

TASMANIAN PLANNING COMMISSION

DECISION

Planning scheme	Tasmanian Planning Scheme - Glenorchy
Amendment	PLAM-21-03
Planning authority	Glenorchy City Council
Date of decision	9 August 2022

Decision

The draft amendment is modified under section 40N(1)(b) of the *Land Use Planning and Approvals Act 1993* as set out in Annexure A and is approved under section 40Q.



Dianne Cowen
Delegate (Chair)



Nick Heath
Delegate



Dan Ford
Delegate

REASONS FOR DECISION

Background

Direction under 35K (1)(a) and the Flood-Prone Areas overlay

The planning authority in their 40F report states:

During the Panel hearing on the Glenorchy LPS, the Tasmanian Planning Commission (the Commission) indicated that its preference for mapping the Waterway and Coastal Protection Overlay was for the maps to reflect the widths outlined in Table C7.3 Spatial Extent of Waterway and Coastal Protection Areas. This new approach was introduced after the Glenorchy LPS had been exhibited. The Commission subsequently encouraged Council to revise the overlay via a future amendment.

In relation to the Flood-Prone Areas Overlay, the planning authority submitted that, at the time they were preparing the draft LPS further flood mapping for the central business area of Glenorchy around Humphreys Rivulet had been introduced however, it was not satisfied with the available flood mapping data in other areas. At the time, the planning authority confirmed that they were undertaking further flood modelling work and anticipated preparing a future planning scheme amendment.

Amendment

The draft amendment proposes to:

- apply the Flood-Prone Hazard Area Overlay and the Waterway and Coastal Protection Area Overlay to numerous properties across the municipality; and
- apply revisions to the Waterway and Coastal Protection overlay to realign buffer areas as well as correctly reflect the existing watercourses.

Issues raised in representations

One representation was received raising the following issues:

- Impacts of the subdivision works on the topography in the Whitestone Point area;
- Incorrect mapping of the lots in Whitestone Point as flood prone; and
- The flood modelling ignores the upgrades to the stormwater network in the Whitestone Point area.

The draft amendment was referred to TasWater under section 56S of the *Water and Sewerage Industry Act 2008*. In response TasWater made a representation stating no objection to the draft amendment and that TasWater did not wish to attend any hearing.

Planning authority's response to the representations

The planning authority considered the representations and recommended:

That the Glenorchy Planning Authority, after considering the merits of the representations, and being satisfied that a change to the amendment will still meet the Local Provisions Schedule (LPS) Criteria and have no impact on the Glenorchy LPS as a whole:

1. MODIFY as recommended in this report and shown in Attachment 2; and

2. PROVIDE the representations, and this GPA Report on PLAM-21/03 on modifications to the Waterway and Coastal Protection Areas and Flood-Prone Hazard Areas Overlays, to the Tasmanian Planning Commission under S40K of the Land Use Planning and Approvals Act 1993.

The planning authority recommended that the Flood-Prone Hazard Areas overlay should be modified to remove the overlay from the Whitestone Point estate, to the extent shown in Figure 1 below.



Attachment 1- modified mapping for Whitestone Point estate

Consideration of the draft amendment

1. Under section 40M of the *Land Use Planning and Approvals Act 1993* (the Act), the Commission is required to consider the draft amendment to the Local Provisions Schedule (LPS) and the representations, statements and recommendations contained in the planning authority's section 40K report and any information obtained at a hearing.
2. Two representations were received and after consultation with the representors under section 40L(2) of the Act, the Commission dispensed with holding a hearing.
3. The Commission must also consider whether the draft amendment meets the LPS criteria as set out under section 34(2) of the Act:
 - (a) contains all the provisions that the SPPs specify must be contained in an LPS; and
 - (b) is in accordance with section 32; and
 - (c) furthers the objectives set out in Schedule 1; and
 - (d) is consistent with each State policy; and
 - (da) satisfies the relevant criteria in relation to the TPPs; and
 - (e) as far as practicable, is consistent with the regional land use strategy, if any, for the regional area in which is situated the land to which the relevant planning instrument relates; and

- (f) has regard to the strategic plan, prepared under section 66 of the *Local Government Act 1993*, that applies in relation to the land to which the relevant planning instrument relates; and
- (g) as far as practicable, is consistent with and co-ordinated with any LPSs that apply to municipal areas that are adjacent to the municipal area to which the relevant planning instrument relates;
- (f) must have regard to the impact that the use and development permissible under the amendment will have on the use and development of the region as an entity in environmental, economic and social terms.
- (h) has regard to the safety requirements set out in the standards prescribed under the *Gas Safety Act 2019*.

Regional land use strategy

4. The relevant regional land use strategy is the Southern Tasmania Regional Land Use Strategy, February 2020 (regional strategy). The planning authority considers that the draft amendment is consistent with the regional strategy, because it:
 - recognises and protects biodiversity values deemed significant at the local level and ensures that the planning schemes (regional policy BNV 1.2);
 - a) specify the spatial area in which biodiversity values are to be recognised and protected; and
 - b) implement and 'avoid, minimise, mitigate' hierarchy of actions with respect to development that may impact on recognised and protected biodiversity values.
 - includes buffer requirements in the planning scheme to protect riparian areas relevant to their classification under the Forest Practices System (regional policy WR 1.3);
 - provides for the mitigation of flooding risk at the earliest possible stage of the land use planning process (rezoning or if no rezoning required; subdivision) by avoiding locating sensitive uses in flood prone areas (regional policy MRH 2.1); and
 - Maintains, protects and enhances the biodiversity, landscape, scenic and cultural values of the region's coast (regional policy C 1).
5. The planning authority acknowledges that the purpose of the draft amendment is to update the existing Waterways and Coastal Protection Areas to indicate the correct location of watercourses and update the flood hazard mapping to reflect recent flood modelling undertaken by Council. The draft amendment would protect and recognise biodiversity values under the provisions of the Natural Assets Code and ensure building and works within a flood-prone area can achieve and maintain tolerable risk under the Flood Prone Areas Code.
6. The planning authority further finds that the draft amendment aligns with these regional policies as it updates and corrects the existing Waterways and Coastal Protection Areas and flood mapping.

Commission consideration

7. The Commission is satisfied with the justification provided by the planning authority. The draft amendment manages risks associated with flooding and protects landscape and scenic values of the coastal areas.
8. The Commission agrees that the draft amendment is consistent with the regional strategy's policies relating to biodiversity and geodiversity, water resources, the coast and managing risks and hazards. The Commission considers that amending the overlays will more accurately reflect the alignment of the existing waterways and enhance the region's diverse habitats and flora and fauna resources, consistent with the regional strategy's policies relating to biodiversity and geodiversity. In addition, the amended flood mapping will ensure that the spatial application of the Flood Prone Areas Code will apply to the appropriate areas based on the revised modelling.
9. The Commission finds that the draft amendment is, as far as is practicable, consistent with the regional strategy.

Glenorchy Strategic Plan 2016-2025

10. The planning authority considers that the draft amendment is consistent with the strategic plan and that it aligns with the following objectives of the strategic plan:
 - 2.1 Stimulate a prosperous economy:
11. The planning authority considers that the draft amendment will provide clarity on which areas are flood prone and which are not. The planning authority states, as follows:

The revised waterways maps reduce the width of buffers in urban areas to reflect the widths identified in the text of the Natural Assets Code, removes it from piped waterways and applies it more accurately than the State mapping that was used for the drafting of the LPS.

This will reduce the potential for lodgement and assessment of unnecessary applications.

 - 4.1 Govern in the best interests of our community:
12. The planning authority considers that the draft amendment will provide certainty to the assessment process, which will in turn promote its efficiency.

Commission consideration

13. The Commission agrees with the planning authority that the draft amendment is consistent with the strategic plan.

Revisions to the Waterways and Coastal Protection Areas overlay

14. The planning authority states that the key revisions to the Waterway and Coastal protection overlay are, as follows;

In summary the overlay under PLAM-21/03 differs from the LIST Guidance map as it:

 - Reflects the alignment of watercourses using Hydrographic lines from the LIST rather than the LIST Guidance Map data.
 - Shows all watercourses as Class 3 (except where modified and reduced to Class 4 to reflect the wording in Table C7.3 of the Natural Assets Code).
 - Shows the buffer extending 10m or 20m from the watercourse rather than being off-centre as shown in some of the LIST Guidance Map data.

15. The planning authority's hydraulic engineers consider that all watercourses fall into the Class 3 category under Table C7.3 of the Natural Assets Code. Therefore, the application of the overlay is based on hydrographic lines from the LIST with a 20m buffer applied on either side of the hydrographic line. The planning authority further notes that the subsequent buffer was reduced to 10m either side of the hydrographic line where the watercourse is located in, or adjoining an urban zone or is piped in accordance with the requirements of Table 7.3
16. The planning authority considers that the proposed revisions to the Waterway and Coastal Protection Areas will protect the environmental values of the waterways by mapping the current alignment of watercourses. The planning authority notes that the proposed revisions will reflect the current course of some waterways as it is considered that the State guidance maps are out of date.
17. The planning authority concludes:

It is considered that this approach, particularly to remove errors in the alignment of the watercourse and to reflect Council's understanding of the status of the waterways is in line with NAC 3 of the Section 8A Guidelines.

Commission consideration

18. The Commission notes that the LPS may contain a mapped overlay greater than usually specified for a specific water course as allowed by the State Planning Provision's C7.3 Definition of Terms for waterway and coastal protection area. In this instance, as the mapped discrepancy is greater than specified by the table, the mapped buffer will prevail. The Commission considers that the approach of increasing the buffers around the relevant watercourses is reasonable and in accordance with NAC 3 of the Section 8A Guidelines. The Commission also accepts that reducing buffer distances around waterways within, or adjoining urban areas is appropriate and consistent with the operation of the provisions contained in the Waterways and Coastal Protection Areas Code, in addition to the removal of the overlay from piped waterways.
19. The Commission agrees with the planning authority that the proposed revisions including increasing buffer distances in some circumstances will assist in the protection of local environmental values.

The methodology of the flood modelling and the Whitestone Point area

20. The planning authority in their 40F report states, as follows:

The flood studies have been undertaken in line with the national guidelines for flood modelling in Australia [Australian Rainfall and Runoff: A Guide to Flood Estimation, Commonwealth of Australia (Geoscience Australia), 2019]. Computer models were run using historical flood data, which enabled the extent of urban flooding for a range of flood events, including flood scenarios related to climate change, to be estimated. Rural catchment areas were not assessed.
21. The planning authority informally exhibited the draft flood maps from 1 July to 28 July 2021 and no issues were raised during that exhibition period. However, the planning authority reviewed the draft maps and further parameters were added to remove all inundated areas with water depth less than 50mm and depth times velocity less than 0.008m²/s. Additionally, all isolated areas of localised inundation with an area of 100m² or smaller were removed from the modelling.

22. The planning authority further states:

The identification of flood prone areas, while a requirement of the Tasmanian Planning Scheme, is also an outcome of Council's stormwater management plan developed under the *Urban Drainage Act 2013*.

23. A representation was received following the statutory exhibition period under section 40G relative to the flood mapping component of the draft amendment. In its section 40K report, the planning authority notes that Mr Matt Ellis in his representation, indicated that land in the Whitestone Point area appears to rely on an older digital terrain model that reflected the previous surface topography of the timber mill site prior to subdivision works. Mr Ellis considers that the works associated with the subdivision have significantly changed the surface levels. According to Mr Ellis, the flood prone areas shown on the exhibited maps appear to be reflecting local depressions in the surface where water flow would have accumulated with the grading of the previous timber mill site. Mr Ellis notes that the local depressions have been filled as a part of the subdivision works and have now been regraded to fall towards the newly constructed roadways and drainage system.

24. The planning authority responded, as follows:

Council's hydraulics engineers indicated that the flood modelling is downloaded from elevation information system (ELVIS) Geoscience Australia. The source datasets have been captured to standards that are generally consistent with the Australian ICSM LiDAR Acquisition Specifications which require a fundamental vertical accuracy of at least 0.30m (95% confidence) and horizontal accuracy of at least 0.80m (95% confidence). However, it was acknowledged that this may not have been updated to reflect the recent development.

The works done at Whitestone Point incorporate a stormwater network to ensure that no lots within the estate should be subject to flooding. It is therefore considered appropriate that the mapping be removed from the Whitestone Point subdivision area.

25. While the planning authority supports removal of the flood prone area overlay from Whitestone Point Estate, it is noted that there are other areas that may have been developed since the latest flood modelling, however, this would be limited to a small number of properties. In these circumstances, the planning authority submits that it is appropriate to retain the overlay as there is a low risk of triggering an unnecessary application.

Commission consideration

26. The Commission considers that concerns the representor raised are valid and supports the modifications proposed by the planning authority to remove the overlay from the Whitestone Point Estate. It is noted that the completed subdivision works at Whitestone Point ensure that no lots within the area will be subject to flooding. The Commission is further satisfied that the methodology of the flood modelling aligns with the Guideline under section 8A of the Act.
27. The Commission accepts removal of the overlay from Whitestone Point Estate in isolation from other areas, on the basis that prior works will mitigate flood risk.

State Policies and Resource Management and Planning System Objectives

State Coastal Policy 1996

28. The State Coastal Policy applies to some of the mapped areas. The three principles of the State Coastal Policy are:
- Natural and cultural values of the coast shall be protected.
 - The coast shall be used and developed in a sustainable manner.
 - Integrated management and protection of the coastal zone is a shared responsibility.
29. The planning authority considers that the Flood-Prone Hazard areas mapping aims to identify the impacts of flooding and therefore will not have implications on the natural values or sustainable management of coastal areas. The Waterway and Coastal Protection aims to protect coastal areas, and the draft amendment is therefore considered to be consistent with the policy.

State Policy on Water Quality Management 1997

30. State Policy on Water Quality Management 1997 applies to the mapped areas. The planning authority states, as follows:

The proposed amendment per se would not result in an increase in sediment transport to surface waters. The revised Waterway and Coastal Protection Areas mapping, which identifies the current path of watercourses, ensures that water quality can be managed under the Natural Assets Code, noting that the current mapping does not correctly align with all of the municipal watercourses.

31. The planning authority finds that no State Policies are relevant to the draft amendment and that it seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

Commission consideration

32. The Commission is satisfied that the draft amendment aligns the relevant State Policies and seeks to further the Objectives of the Resource Management and Planning System in Schedule 1 of the Act.

Decision on draft amendment

33. The draft amendment is modified under section 40N(1)(b) by removing the flood prone area from the Whitestone Estate shown on Overlay Map 3 of 16 of the Flood Prone Areas and inserting a new Map 3. Subject to that modification, the draft amendment meets the LPS criteria and the Commission approves the amendment as modified.

Attachments

Annexure A –Modified Amendment

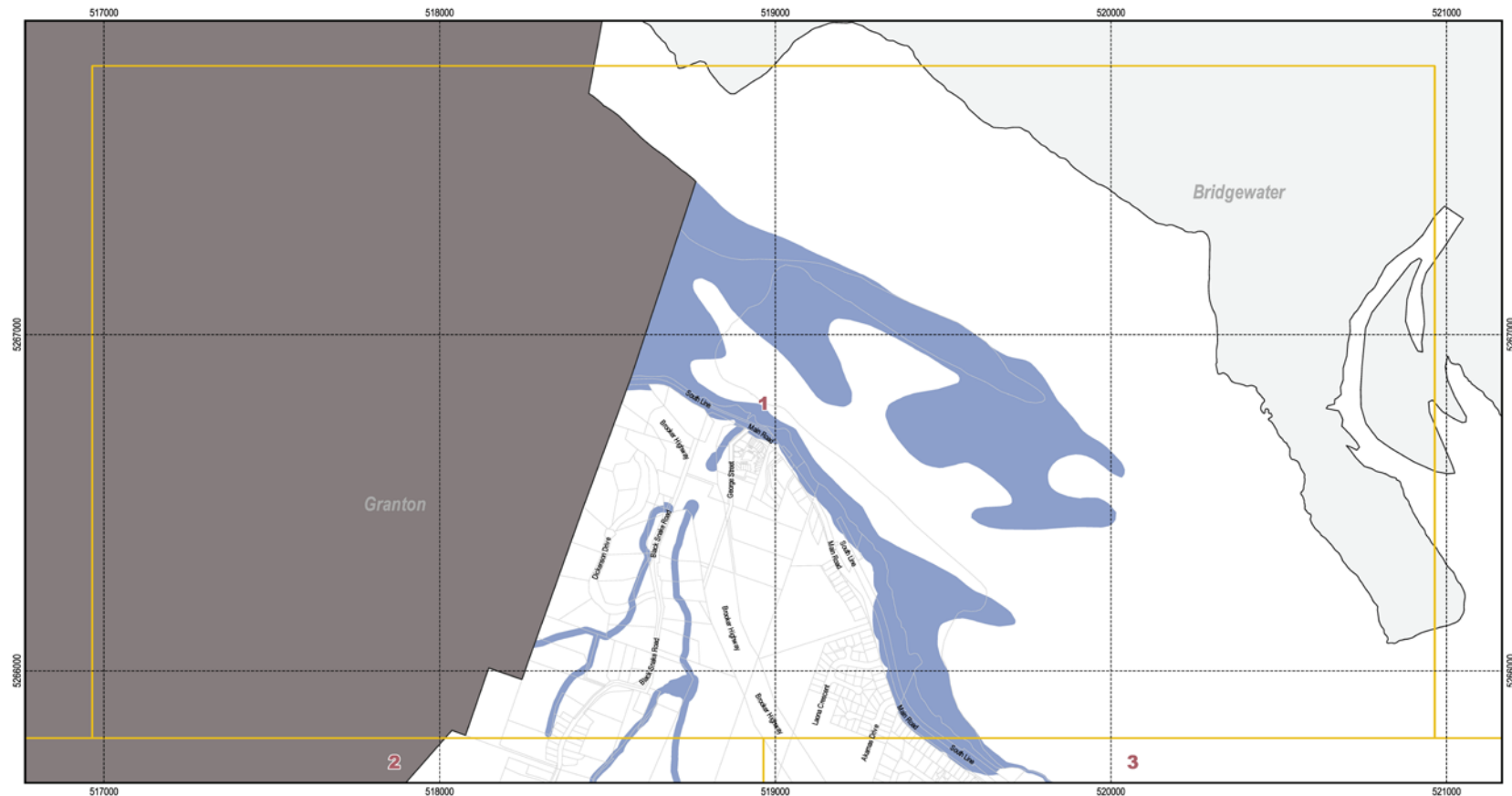
Annexure A

Modified Amendment PLAM-21-03

1. Replace the Waterways and Coastal Protection Areas of C7.0 Natural Assets Code with the area shown on the maps in Attachment 1; and
2. Replace the Flood-Prone Hazard Area of 12.0 Flood-Prone Hazard Code with the area shown on the maps in Attachment 2.

Attachment 1 Waterway and Coastal Protection Area of C7.0 Natural Assets Code

Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area) **Glenorchy Local Provisions Schedule**



Legend

- Waterway and coastal protection area
- Title

Map 1 of 16

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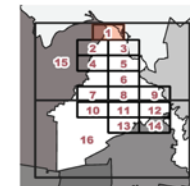
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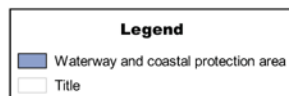
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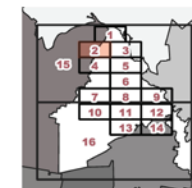


Map 2 of 16

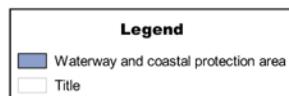
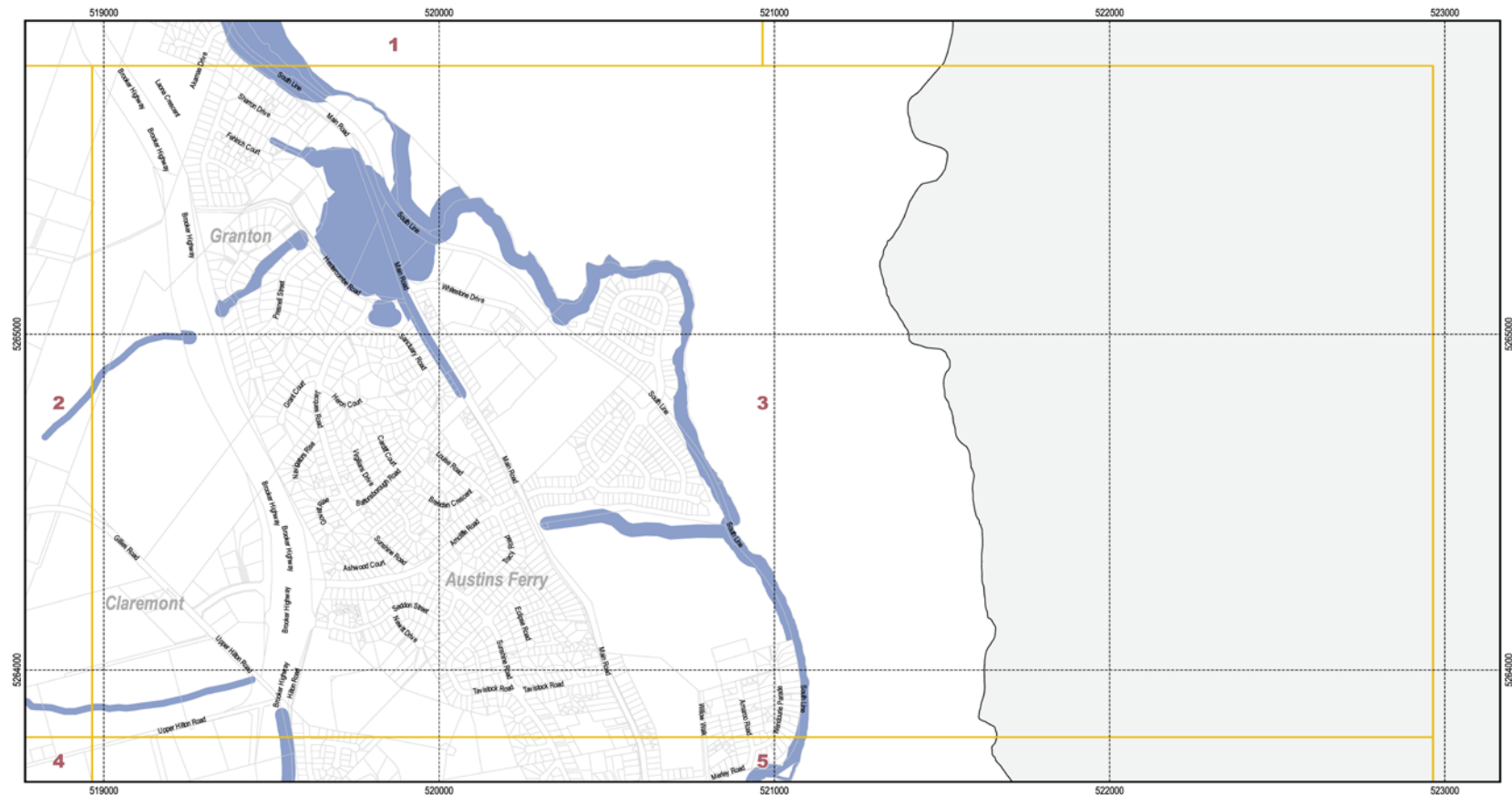
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Map 3 of 16

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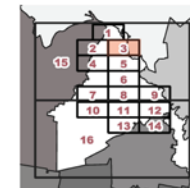
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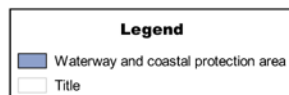
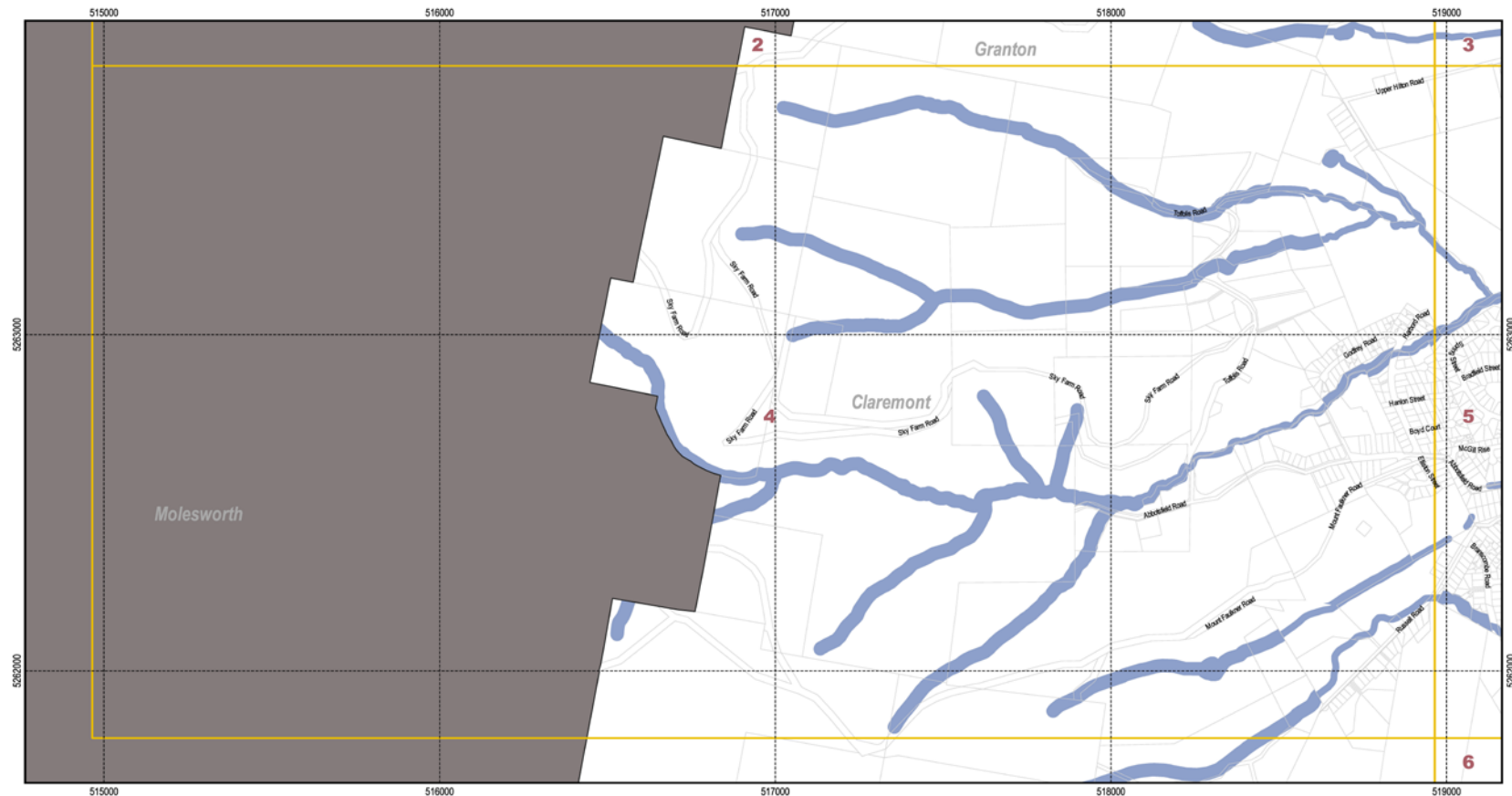
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule



Map 4 of 16

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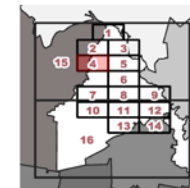
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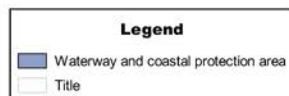
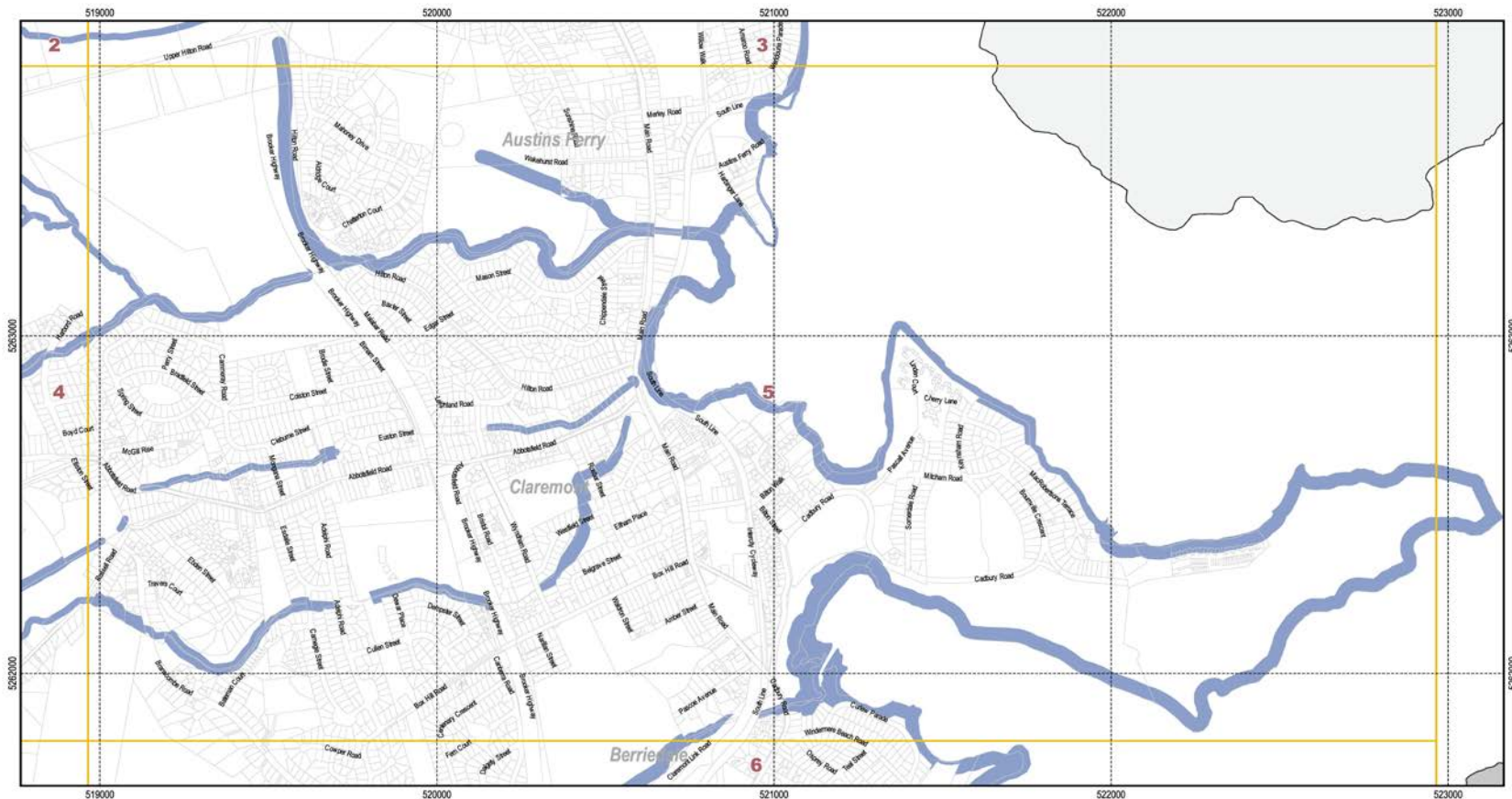
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule



Map 5 of 16

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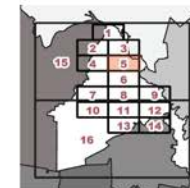
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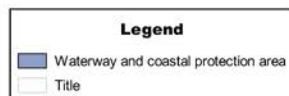
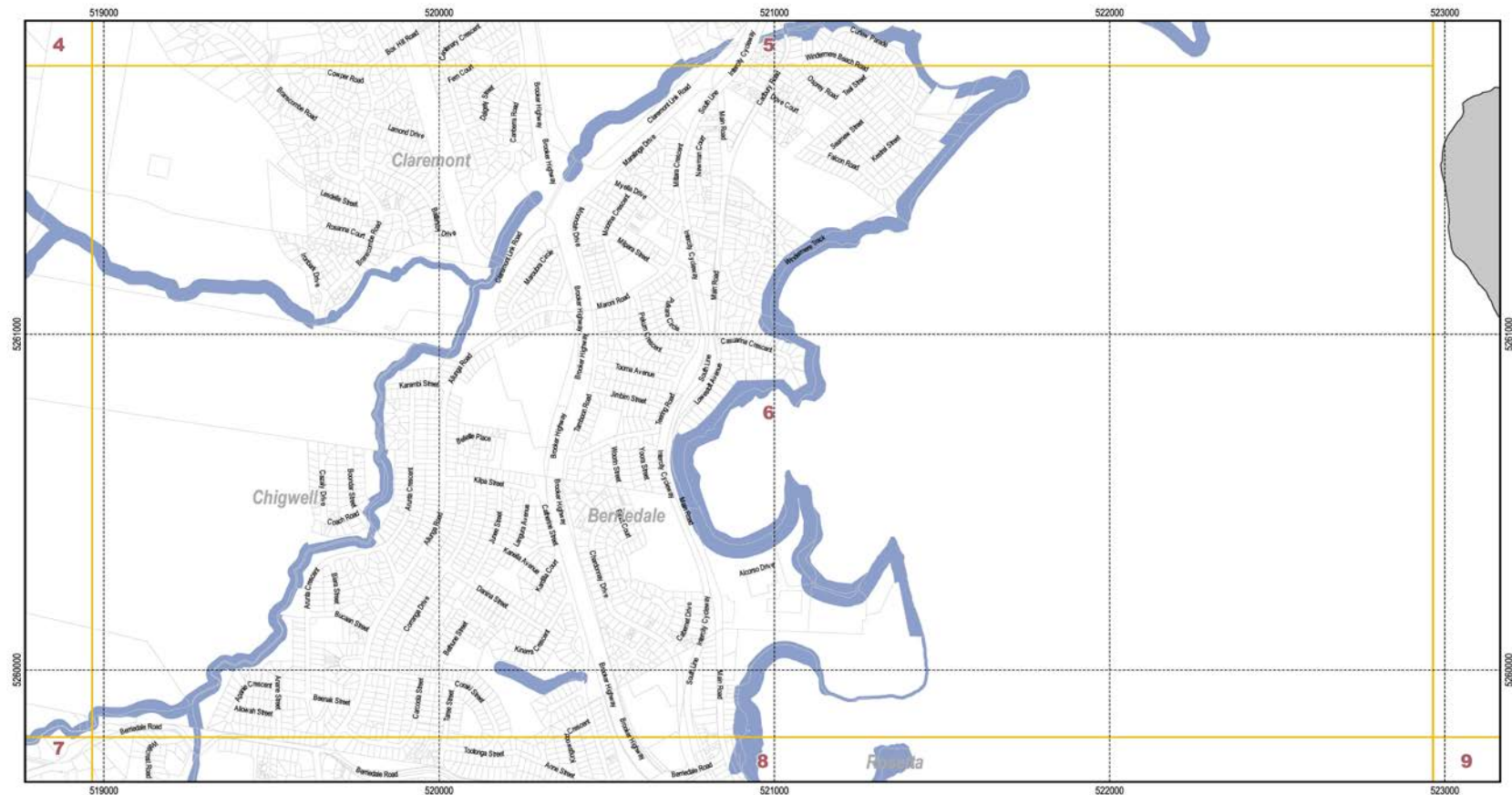
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
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Map 6 of 16

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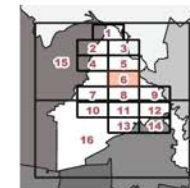
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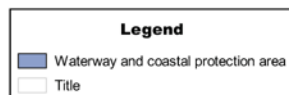
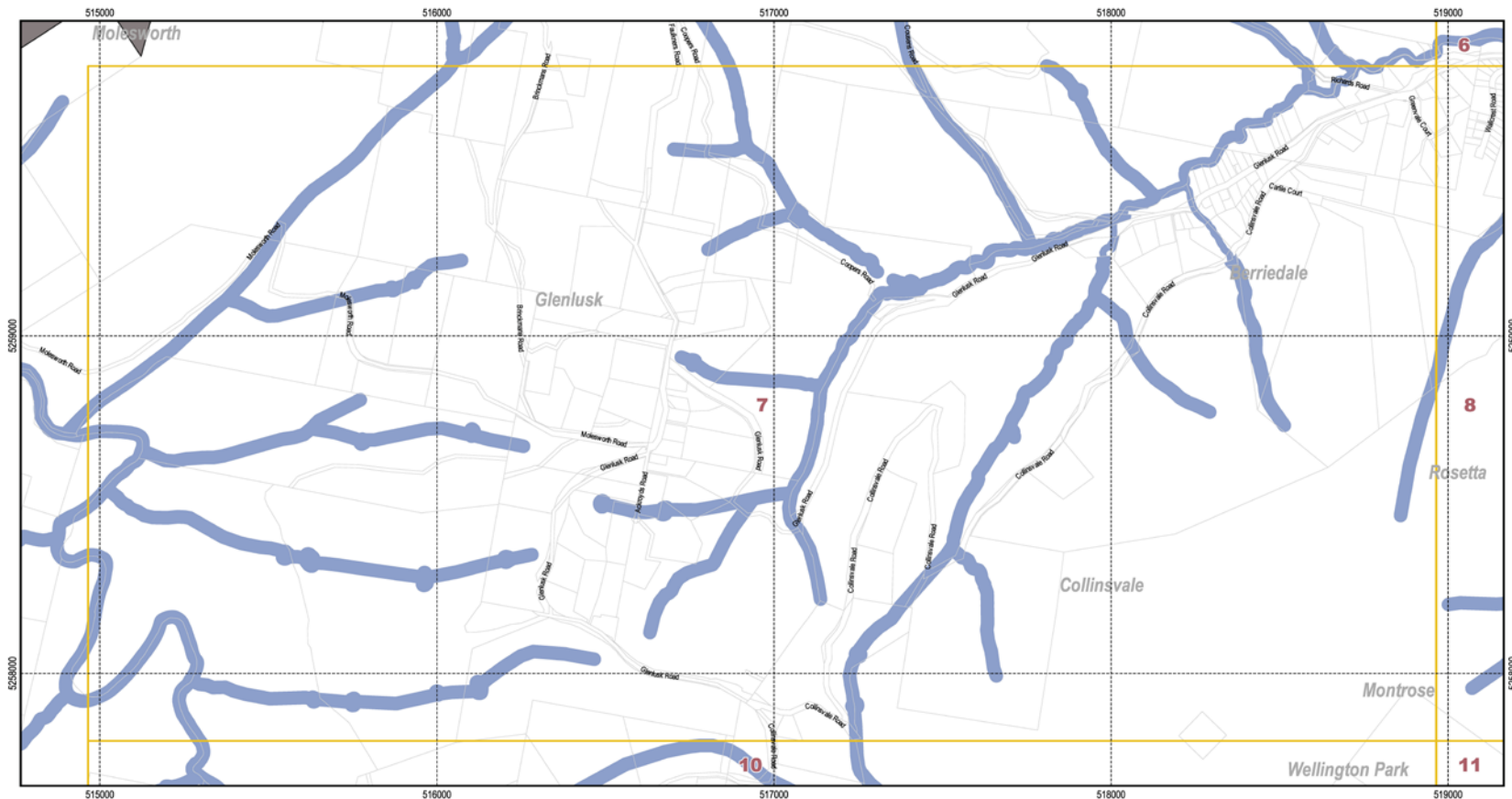
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule



Map 7 of 16

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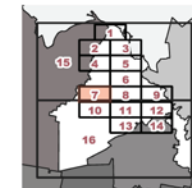
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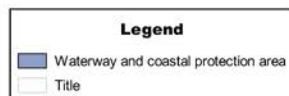
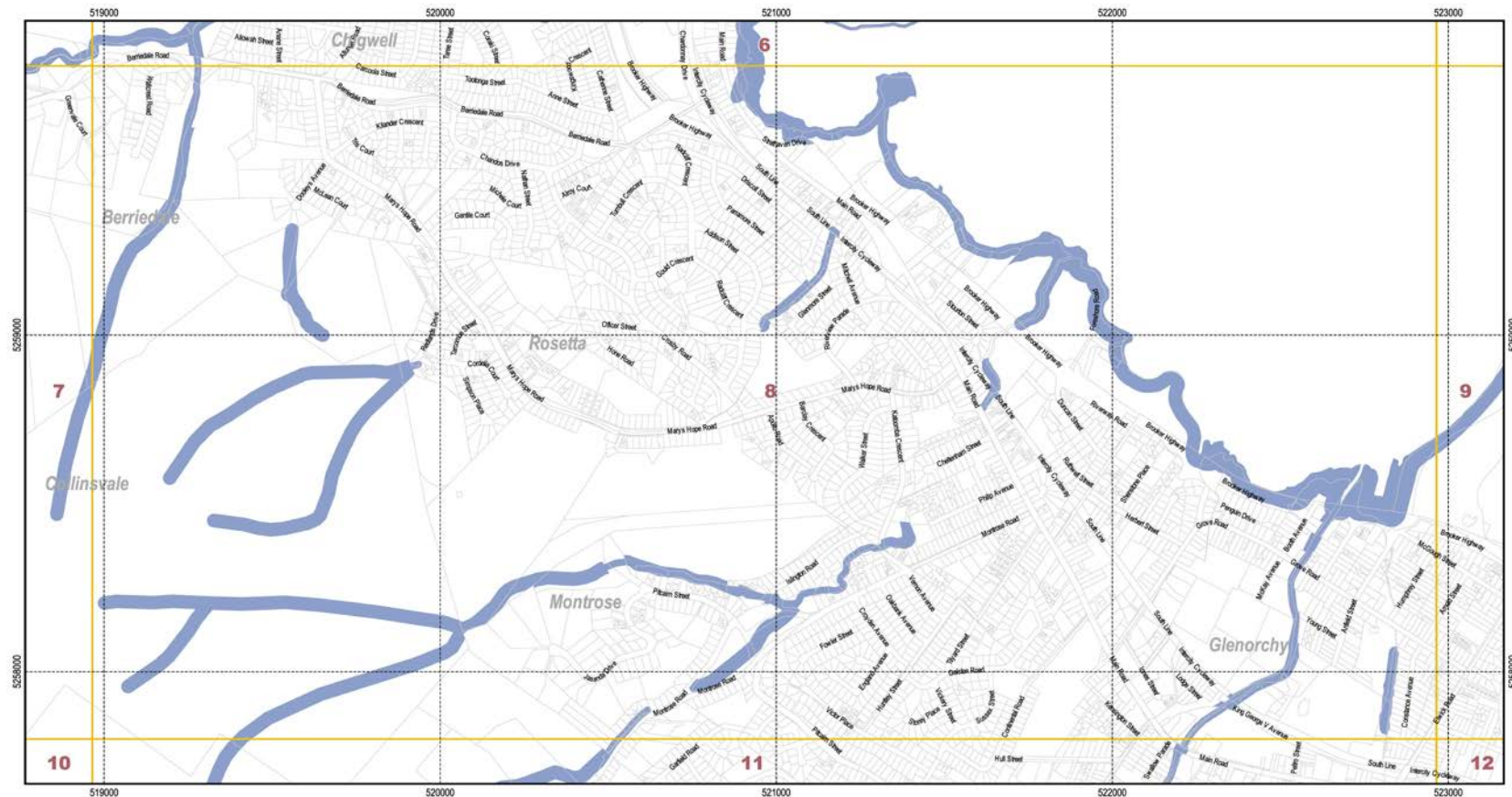
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule



Map 8 of 16

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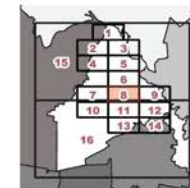
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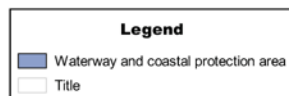
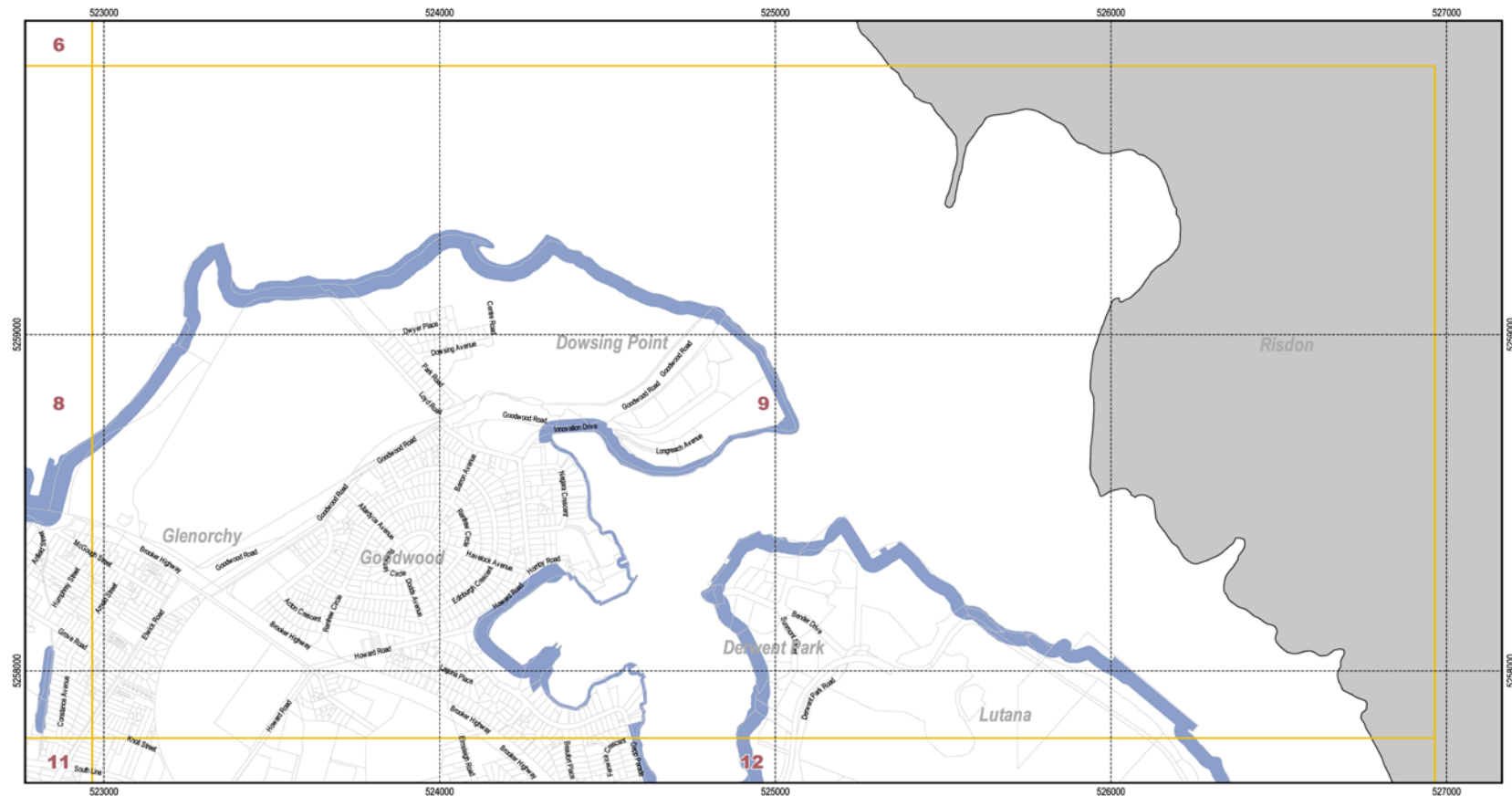
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule



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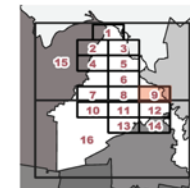
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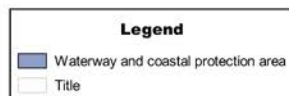
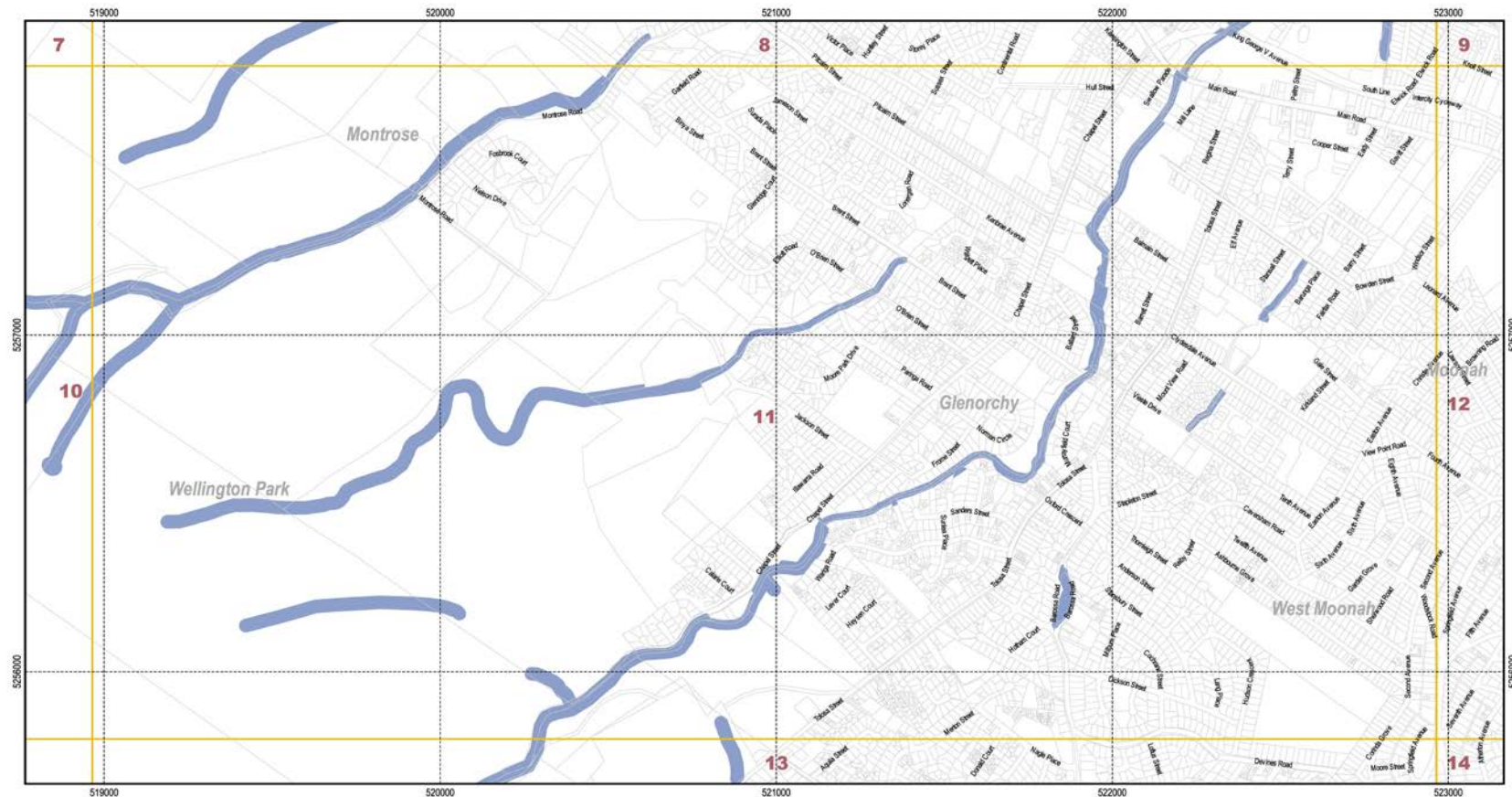
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Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
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Map 11 of 16

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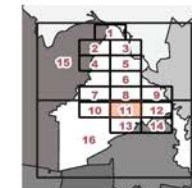
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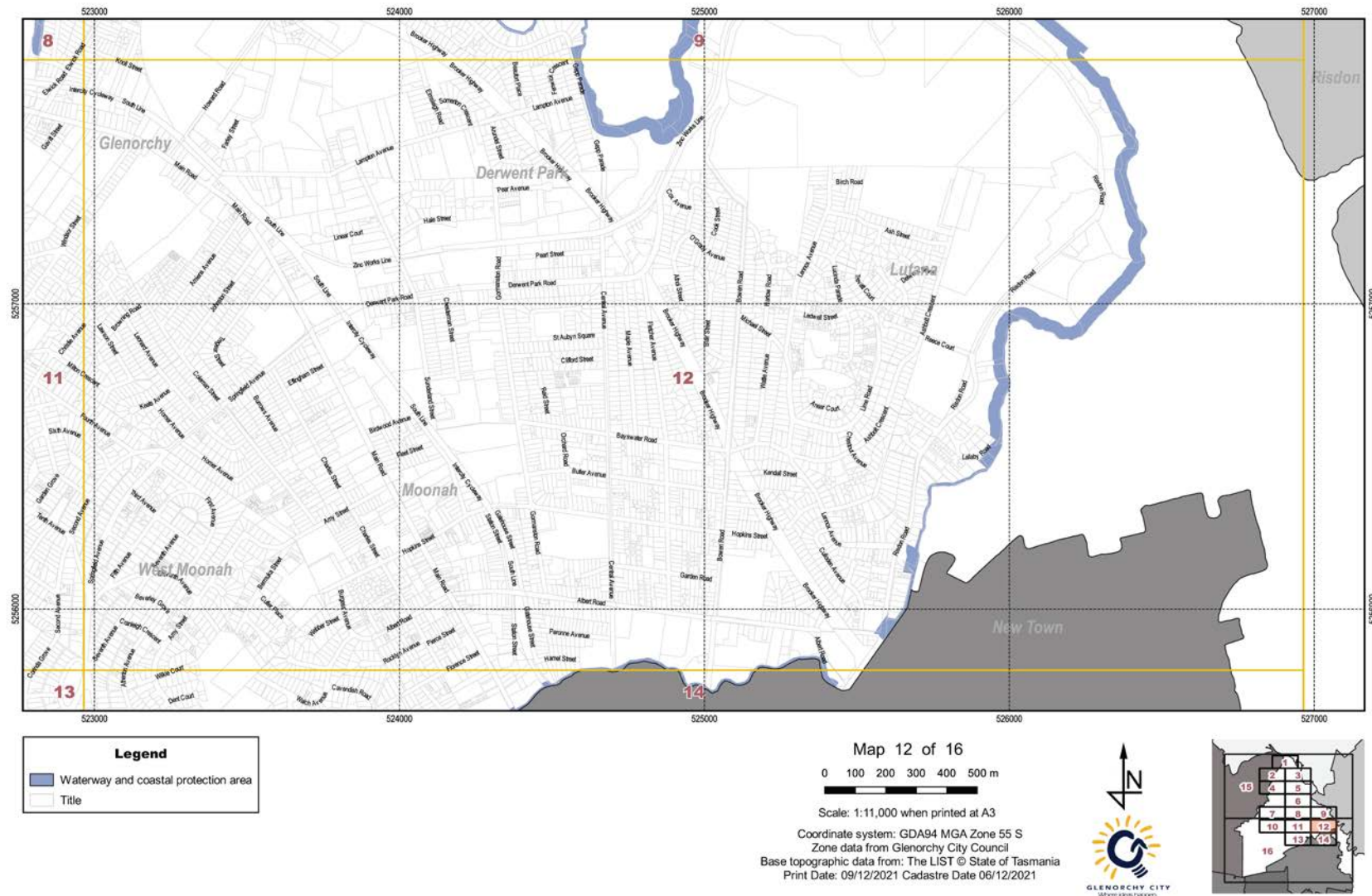
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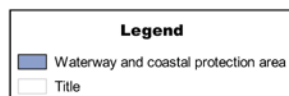
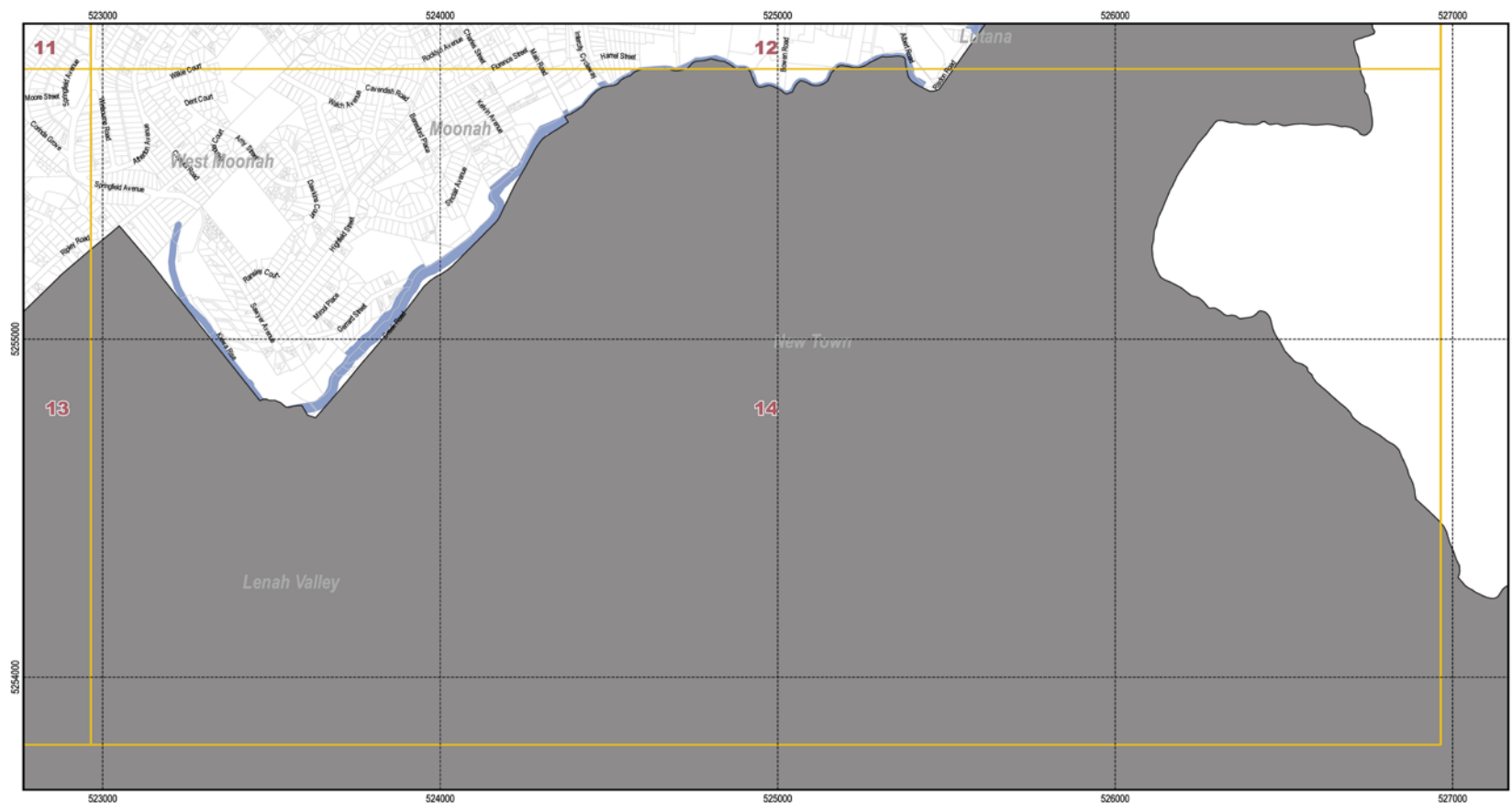


Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule





Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area) **Glenorchy Local Provisions Schedule**



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0 100 200 300 400 500 m

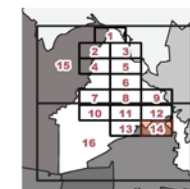
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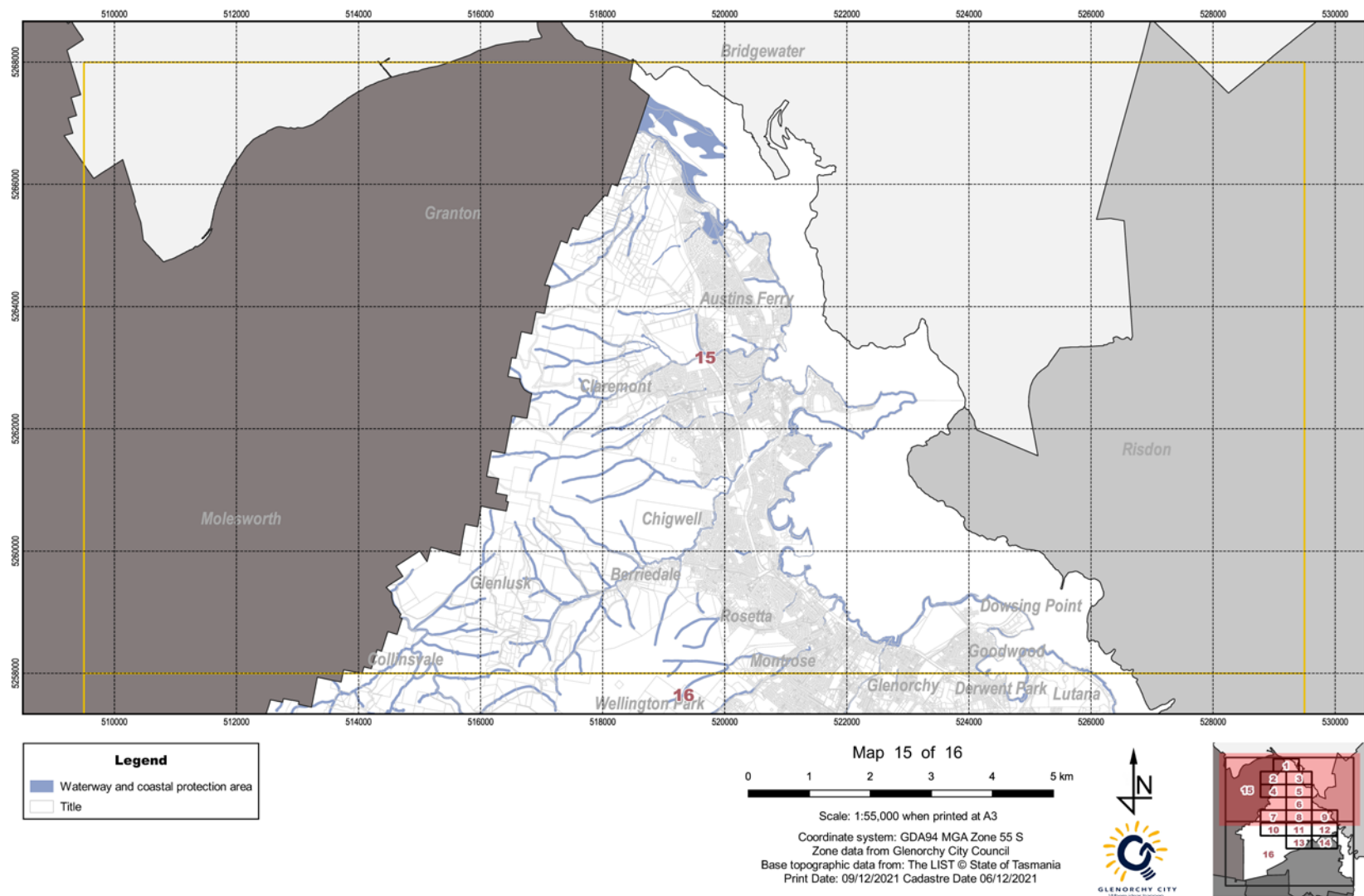
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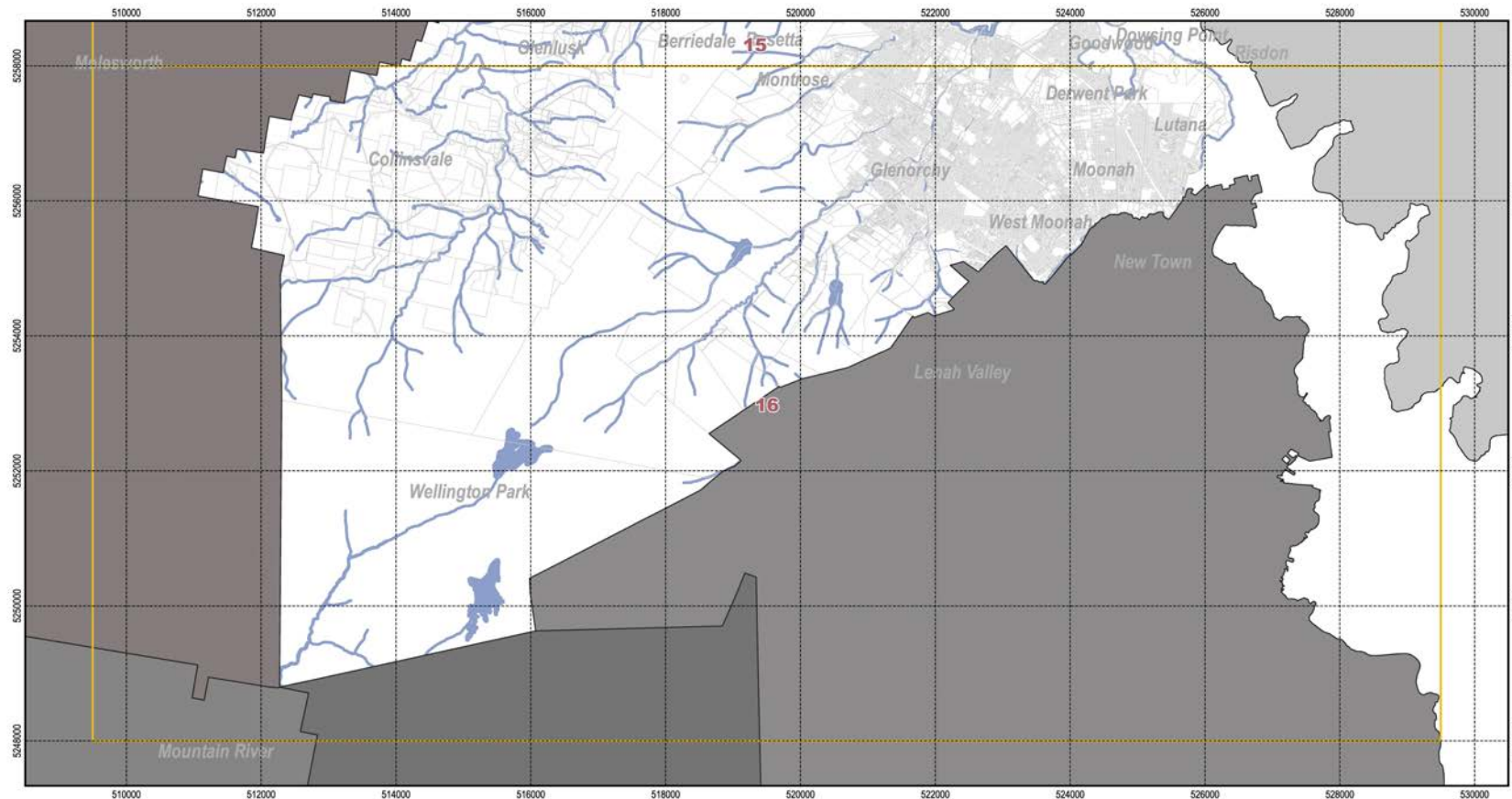
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Glenorchy Local Provisions Schedule



Tasmanian Planning Scheme - Natural Assets (Waterway and coastal protection area)
Glenorchy Local Provisions Schedule



Legend

- Waterway and coastal protection area
- Title

Map 16 of 16

0 1 2 3 4 5 km

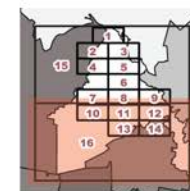
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Zone data from Glenorchy City Council

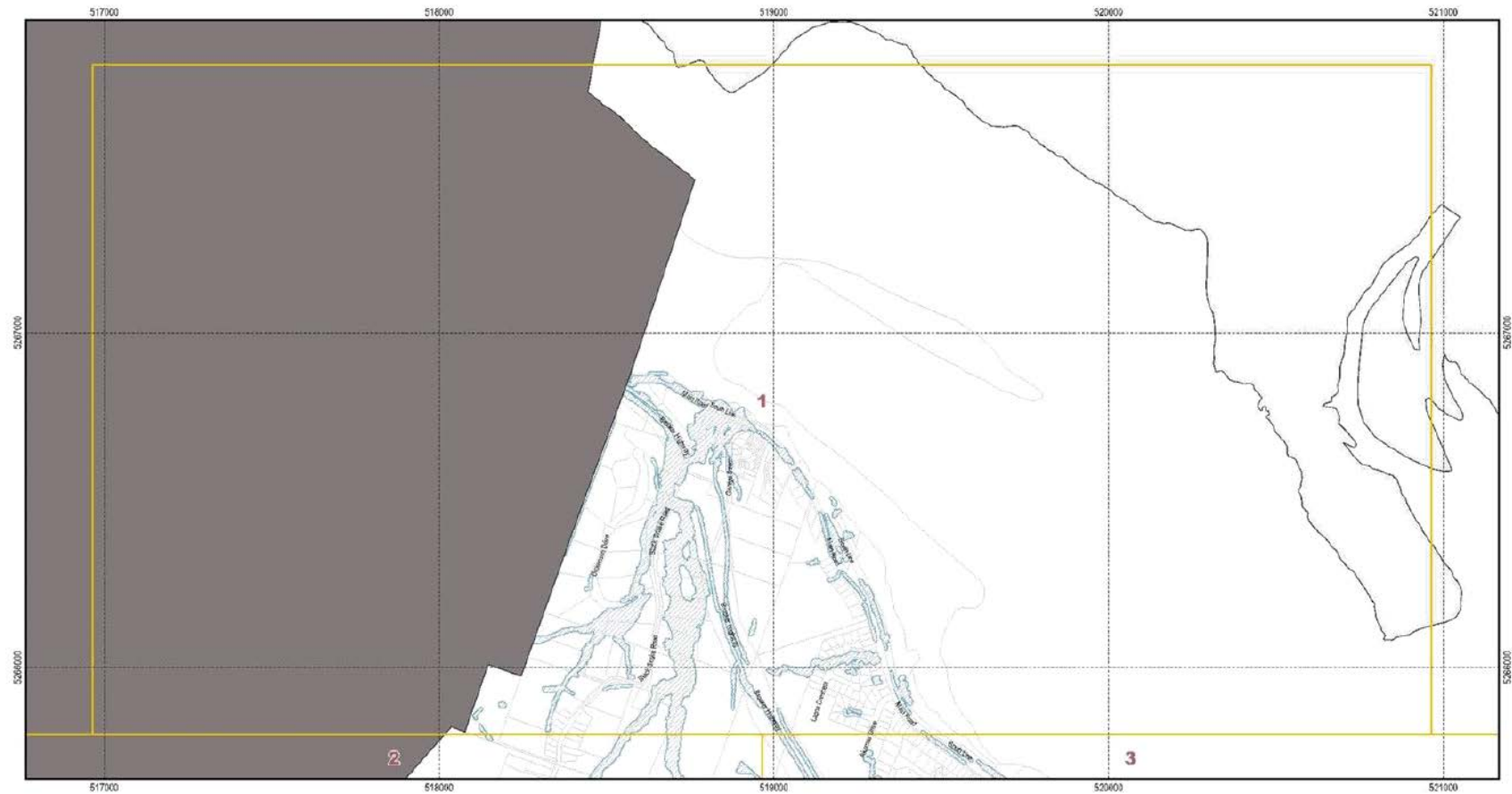
Base topographic data from: The LIST © State of Tasmania

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Attachment 2 – Flood-Prone Hazard Area of C12.0 Flood Prone Hazard Code

Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule



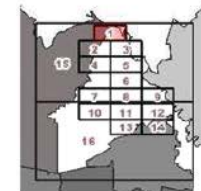
Legend

- Flood-Prone hazard area
- Title

Map 1 of 16

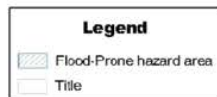
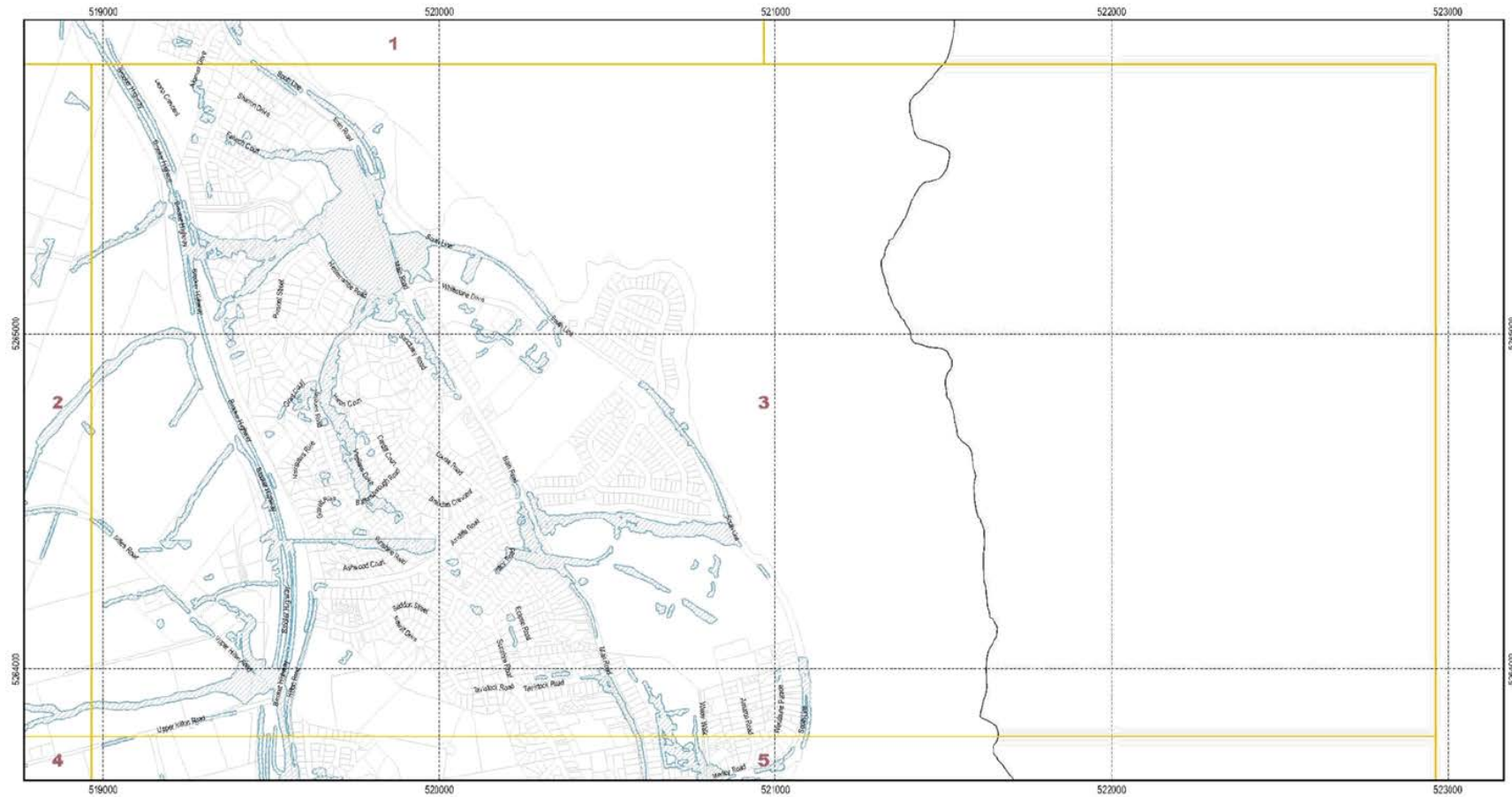
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 Zone data from: Glenorchy City Council
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Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule

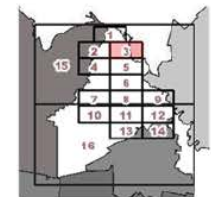


Map 3 of 16

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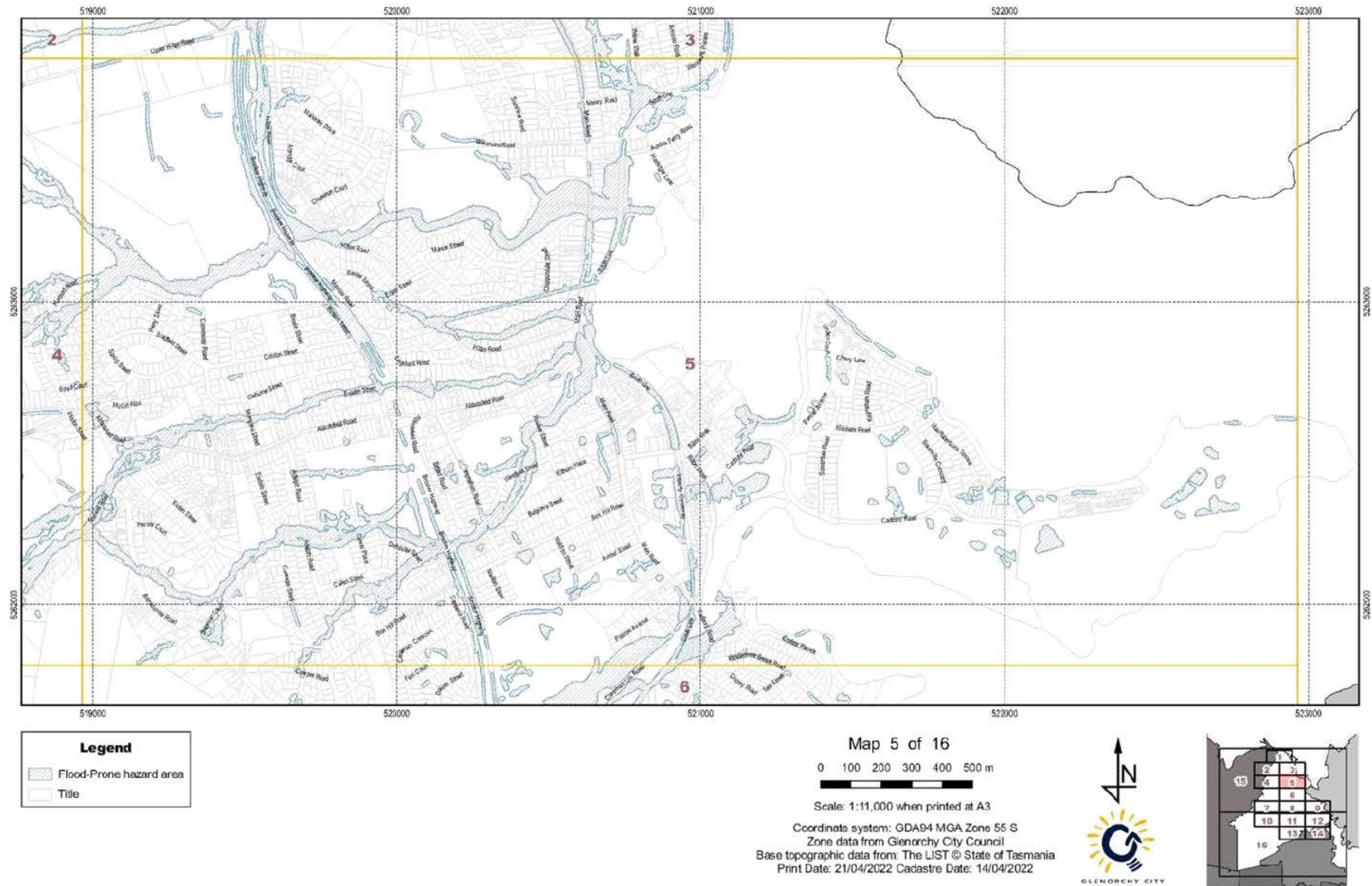
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Zone data from Glenorchy City Council
Base topographic data from: The LIST © State of Tasmania
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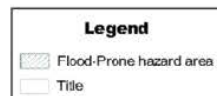
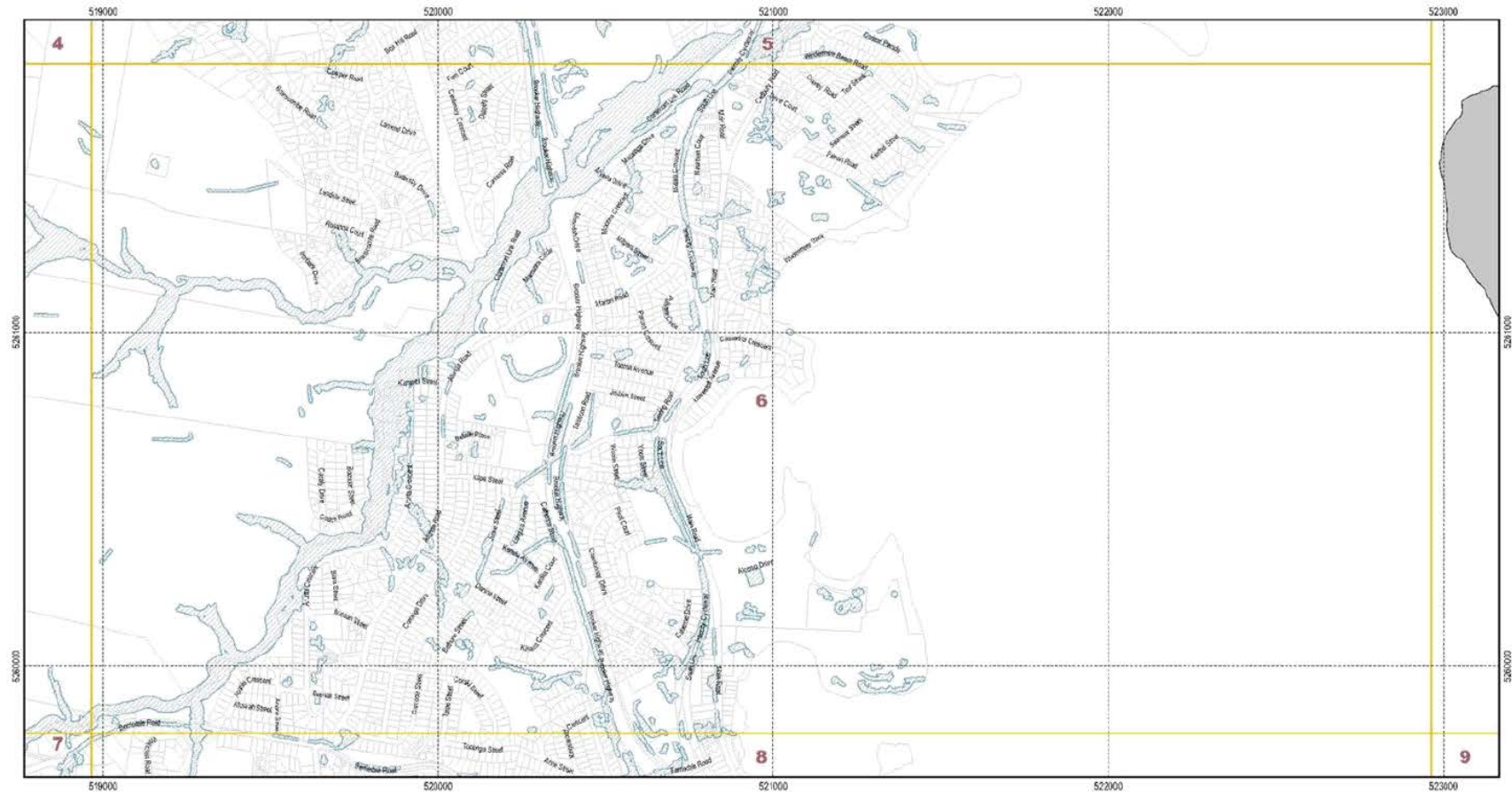




Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule



Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule



Map 6 of 16

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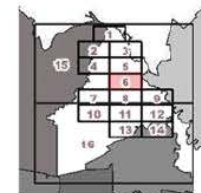
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Zone data from Glenorchy City Council

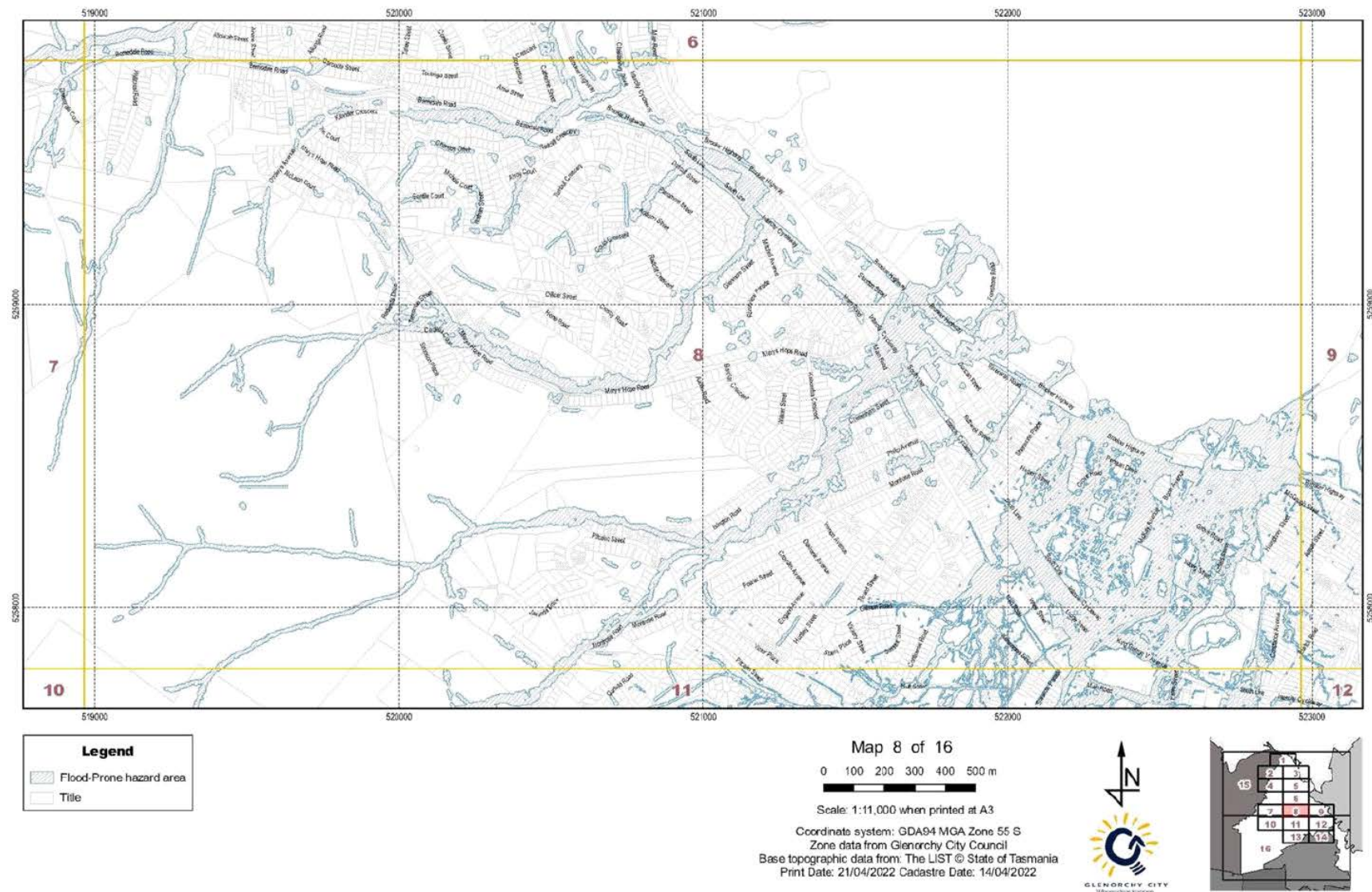
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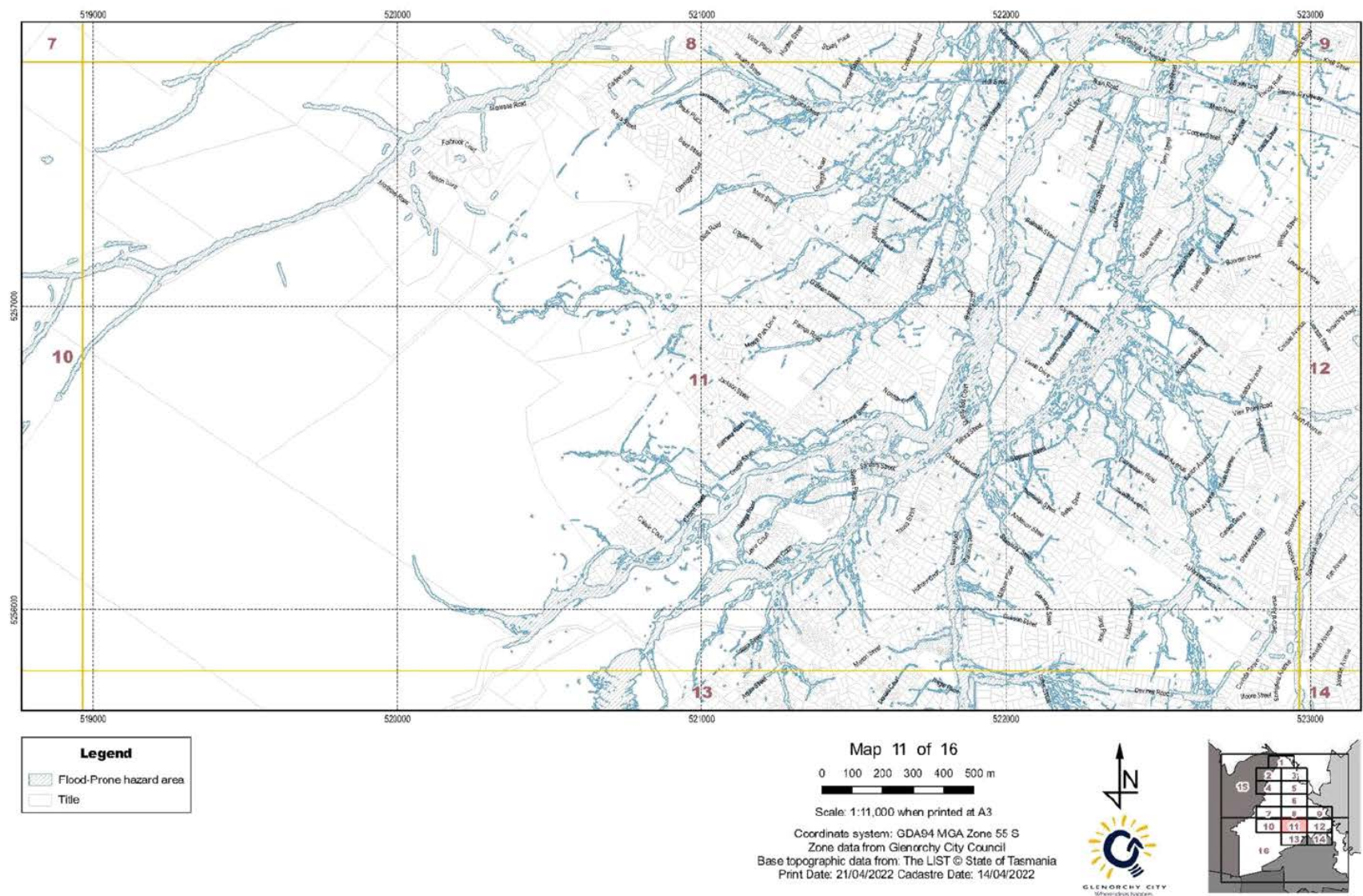
Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule



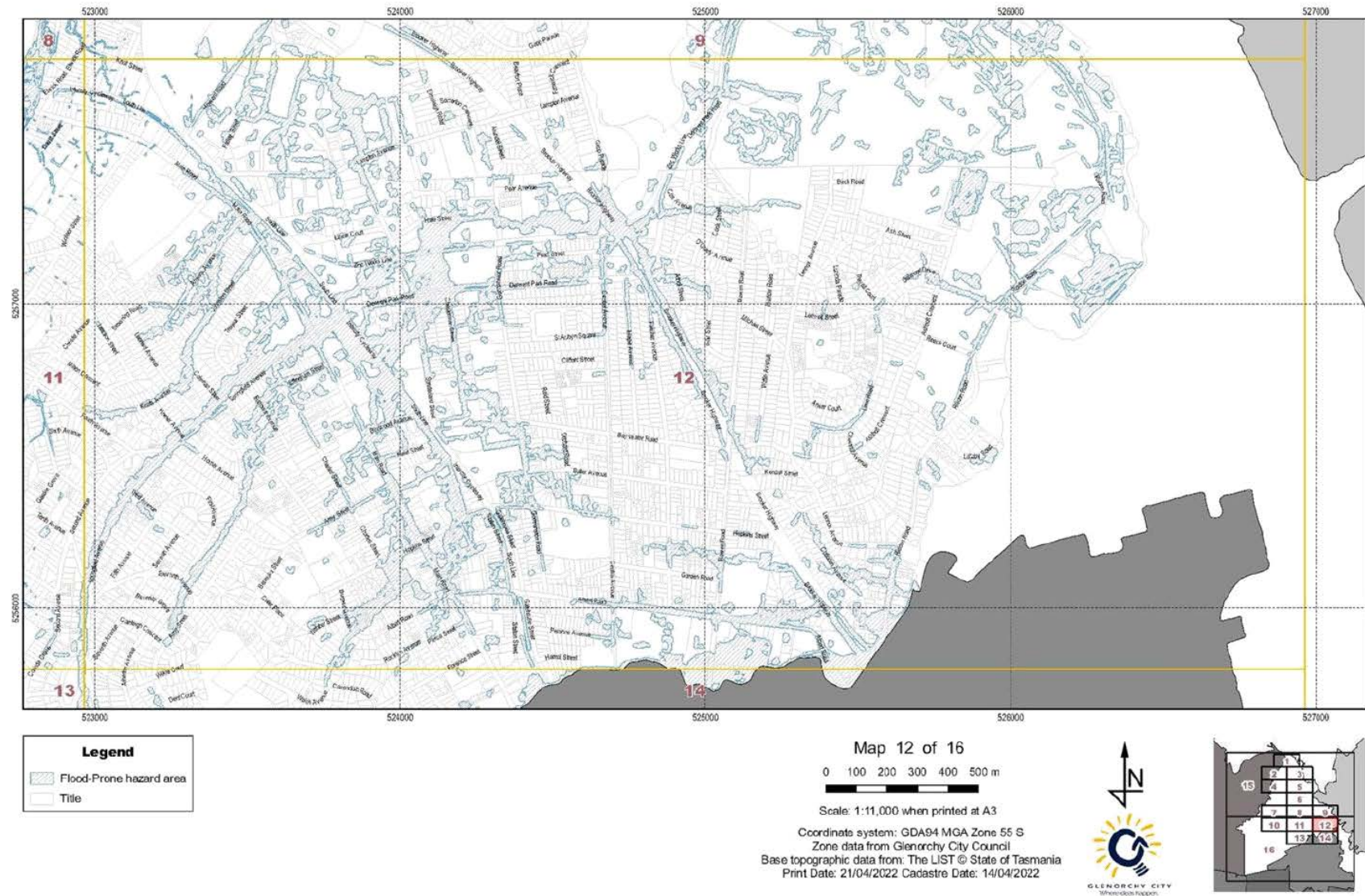




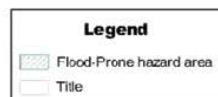
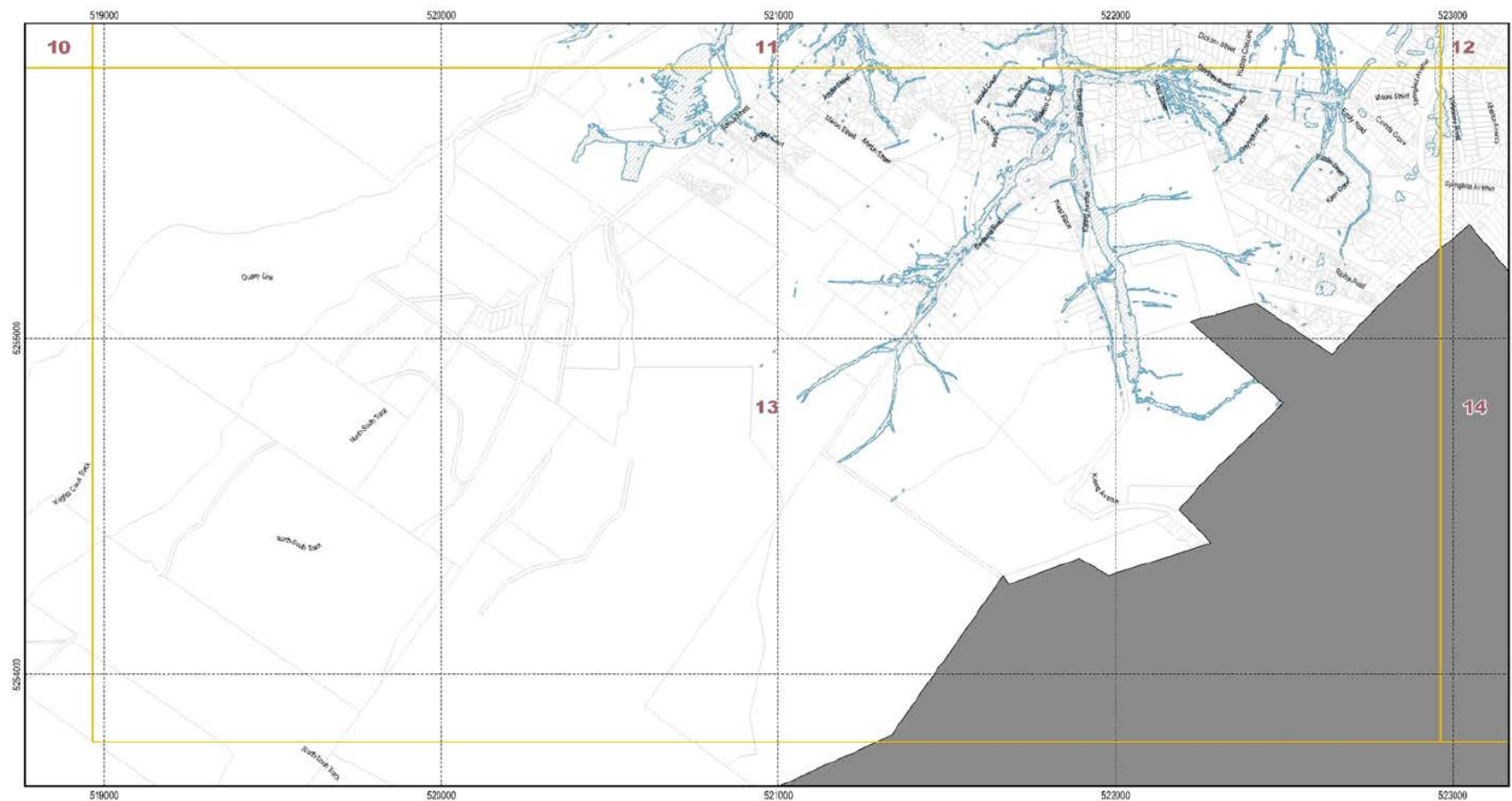
Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule



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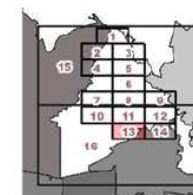


Map 13 of 16

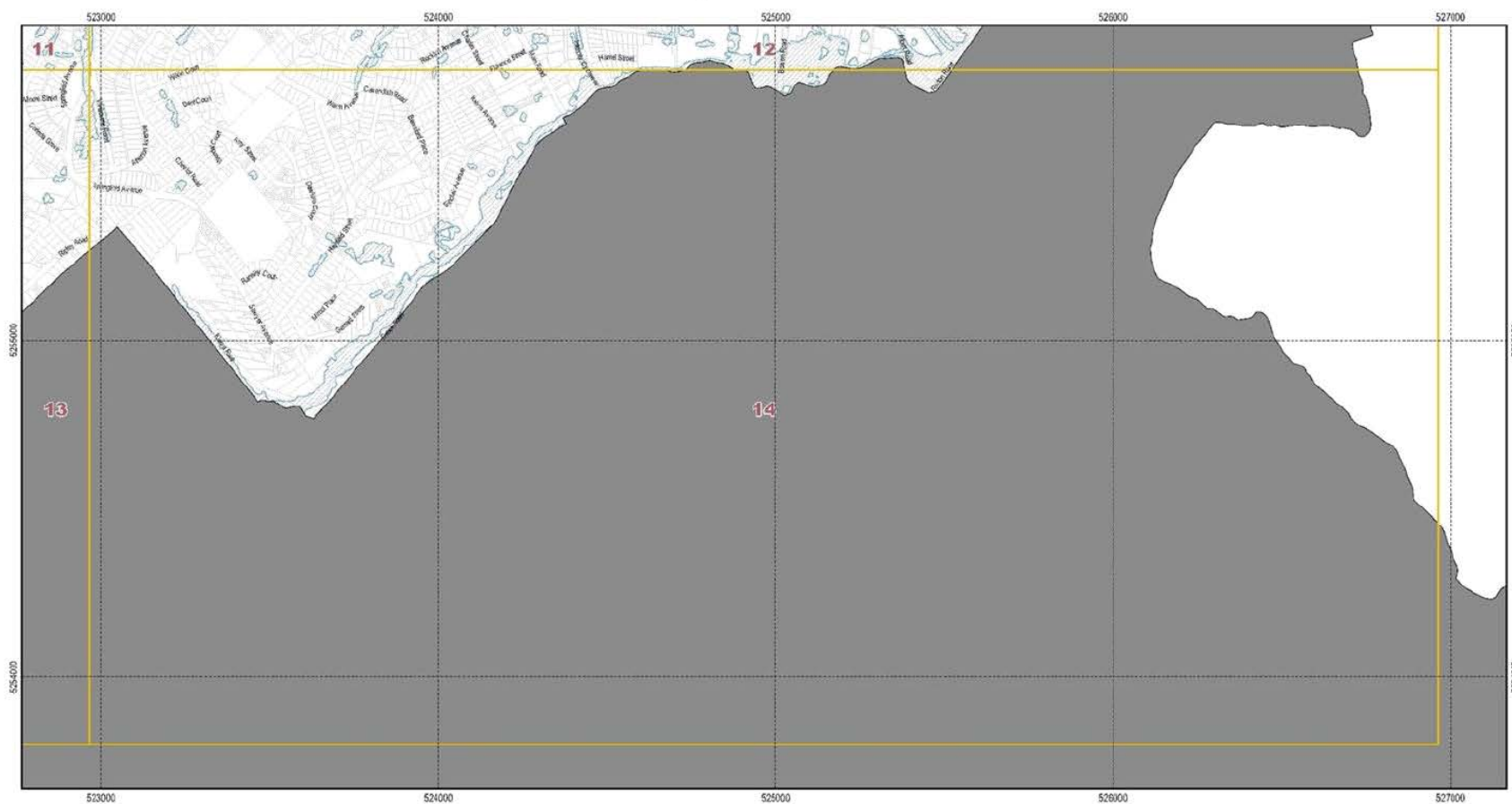
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Zone data from Glenorchy City Council
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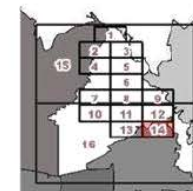


Map 14 of 16

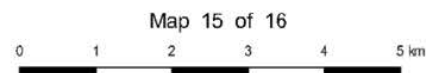
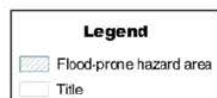
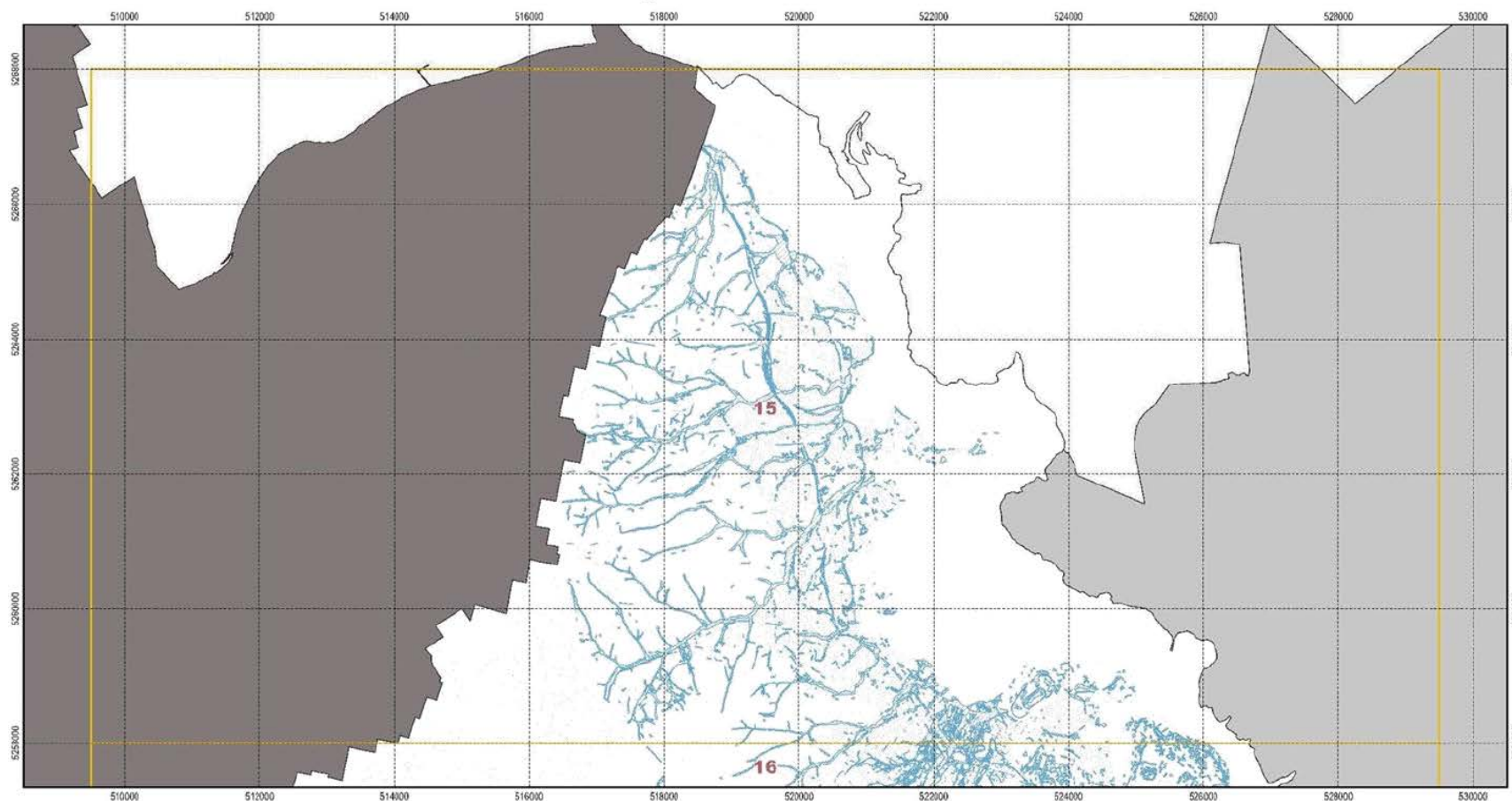
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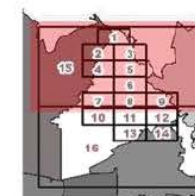
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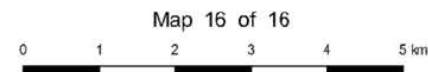
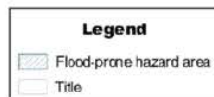
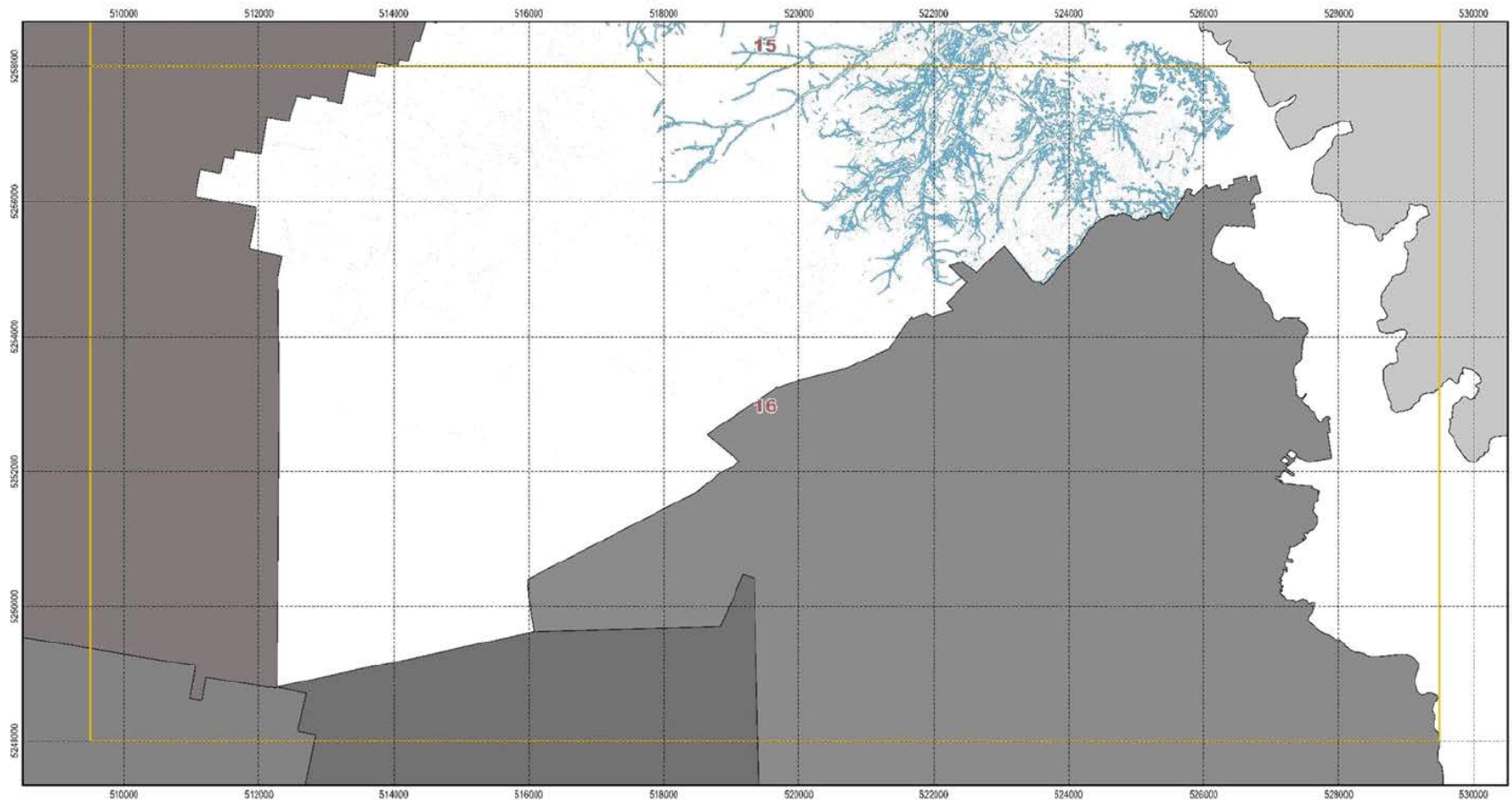
Tasmanian Planning Scheme - Flood Prone Areas Glenorchy Local Provisions Schedule



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