 14** Evidence of modern disturbance in south-eastern corner of study area