

29 May 2024

Ref: 55/2020\_lucra v2.0  
Glenn Wright  
55 Settlement Road  
**MAIN ARM NSW 2482**

Dear Glenn,

**Preliminary Land Use Conflict Risk Assessment Amended Planning Proposal  
Lot 5 DP585928, No 55 Settlement Road Main Arm**

In response to the Gateway Determination dated 18th January 2024 (see **Attachment C**), Tim Fitzroy & Associates (TFA) have been engaged to include the assessment of the detached dual occupancy dwelling to the Preliminary Land Use Conflict Risk Assessment prepared by this office dated 26 January 2022.

This letter provides the results of a preliminary Land Use Conflict Risk Assessment (LUCRA) with respect to an amended Planning Proposal to Byron Shire Council (BSC) to amend the Byron Local Environmental Plan (BLEP) 2014 to formalise the use of the dwelling and the detached dual occupancy dwelling located at Lot 5 DP585928, No 55 Settlement Road Main Arm (see Site Locality plan in **Attachment A**).

LUCRA's were initially conceived in the *Living and Working in Rural Areas Handbook* (Department of Primary Industries et.al 2007) by the Centre for Coastal Agricultural Landscapes in partnership with the Northern Rivers Catchment Management Authority as a tool to better manage potential land use conflicts between residential development and rural activities and environmental attributes/assets on the NSW North Coast.

This LUCRA is a tool to better identify potential land use conflicts risks associated with the proposed development and where necessary propose mitigation options to address any unacceptable risks.

The actual width of the any buffer should in practice be dependent on the most limiting factor involved (i.e. the factor that will require the widest buffer). In theory, this would lead to all other factors being adequately addressed.

The proposed development should be designed to minimise instances of incompatibility such that normal farming practice are not inhibited and natural ecosystems and attributes are enhanced where possible. Where such instances do arise, measures to ameliorate potential conflicts should be devised wherever possible.

Conflict between residential development and agricultural land uses is likely to occur where residential land uses directly abut, or are sufficiently close to, farmland such that they are likely to be affected by agricultural activities. Such conflict can arise from the use of agricultural chemicals noise, dust and odour generating activities. Adverse impacts of residential development on farmland include sediment and stormwater run-off.

When considering potential land use conflict between residential and agricultural activities it is important to recognise that all agricultural activities:

- should incorporate reasonable and practicable measures to protect the environment in accord with the Protection of the Environment Operations Act (POEO) and associated industry specific guidelines; and
- are legally conducted as required by other legislation covering workplace health and safety, and the use and handling of agricultural chemicals.

Nevertheless, certain activities practised by even the most careful and responsible farmer may result in a nuisance to adjacent residential areas through, for example, unavoidable odour drift and noise impacts.

The Living and Working in Rural Areas Handbook (NSW DPI et. al 2007), in particular Chapter 6 Development Control, provides guidance in the assessment and mitigation of potential land use conflict matters and has been used as a resource for this Land Use Conflict Risk Assessment (LUCRA). This LUCRA has been prepared to assist Council in assessing potential land use conflicts between the proposed development at the subject site and the neighbouring agricultural developments.

The preparation of this Preliminary LUCRA has included the following tasks:

1. A review of:
  - a. Aerial Photography; and
  - b. Historic and current mining exploration licences;
2. A search of the
  - a. Contaminated Land Record (EPA 2010b) for the Byron Shire Council Local Government Area (LGA); and
  - b. current list (EPA 2010c) of licensed activities as per Schedule 1 of the Protection of the Environment Operations Act 1997
3. Site Inspection;
4. Review of council records in consultation with Council's Strategic Planner Alex Caras; and
5. Discussions with the owners of the subject site: Glenn Wright and Caroline Kinsella.

Information discerned through the afore-mentioned preliminary investigations is summarised below:

1. The subject site covers an area of about 23.85ha approximately 1.8km south of the Main Arm village. The site is accessed via Settlement Road. Site

improvements include a three bedroom dwelling, a one bedroom dual occupancy dwelling, a dam and fencing.

2. The site is an irregular shape and is located on the southern side of Settlement Road. The site is undulating ranging from 130m AHD in the south to 40m AHD in the north interspersed with a series of gullies. The vast bulk of site (estimated at over 80%) is covered with vegetation. A portion of the central and north western portion of the site has been partially cleared whereupon the dwelling, shed and dam are located. Surface soil conditions comprised medium clay to clay loam.

3. The dwelling is about 20 years old comprising, timber floor, metal roof and manufactured board. The perimeter of the dwelling is extensively landscaped to the north and east including paving plus a timber deck extending to the south.

4. The detached dual occupancy dwelling comprises timber floor, metal roof and manufactured board. It is our understanding that the shed was originally used for packing of bananas.

5. A plan showing the subject site and surrounding land uses is provided in **Attachment B**.

6. The land to the immediate south (Lot 3 DP 558858 covers about 77ha) is predominately heavily vegetated and on the lee side of hillslope to the subject site. No intensive agriculture/horticulture occurs on Lot 3 DP 558858.

7. The land to the west (Lot 13 DP 578535 No 93 Settlement Road covers an area of about 17.3ha) is predominately heavily vegetated. No intensive agriculture /horticulture occurs on Lot 13 DP 578535.

8. The land to the east (Lot 2 DP 627031 No 655B Main Arm Road covers about 14.5ha) comprises a mix of banana cultivation in the southern elevated slopes a large dam in the middle portion, dwelling, farm shed and cleared land to the north on the gentler slope. The closest point of the banana plantation to the existing dwelling at 55 Settlement Road is about 350m.

9. The land to the north and north east includes:

- a. Lot 1 DP 578625 No 45 Settlement Road, which covers an area of about 2Ha. This site includes a dwelling, sheds and mixed vegetation. No intensive agricultural/horticulture occurs on this site
- b. Lot 25 DP 1166664 No 25 Settlement Road, which covers an area of about 2.2Ha. This site includes a dwelling, sheds and mixed vegetation. No intensive agricultural/horticulture occurs on this site
- c. Lot 4 DP 585928 No 34 Settlement Road covers about 9.7ha and is located on the northern side of Settlement Road predominantly covered with vegetation. The site includes the former Durrumbil cattle dip site and a former quarry.
  - i. A search of the NSW Department of Primary Industry (DPI) Cattle Dip Site Locator tool(<https://www.dpi.nsw.gov.au/animals-and-livestock/beef-cattle/health-and-disease/parasitic-andprotozoal-diseases/ticks/cattle-dip-site-locator>) indicated that the former Durrumbil cattle dip site has been decommissioned and is located on the northern side of Settlement Road, approximately 173m north west of the existing dwelling on the subject site and therefore within the 200m radius NSW EPA investigation zone. Analysis of soil collected within the vicinity

of the dwelling and the detached dual occupancy dwelling show contaminant levels well below the most stringent Australian and New Zealand Environment and Conservation Council (ANZECC), National Environment Protection Measure (NEPM 2013) HILA Residential with garden/accessible soil and Ecological Soil Investigation Levels (NEPM 2013) (Preliminary Site Investigation 55 Settlement Road Main, Tim Fitzroy & Associates January 2022).

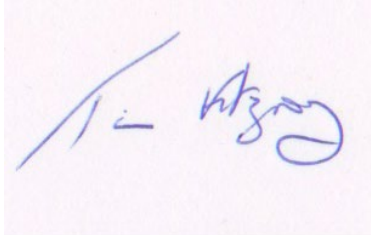
- ii. A search of historical aerial photographs was conducted of the subject site in an attempt to identify past uses in the locality. Aerial photographs were reviewed for the followings years: 1942, 1958, 1966, 1971, 1979, 1987, 1997, 2006, 2010, 2014 and 2020 see **Appendix D**)
- iii. The aerial photographs identify land cleared for quarry operations from 1971 to 2014 in the northern eastern portion of Lot 4 DP 585928 No 34 Settlement Road about 260m north east of the existing dwelling on Lot 5 DP585928, No 55 Settlement Road Main Arm. From 2014 vegetation has overtaken the former quarry
- iv. A review of:
  - 1. current mining Current Mining & Exploration Titles did not find any records in the buffer (see **Appendix E**)
  - 2. Council records for Lot 4 DP 585928 did not find any evidence of council approvals of a quarry
  - 3. A search of the Contaminated Land Record (EPA 2010b) for the Byron Shire Council Local Government Area (LGA) did not identify any notices on or near the site (see **Appendix E**)
  - 4. A search of the current list (EPA 2010c) of licensed activities as per Schedule 1 of the Protection of the Environment Operations Act 1997 did not identify any licensed activities on, or within close proximity of the subject site (see **Appendix E**)
  - 5. There are no Delicensed Activities still regulated by the EPA in the buffer(see **Appendix E**)
  - 6. There are no Former Licensed Activities under the POEO Act 1997, now revoked or surrendered(see **Appendix E**)
- v. Discussions with the owners of 55 Settlement Road confirm that since their purchase of the property in 2003 the quarry has not been in operation

## Conclusion

Based on the outcomes of this preliminary LUCRA there is no impediment to approval of the Planning Proposal to amend the Byron Local Environmental Plan (BLEP) 2014 to formalise the use of the dwelling and detached dual occupancy dwelling located at Lot 5 DP585928, No 55 Settlement Road, Main Arm.



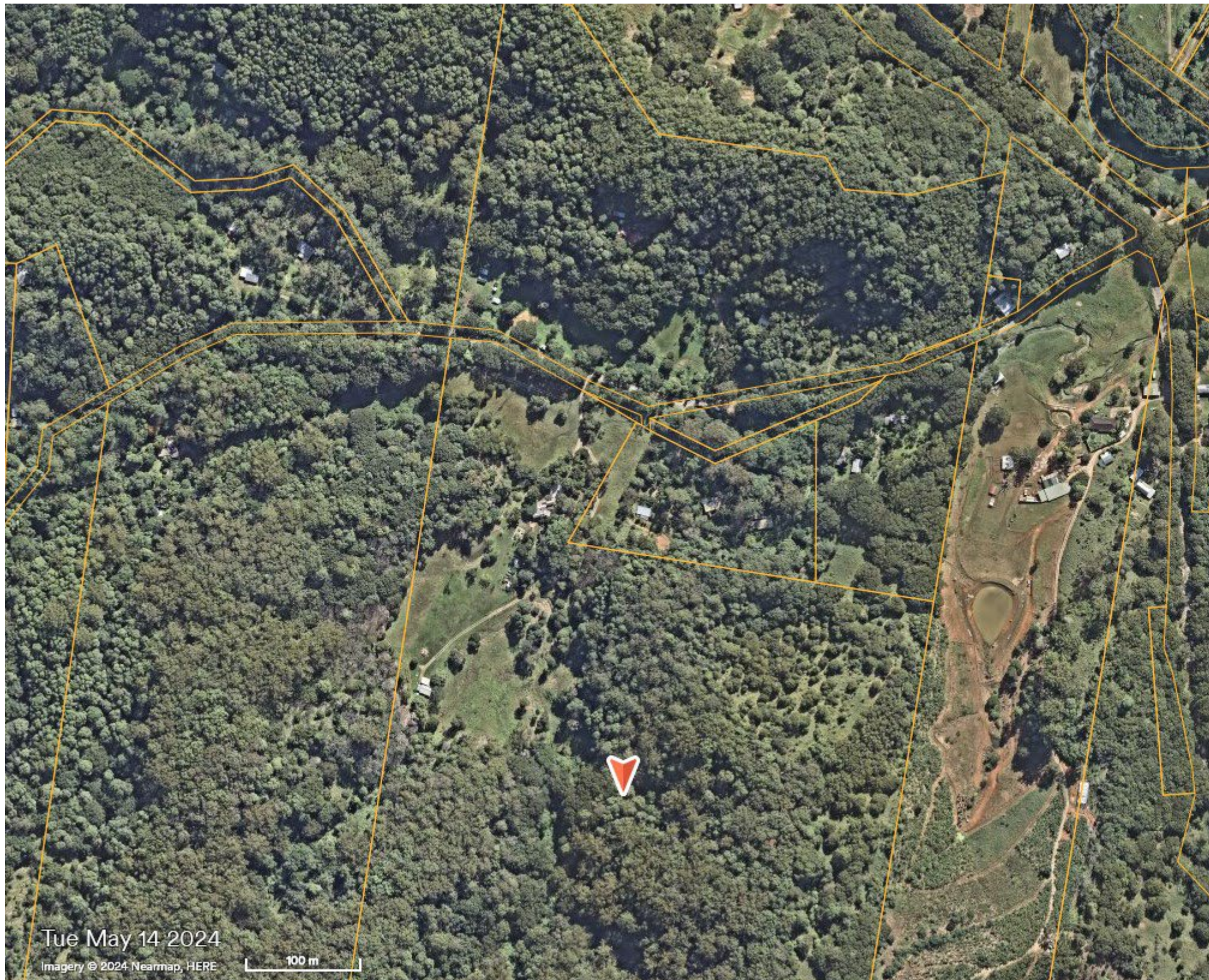
Kind regards,



**Tim Fitzroy**  
Environmental Health Scientist  
Environmental Auditor



**Attachment A      Site Locality**





**Attachment B      Subject Site and Surrounding Land uses**





Attachment C

Gateway Determination 18 January 2024

## Gateway Determination

**Planning proposal (Department Ref: PP-2021-5766):** to permit a dual occupancy (detached) with development consent at Lot 5 DP 585928, 55 Settlement Road, Main Arm.

I, the Acting Director, Northern Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Byron Local Environmental Plan 2014 to permit a dual occupancy (detached) with development consent at Lot 5 DP 585928, 55 Settlement Road, Main Arm should proceed subject to the following conditions:

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- (a) the planning proposal authority has satisfied all the conditions of the gateway determination;
- (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
- (c) there are no outstanding written objections from public authorities.

The LEP should be completed within 9 months of the Gateway determination.

### Gateway Conditions

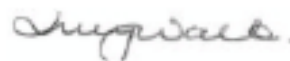
1. Prior to agency and community consultation:

- (a) the planning proposal must be updated to:
  - correct the reference to zone R2 on page 3;
  - include additional discussion of Aboriginal cultural heritage, including a recent AHIMS search;
  - reflect the required upgrades to the driveway access, internal driveway and Settlement Road outlined in the submitted Traffic Safety Assessment and Bushfire Assessment;
  - include additional information regarding flooding, such as a map that illustrates inundation of the site and further details regarding access (including the type of flood event that will affect the access as well as the duration that the road is inaccessible); and
  - address the outcomes and recommendations of the updated reports required by conditions 1(b) and 1(c).
- (b) the following reports must be updated to include an assessment of both dwellings on the land:
  - Preliminary Site Contamination Report
  - On-Site Wastewater Management System Review
  - Traffic Safety Assessment
  - Land Use Conflict Risk Assessment



- Ecological Assessment
  - Bush Fire Assessment Report
- (c) the Ecological Assessment must be amended to address the required upgrades to the driveway access, internal driveway and Settlement Road outlined in the submitted Traffic Safety Assessment and Bushfire Assessment.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
- (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure , August 2023) and must be made publicly available for a minimum of 20 working days; and
- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure , August 2023).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
- NSW Rural Fire Service
  - NSW State Emergency Service
  - Tweed Byron Local Aboriginal Land Council
  - Arakwal Corporation
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal, where possible, and given at least 30 working days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 18 January 2024



**Lucy Walker**  
A/Director, Northern Region  
Local and Regional Planning  
Department of Planning, Housing and  
Infrastructure

**Delegate of the Minister for Planning and  
Public Spaces**

PP-2021-5766 (IRF23/3162)

Appendix D   Historical Site Photographs



Aerial Imagery 2020

55 Settlement Road, Main Arm, NSW 2482

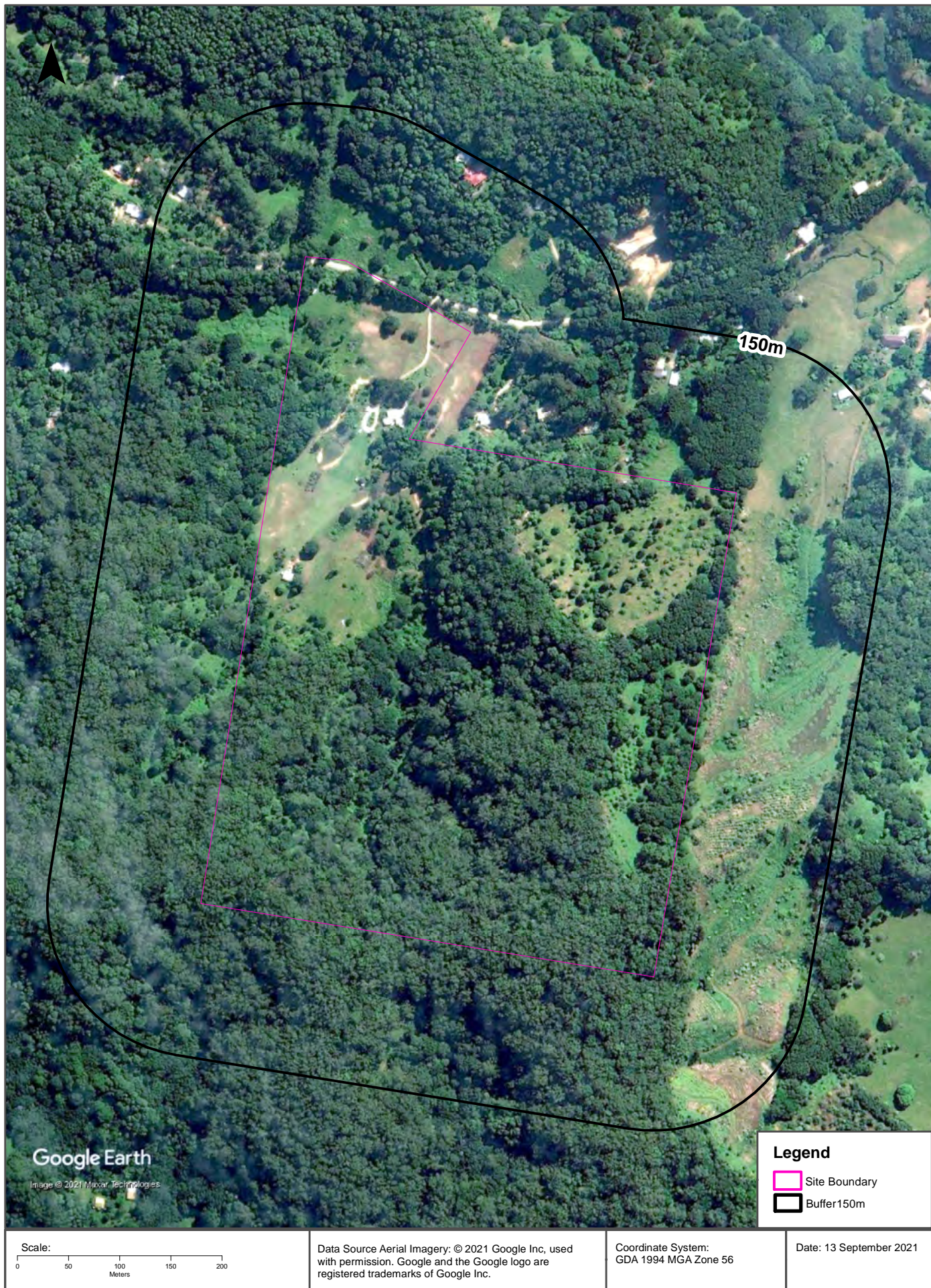


Scale: 0 50 100 150 200 Meters	Data Source Aerial Imagery: © Aerometrex Pty Ltd	Coordinate System: GDA 1994 MGA Zone 56	Date: 15 September 2021
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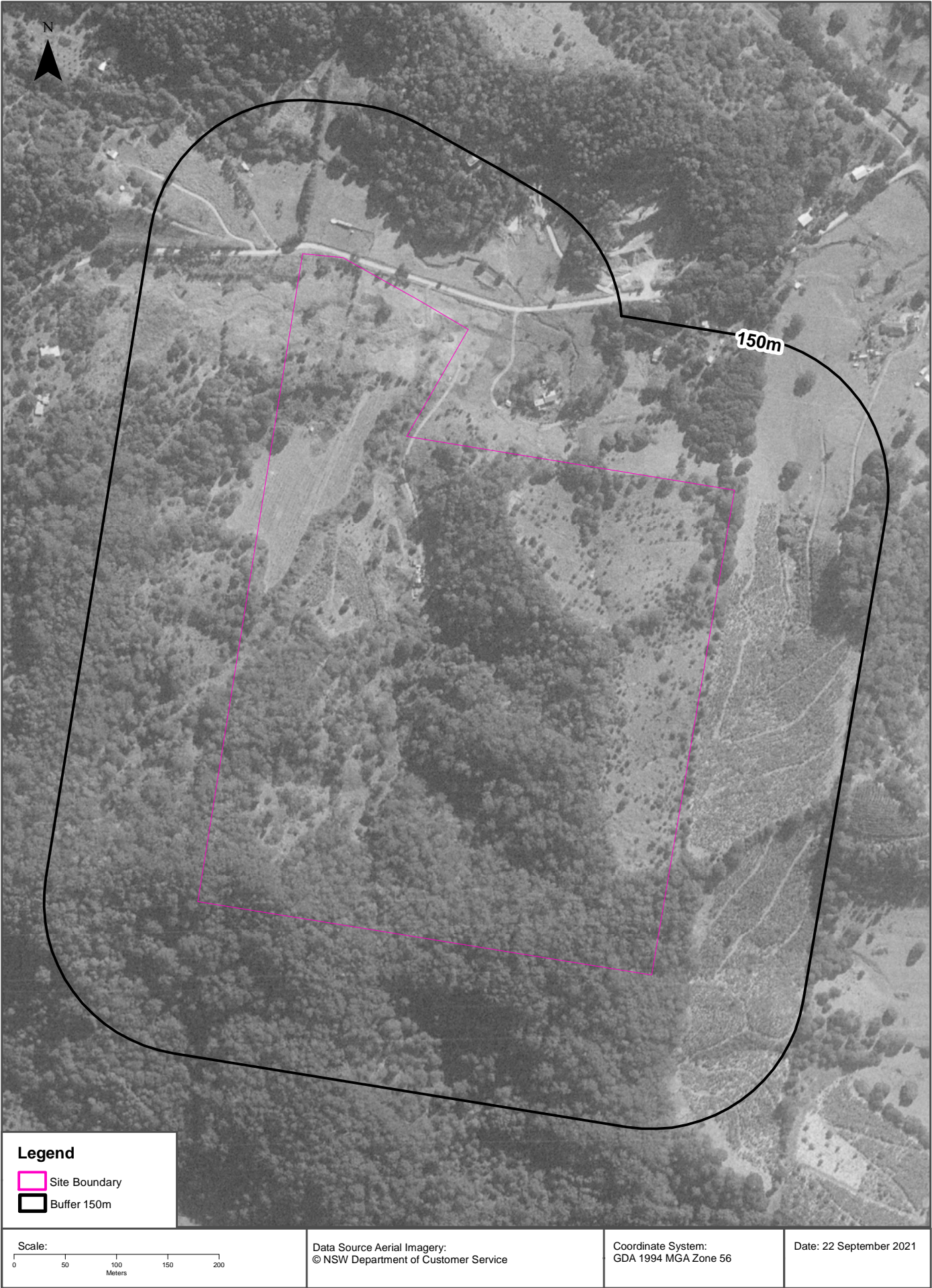








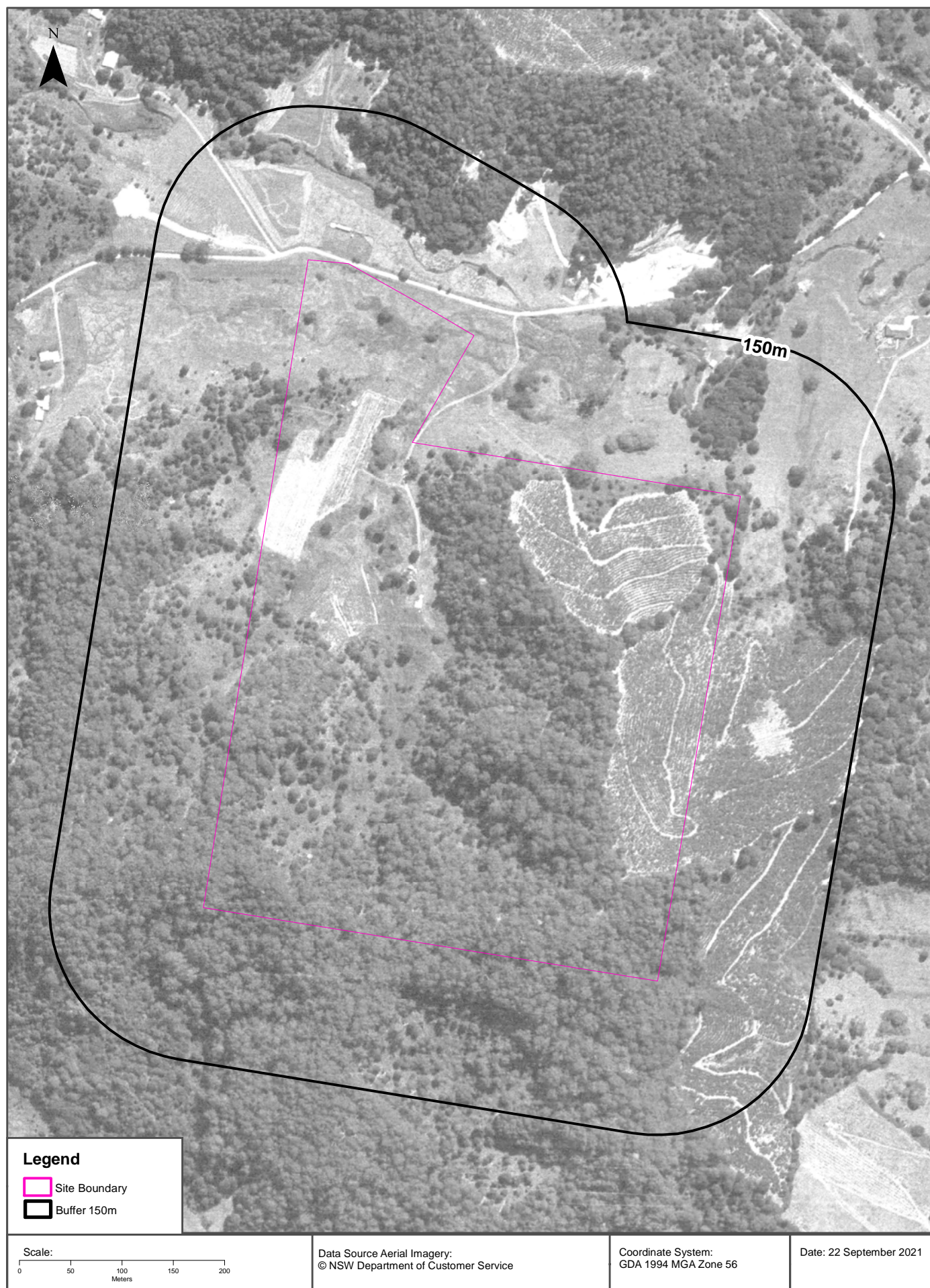






# Aerial Imagery 1979

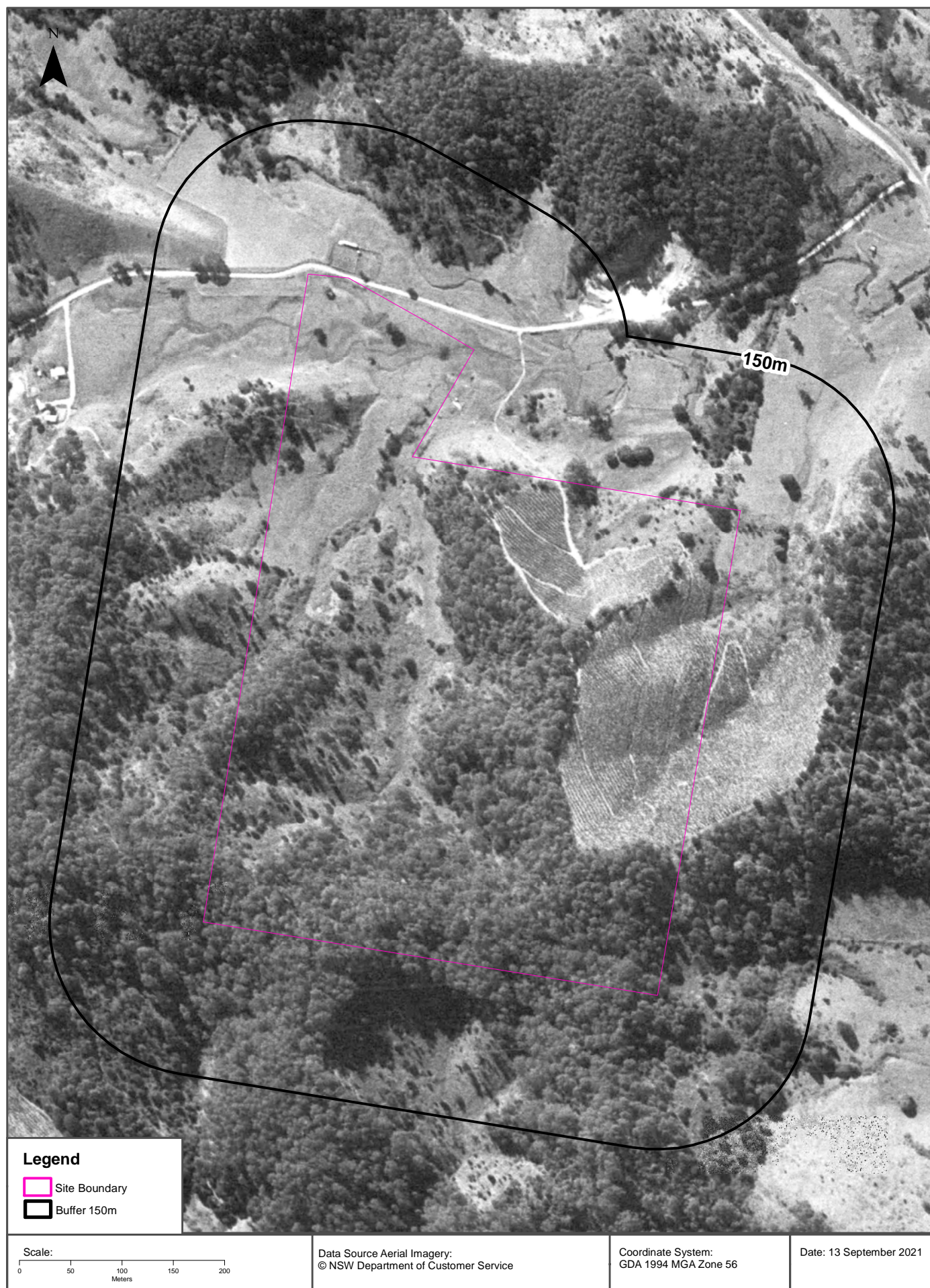
55 Settlement Road, Main Arm, NSW 2482





# Aerial Imagery 1971

55 Settlement Road, Main Arm, NSW 2482





Attachment E

Mining and EPA Licence Records

## Mining

55 Settlement Road, Main Arm, NSW 2482

### Current Mining & Exploration Titles

Current Mining & Exploration Titles within the dataset buffer:

Title Ref	Holder	Grant Date	Expiry Date	Last Renewed	Operation	Resource	Minerals	Dist	Dir
N/A	No records in buffer								

Current Mining & Exploration Titles Data Source: © State of New South Wales through NSW Department of Industry

### Current Mining & Exploration Title Applications

Current Mining & Exploration Title Applications within the dataset buffer:

Application Ref	Applicant	Application Date	Operation	Resource	Minerals	Dist	Dir
N/A	No records in buffer						

Current Mining & Exploration Title Applications Data Source: © State of New South Wales through NSW Department of Industry

## EPA Activities

55 Settlement Road, Main Arm, NSW 2482

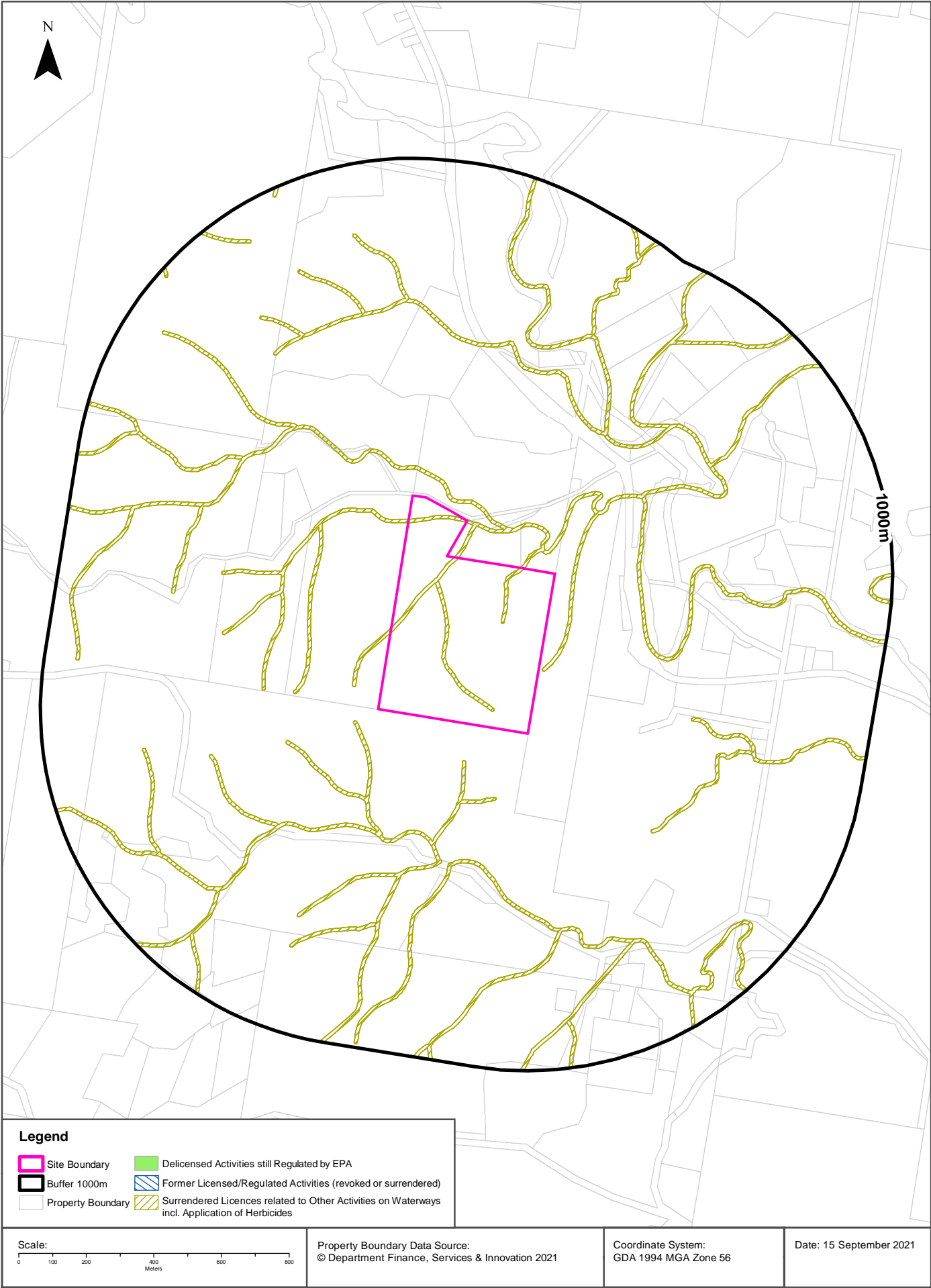
## Licensed Activities under the POEO Act 1997

Licensed activities under the Protection of the Environment Operations Act 1997, within the dataset buffer:

EPL	Organisation	Name	Address	Suburb	Activity	Loc Conf	Distance	Direction
N/A	No records in buffer							

POEO Licence Data Source: Environment Protection Authority

© State of New South Wales through the Environment Protection Authority



## EPA Activities

55 Settlement Road, Main Arm, NSW 2482

### Delicensed Activities still regulated by the EPA

Delicensed activities still regulated by the EPA, within the dataset buffer:

Licence No	Organisation	Name	Address	Suburb	Activity	Loc Conf	Distance	Direction
N/A	No records in buffer							

Delicensed Activities Data Source: Environment Protection Authority  
© State of New South Wales through the Environment Protection Authority

### Former Licensed Activities under the POEO Act 1997, now revoked or surrendered

Former Licensed activities under the Protection of the Environment Operations Act 1997, now revoked or surrendered, within the dataset buffer:

Licence No	Organisation	Location	Status	Issued Date	Activity	Loc Conf	Distance	Direction
4292	FAR NORTH COAST COUNTY COUNCIL	COUNTY DISTRICT - LISMORE NSW 2480	Surrendered	06/09/2000	Other Activities / Non Scheduled Activity - Application of Herbicides	Network of Features	0m	On-site
4653	LUHRMANN ENVIRONMENT MANAGEMENT PTY LTD	WATERWAYS THROUGHOUT NSW	Surrendered	06/09/2000	Other Activities / Non Scheduled Activity - Application of Herbicides	Network of Features	0m	On-site
4838	Robert Orchard	Various Waterways throughout New South Wales - SYDNEY NSW 2000	Surrendered	07/09/2000	Other Activities / Non Scheduled Activity - Application of Herbicides	Network of Features	0m	On-site
6630	SYDNEY WEED & PEST MANAGEMENT PTY LTD	WATERWAYS THROUGHOUT NSW - PROSPECT, NSW, 2148	Surrendered	09/11/2000	Other Activities / Non Scheduled Activity - Application of Herbicides	Network of Features	0m	On-site

Former Licensed Activities Data Source: Environment Protection Authority  
© State of New South Wales through the Environment Protection Authority