

From: [Danielle Gray](#)
To: [TPC Enquiry](#)
Cc: [Justin Bresnehan](#); [Mark Wapstra](#); [Graham, Linda](#); [astander](#)
Subject: Gray Planning response to Kingborough LPS Direction 137: [REDACTED] Natural Values Assessment
Date: Thursday, 13 August 2026 4:30:02 PM
Attachments: [ECOtas](#); [REDACTED] [_TPC-Direction137.pdf](#)
Importance: High

To the attention of the Chair, Mr Nick Heath and Kingborough LPS panel

-

Dear Mr Heath,

I make reference to the Direction #137 applicable to the Bresnehan land at [REDACTED] in Kettering.

Firstly, thank you to the Chair Mr Heath for the extension of time provided to enable a response to be prepared regarding the provision of an NVA and the issue of the application of the Priority Vegetation Area overlay.

Priority Vegetation overlay application

With respect to Council's proposed application of the Priority Vegetation Area overlay across the property, I have **attached an NVA from Mr Mark Wapstra of EcoTas** that provides a position of no support of placement of the overlay and disputes the approach of the overlay proposed by Council.

In terms of the proposed application of the Priority Vegetation Area overlay and my discussions with Council to date over the application of the Priority Vegetation Area overlay, I have already expressed the view to both the Commission and the Council in prior discussions that the overlay should not be applied to every tree, particularly isolated trees in pasture, which is in conflict with the recent decision of the Commission for the approved Meredith rezoning nearby in Margate where isolated trees in pasture (irrespective of individual conservation status) did not meet the definition of 'Priority Vegetation'.

Mr Jim Mulcahy acting for Council has recently sent me a definition of 'Priority Vegetation' as proposed by Council which confirms Council's approach and tailored definition as to how Kingborough have approached the matter of defining what is 'Priority Vegetation' in this LPS process.

It remains my view that a consistent approach should be applied statewide when it comes to determining definitions. Where there is no definitive definition of what is 'Priority Vegetation', it is my view that the Commission is the appropriate authority to make this call and that the definition and methodology of application of the overlay should be one uniformly applied statewide. To do so otherwise will lead down the path of different definitions for every Council, which is inconsistent with the ideology behind the introduction of the Tasmanian Planning Scheme.

If you wish to discuss I may be contacted on 0439 342 696.

Regards

Danielle
Obo J Bresnehan

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From: Mark Wapstra <mark@ecotas.com.au>

Sent: Thursday, 13 August 2026 1:46 PM

To: Justin Bresnehan <jbresnehan1@icloud.com>; Danielle Gray
<danielle@grayplanning.com.au>

Subject: RE: 528 Manuka

Hi

Attached the final PDF version.

Cheers

Mark

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Gray Planning

ATTENTION: Danielle Gray
224 Warwick Street
West Hobart TAS 7000

10 August 2026

RE: ██████████ Kettering
Kingborough Draft Local Provisions Schedule – Direction 137
Commentary on Priority Vegetation Area Overlay

Summary statement

In response to Direction 106, in relation to ██████████ Kettering, it is my opinion that:

- the Priority Vegetation Area overlay should not be applied to any parts of the title because it does not support natural values consistent with the intent or specifics of priority vegetation as defined at C7.3.1 of the *State Planning Provisions*, specifically because no part of the title:
 - o forms an integral part of a threatened native vegetation community as prescribed under Schedule 3A of the *Nature Conservation Act 2002* – the site is most appropriately classified as a combination of an F-coded (i.e. modified land) TASVEG mapping unit, viz. extra-urban miscellaneous (TASVEG code: FUM) and three small polygons of *Eucalyptus ovata* forest and woodland (TASVEG code: DOV) in poor condition, disconnected from one another and adjacent areas of similar vegetation and with a long history of disturbance such that they do not meet the intent of forming “an integral part of a threatened native vegetation community” i.e. **C7.3.1(a) does not have application**;
 - o is a threatened flora species – no such species known from database information or recorded as the result of site assessment i.e. **C7.3.1(b) does not have application**;
 - o forms significant habitat for a threatened fauna species at any reasonable scale (with only opportunistic, ephemeral and temporary habitat present) i.e. **C7.3.1(c) does not have application**; and
 - o has been identified as native vegetation of local importance – this includes specific reference to the concept of “individual trees” but also to *Information Sheet 2-2024 (LPS Amendment Assessments – Natural Assets Code - Native Vegetation of Local Importance* i.e. **C7.3.1(d) does not have application**.

Further to this conclusion, in this case it is noted that no effort has been made to consider the concept of “individual trees” – I refer the reader to my responses to Directions 101, 103, 106 & 107 for my rationale on this.



It is acknowledged that my conclusions in relation to elements (a) and (c) of C7.3.1 do warrant careful consideration as they are not as simple as a statement that "there are no threatened flora such that C7.3.1(b) does not apply". A decision on whether any part of the site properly meets the intent of C7.3.1(a) requires a more formal consideration of the concept of "an integral part of a threatened native vegetation community". A decision on whether any part of the site properly meets the intent of C7.3.1(c) requires a more formal consideration of the concept of "significant habitat". I do not consider either to be straightforward and the decision on one or both will set an important precedent for other sites and the future definition and interpretation of the concept of priority vegetation.

The following statement provides supporting evidence for my conclusions.

Preamble

Environmental Consulting Options Tasmania (ECOtas) was engaged through Gray Consulting on behalf of Justin Bresnehan (owner) in relation to the natural values associated with ██████████ ██████████ Kettering (Figures 1-3), with specific reference to providing further commentary to assist with addressing TPC Direction 137, which was stated as follows:

Following the hearing of Representation 608, the provision of the most recent natural values assessment undertaken for the property at Manuka Road, Kettering.

It is understood that the representation sought to remove the Priority Vegetation Area overlay in its entirety. While some information on the natural values of the title was provided at hearing, a more recent evaluation of the natural values has been requested.

The key objective of this statement is to provide a summary of the natural values of the subject site and provide a determination if any of these meet the intent of priority vegetation as intended by C7.3.1 of the State Planning Provisions, copied below for reference:

C7.3 Definition of Terms

C7.3.1 In this code, unless the contrary intention appears:

means native vegetation where any of the following apply:

- (a) it forms an integral part of a threatened native vegetation community as prescribed under Schedule 3A of the *Nature Conservation Act 2002*;
- (b) is a threatened flora species;
- (c) it forms a significant habitat for a threatened fauna species; or
- (d) it has been identified as native vegetation of local importance.

Assessment of 1520 Channel Highway

This statement is supported by my own (with assistance from James Wapstra, ECOtas) natural values assessment of the whole of ██████████ on 5 Aug. 2026.

The key objective of the assessment was to determine the extent of any natural values that could be construed as meeting the intent of any part of C7.3.1. To that end, the vegetation of the title has been wholly re-mapped.

Note that the assessment did not include the consideration of "individual trees" – the rationale for this is explained in detail in my responses to Directions 101, 103, 106 & 107.





Figure 1. General location of subject title



Figure 2. Detailed location of subject title: overview

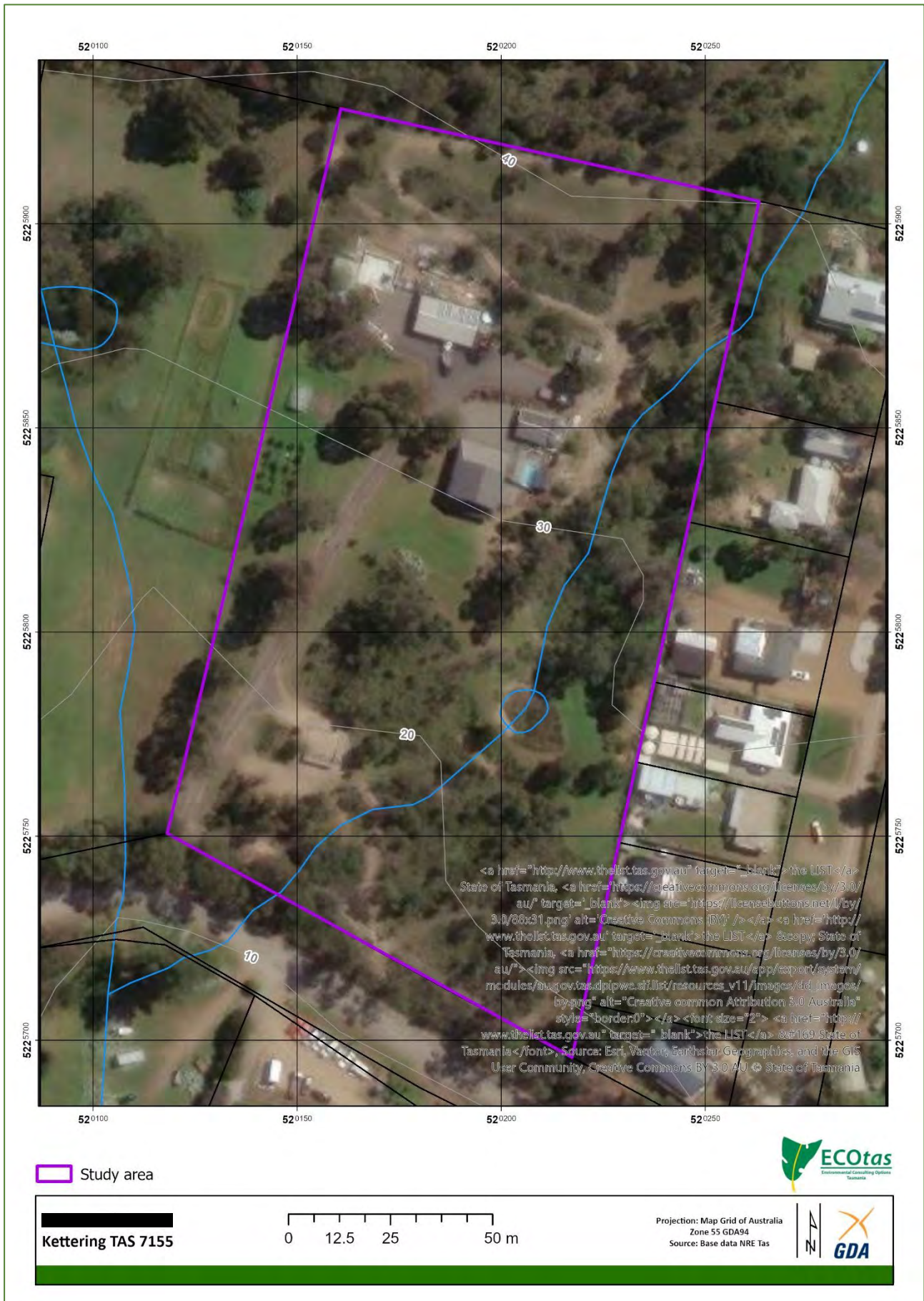


Figure 3. Detailed location of subject title: recent aerial imagery

Findings

Overview

The title is located on the north side of Manuka Road and is 21,320 m² (i.e. ca. 2.13 ha) in extent. The title supports a primary residential dwelling and near-complete ancillary dwelling, with associated residential and rural living elements. Both dwellings require maintenance of hazard management areas (HMAs) in accordance with certified bushfire hazard management plans endorsed through the planning permit for both residential structures.

The subject title is currently zoned as Environmental Living pursuant to the *Kingborough Interim Planning Scheme 2015*. I find this a somewhat surprising classification, given the land use history of the site (see further below), with some form of “rural” zoning seemingly far more appropriate. It is understood that the proposed LPS designated the title as Landscape Conservation but that a Rural Living A zone is sought through representation. In terms of the broader findings in relation to both historical and contemporary land use, as well as the natural values identified, I support the Rural Living A classification.

As per much of the municipality, the subject title is currently wholly subject to the Biodiversity Protection Area overlay pursuant to the *Kingborough Interim Planning Scheme 2015*. The proposed Priority Vegetation Area overlay under the LPS also includes the whole of the title (Figure 4). Notably, that overlay also includes the line of 8 small titles immediately east of the subject title (to be zoned as Low Density Residential so the purpose of the overlay on such small titles is redundant), most of the Channel Highway and Manuka Road, and extensive areas of primary production, residential and other intensively-managed sites. That is, the application of the proposed overlay appears to bear no direct resemblance to available information on natural values (but see section on Vegetation types for more detail on this).

The title is wholly fenced and is furnished with a well-formed drive direct off Manuka Road that accesses both dwellings and includes parking areas and the like. There are “rural living”-style gardens, sheds and managed grassy areas across the western, central and northern parts of the title.

The site has a generally south-facing aspect with a gentle slope between ca. 15-40 m a.s.l. The site is wholly developed on Jurassic-age dolerite. While LISTmap includes a single hydrographic line within the title, the presence of a “watercourse” within the intent of the State Planning Provisions is not supported by available evidence. Lidar imagery (Figure 5) does not show the feature with contour maps showing a very minor “dip in the topography”. Site assessment failed to located any features that could be properly assigned to a “watercourse”, which is taken to mean “a defined channel with a natural or modified bed and banks that carries surface water flows”. It is understood that at the time of purchase, there was a poorly-drained area north/northeast of the location of the primary residence. A virtually indistinguishable “ditch” has been created to collect and direct this water, which now flows intermittently downslope, generally across the contours before reaching Manuka Road. While not the subject of Direction 137, in my opinion, it would be reasonable to remove the Waterway and Coastal Protection Area overlay from the title. It is recognised, however, that the overlay also impacts on other titles so a broader review of this feature may need to be undertaken.

Land use history

In this case, it is informative to examine the history of land use that has occurred within and adjacent to the title, as it very much goes to the current consideration of whether the site supports priority vegetation. Aerial imagery has been examined (refer to Figure 6 in several parts) to inform the following discussion.





Figure 4. Proposed extent of Priority Vegetation Area under LPS
[source: <https://kingborough.maps.arcgis.com/apps/webappviewer/index.html>]



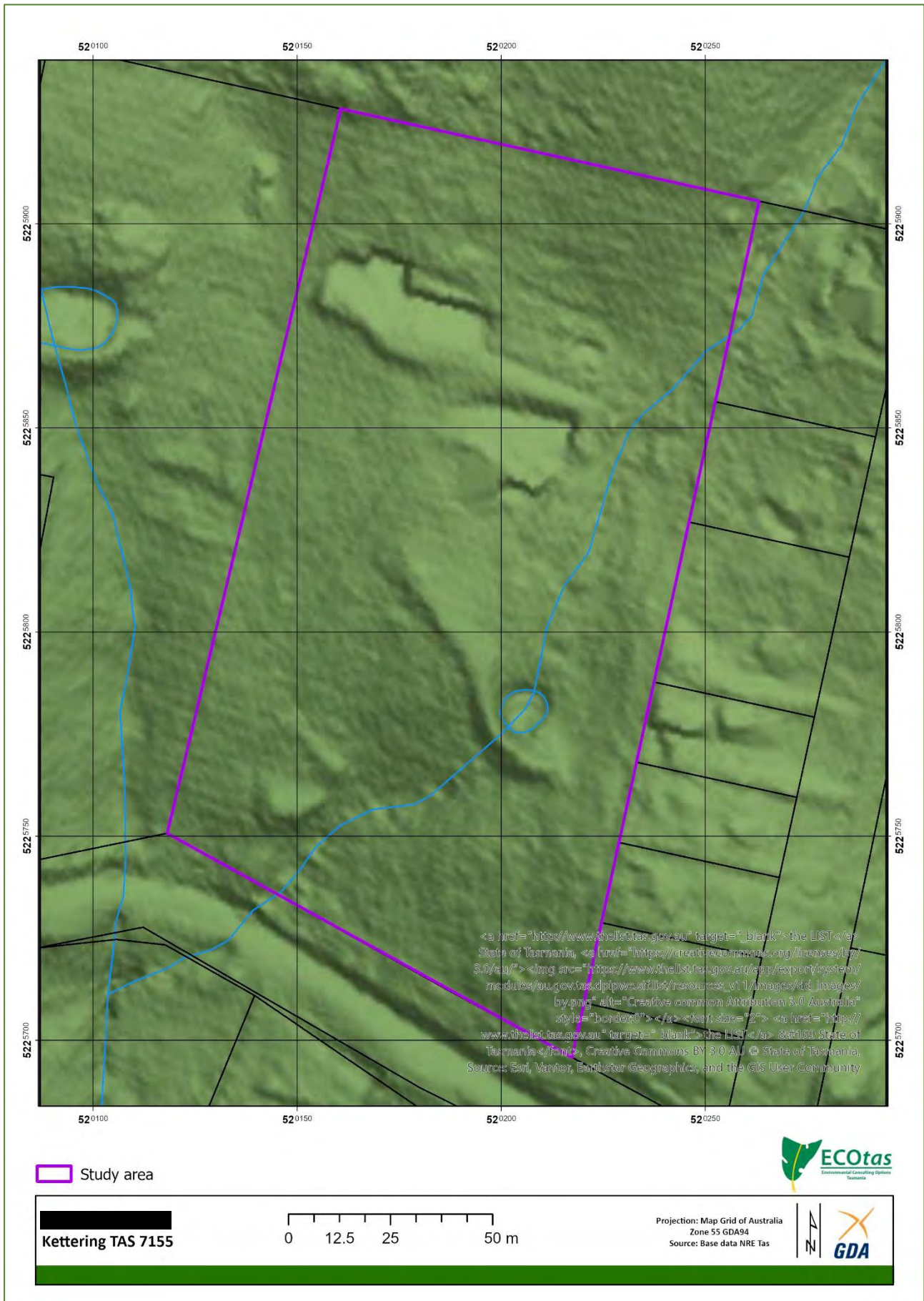


Figure 5a. Hillshade mapping of subject title and surrounds showing lack of any obvious drainage feature coincident with LISTmap's hydrographic line



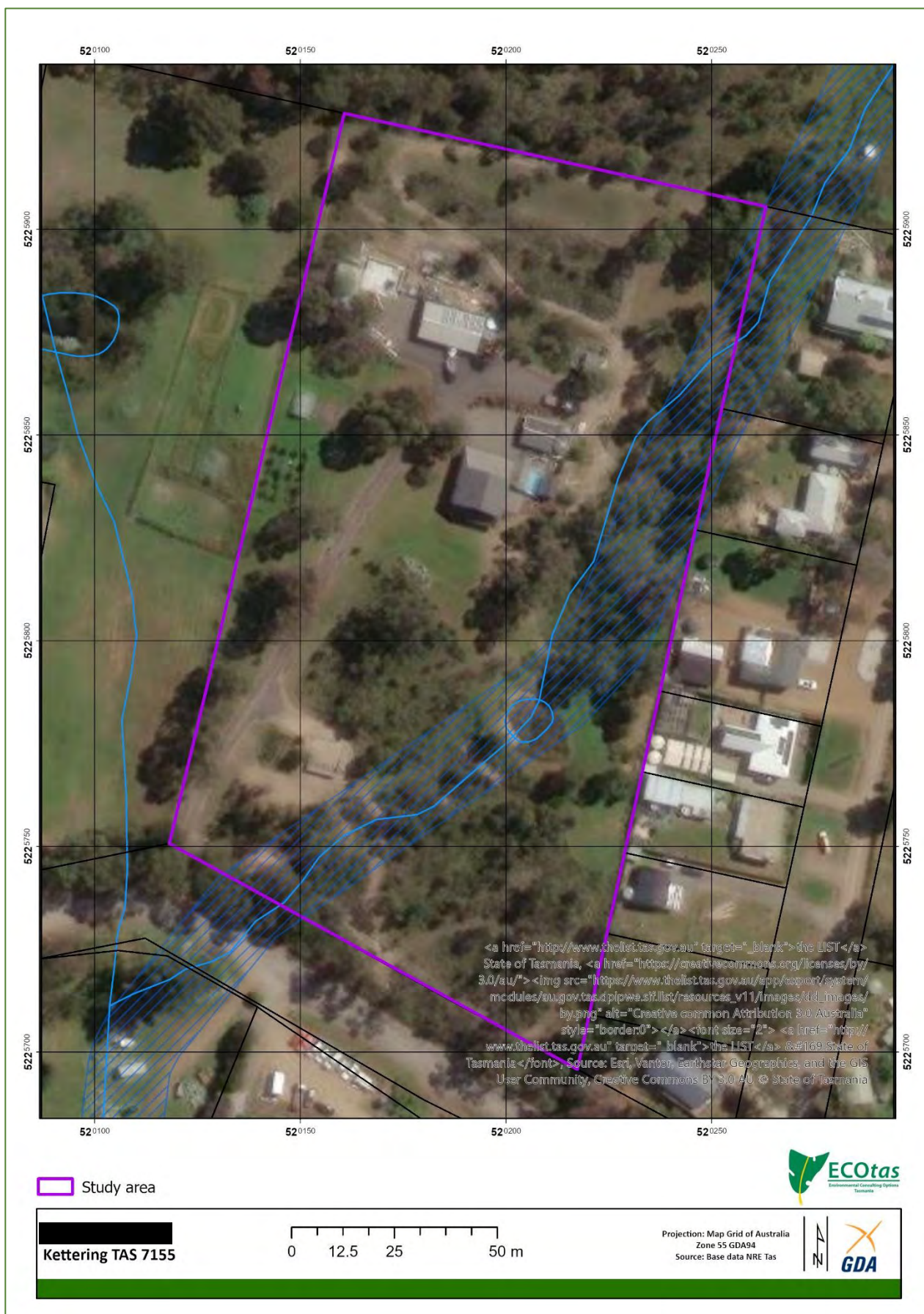


Figure 5b. Extent of Waterway and Coastal Protection Area overlay within and near title, based on the notional LISTmap's hydrographic line (note the significant offset; note also the absence of the overlay on the apparent drainage feature in the paddock to the west)

2 March 1965

Prior to the extensive Feb. 1967 bushfire event, which broadscale mapping indicates missed the title and immediate surrounds, the title appeared to be part of a much larger holding of mixed forest, pasture, orchards and some housing (mainly related to farming activities). At that time, the title was lightly forested only, but already clearly subject to some form of

15 February 1967

Just after the Feb. 1967 bushfire, which does appear to have affected the title and surrounds (note several missing structures), the vegetation is much more open with only a few larger trees, and some quite extensive areas of non-treed sites.

11 January 1973

The title appears to have been "let go" to allow natural regeneration post-fire with some minor thickening up of the canopy and understorey.

2 March 1979

Effectively the whole site and the area to the west (presumed a single title at the time) has been cleared and developed as pasture with only a few scattered trees.

3 January 1989

The title remains effectively cleared, although appears to be unused per se, with some minor regeneration occurring in the southeast corner but otherwise probably extensively dominated by bracken and/or woody weeds.

16 February 1992

There has been continued natural regeneration in the southern third of the title but the balance of the title remains cleared.

3 March 1995

The whole site is effectively once again wholly cleared. Note that this includes the virtual absence of larger trees, with less than 10 present. This is mentioned because it effectively ages the current stand of trees in the northeastern part of the title.

15 February 1997

As above with some canopy broadening of the larger trees along the eastern boundary.

9 January 2001

Much of the site appears to have been cleared again with a band of what is assumed to be bracken and/or spanish heath running through the centre of the site.

28 March 2004

The site appears to have been "let go" again for ca. 3 years, allowing natural regeneration to occurs across the site, apart from some pasture along the western boundary.

9 December 2006

As above – note the continued expansion (albeit minor) of some of the larger trees in the central east.

18 February 2008

Continued natural regeneration across most of site, although a band across the north remains effectively cleared.

1 June 2011

This is an interesting image because it shows the southern two-thirds of the title, apart from a tree here and there, as effectively cleared, but with some natural regeneration in the previously cleared band across the north.



22 October 2011

This image clearly shows the bright green of pasture on the central western boundary (and a small area on the eastern boundary) and extensive ground disturbance across the balance, apart from the band of "forest" along the northern part of the eastern boundary.

6 February 2013

As above – note continued extensive ground-level clearing with bare ground shown across much of the site.

4 February 2016

As above but this image shows the minor development of "forest" along the northern part of the eastern boundary.

28 February 2017

Most of the site is cleared apart from the now somewhat better developed forest along the northern part of the eastern boundary. An access has been established and an excavation for what will be shed is present.

13 November 2017

This is a much clearer image than the previous and shows the extent of clearing for access, shed (now constructed) and future house site (started). Note the southern half of the title is cleared and the northern band managed.

28 February 2018

The house and associated elements are all now in place. The southern area has slightly regenerated. The northern band and eastern patch of forest remain effectively unchanged.

12 April 2019

As above but this image shows the limits of disturbance quite well.

10 February 2021

As above but with some notable changes. The northern area is now more intensively managed, the eastern forest canopy has developed a bit more and the southeastern section has been "let go" once again.

21 January 2022

As above. Note that at this time, apart from the small area of eastern forest, it would be genuinely challenging to assign any part of the rest of the title to a native vegetation mapping unit.

13 January 2023

As above but the southeastern section is now showing further regeneration and would be assignable to a forest mapping unit, albeit somewhat challenging without a site assessment confirming species dominance and density of canopy species.

29 March 2024

As above.

27 February 2026

As above.

The summary of this review of aerial imagery indicates that the title has been subject to decades of management ranging from relatively minor to quite intensive. At certain points, limited areas are assignable to a native vegetation community (although the classification would always have been challenging). At times, when the site is "let go", natural regeneration appears to occur rapidly.



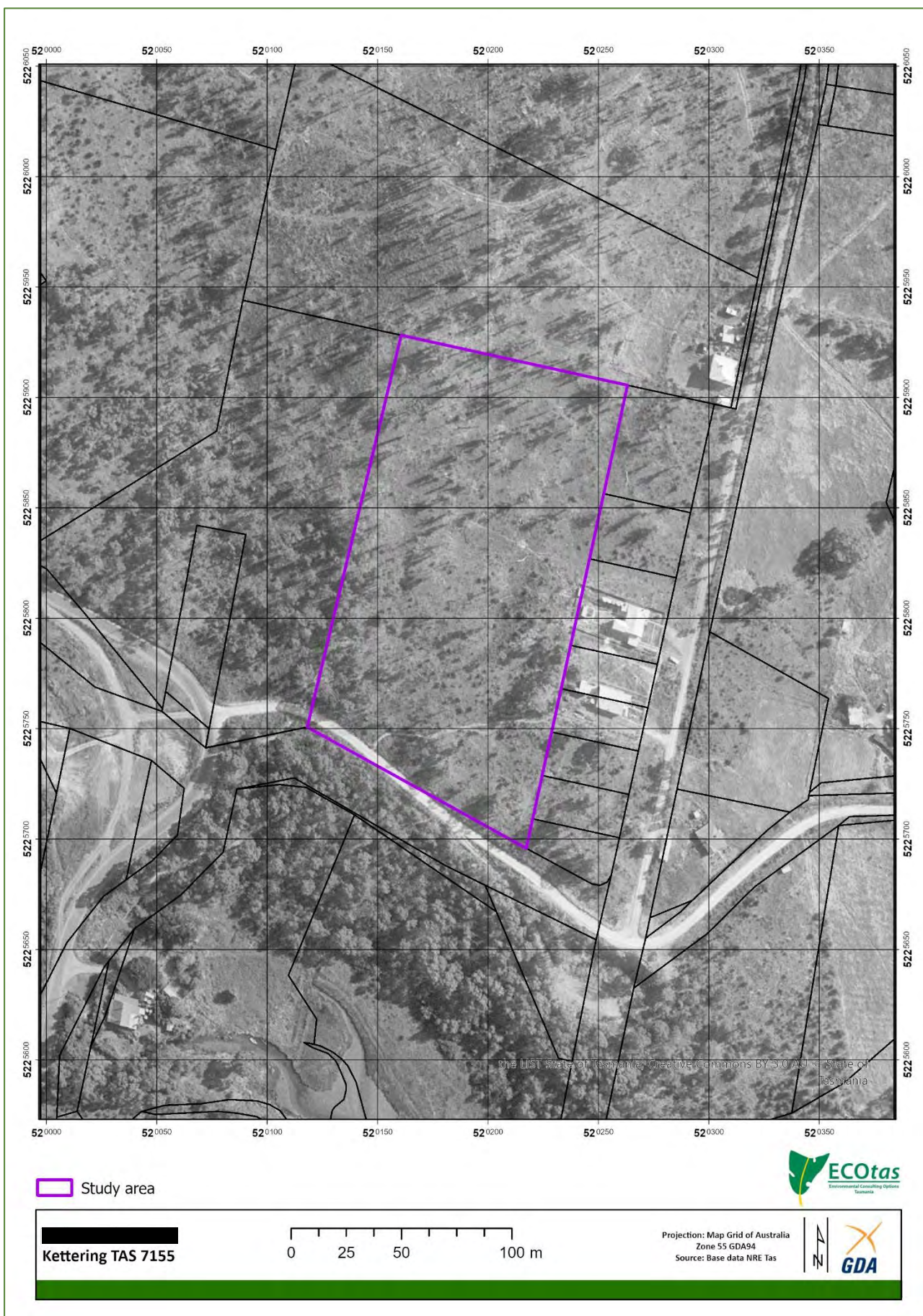


Figure 6a. Subject title and surrounds showing land use activity as at 2 Mar. 1965
[source: Aerial Photo Viewer v2]

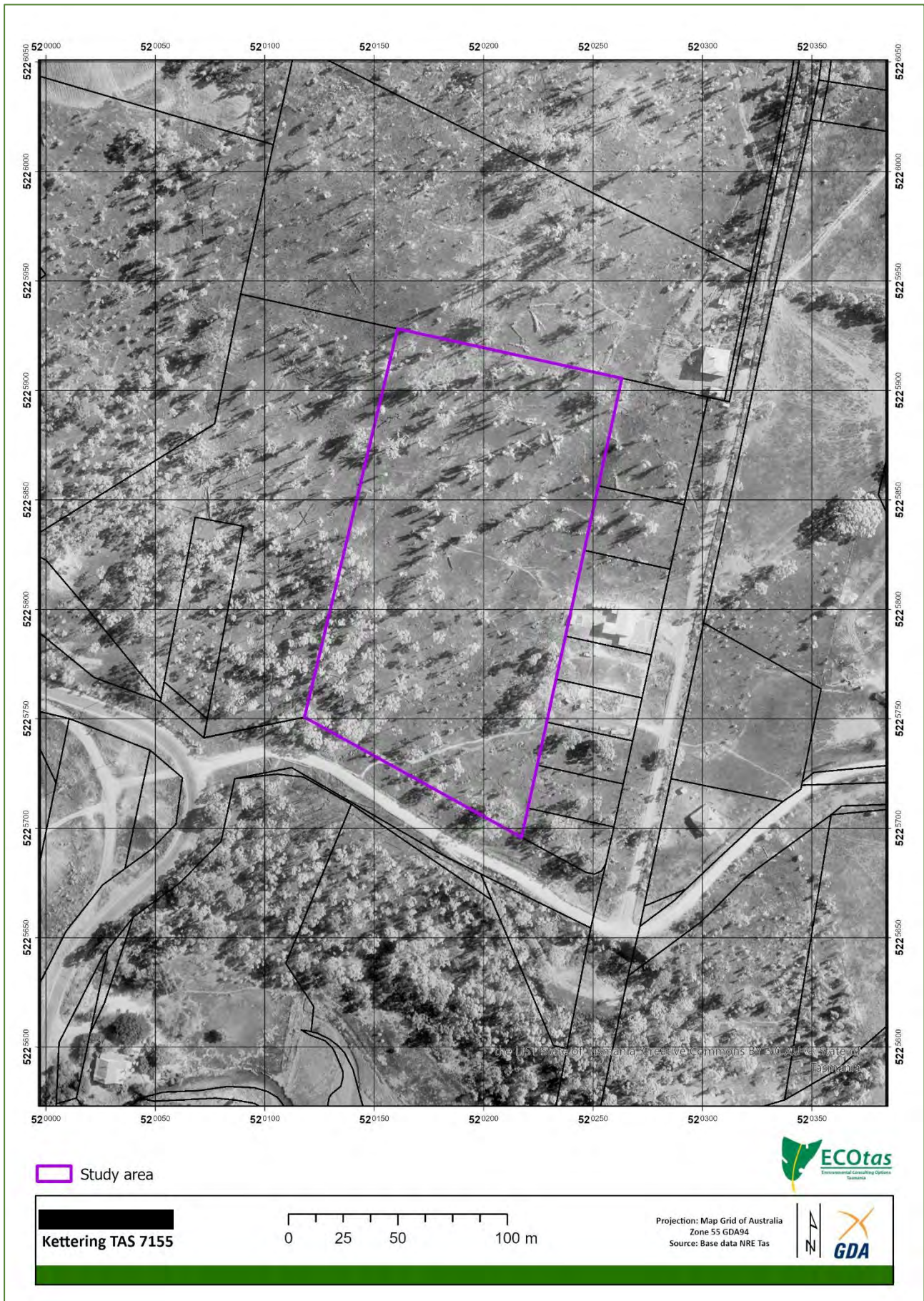


Figure 6b. Subject title and surrounds showing land use activity as at 15 Feb. 1967
[source: Aerial Photo Viewer v2]

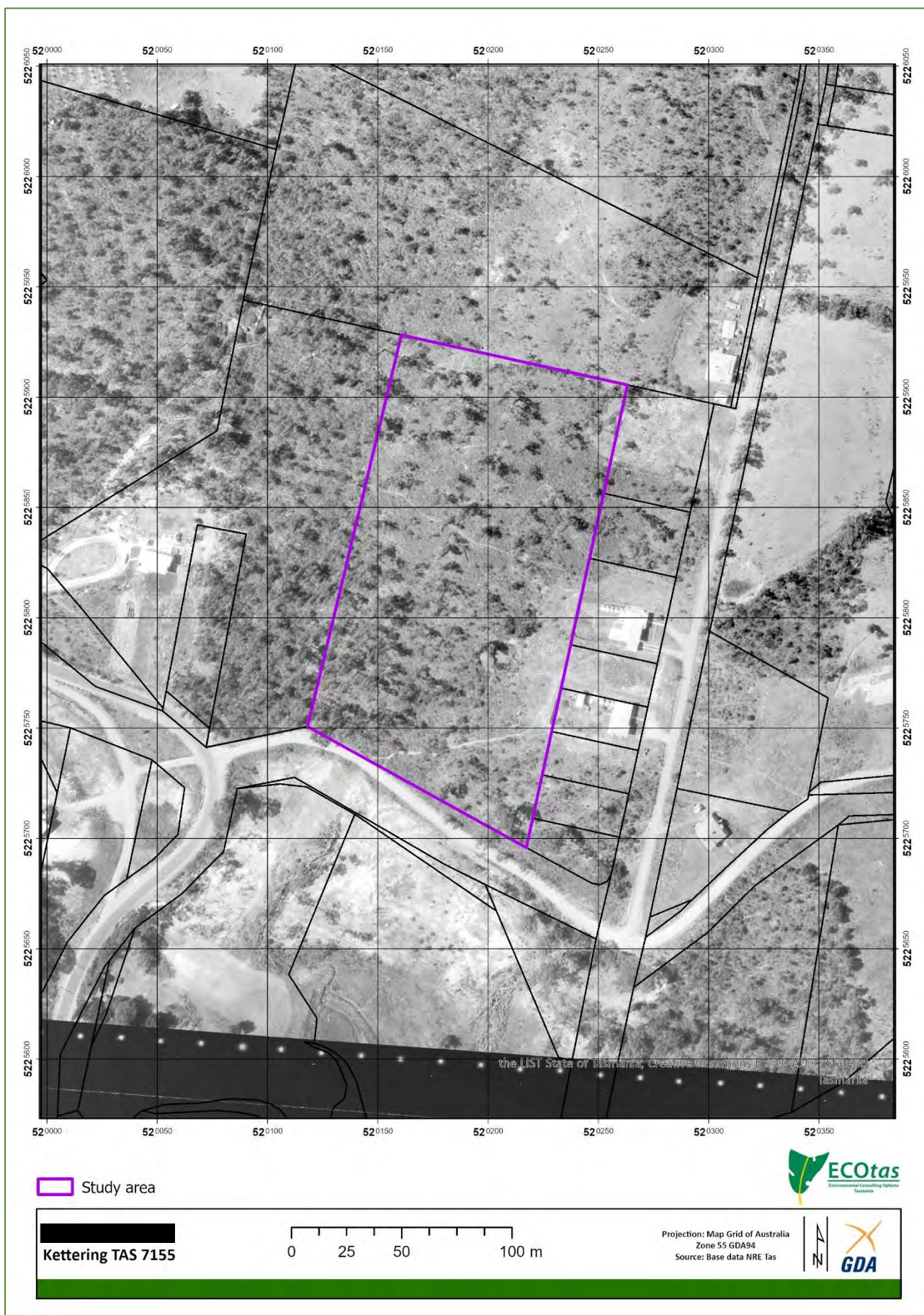


Figure 6c. Subject title and surrounds showing land use activity as at 11 Jan. 1973
[source: Aerial Photo Viewer v2]

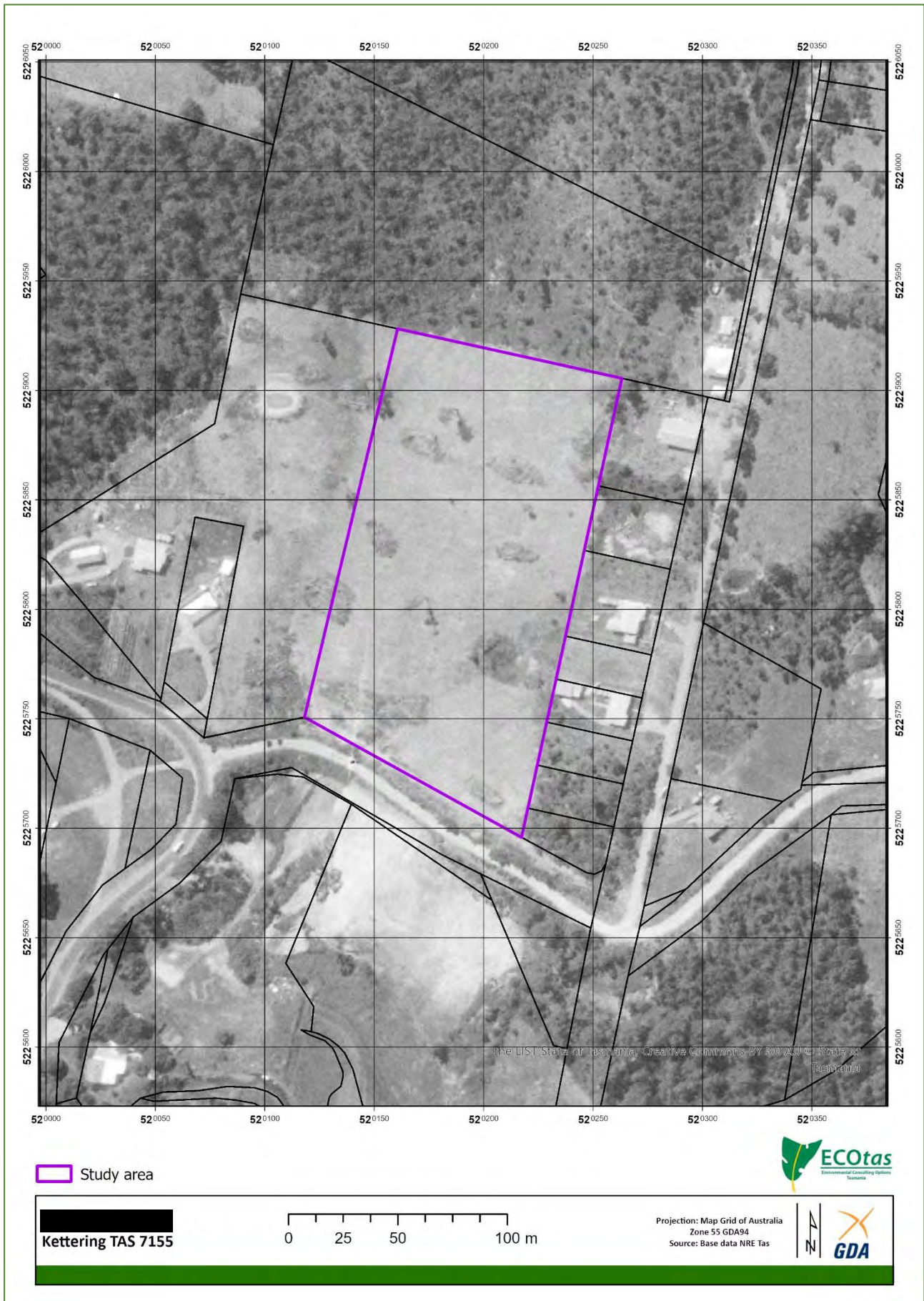


Figure 6d. Subject title and surrounds showing land use activity as at 2 Mar. 1979
[source: Aerial Photo Viewer v2]

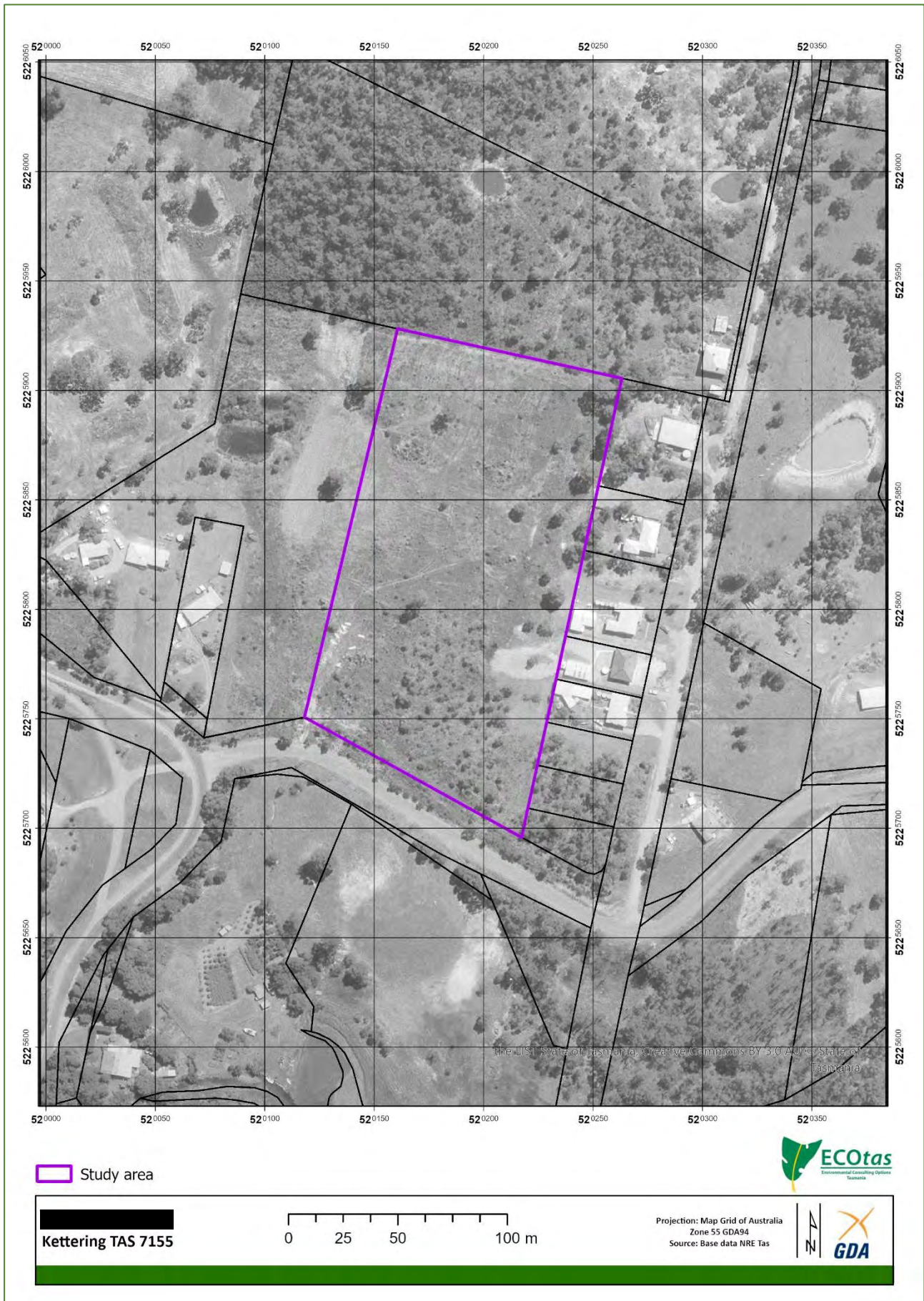


Figure 6e. Subject title and surrounds showing land use activity as at 3 Jan. 1989
[source: Aerial Photo Viewer v2]

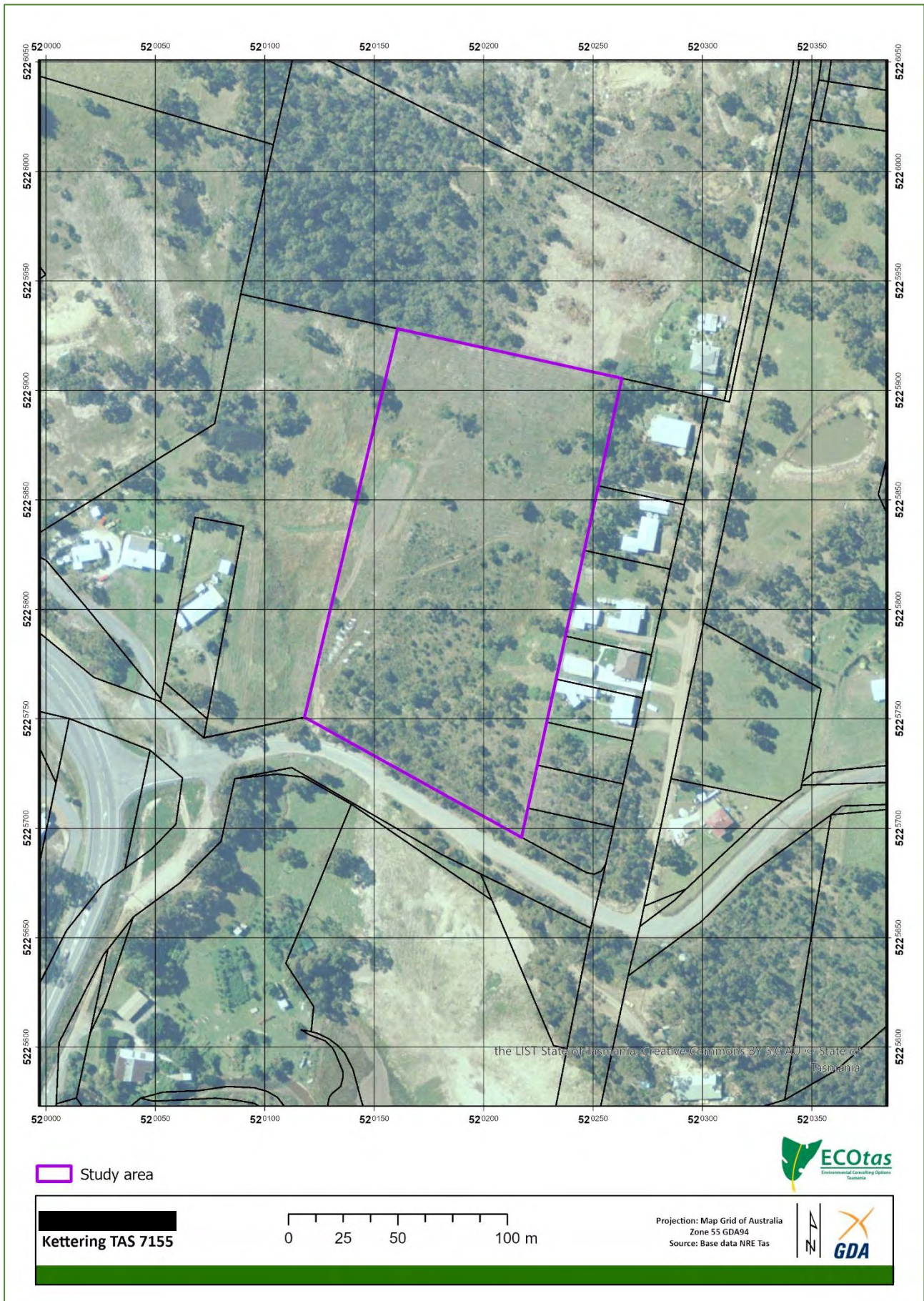


Figure 6f. Subject title and surrounds showing land use activity as at 16 Feb. 1992
[source: Aerial Photo Viewer v2]

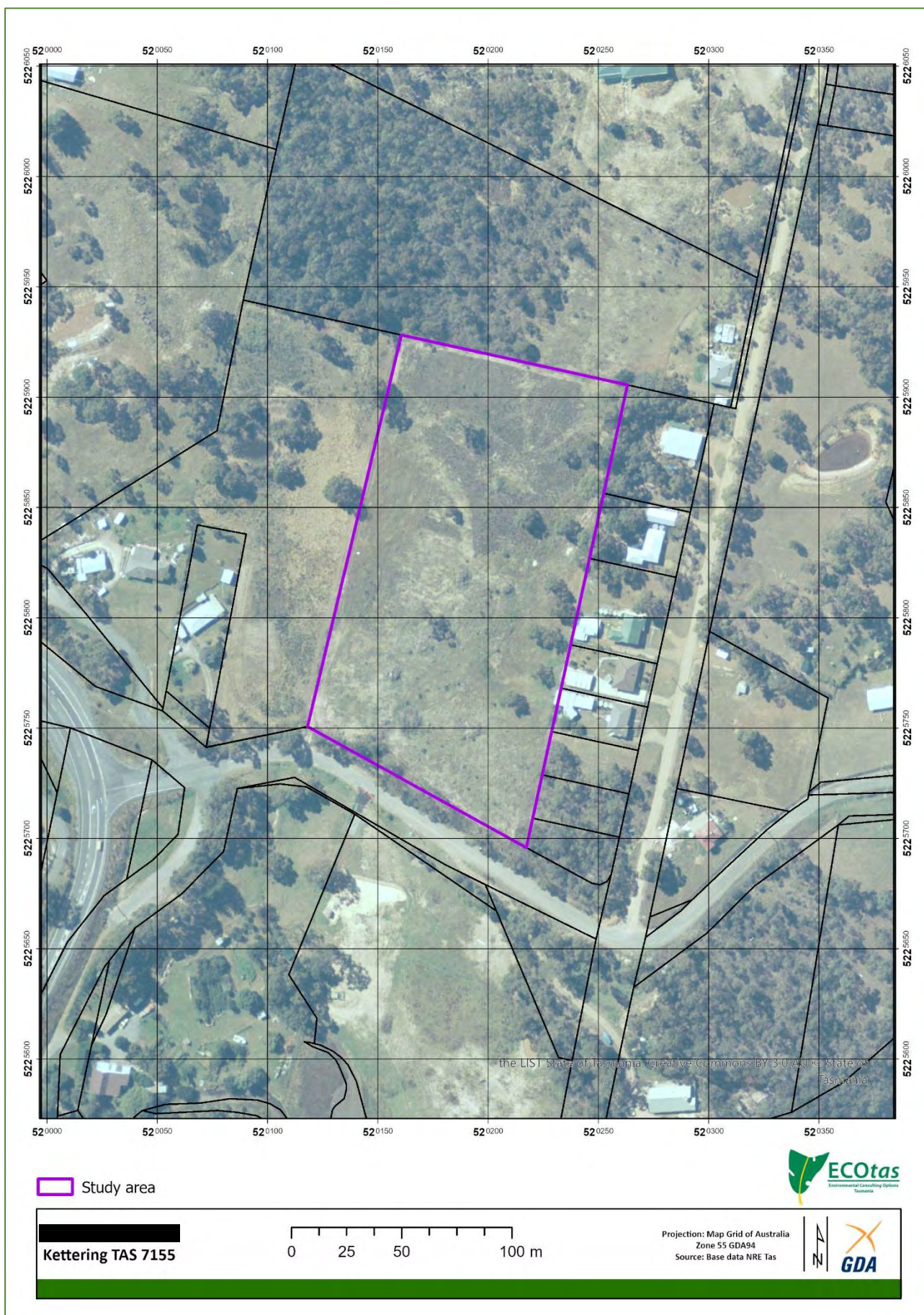


Figure 6g. Subject title and surrounds showing land use activity as at 3 Mar. 1995
[source: Aerial Photo Viewer v2]

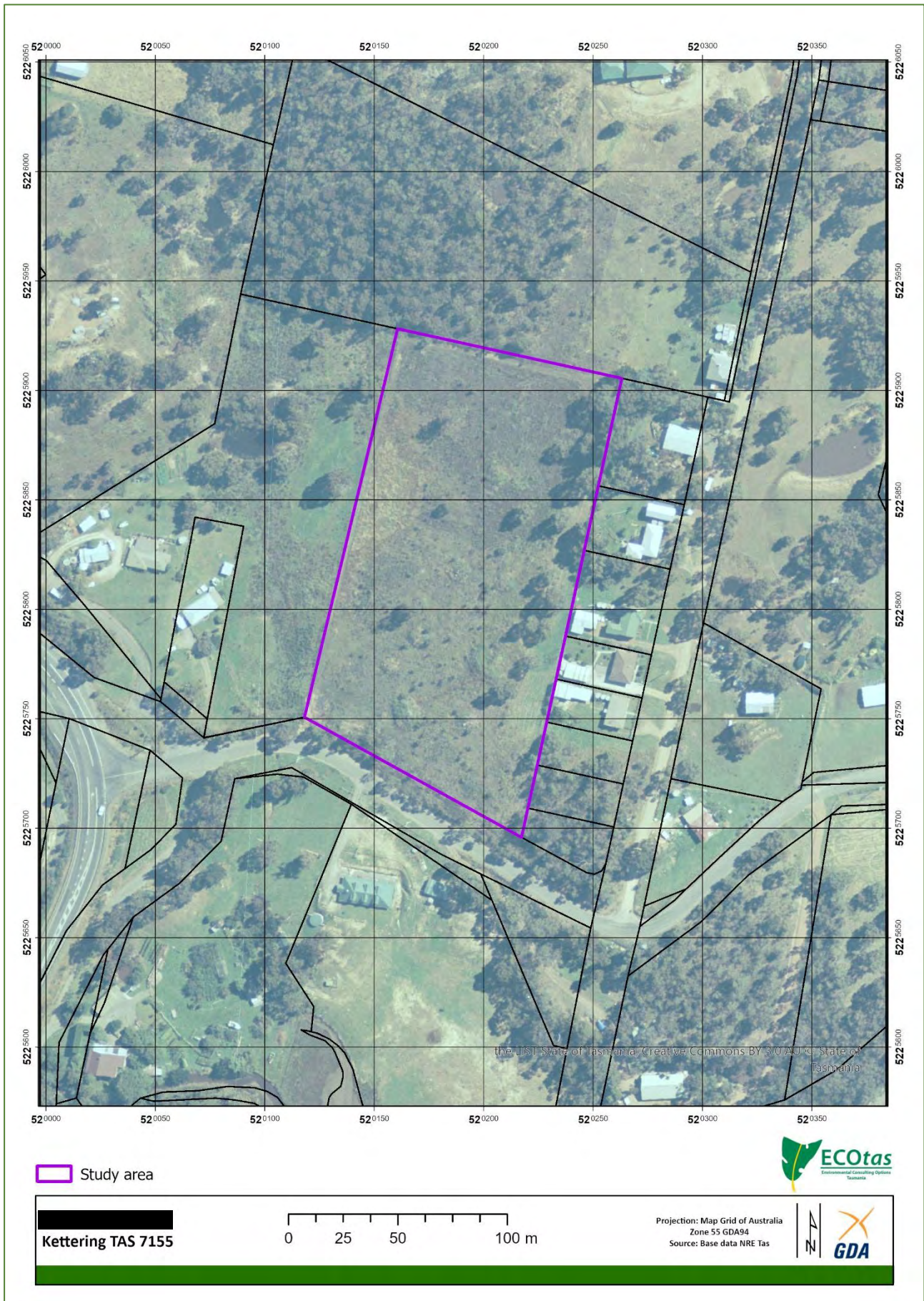


Figure 6h. Subject title and surrounds showing land use activity as at 15 Feb. 1997
[source: Aerial Photo Viewer v2]

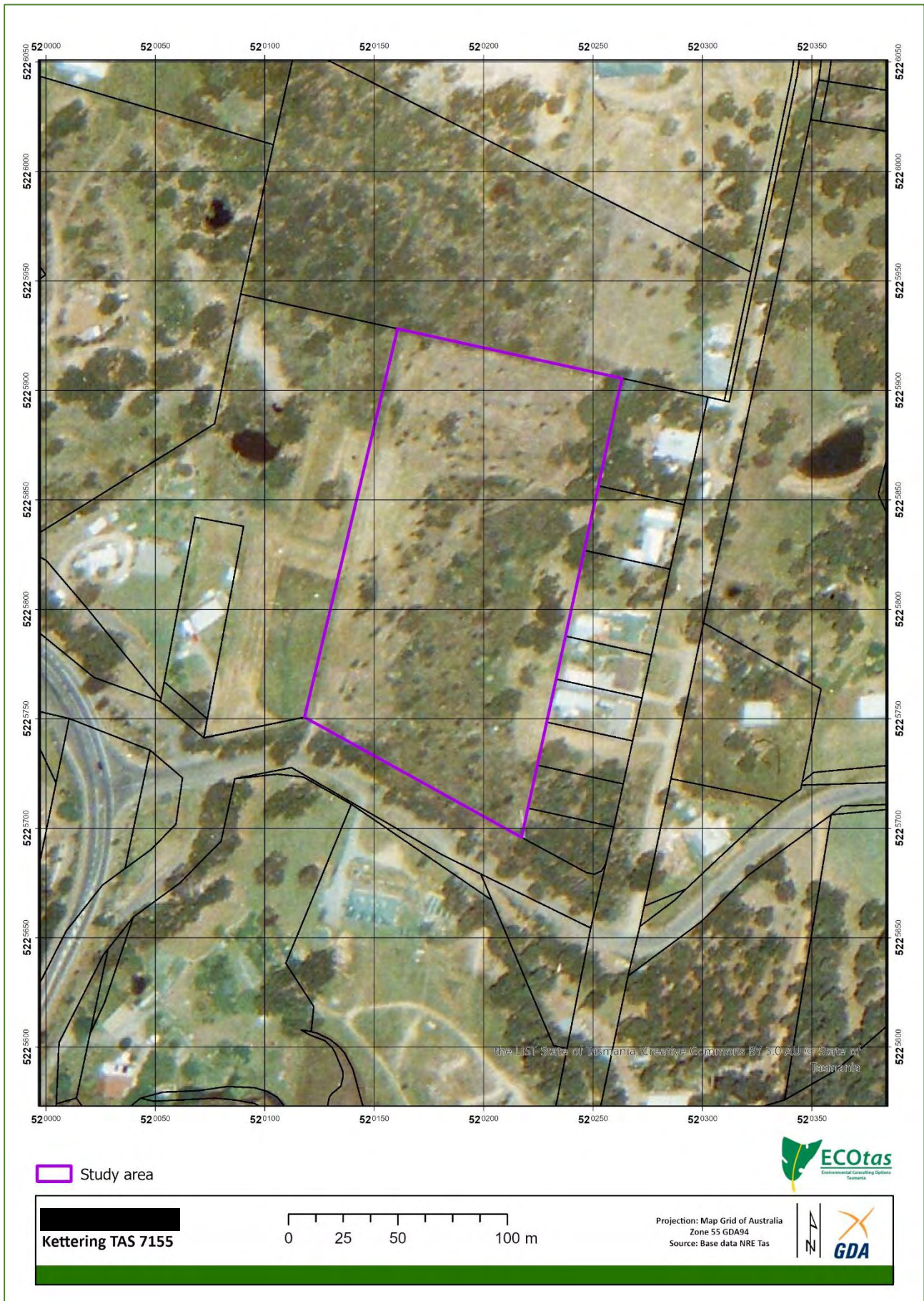


Figure 6i. Subject title and surrounds showing land use activity as at 9 Jan. 2001
[source: Aerial Photo Viewer v2]

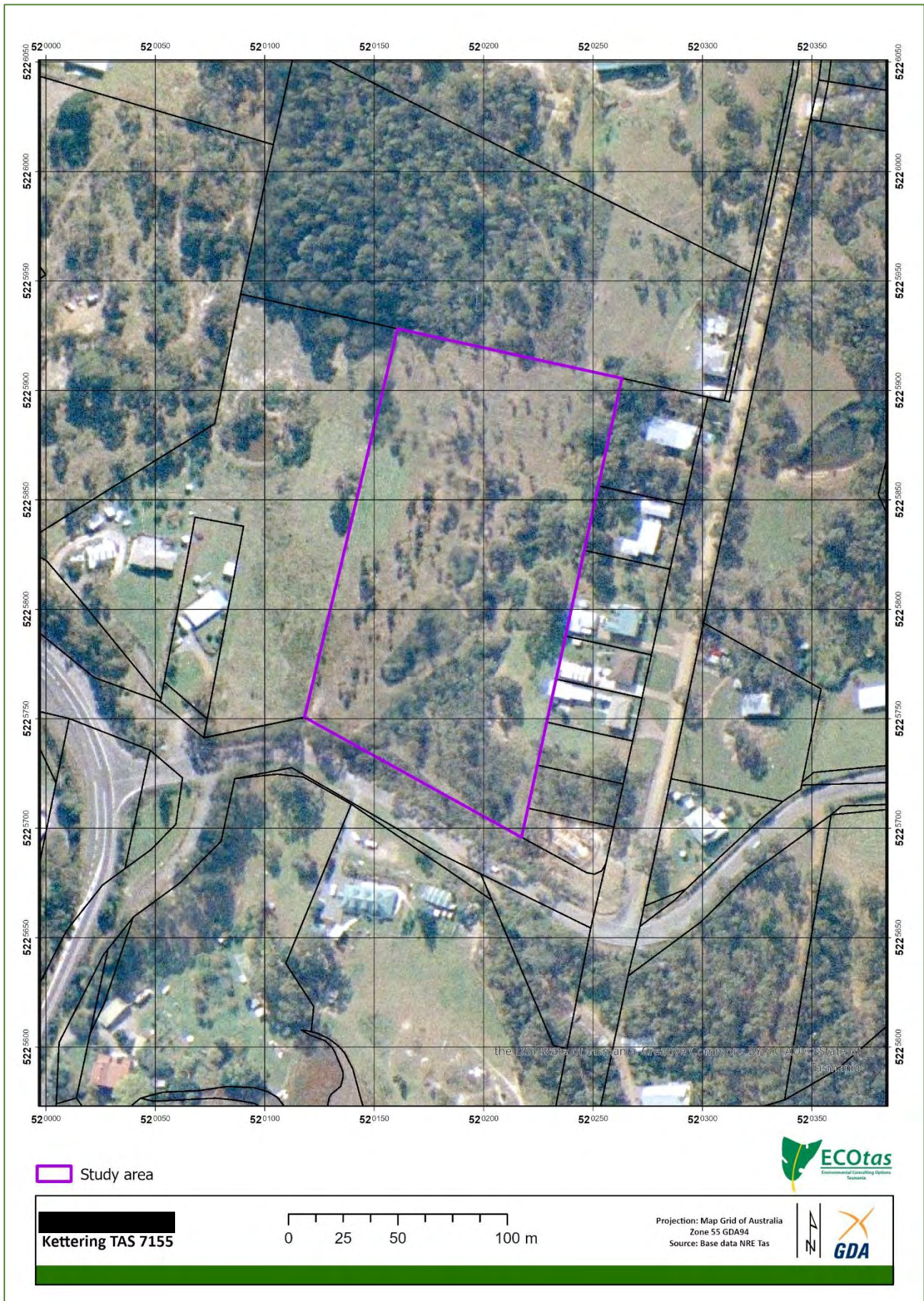


Figure 6j. Subject title and surrounds showing land use activity as 28 Mar. 2004
[source: Aerial Photo Viewer v2]

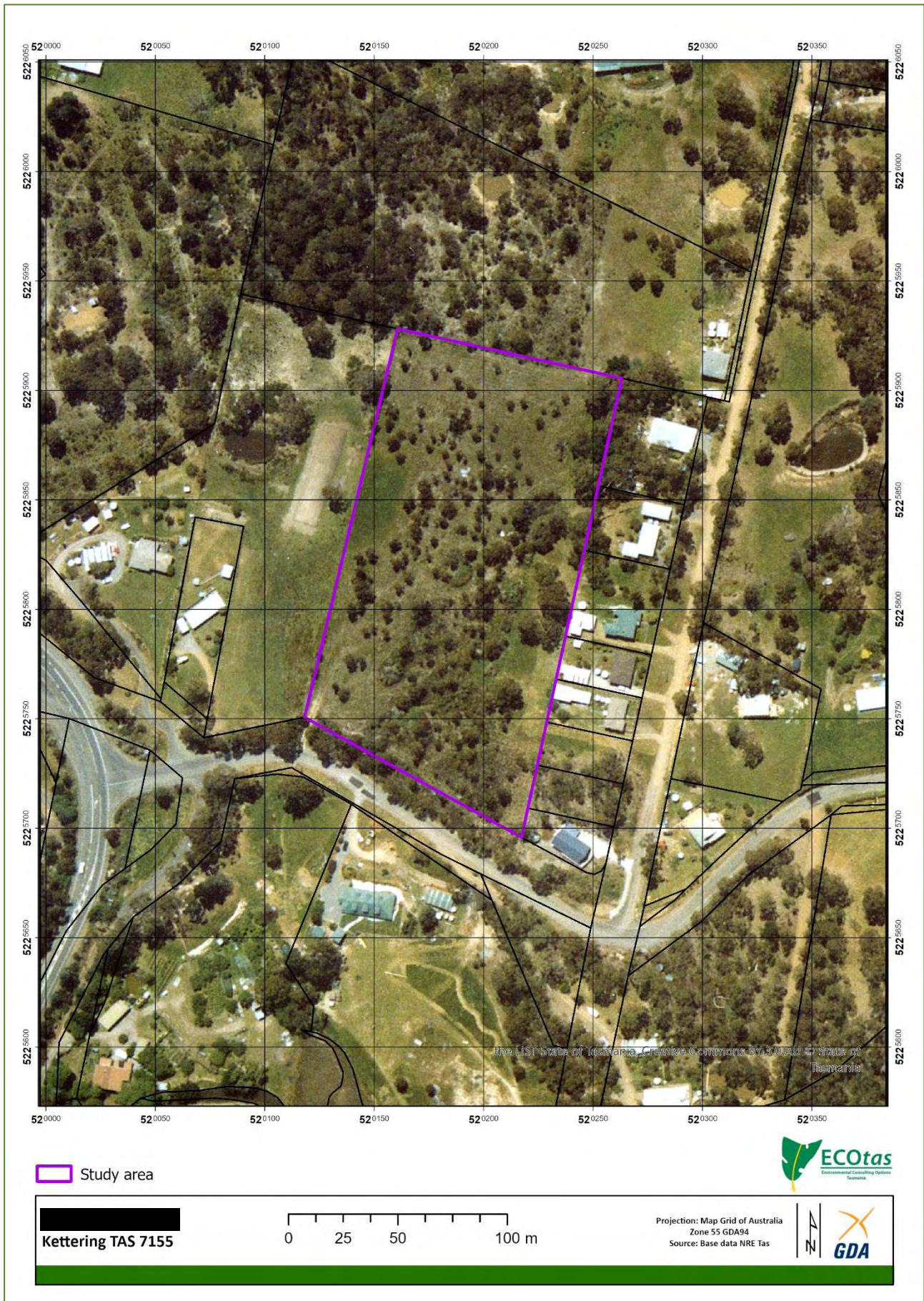


Figure 6k. Subject title and surrounds showing land use activity as at 9 Dec. 2006
[source: Aerial Photo Viewer v2]

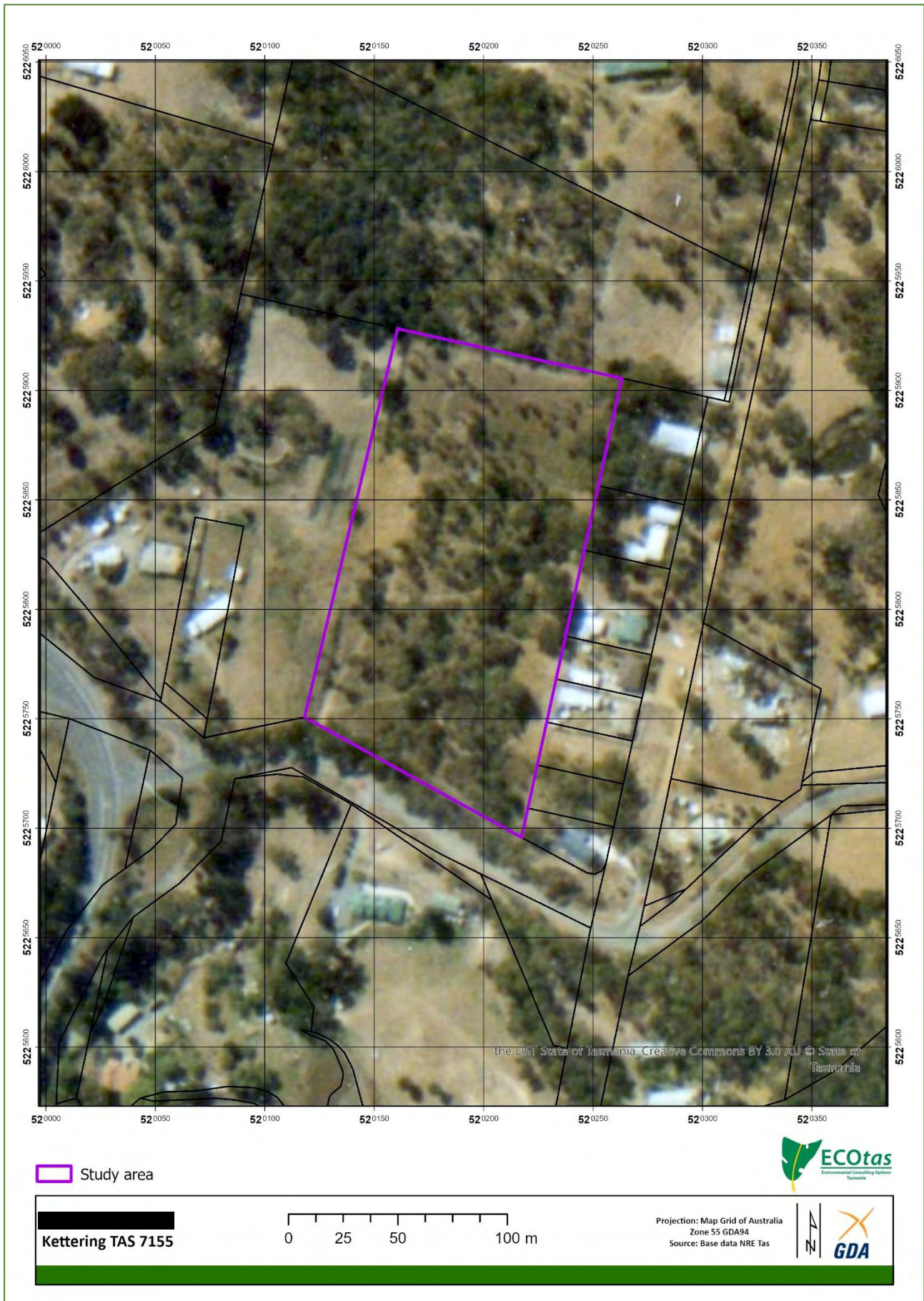


Figure 6I. Subject title and surrounds showing land use activity as at 18 Feb. 2008
[source: Aerial Photo Viewer v2]



Figure 6m. Subject title and surrounds showing land use activity as at 1 Jun. 2011
[source: Aerial Photo Viewer v2]





Figure 6n. Subject title and surrounds showing land use activity as at 22 Oct. 2011
[source: Aerial Photo Viewer v2]





Figure 60. Subject title and surrounds showing land use activity as at 6 Feb. 2013
[source: Aerial Photo Viewer v2]



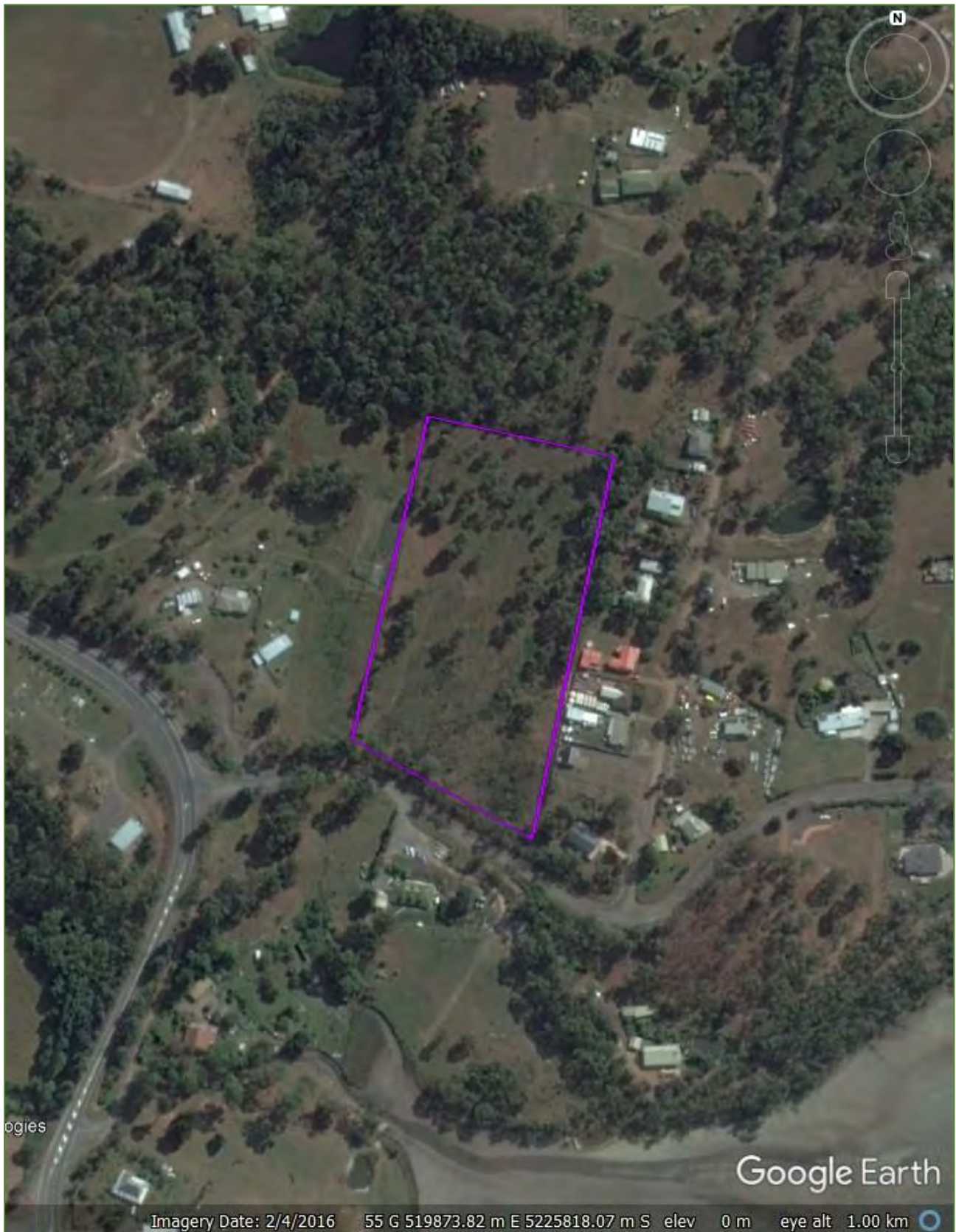


Figure 6p. Subject title and surrounds showing land use activity as at 4 Feb. 2016
[source: Aerial Photo Viewer v2]





Figure 6q. Subject title and surrounds showing land use activity as at 28 Feb. 2017
[source: Aerial Photo Viewer v2]





Figure 6r. Subject title and surrounds showing land use activity as at 13 Nov. 2017
[source: Aerial Photo Viewer v2]





Figure 6s. Subject title and surrounds showing land use activity as at 28 Feb. 2018
[source: Aerial Photo Viewer v2]





Figure 6t. Subject title and surrounds showing land use activity as at 12 Apr. 2019
[source: Aerial Photo Viewer v2]





Figure 6u. Subject title and surrounds showing land use activity as at 10 Feb. 2021
[source: Aerial Photo Viewer v2]





Figure 6v. Subject title and surrounds showing land use activity as at 21 Jan. 2022
[source: Aerial Photo Viewer v2]





Figure 6w. Subject title and surrounds showing land use activity as at 13 Jan. 2023
[source: Aerial Photo Viewer v2]



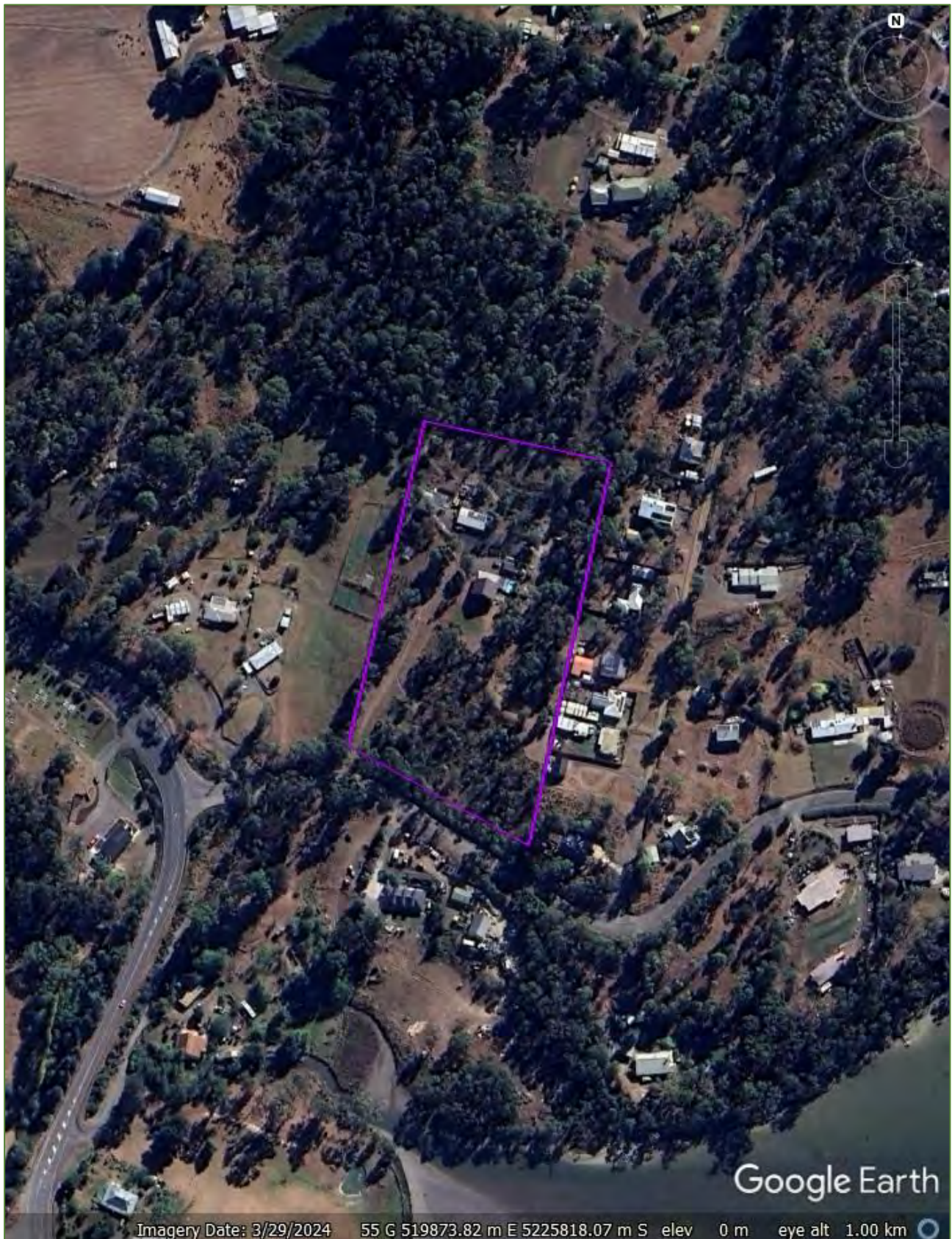


Figure 6x. Subject title and surrounds showing land use activity as at 29 Mar. 2024
[source: Aerial Photo Viewer v2]





Figure 6y. Subject title and surrounds showing land use activity as at 27 Feb. 2026
[source: Aerial Photo Viewer v2]



The following subsections provide information on “natural values” routinely considered as part of most natural values assessments for developments proposals as provided in *Guidelines for Natural Values Surveys – Terrestrial Development Proposals* (DPIPWE 2015, updated by NRE Tas 2021) and that could be construed to form part of the concept of priority vegetation as defined at cl. C7.3.1 of the *State Planning Provisions* at cl. C7.3.1., viz. native vegetation communities, threatened flora and threatened fauna (other more “nebulous” concepts are discussed under the detailed consideration of the parameters included in *Information Sheet 2-2024 (LPS Amendment Assessments – Natural Assets Code - Native Vegetation of Local Importance* (TPC 2024)).

Vegetation classification

This section, which first comments on the existing TASVEG mapping for the study area, is included to highlight the differences between existing mapping and the more recent mapping from the present study to ensure that any parties assessing land use proposals (via this report) do not rely on existing mapping. Note that TASVEG mapping, which was mainly a desktop mapping exercise based on aerial photography, is often substantially different to ground-truthed vegetation mapping, especially at a local scale. An examination of existing vegetation mapping is usually a useful pre-assessment exercise to gain an understanding of the range of habitat types likely to be present and the level of previous botanical surveys.

There are several relevant versions of TASVEG that can be considered as part of this review. TASVEG 5.0/Live is the most up-to-date version, available online via LISTmap. It is generally still very similar to TASVEG 4.0, especially at a local lot-level scale, but can include localised and/or project-based updates that can be informative. TASVEG 3.0, the preceding version of the vegetation mapping layer, is in theory superseded by TASVEG 4.0 & 5.0. However, examination of this layer can be useful because it was the primary source of information that was included in the Regional Ecosystem Model that guided the priority vegetation area overlay of the Tasmanian Planning Scheme in several municipalities. It was also the base layer used by some councils (e.g. Kingborough Council) to develop their own vegetation mapping layer, and can explain the source of requests for assessments.

TASVEG 3.0 (Figure 7) mapped the title as follows:

- agricultural land (FAG)

FAG is mapped across virtually the whole title with only small pockets of forest along the eastern boundary. The meta-data indicates the polygon of FAG is based on the PRE_TASVEG_1_2-DPIPWE-2005 project with a source date (aerial imagery) of 23 Feb. 1996. When compared to aerial imagery dated 3 Mar. 1995 (so less than 12 months before the aerial photo interpretation was made), it is clear that FAG was an appropriate classification for the site. In fact, it was “generous” to assign any to a native vegetation mapping unit.

- *Eucalyptus obliqua* dry forest (DOB)

Two “splodges” of DOB are mapped within the title, one in the southeast and one along the northern part of the eastern boundary. The data source is the same as the polygon of FAG – see commentary above.

TASVEG 4.0 (Figure 8) mapped the title as follows:

- agricultural land (FAG)

As above but with minor adjustments for a new polygon of FUM and an adjusted polygon of DOV in the southeast. Note that aerial imagery around the time of the adjustment of the latter polygon (apparently based on an aerial photo of 30 Jan. 2010) does not support FAG per se, although the sparse canopy and variably developed understorey would have challenged classification – regenerating cleared land (FRG) may have been slightly more appropriate.



- extra-urban miscellaneous (FUM)

A polygon of FUM was created, along with a polygon of urban areas (FUR) east of the title for the new residential development, with a small part of the FUM impinging on the subject title (probably a mapping artefact).

- *Eucalyptus obliqua* dry forest (DOB)

The polygon along the northern part of the eastern boundary remains unchanged. The polygon in the southeast is re-coded to DOV and adjusted.

- *Eucalyptus ovata* forest and woodland (DOV)

A polygon of DOV is now mapped in the southeast, partly replacing the polygon of DOB (the balance re-coded as FAG). The re-coding was done under the TASVEG_ADMIN-DPIPWE-2015 project based on aerial imagery of 30 Jan. 2010. It is notable that the polygon of DOV excised Manuka Road. There is no evidence if the re-coding of DOB to DOV in this part of the State included any field verification (unlikely).

TASVEG 5.0/Live (Figure 9) now map the title as follows:

- agricultural land (FAL)

FAL is mapped across ca. half the title, approximately the northwest portion. Notably, the apparent data source remains the PRE_TASVEG_1_2-DPIPWE-2005 project with a source date (aerial imagery) of 23 Feb. 1996. However, *E. obliqua* is added under the Notable Tree Description – again, whether this was based on field verification is not known but it is doubtful (as that would have shown the correct species to be *E. ovata*). A small area of FAL (with no Notable Tree Description) is shown along the southern part of the eastern boundary.

- urban areas (FUR)

As per TASVEG 4.0 mapping of FUM i.e. the development of the small lots is now recognised as complete so FUM was re-coded to FUR.

- *Eucalyptus ovata* forest and woodland (DOV)

DOV is now extensively mapped across the southeastern part of the title, the new polygon attributed to the BLACK_BROOKERS_GUM_REVIEW-NRMS-2021 project, apparently based on aerial imagery dated 11 Mar. 2020 with field verification on 17 Mar. 2021. The extent of the polygon is an approximate match for the extent of apparent forest and naturally regenerating native vegetation within the title (see aerial imagery dated 10 Feb. 2021), although it is somewhat “generous” and captures some obviously cleared areas. It is doubtful if the field verification was anything other than a drive-by. This would have over-estimated the presence of DOV because there is a patch of more mature forest on the northern side of Manuka Road (actually a mix of *E. ovata* and *E. obliqua*) and seeing through this into the title is not practical. In my experience, the polygons of DOV assigned under the BLACK_BROOKERS_GUM_REVIEW-NRMS-2021 project are often significantly over-estimated. Notable, that project also re-coded a large polygon of DOB north/northwest of the title to DOV – this appears to be largely erroneous with DOB the apparent dominant community.

Kingborough Council also has its own vegetation mapping layer, which is sometimes different to TASVEG versions, depending on the part of the municipality. In this case, the Council-managed mapping (Figure 10) has mapped a much smaller area of the title as FAG (and retains the TASVEG polygon of FUM) but maps the balance as DOV, making several adjustments to its extent shown on TASVEG versions. The basis for this is not known but it was almost certainly not informed by any ground-truthing. This is evident because of several straight line (north/south) split polygons of DOV and DOB (e.g. northwest of the subject title) and DOV/FAG (e.g. west of the title). That is, this mapping is considered imprecise. In my experience, the council-managed vegetation mapping is rarely accurate at a lot-level and should not be relied upon.



As part of the now-approved developments on the subject title, a natural values assessment was undertaken (Enviro-dynamics 2023), which provided an updated vegetation map for the site (Figure 11). Unfortunately, that data was not provided to NRE Tas for incorporation into TASVEG Live (this is not unusual and not a criticism) such that I have digitised it for the purposes of this statement. Their mapping included the following mapping units:

- agricultural land (FAL)

FAL was mapped as a triangle defined by the existing access and limits of natural regeneration and residential development, as well as a small area east of the drive that had been long-cleared (see various aerial images).

- extra-urban miscellaneous (FUM)

FUM was coded around the already constructed primary residence and associated elements.

- *Eucalyptus ovata* forest and woodland (DOV)

DOV was mapped across the balance of the title. At the time, it was a reasonably fair reflection of the extent of forest and naturally regenerating native vegetation. Classification as anything other than DOV under the TASVEG system was not tenable.

The community was described as follows:

"This vegetation community occupies most of the property including areas surrounding the proposed class 1a building. The site was cleared by a previous landholder approximately 10 years ago. This is threatened vegetation community under the *Nature Conservation Act 2002* and is classified as a high priority vegetation community under the Biodiversity Code (E10.0). However, due to a history of clearance and slashing of the vegetation and high weed cover this vegetation has been classified as degraded.

Species in this community include occasional mature stringybark (*Eucalyptus obliqua*) trees and numerous regenerating black gum (*Eucalyptus ovata*) trees less than 5 m tall. The understorey includes tall shrubs; prickly moses (*Acacia verticillata*), common teatree (*Leptospermum scoparium*) and hop wattle (*Acacia stricta*), and heath species; peachberry heath (*Lissanthe strigosa*), pretty heath (*Epacris virgata*), common heath (*Epacris impressa*) and native cranberry (*Styphelia humifusa*). A mixture of native grass and sedge species are also common (refer to Appendix 1 for a complete species list including introduced species).

Much of the DOV vegetation contains a spanish heath infestation".

While the mapping of DOV was perhaps marginally "generous" and could have excluded small areas without trees, as a lot-level exercise in revised vegetation mapping it is considered reasonably accurate.

The recent site assessment has further adjusted the vegetation mapping for the subject title (Figure 12), which is substantially different to other available maps.

For convenience, all modified parts of the title are now coded as FUM. It is acknowledged that some areas could be coded as FAL and FUR, and perhaps with small areas as improved pasture with native tree canopy (FAC), but the specific coding is moot with respect to informing Direction 137. What I have included in my broad concept of FUM is any areas that cannot be reasonably assigned to a native vegetation mapping unit. Its limits are based on a GPS track log, several waypoints and examination of aerial imagery as well as tree canopy modelling (Figure 12). These all confirm the limits of FUM vs DOV to be within reasonable limits of practical mapping at this scale.

The balance of the title is mapped as DOV, with three polygons indicated.

The southern polygon (ca. 5,578 m² or 0.56 ha) is defined by the limits of historical and contemporarily approved clearing. The structure and composition is similar to that described by Enviro-dynamics (2023). Worthy of highlight, however, is the extensive infestation of *Erica lusitanica* (spanish heath) throughout this patch of DOV. The lack of "mature" trees (apart from the single tree south of the primary residence) is also notable. Refer Plates 1-6.





Plates 1-4. Views of naturally regenerated DOV in southeastern part of title – note the complete absence of any form of maturity (and extensive spanish heath)



Plates 5 & 6. Views of southern polygon of DOV downslope of primary residence – note the single larger tree (far from mature – see aerial imagery that indicates it was present as a small tree in 1995 i.e. it is not much older than 30-40 years)

The northern polygon is small (ca. 798 m² or 0.08 ha) and poorly-defined due to land use history. Structurally and compositionally, it is similar to the southern patch but is much younger (due to repeated disturbance). I have not mapped the band of frequently slashed vegetation along the northern boundary as DOV, as was done by Enviro-dynamics (2023), because it lacks any significant regeneration of *E. ovata*. At most, it could be classified as a form of anthropogenically-created wet heathland (SHW) or perhaps a band of FRG. Refer Plates 7 & 8.





Plates 7 & 8. Looking south into poorly-defined band of DOV above house

There is a band of more mature DOV (ca. 3,083 m² or 0.31 ha) along the northern part of the eastern boundary. While this patch has a more mature canopy, it is still only ca. 16-22 m tall with a relatively sparse canopy density. The understorey is highly modified, dominated by pasture grasses and native rushes and sedges. The presence of enough native plant species precludes classification as FAC. Refer to Plates 9-12.



Plates 9-12. Views of DOV along northern part of eastern boundary.

Occurrences of DOV equate, simply by their classification alone i.e. irrespective of patch size, structure, composition or condition, to a native vegetation community (with the same name) listed as threatened under Schedule 3A of the *Tasmanian Nature Conservation Act 2002*. While on that basis alone, any such occurrences equated to a high priority biodiversity value under Table E10.1 of the *Kingborough Interim Planning Scheme 2015*, it does not follow that the same is under C7.3.1(a) of the *State Planning Provisions*.



C7.3.1(a) very deliberately used the phrasing [my emphasis] "it forms an **integral part** of a threatened native vegetation community...". Unfortunately, the term "integral part of" is not defined under the *State Planning Provisions*. To my knowledge, it has also not been "tested by precedent" at a TPC or TASCAT hearing. It therefore falls to a professional opinion to determine whether these three polygons of DOV properly meet the intent of priority vegetation.

A basic definition of "integral" includes the concepts of "essential" (as in "needed to make a whole complete") and "built-in" (as in "included as part of a main item instead of separate"). In my opinion, the fact that the three polygons of DOV are all under (or close to) 0.5 ha, separated from one another and separated from other contiguous forest of the same type suggests that they do not "form an integral part of" as intended by C7.3.1(a). While there is a narrow band of DOV between Manuka Road and the subject title, this strip actually has affinities to DOB. The large polygon of DOV mapped north of the title appears to be mainly DOB and *Eucalyptus pulchella* forest and woodland (DPU), such that it is not a contiguous area of DOV.

The inclusion of the phrasing "it forms an **integral part** of a threatened native vegetation community..." was presumably to account for the status of a particular patch of a threatened native vegetation community. In almost all planning systems, taking account of variables such as patch size, contiguity, structure, composition and a measure of ecological condition is not unusual. A useful addition to C7.3.1(a) would be guidance on interpretation of the concept of "integral part of".

On this basis of the above consideration, in my opinion, no part of the site can be reasonably construed as priority vegetation as per the intent of C7.3.1(b), viz. that "it forms an integral part of a threatened native vegetation community as prescribed under Schedule 3A of the *Nature Conservation Act 2002*".

A logical conclusion to the above, and noting that the review of the other elements of priority vegetation, viz. (b), (c) and (d) also concluded that priority vegetation is not present, is that the Priority Vegetation Area overlay should not be applied to any part of the title.

A further note to the above conclusion requires consideration of three additional matters. The first is that the now approved hazard management areas (HMAs) associated with the primary and ancillary dwellings both extend reasonably substantially into the area I have now mapped as DOV (Figure 13). It is assumed that these areas will be maintained in a low fuel condition. This does not necessarily preclude such areas from being technically classified as DOV but it will never attain a stature nor condition that would warrant the overlay being applied. The second is that a significant part of the southern section of DOV has an existing track within it – I do not believe that there are any provisions that would prevent this track being maintained. At present, I have mapped the track as part of the DOV, largely for convenience, but if further maintained, a width of several metres and ca. 50+ m length could be excised from this patch of DOV. And the third is the permitted ability to maintain clearing of a particular width to install/maintain boundary fences. Again, I have subsumed some such clearing into DOV because such areas have retained native species. But there is a philosophical issue here – whether or not the overlay should apply to parts of a site that can be legitimately cleared. In theory, even if the overlay is present, this does not necessarily mean the Natural Assets Code has application (by way of exemption provisions). However, the point is made here in further consideration of the concept of "forms an integral part of a threatened native vegetation community" because with such a small title, if clearing to maintain boundary fences was fully implemented (as well as the track and the HMAs), each patch of DOV is further encroached and isolated.



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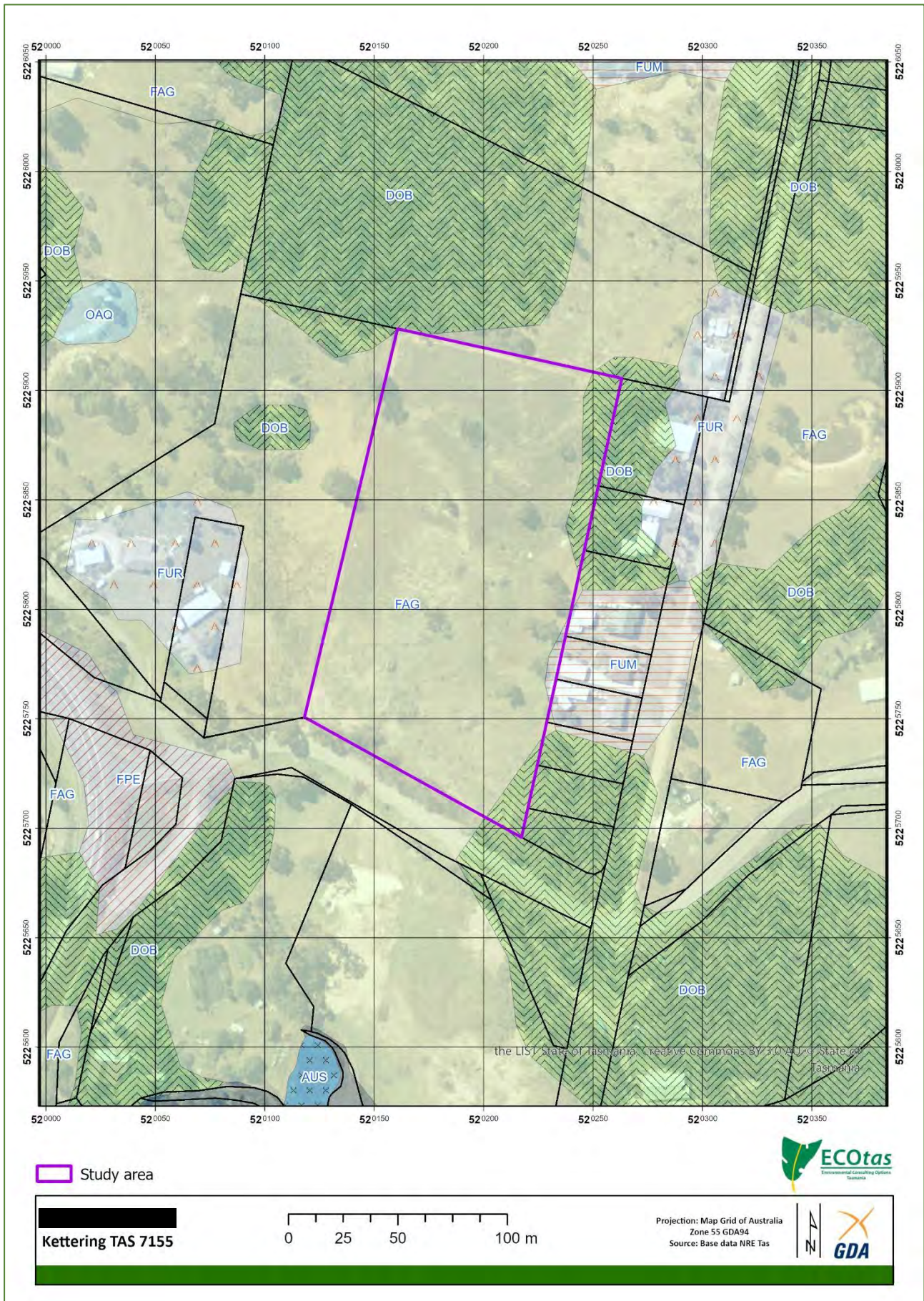


Figure 7b. TASVEG 3.0 vegetation mapping for subject title and surrounds (see text for codes), showing aerial imagery from 3 Mar. 1995

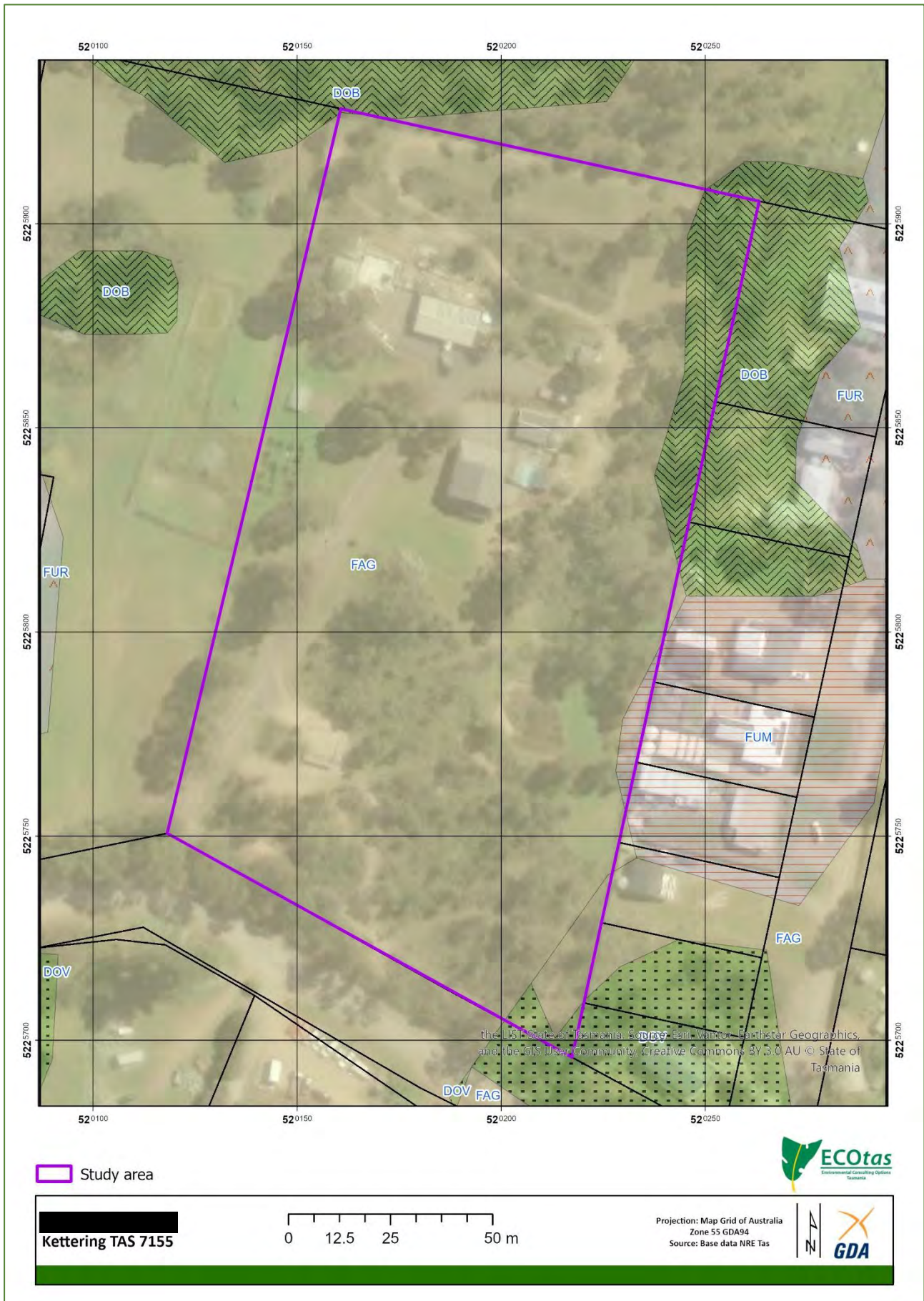


Figure 8. TASVEG 4.0 vegetation mapping for subject title and surrounds (see text for codes)

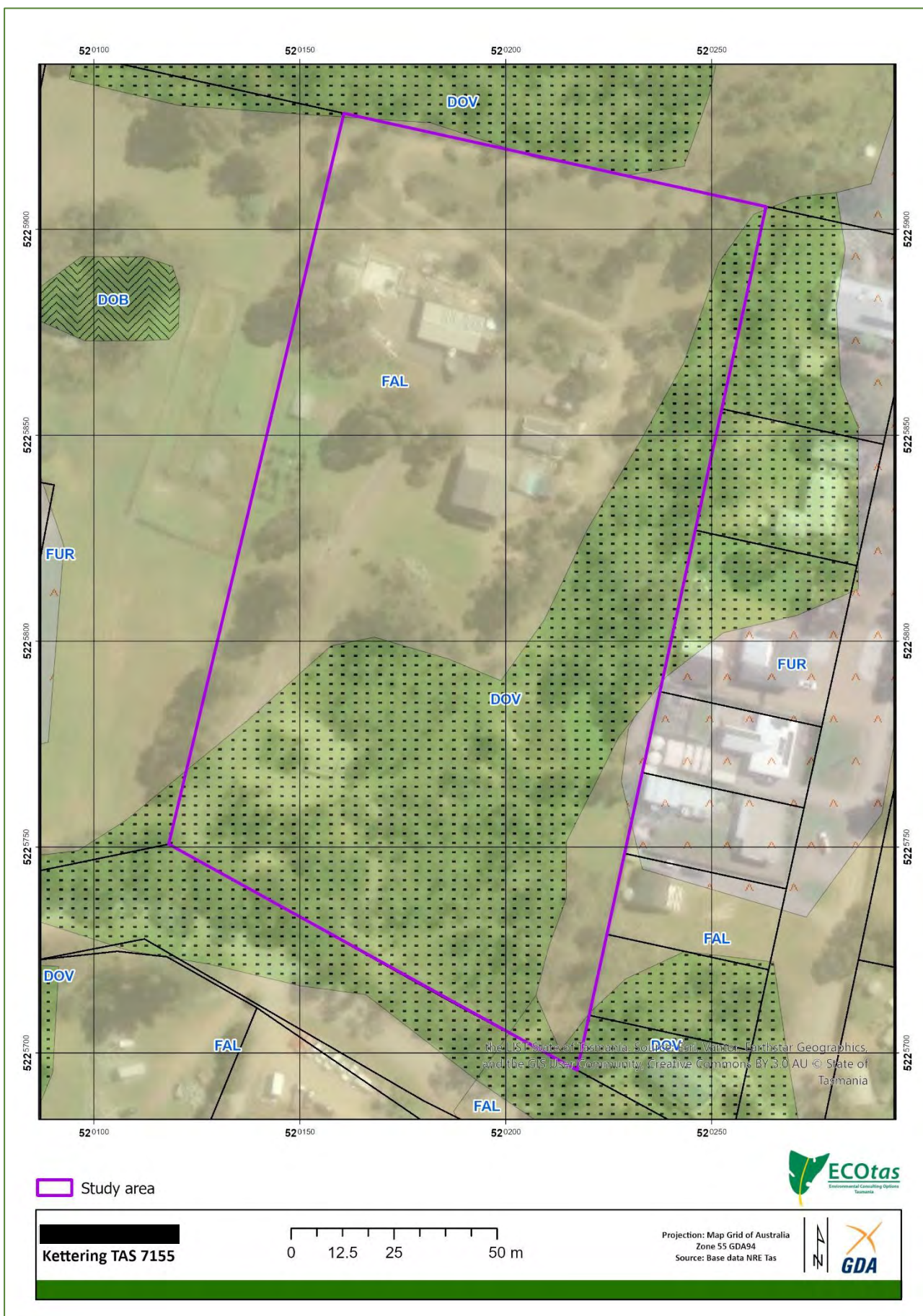


Figure 9. TASVEG 5.0/Libe vegetation mapping for subject title and surrounds (see text for codes)

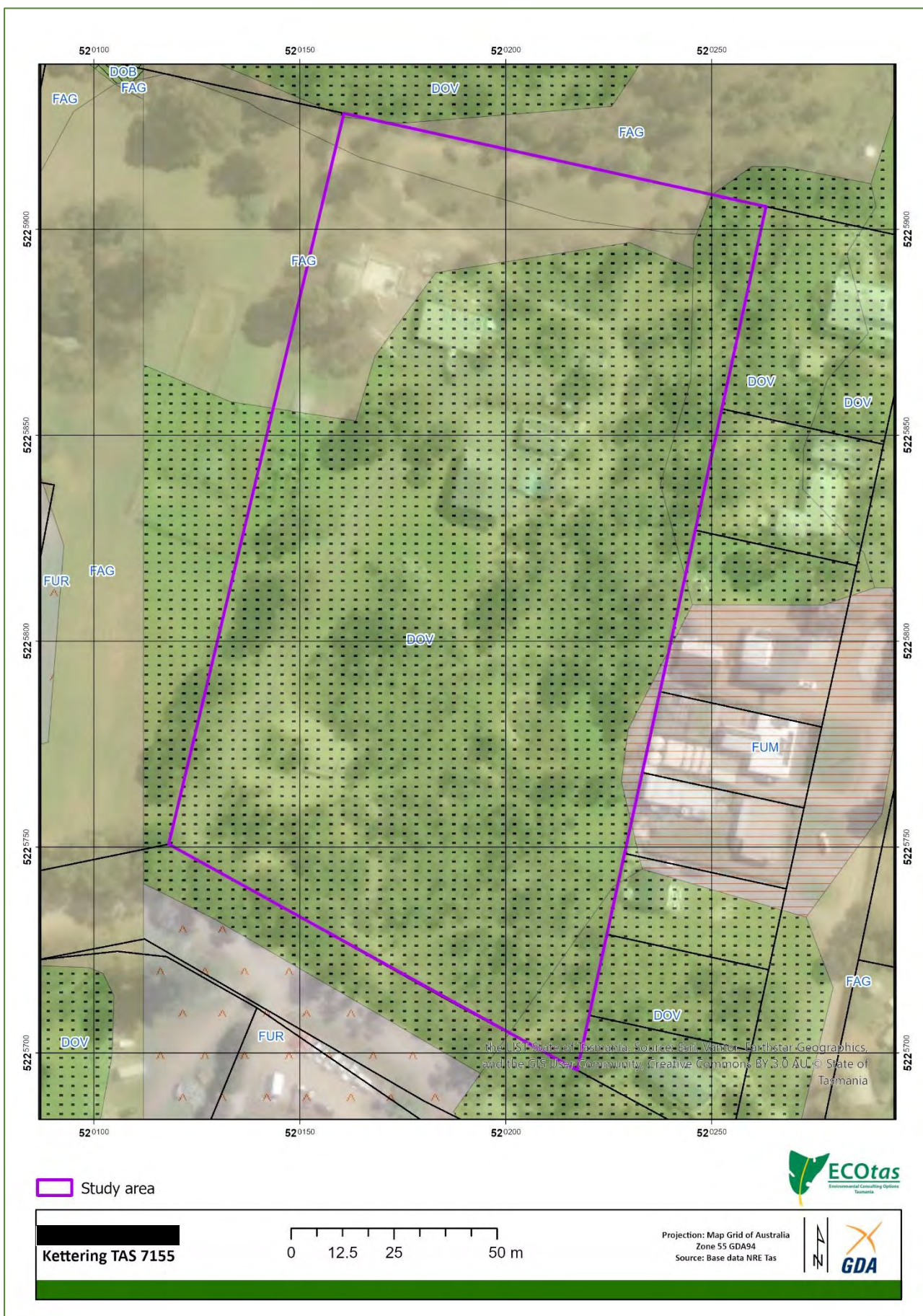


Figure 10a. Kingborough Council vegetation mapping for subject title (see text for codes)

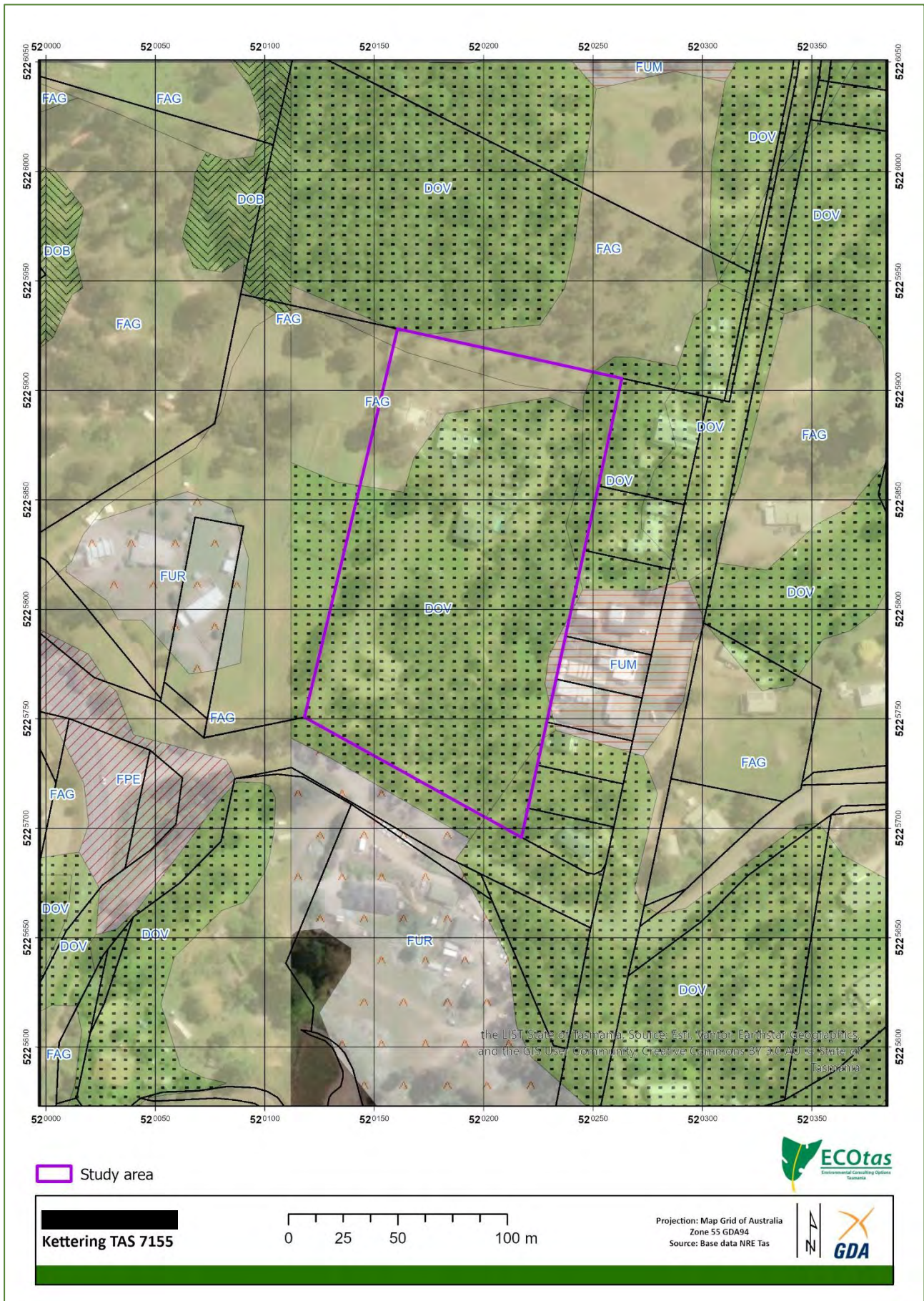


Figure 10b. Kingborough Council vegetation mapping for subject title and wider area (see text for codes)



Figure 11. Vegetation mapping for subject title as per Enviro-dynamics (2023) (see text for codes)



Figure 12a. Revised vegetation mapping for subject title (see text for codes)

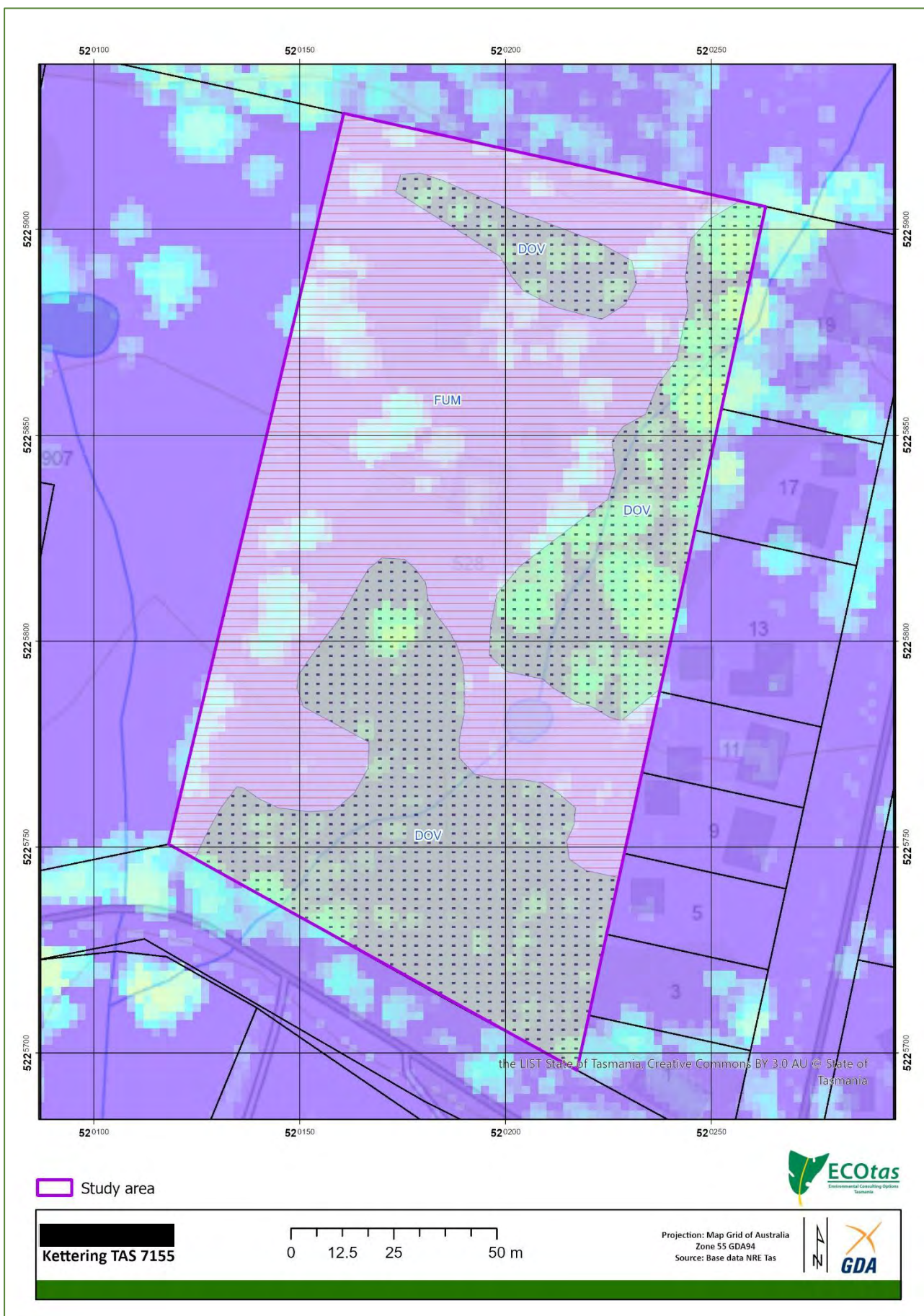


Figure 12b. Revised vegetation mapping for subject title (see text for codes) with LISTmap's tree canopy layer

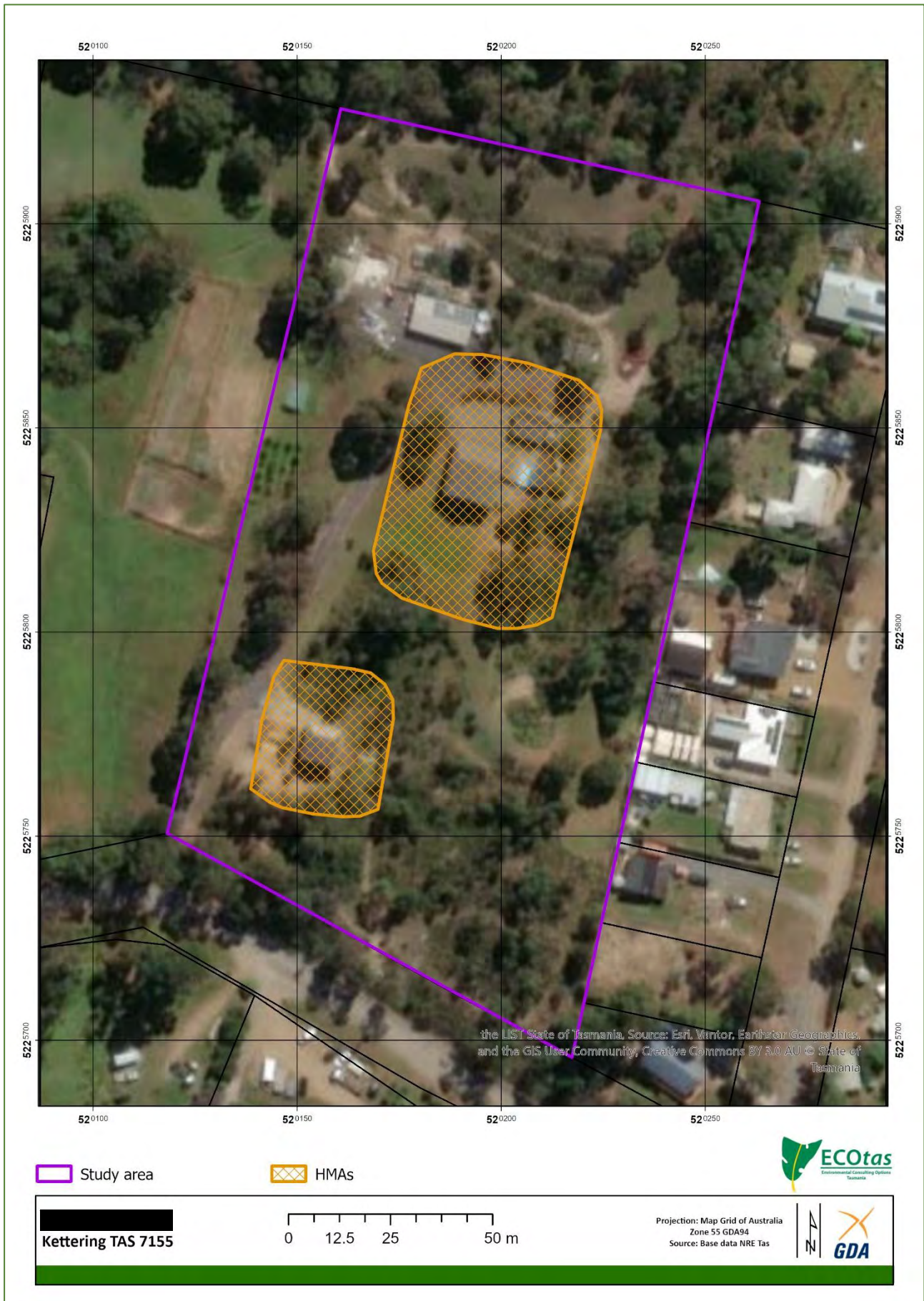


Figure 13a. Location of HMAs as per Enviro-dynamics (2023)



Figure 13b. Location of HMAS as per Enviro-dynamics (2023) showing updated vegetation mapping from present assessment (see text for codes)

Threatened flora

Database information (Figure 14) indicates that the site does not support any previously recorded point locations of flora species listed as threatened on the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and/or the Tasmanian *Threatened Species Protection Act 1995*. Site assessment confirmed the absence of threatened flora.

Note that older databases and natural values assessments will show records of an entity called *Epacris virgata* 'Kettering', for many years considered to be a listed species. The taxonomy of this entity has been resolved and all southeastern Tasmanian records assigned to the non-threatened *Epacris tasmanica*, with *Epacris virgata* Hook.f. confirmed as restricted to ultramafic soils near Beaconsfield. That is, *Epacris virgata* 'Kettering' was never a listed entity.

On this basis, no part of the site can be reasonably construed as priority vegetation as per the intent of C7.3.1(b), viz. that it "is a threatened flora species".

Threatened fauna

Database information (Figure 15) indicates that the subject title does not support any previously recorded point locations of fauna species listed as threatened on the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and/or the Tasmanian *Threatened Species Protection Act 1995*. Site assessment confirmed the absence of point locations and/or specific evidence (e.g. dens, scats, nests, etc.) of such species.

The concept of priority vegetation includes component C7.3.1(c) which is stated as: "it forms a significant habitat for a threatened fauna species". There are two matters that need to be interpreted in this statement.

The first is "easy" in that "a threatened fauna species" is reasonably interpreted as one listed on the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* and/or the Tasmanian *Threatened Species Protection Act 1995*, which is included as part of the definitions at C7.3.1 of the Natural Assets Code.

The second is more challenging: what is intended by "significant habitat"? Fortunately, C7.3.1 provides this interpretation:

"means the habitat within the known or core range of a threatened fauna species, where any of the following applies:

- (a) is known to be of high priority for the maintenance of breeding populations throughout the species' range; or
- (b) the conversion of it to non-priority vegetation is considered to result in a long-term negative impact on breeding populations of the threatened fauna species".

Unfortunately, none of the terms (e.g. "known or core range") or concepts ("high priority", "negative impact", etc.) are anywhere defined under the *State Planning Provisions*. It is notable that the TPC's *Natural Assets Code Fact Sheet* provides no useful interpretation of the concept of significant habitat. The use of the term "habitat" is problematic in itself in that the *State Planning Provisions* do not provide a definition of the term, although it is used extensively throughout (and not only linked to the term "significant").

This leaves any interpretation up to professional expertise and opinion. What is clear, however, is that the terms and phrasing used at C7.3.1(c) and specifically its own interpretation of the concept of "significant habitat" has been taken, almost verbatim, from *Significant Habitat Planning Guideline* (FPA 2013). That document provides the following relevant definitions:

"All terminology used in this document is in accordance with definitions as outlined in the Tasmanian Regional Forest Agreement (1997), the Threatened Species Strategy for Tasmania (2000) and Tasmania's Nature Conservation Strategy (2001), unless otherwise defined below.



Core range encompasses the area, within the known range, known to support the highest densities of the species and/or thought to be of highest importance for the maintenance of breeding populations of the species.

Known range (or actual range) is the area within which the species is most likely to occur, being the area of land within a minimum convex polygon of all known localities of the species. This term is synonymous with 'extent of occurrence' as referred to in the *Guidelines for Eligibility for listing under the Threatened Species Protection Act 1995* (DPIPWE 2009)

Significant habitat is habitat within the known range of a species that (1) is known to be of high priority for the maintenance of breeding populations throughout the species range and/or (2) conversion, of which, to non-native vegetation is considered to result in a long term negative impact on breeding populations of the species. It may include areas that do not currently support breeding populations of the species but that need to be maintained to ensure the long-term future of the species. Significant habitat is determined from published and unpublished scientific literature and/or via expert opinion, agreed by the Threatened Species Section (DPIPWE) in consultation with species specialists".

That is, it is clear that the *State Planning Provisions* have adopted these concepts. In my opinion, this was highly inappropriate. To my knowledge (which includes several discussions with officers of the Forest Practices Authority), this adoption process did not include any consultation with the FPA. To that end, their adoption was not only inappropriate, it was not guided by relevant expertise with particular respect to the interpretation of the concepts.

The *Significant Habitat Planning Guideline* (FPA 2013) is downloadable from the FPA website, with the following caveat (my emphasis added):

"This **guideline** provides a planning framework to avoid or limit the clearance and conversion of significant habitat of threatened fauna habitat to non-native vegetation cover such as **plantations, agriculture and infrastructure**. The framework does not deal with the reservation of habitat, which is addressed through other statutory mechanisms".

Within the guideline itself, its intended use is made very clear by its subtitle, which is stated as (my emphasis added):

An **internal** planning framework developed by the Forest Practices Authority for the purposes of **delivering management prescriptions through the threatened fauna adviser** to avoid or limit the clearance and conversion of significant habitat for threatened forest fauna."

That is, the guideline is intended as just that: a guideline. Further, it is an internal guideline, wholly for use within the forest practices system. More specifically, the guideline states (my emphasis added):

"Applications to **convert native vegetation to plantations and non-forest land use** are processed by the Forest Practices Authority in accordance with the Tasmanian Government Policy for Maintaining a Permanent Native Forest Estate (September 2011) and the planning system under the **Forest Practices Act 1985** which includes the *Forest Practices Code 2000* and associated planning tools (e.g. *Biodiversity Values Database*, *Threatened Fauna Adviser* (TFA) and *Forest Botany Manuals*). These planning tools have been developed to **guide and facilitate decision-making at the operational or coupe level** (e.g. area covered by a single forest practices plan). Some planning work has been conducted to develop decision-making tools for the landscape-level (i.e. multiple coupes). Many of the prescriptions outlined in current operational planning tools are provided on the assumption that there will be successful native vegetation regeneration post-harvest and subsequent recovery of threatened species and their habitats. This is not the case **for forest practices plan applications that seek to make long term or permanent changes to threatened species habitat through conversion to non-native vegetation**. The number of applications that seek to convert threatened species habitat has declined following the amendment of the Australian Forestry Standard in 2007, which now disallows the broad scale conversion of native forest. Conversion of native forest has now ceased on State forest but continues at a reduced level on private land. The Tasmanian Government's Policy on the Maintenance of the Permanent Forest Estate permits broad scale conversion to occur within specified thresholds until 2015.

A more strategic approach to the loss of threatened species habitat is required due to the cumulative impact of previous conversion and the rate of continuing conversion within the range of threatened fauna in Tasmania. This framework addresses this issue and will assist with the maintenance of significant habitat for threatened fauna".



That is, the guideline was developed to address a very specific purpose i.e. broadscale land clearing. It was never intended to address lot-level land use practices. In fact, notably, the *Forest Practices Regulations 2017* specifically exempt most activities subject to a permit issued under the *Land Use Planning and Approvals Act 1993*. In recent discussions with senior officers of the FPA, it was clear that the FPA was not aware of the effective verbatim adoption of the definitions and phrasing of their *Significant Habitat Planning Guideline* (FPA 2013) in the *State Planning Provisions*.

That the guideline was not intended to be “absolute” in its application is demonstrated by its Section 9 (“exercise of discretion...”). This is also demonstrated by numerous case-by-case applications for various properties and species. Examples include limiting the area subject to the guideline in relation to the line-of-sight concept related to eagle nests with several examples allowing clearing in the 500-1,000 m line-of-sight zone because of certain factors.

A logical question then arises? If the *Significant Habitat Planning Guideline* (FPA 2013) is not appropriate to use for local government planning decisions, what sources of information should be used? As a starting point, most ecological consultants do use the description of potential and significant habitat provided through the forest practices system to guide natural values assessments. This is primarily because the FPA provides a “one-stop shop” for such information: otherwise, we would need to go through recovery plans, listing statements, internal documents, etc. Unfortunately, for many species, doing such results in multiple different (and sometimes startlingly different) concepts of “potential habitat”. That is, the FPA’s information is “convenient”. However, its use must be carefully considered. It does not follow that if a site matches the description of significant habitat for a species using the FPA description that it immediately qualifies as significant habitat under the *State Planning Provisions*. Specifically, this is precluded by the caveats attached to the *Significant Habitat Planning Guideline* (FPA 2013) that very much limit its utility to internally (i.e. within the FPA) guiding management of habitat of threatened fauna in broadscale land clearing proposals.

In my opinion, the *State Planning Provisions* can include the concept of “significant habitat for a threatened fauna species” but this must be guided by a consultatively developed set of criteria and definitions in the framework of land uses subject to the *Land Use Planning and Approvals Act 1993*. In the absence of this, and recognising the existing definitions provided, these now need to be applied in the most reasonable manner possible to the subject site.

I note that this particular planning authority also has a definition of “significant habitat” included in the current *Kingborough Interim Planning Scheme 2015* (KIPS). The following definition is provided at cl. 4.1.3, as follows:

means native vegetation determined from published scientific literature and/or agreed by the Threatened Species Section (DPIPWE) in consultation with species specialists, and/or endorsed by the Threatened Species Scientific Advisory Committee (TSSAC) as habitat within the known range of a threatened or vulnerable flora or fauna species that:

- (i) is known to be of high priority for the maintenance of breeding populations throughout the species' range; and/or
- (ii) if converted to non-native vegetation is considered to result in a long term negative impact on breeding populations of the species.

That is, the incorporated definition utilised by the planning authority is also an almost verbatim copy from FPA (2013). Again, the appropriateness of using this definition, without proper consultation as to its development and an assessment of its usefulness in the local planning system (as opposed to broadscale land clearing proposals for which the definition was intended), is highlighted. Unfortunately, the definition is flawed in that it uses the phrase “threatened or vulnerable flora or fauna” in a generic sense rather than a legislated sense, noting that the term “threatened” is generic and the term “vulnerable” has specific (but slightly different) meaning under both the Tasmanian *Threatened Species Protection Act 1995* (TSPA) and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBCA). Cl. 4.1.3 of the KIPS does not define “threatened species” so the definition of “significant habitat” was always open to interpretation (i.e. did it include endangered and rare species on the TSPA or just vulnerable species and did it include endangered and critically endangered species or just vulnerable on the EPBCA?).



The definition from c. 4.1.3 is repeated at E10.3 of the Biodiversity Code, again unfortunately carrying through the incomplete definition in relation to all legislated statuses on the TSPA and EPBCA. However, the Code at least provides a definition of threatened species, as follows:

means a fauna or flora species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999*.

It is actually through Table E10.1 of the Biodiversity Code that the intent of the phrase “threatened or vulnerable” becomes slightly clearer.

One of the components of high priority biodiversity values is:

Significant habitat for and/or areas known to contain threatened species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* that are:

- (a) recognised as endangered or vulnerable; or
- (b) largely confined in their total distribution to the municipal area; or
- (c) have most of their range within the municipal area.

One of the components of moderate priority biodiversity values is:

Significant habitat for and/or areas known to contain threatened species listed under the *Threatened Species Protection Act 1995* or the *Environment Protection and Biodiversity Conservation Act 1999* that are:

- (a) recognised as rare; and
- (b) are not specific to the municipal area.

Notwithstanding that these definitions never provided a formal link to the terms for endangered, vulnerable or rare, their intended meaning is/was quite clear (ignoring the discrepancy regarding species listed as critically endangered under the EPBCA).

While it is recognised that the present assessment needs to consider whether the subject title supports priority vegetation because of the presence of “significant habitat for threatened fauna” as intended by C7.3.1(b) of the *State Planning Provisions*, because these are effectively the same as those currently used in the KIPS, this fact has been highlighted to show that it makes little material difference which definition is applied.

More broadly, the site obviously supports potential habitat for a suite of listed fauna species including marsupial carnivores, eastern barred bandicoot, masked owl, grey goshawk, chaostola skipper, blue-winged parrot, wedge-tailed eagle and white-bellied sea-eagle. The degree to which any part of the site comprises “significant habitat” is open to interpretation. The Regional Ecosystem Model used a combination of range boundaries, habitat descriptions and modelling to assign sites as priority vegetation for a number of species including wide-ranging and non-habitat specialised species such as the Tasmanian devil, spotted-tailed quoll and eastern barred bandicoot. While I accept that it is possible to assign a nest or den site of a listed species (in most circumstances, but not necessarily all) as “significant” and therefore priority vegetation, there are no such features for this whole site. For a property such as this, however, assigning priority vegetation to simply potential habitat for a species such as the Tasmanian devil is fraught with challenges. This species uses a wide range of habitats from undisturbed native forest through to open pasture – assigning “significance” to “natural” habitat but not modified habitats belies the manner in which the species utilises a massive territory/home range and specific habitat elements within this i.e. pasture, scattered trees, farm buildings, etc. can be as important in the landscape as natural forest. Site assessment, however, confirmed that the site is a typical “rural living”-style property with a mosaic of structures, gardens, lawns, small pasture areas, regenerating scrubby (weedy) forest and very open slightly more mature forest. However, none of the trees include any hint of senescent features such as hollows. This is confirmed by mature habitat modelling (Figure 16) that confirms the absence of such. Site assessment also indicated that the ground layer is also highly simplified lacking coarse woody debris, rock overhangs, caves, wombat/rabbit burrows and other such features meaning anything other than opportunistic/ephemeral use is anticipated.



In my opinion, the only species requiring further consideration is *Lathamus discolor* (swift parrot). Enviro-dynamics (2023) notably described potential habitat at this site as follows: "Species has strong association with blue gum and black gum. These trees provide potential foraging habitat for the swift parrot. No mature blue gums or black gums on site. Regrowth black gums provide minimal foraging habitat at present". This statement remains valid, noting that the scattered taller trees are indicated as 16-22 m tall only. While the broader area is accepted as within the breeding range of the species and the site supports some potential foraging habitat (but no nesting habitat), the question is then whether the patches of DOV properly meet the intent of "significant habitat at C7.3.1(c). Note that this does not require a complex review of descriptions of potential habitat in documents such as recovery plans and listing statements. The "test" is not against such documents but against the phrasing of C7.3.1(c) and specifically the more detailed descriptions, which are repeated below:

"means the habitat within the known or core range of a threatened fauna species, where any of the following applies:

- (a) is known to be of high priority for the maintenance of breeding populations throughout the species' range; or
- (b) the conversion of it to non-priority vegetation is considered to result in a long-term negative impact on breeding populations of the threatened fauna species".

Given that the whole of the "forest" within the title has been previously cleared and has then been subject to periodic natural regeneration, clearing and modification, and that any more mature trees that might provide habitat did not start properly doing so ca. 25-35 years ago (at most – see aerial imagery and discussion of the timeline of vegetation management associated with these), any use by the swift parrot must be opportunistic at most. On those grounds alone, the site does not qualify as "significant habitat". This is a somewhat disingenuous statement, of course, because at some level, perhaps any *E. ovata* is important. However, one must "draw a line in the sand" somewhere: 1 tree, 10 trees, 100 trees? Unfortunately, there is no useful guidance on this in any "planning tools" and certainly not within the definition of "significant habitat" at C7.3.1(c). While there are some ecologists that hold to a view that every *E. ovata* and *E. globulus* is important and should be retained, I do not take this view, that I believe is not tenable. It is at odds with the estimated population of the species (anywhere between 300-800 birds often cited). Potential foraging habitat for this number of individuals across its recognised range in Tasmania and compared to the extent of DOV (let alone other communities recognised as foraging habitat such as DGL & WGL but also every individual of *E. ovata*, *E. brookeriana* and *E. globulus*), simply cannot be limiting. Using that argument, if the DOV on the title were to be removed, it cannot be reasonably demonstrated that such DOV was "known to be of high priority for the maintenance of breeding populations throughout the species' range" or that "conversion of it to non-priority vegetation is considered to result in a long-term negative impact on breeding populations of the threatened fauna species".

This site does provide habitat that might be opportunistically used by the swift parrot. I do not believe there is any doubt that the intent of "significant habitat" under the *State Planning Provisions* ever included such habitat use. However, in my opinion, strong guidance on this is needed through the TPC through a consultative review of the concept of "significant habitat". It should not fall to consultants, council planners and others to "decide" these matters. A document that provides a clear statement of intent, on a species-by-species basis, and that describes the habitat elements that comprise "significant habitat" and a set of criteria/thresholds against which to measure such elements, is urgently needed. While for some species, assigning "significant habitat" might seem easy, this is actually far from the case. For example, it might seem obvious that a nest of a wedge-tailed eagle is "significant habitat". However, if that nest is one of say five in a territory, can be demonstrated to be in poor condition and not used for many decades, it then becomes much more challenging to assign it to "significant habitat". The swift parrot is, in my opinion, far more complex than the wedge-tailed eagle, for a multitude of reasons (including its migratory behaviour, the separation of foraging and nesting habitat, the impact of a range of land uses and the interaction with predators).

On this basis of this discussion, I do not believe it is reasonable to construe any part of the site as priority vegetation as per the intent of C7.3.1(c), viz. that "it forms a significant habitat for a threatened fauna species", acknowledging that this is a conclusion open to significant interpretation and requires a directive/precedent to confirm it.





Figure 14. Distribution of threatened flora (known records) in vicinity of subject title

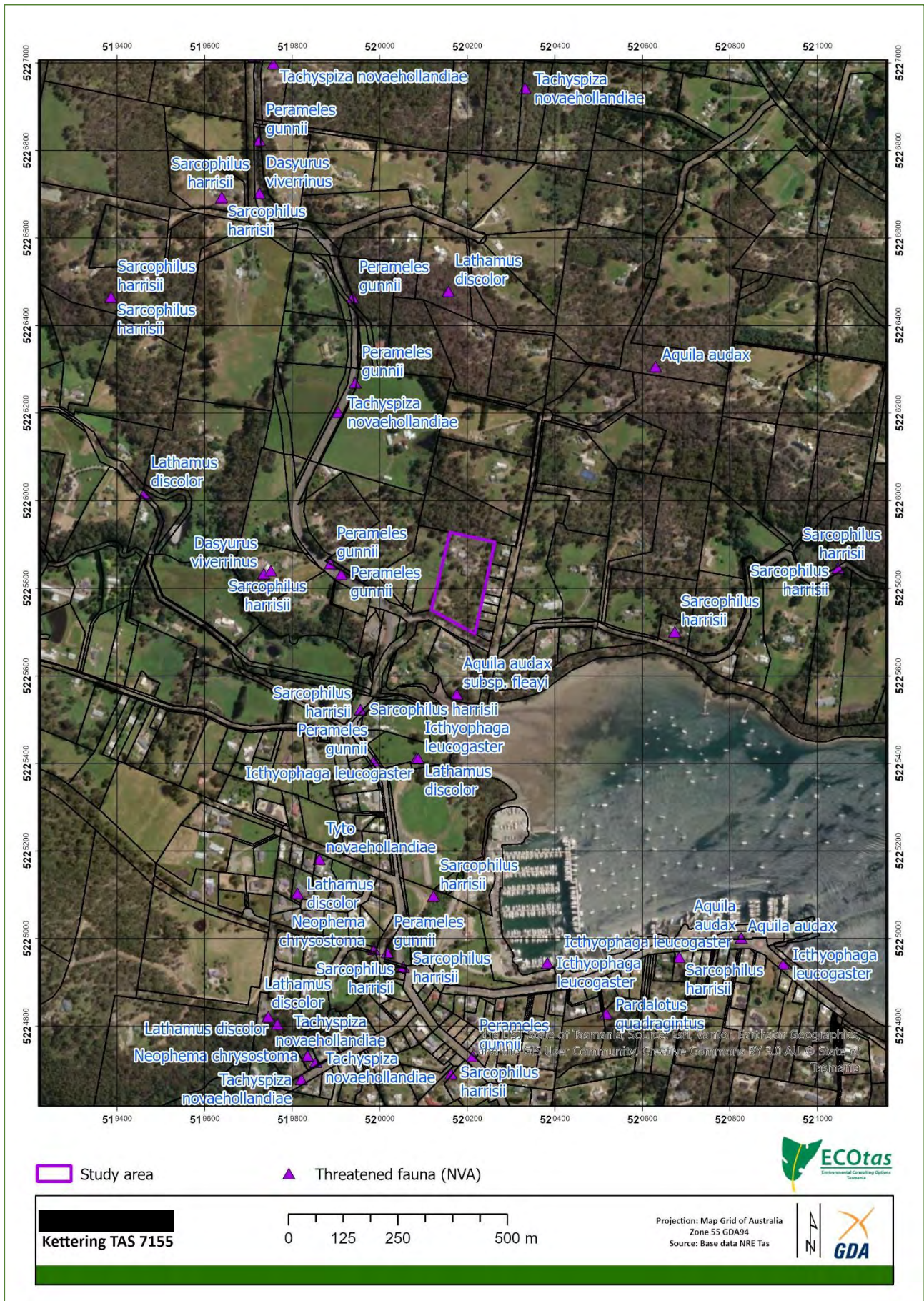


Figure 15. Distribution of threatened fauna (known records) in vicinity of subject title

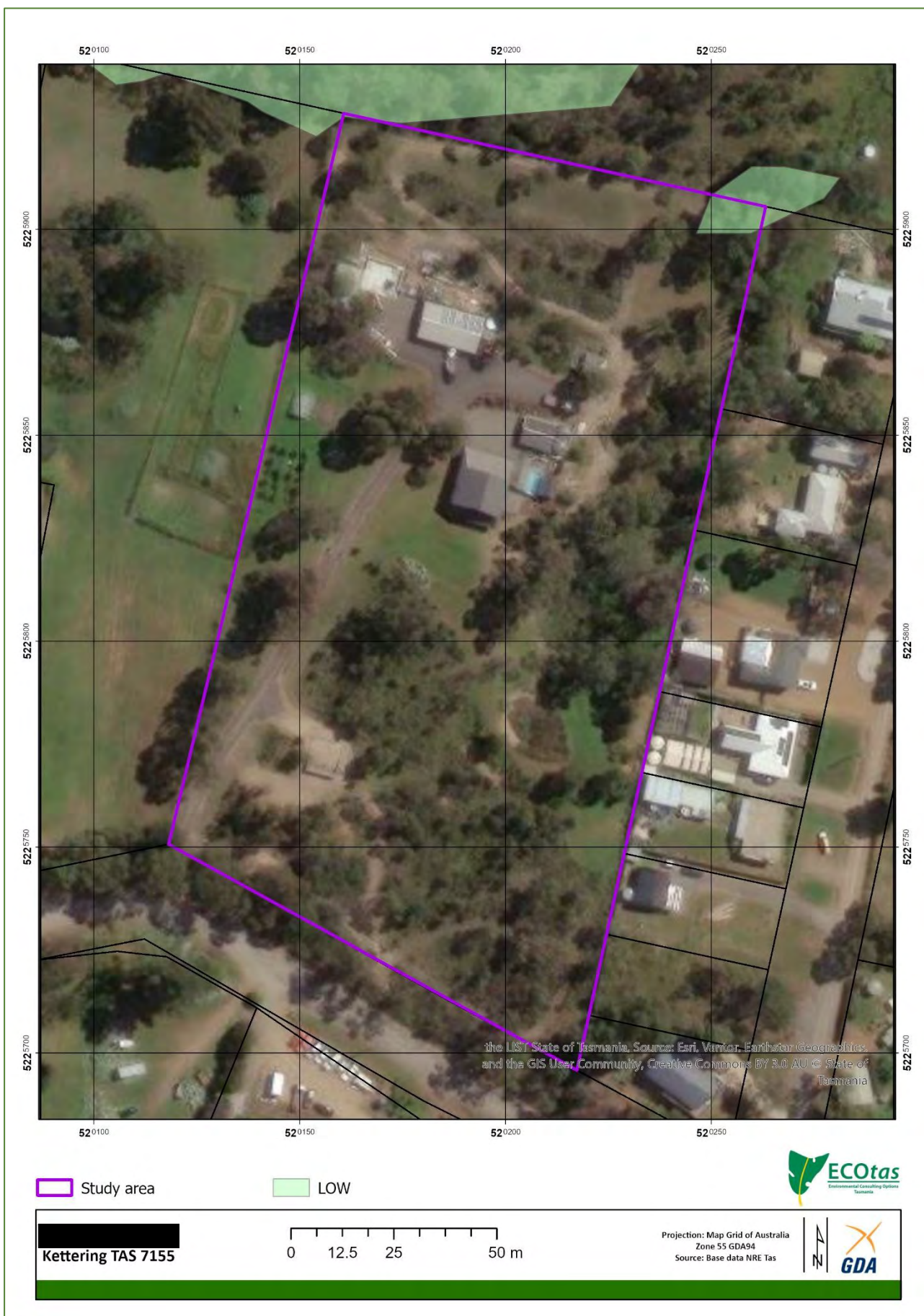


Figure 16. Mature habitat availability modelling (ex-FPA) for property and surrounds

Native vegetation of local importance

At the time of the promulgation of the *State Planning Provisions*, there was, to my knowledge, no available interpretation of the concept of “native vegetation of local importance”, as intended by C7.3.1(d). Of note is that the TPC’s *Natural Assets Code Fact Sheet*, while mentioning that the “priority vegetation area protects...other locally important native vegetation” (noting that even this phrase is different to that used in the *State Planning Provisions*), it provided no interpretation of this matter. It does note, however, that the “priority vegetation area overlay was based on comprehensive mapping and modelling, using data such as: • Department of Natural Resources and Environment’s (NRE) TASVEG mapping for threatened native vegetation communities, and • NRE’s Natural Values Atlas for threatened flora and fauna species”. These information sources do not include any link to a concept such as “native vegetation of local importance”. The fact sheet goes on to state that “many planning authorities have prepared alternate overlay mapping which: • corrects any errors in DPIPW’s mapping and data, or • gives more recent or detailed local assessment of the mapping and data, or • identifies locally important native vegetation, including habitat for native fauna”.

It is reasonable to indicate that all environmental consultants (and presumably all planning officers in councils) struggled with the application of C7.3.1(d). To their credit, the TPC produced *Information Sheet 2-2024 (LPS Amendment Assessments – Natural Assets Code – Native Vegetation of Local Importance)* (dated 2 September 2024). It was unfortunate, however, that there appears to have been no formal or informal consultation with any ecological experts on the content of the information sheet, nor any promotion of its existence. That said, this information sheet now exists and it is clearly intended “to provide assessment guidelines to support assessment of native vegetation of local importance under the Natural Assets Code” (this is its formally stated purpose).

The information sheet further states:

“When assessing a draft Local Provisions Schedules (LPS) or an amendment to LPS which include consideration of information and evidence on ‘native vegetation of local importance’ under the Natural Assets Code, a key consideration for the Commission will be the ecological significance of the vegetation.

It is a matter for an applicant or planning authority to determine the nature and extent of information provided to the Commission to enable it to undertake an assessment of the conservation significance of native vegetation of local importance”.

In my opinion, there is little room for interpretation of these statements – there is a clear intent that the TPC intends for the information sheet to strongly guide the consideration of C7.3.1(d). In other directions, the TPC has in fact made direct reference to this guidance document (e.g. Direction 90).

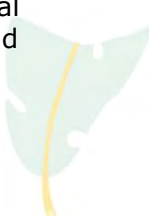
The information sheet states:

“In determining the conservation significance of native vegetation of local importance, the fundamental test to be applied is an ecological one, and not one that relies on social values.

The Commission is not aware of a commonly accepted protocol or set of rules in conservation science that defines what should be considered as locally important native vegetation from an ecological perspective.

Each draft LPS or amendment to an LPS will be assessed on a case-by-case basis. The Commission will consider the parameters listed below, where relevant, when undertaking an assessment of the conservation significance of native vegetation of local importance”.

Again, it is clear that the parameters then included in the sheet are to be the primary guide to interpreting C7.3.1(d). In this case, natural values that could be construed as meeting the intent of C7.3.1(a), (b) or (c) have not been identified. Obviously, some aspects of my conclusions will need to be “tested” by review by the TPC as the conclusions in relation to components (a) and (c) in particular are far from simple. Therefore, it is relevant to consider if any such natural values at this site might meet those included in C7.3.1(d). I do not believe that there should be any doubt on how to address Direction 137 with respect to the “native vegetation of local importance” criteria of priority vegetation i.e. the parameters of the information sheet should



be applied. In my opinion, there is “no room” for these to be subject to either being ignored (i.e. not used) or substantially altered (at least not without approval through a formal TPC hearing). I note that the planning authority has assumed that the concept of “native vegetation of local importance” is comprised of elements of the Regional Ecosystem Model (REM) such as potential habitat of threatened species, relative reservation, relative rarity, remnant vegetation and priority species. However, even if this were the case, the algorithm used in the REM could to produce the “hexagons” is not readily accessible and there is no simple means of ascertaining what particular modelled element may have led to the creation of the overlay. Further to this, however, it is now understood that this planning authority has “tweaked” the output in a manner that is also not readily available. To that end, in my opinion, it is now only reasonable to consider whether a site supports native vegetation of local importance” through the TPC information sheet, which was presumably produced for precisely this purpose.

It is important to first consider the key qualifying statements in the information sheet when analysing the parameters – these qualifiers are stated as:

“In terms of weighting, parameters 1 and 2 are considered the most important.

If the vegetation community is significant by virtue of its threatened community status and/or its limited range within the state and/or its limited representation in the conservation reserve estate (vegetation composition) and it has high habitat values by virtue of the maturity of the vegetation (vegetation structure), then the vegetation would almost certainly meet the test of 7.3.1. (d) and, therefore, be defined as priority vegetation.

On the other hand, if the vegetation met neither the vegetation composition or vegetation structure parameters then it is quite unlikely to qualify under 7.3.1.(d) as priority vegetation.

If the vegetation meets just one of these two most important parameters then assessment across all factors is necessary to determine priority vegetation status”.

To my interpretation, this places a very strong emphasis on “vegetation composition and vegetation structure parameters”, which is important in relation to the subject property. In this case, the native vegetation is identified as a threatened native vegetation community but its modified status and land use history has been noted. Much discussion has been dedicated to whether this then meets the test of C7.3.1(a) and specifically the concept of “integral part of”. It is reasonable to assume that this concept is carried through to this notion of weighting parameters.

So, to go through each of the parameters in turn, with the precise phrasing from the information sheet included in quotation marks and my response to each in square brackets, refer to the following:

“1. Vegetation composition”

- “What is the TASVEG classification?”

[The site is classified as a combination of an F-coded mapping unit (FUM – or several alternative components such as FAL, FRG & FUR) and three polygons of DOV].

- “What is the dominant species or are there co-dominant species?”

[Relevant only to DOV – dominant species is *Eucalyptus ovata* (black gum) but *E. obliqua* (stringybark) and *E. pulchella* (white peppermint) are also present].

- “Is the vegetation community widespread around Tasmania or elsewhere in Australia?”

[Only relevant to the native vegetation community of DOV, which is already recognised as threatened at a State level, and at a Commonwealth level in certain circumstances (not met in this case), and therefore covered by C3.7.1(a) – see discussion under **Findings** Vegetation types].

- “Is the vegetation community and/or significant species within the community listed as threatened on Tasmanian or Commonwealth threatened species legislation?”

[See above].



- "Is the vegetation community well represented in the conservation reserve system locally, regionally or elsewhere in the state?"

[See above].

On this basis, the parts of the subject site classified as a State-listed native vegetation community could be construed to meet Parameter 1. However, as threatened native vegetation communities are wholly covered by C7.3.1(a) and allocation to priority vegetation under that category has been discounted (see previous discussion), it is not logical that the same community could now meet the intent of C7.3.1(d).

"2. Vegetation structure"

- Is the forest old growth forest or regrowth forest?"

[None of the forest areas are old-growth – all are regrowth. See detailed land use history interpretation including several aerial images].

- "What is the evidence of the age of the forest?"

[As above].

- "Is the age of the forest such that it is reaching a stage of maturity that sees trees start to senesce and create hollows for hollow-dependent fauna and provide fallen branches and stems that would provide habitat for ground-dwelling fauna?"

[No – all trees are decades away from forming hollows. The ground layer is devoid of logs and the canopy trees too young and healthy to produce any of note].

- Is any non-forest community in a relatively undisturbed, weed-free condition?

[No – the forest areas are weedy, with spanish heath dominating the understorey in the southern patch of DOV, and numerous garden plants within the other main patch].

On this basis, the parts of the subject site classified as a State-listed native vegetation community should not be construed to meet the intent and specifics Parameter 2.

"3. Significance of vegetation in the area"

- Is the vegetation community the only remaining stand of the species in the area and as such has an elevated significance?"

[No – DOV is actually quite extensively mapped in the greater Channel area].

- "Are there the same vegetation types in the surrounding area and if so, what area of vegetation and what is its reserve status?"

[Yes – refer to TASVEG mapping, which is partly accurate].

On this basis, no part of the subject site meets the intent and specifics of Parameter 3.

"4. Suitability for reserve status"

- Does the forest meet the nationally accepted criteria used for the development of a comprehensive, adequate and representative system of forest conservation reserves (the JANIS criteria that deal with biodiversity, old-growth and wilderness parameters)?"

[No – the site is a small private title that has a long history of clearing and modification with no natural values present that come close to meeting the suggested criteria].

- "Would the forest qualify for reserve status?"

[No – see above and notes on extent, condition and context].



- "Would any non-forest community, by virtue of its rarity, habitat values and intactness, qualify for reserve status?"

[Not relevant – no native non-forest communities present].

On this basis, no part of the subject site meets the intent and specifics of Parameter 4.

"5. Native fauna"

- What are the species that are recorded as utilising the land?"

[Refer to **Findings Threatened fauna**. The site is highly modified. No comprehensive assessment of the vertebrate and invertebrate fauna has been undertaken but this is not justified under any assessment protocols].

- "Are any of the species listed as threatened species?"

[Refer to **Findings Threatened fauna**. The areas of non-native non-forest (i.e. FUM) and forested areas would be utilised by a wide range of threatened fauna species, but any use would be opportunistic, ephemeral and highly temporary].

- "Do the recorded species commonly occur in many parts of Tasmania?"

[Not assessed at this stage but see notes under **Findings Threatened fauna** in relation to swift parrot].

- "Does the land provide breeding or foraging habitat for any of the species?"

[See notes under **Findings Threatened fauna** in relation to swift parrot].

- "Are any of the species likely either to be just passing through or flying over the site?"

[This is most relevant to species such as the swift parrot, where intermittent or opportunistic use is possible but occupation unlikely i.e. such species would be "just passing through or flying over the site", depending on the vegetation type and part of the site].

On this basis, no part of the subject site meets the intent and specifics of Parameter 5.

"6. Connectivity"

- Does the land provide an important link between other areas of vegetation?"

[No – refer to analysis of land use history that clearly shows context].

- "Will any link still be maintained if the land was included in a zone that allows for maintenance of native vegetation which, in turn, would permit continued mobility of fauna?"

[Not relevant – see above].

On this basis, no part of the subject site meets the intent and specifics of Parameter 6.

On the basis of the above discussion, no part of the subject site is considered to properly meet the intent or specifics of the parameters of *Information Sheet 2-2024 (LPS Amendment Assessments – Natural Assets Code - Native Vegetation of Local Importance*, such that no part of the site should be reasonably construed as priority vegetation as per the intent of C7.3.1(d), viz. "native vegetation of local importance".



Summary statement

In response to Direction 106, in relation to ██████████ Kettering, it is my opinion that:

- the Priority Vegetation Area overlay should not be applied to any parts of the title because it does not support natural values consistent with the intent or specifics of priority vegetation as defined at C7.3.1 of the *State Planning Provisions*, specifically because no part of the title:
 - o forms an integral part of a threatened native vegetation community as prescribed under Schedule 3A of the *Nature Conservation Act 2002* – the site is most appropriately classified as a combination of an F-coded (i.e. modified land) TASVEG mapping unit, viz. extra-urban miscellaneous (TASVEG code: FUM) and three small polygons of *Eucalyptus ovata* forest and woodland (TASVEG code: DOV) in poor condition, disconnected from one another and adjacent areas of similar vegetation and with a long history of disturbance such that they do not meet the intent of forming “an integral part of a threatened native vegetation community” i.e. **C7.3.1(a) does not have application**;
 - o is a threatened flora species – no such species known from database information or recorded as the result of site assessment i.e. **C7.3.1(b) does not have application**;
 - o forms significant habitat for a threatened fauna species at any reasonable scale (with only opportunistic, ephemeral and temporary habitat present) i.e. **C7.3.1(c) does not have application**; and
 - o has been identified as native vegetation of local importance – this includes specific reference to the concept of “individual trees” but also to *Information Sheet 2-2024 (LPS Amendment Assessments – Natural Assets Code - Native Vegetation of Local Importance* i.e. **C7.3.1(d) does not have application**.

Further to this conclusion, in this case it is noted that no effort has been made to consider the concept of “individual trees” – I refer the reader to my responses to Directions 101, 103, 106 & 107 for my rationale on this.

It is acknowledged that my conclusions in relation to elements (a) and (c) of C7.3.1 do warrant careful consideration as they are not as simple as a statement that “there are no threatened flora such that C7.3.1(b) does not apply”. A decision on whether any part of the site properly meets the intent of C7.3.1(a) requires a more formal consideration of the concept of “an integral part of a threatened native vegetation community”. A decision on whether any part of the site properly meets the intent of C7.3.1(c) requires a more formal consideration of the concept of “significant habitat”. I do not consider either to be straightforward and the decision on one or both will set an important precedent for other sites and the future definition and interpretation of the concept of priority vegetation.

The present statement is intended as an objective presentation of matters related to natural values of the site to assist the TPC in addressing Direction 137, with respect to the application of the Priority Vegetation Area overlay.

Note that this statement does not constitute legal advice, and provides an interpretation of the provisions of the *State Planning Provisions*, which may not represent the views of Kingborough Council or the Tasmanian Planning Commission (TPC). It should not be relied upon to make financial decisions.



Please do not hesitate to contact me further if additional information is required.

Kind regards



Mark Wapstra
Senior Scientist / Manager

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