

21 March 2014

The Director General
NSW Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2000

Attn: Sam Haddad

Section 75W Modification Request
Pitt Town Part 3A Concept Plan
(Your ref: MPA07_0140 MOD 4)

Dear Mr Haddad,

1.0 INTRODUCTION

This Section 75W modification application seeks to modify Concept Approval (MP07_0140) which was granted by the NSW Minister for Planning on 10 July 2008, and subsequently modified. The Pitt Town concept approval includes the following:

- Subdivision to create a total of 659 allotments within five precincts;
- Provision of a 4.1 metre wide boat ramp with 16 car parking spaces and 14 car/trailer parking spaces adjacent to the Hawkesbury River;
- Provision of related infrastructure comprising water supply mains, sewerage mains, road works, stormwater mains and water quality control and detention works.

A summary of the proposed modifications to the Concept Approval include the following:

In Schedule 1 – “On land comprising”

Delete Lot 13, DP 1021340

In Schedule 2:

(a) Amend Modification A2 – Development in Accordance with Documentation and Plans as follows:

Replace b) with:

b) Pitt Town Masterplan Revision 7, dated 21 March 2014 and prepared by Brown Consulting.

Replace c) with:

c) **Masterplan for Bona Vista**, Drawing No L03017-Bona-V5, dated 5 November 2007 and prepared by Brown Consulting; **Masterplan for Fernadell**, Drawing No. L03017-Fern-V5,

Level 12, 48 Hunter Street
Sydney NSW 2000

PO Box A1308
Sydney South NSW 1235

dated 5 November 2007 and prepared by Brown Consulting; **Masterplan for Blighton**, Drawing No. L03017.500-F4 Revision 0, dated 19 March 2014 and prepared by Brown Consulting; **Masterplan for Cleary**, Drawing No. L03017-Cleary-V6-9 Revision 6, dated 21 March 2014 and prepared by Brown Consulting; **Masterplan for Thornton**, Drawing No. L03017-THORN-V6, dated 27 March 2008 and prepared by Brown Consulting; and **Boat Launching Ramp & Trailer Park**, Drawing No. JPG-L-BL 01 A, dated 6 November 2007 and prepared by Design & Construction Services.

Except for otherwise provided by the Department's modifications of approval as set out in Schedule 2, Part B of the Concept Plan Approval and the proponents revised Statement of Commitments received by the Department on 18 April 2008.

(b) Amend Modification B3 – Layout and Distribution as follows

The lot layouts shown for each precinct are considered to be indicative only, however the maximum number of lots within each precinct as approved in this concept plan are not to exceed:

- Fernadell – 210 residential lots
- Bona Vista – 246 residential lots
- Blighton – 21 residential lots
- Cleary – 95 residential lots
- Thornton – 72 residential lots

The proposed modifications are considered essential to facilitate the ongoing development of JPG controlled precincts under the concept plan approval. Each of these proposed modifications are addressed in detail in **Section 3** of this Section 75W modification submission.

2.0 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

On 1 October 2011, Part 3A of the EP&A Act 1979 was repealed by the *Environmental Planning & Assessment (Part 3A Repeal) Act 2011 No. 22*. Despite this, Part 3A continues to apply to the project based on the transitional provisions identified in Clause 2 and 3 of Schedule 6A of the EP&A Act 1979 as follows:

Schedule 6A

2 Transitional Part 3A projects

- (1) *The following are, subject to this Schedule, **transitional Part 3A projects**:*
- (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*
- (5) *A transitional Part 3A project extends to the project as varied by changes to the Part 3A project or concept plan application, to the concept plan approval or to the project approval, whether made before or after the repeal of Part 3A."*

Clause 3 of Schedule 6A of the EP&A Act 1979 states that the provisions of any State Environmental Planning Policy (SEPP) implemented under Part 3A continue to apply in respect of a transitional Part 3A project:

3 Continuation of Part 3A—transitional Part 3A projects

- (1) *Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project.*
- (2) *For that purpose:*
- (a) *any State environmental planning policy or other instrument made under or for the purposes of Part 3A, as in force on the repeal of that Part and as amended after that repeal, continues to apply to and in respect of a transitional Part 3A project,"*

Clause 3C of Schedule 6A of the EP&A Act 1979 confirms that Section 75W continues to apply for the purpose of the modification of an approved concept plan as follows:

3C Modification of concept plans

- (1) *Section 75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.*
- (2) *This clause applies despite anything to the contrary in this Schedule (other than provisions to approval for the carrying out of a project or stage of a project that is given in connection with an approval to modify a concept plan)."*

Based on the above legislation, it is established that the proposed modifications to the approved concept plan can be assessed as a Section 75W modification application. Section 75W of the EP&A Act states:

75W Modification of Minister's approval

- (1) *In this section:*

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

modification of approval means changing the terms of a Minister's approval, including:

- (a) *revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
 - (b) *changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*
- (2) *The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*
- (3) *The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.*
- (4) *The Minister may modify the approval (with or without conditions) or disapprove of the modification.*
- (5) *The proponent of a project to which section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*
- (6) *Subsection (5) does not apply to a request to modify:*
 - (a) *an approval granted by or as directed by the Court on appeal, or*
 - (b) *a determination made by the Minister under Division 3 in connection with the approval of a concept plan.*
- (7) *This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."*

No provisions of Section 75W prohibit or restrict the proposed modifications to the concept plan approval. It is considered that the proposed modifications remain consistent with this section of the EP&A Act 1979.

3.0 PROPOSED MODIFICATIONS & ENVIRONMENTAL ASSESSMENT

This section summarises the proposed Section 75W modifications.

3.1 Deletion of Lot 13, DP 1021340 and alternative Masterplan for Cleary Precinct

Lot 13, DP 1021340 (as it was known) is land that is not controlled by JPG. Just by way of clarification, the current title is Lot 13, DP 1144032.

In a letter to JPG, dated 17 March 2014 from the landowners legal representative (Storey & Gough Lawyers), we were advised that the landowner “*will postpone any sale or development of Lot 13 indefinitely*”. This is despite our best endeavours and years of protracted negotiations between the parties to facilitate the development to proceed.

Notwithstanding the indefinite hold on developing Lot 13, the eastern, southern and western boundary conditions of this lot make it impractical for JPG to develop its own land interests consistent with the Part 3A Concept Plan approved layout. Under the current approved plan, lot boundaries are shared as is the main 18m wide road (Road 102).

As the landowner has advised that they will not be developing their land “indefinitely”, we have had to change the configuration of this precinct to enable the remaining land to be developed in the short term. Reference is made to the attached Masterplan.

Lot 13 still has access to a public road, being Hawkesbury Street, and can be developed independently if circumstances change. As the development plans for Lot 13 are now unknown, we have removed the subdivision pattern from this lot. Future development of this lot will be subject to landowner intentions and planning controls at the time of developing this lot.

The proposed change reduces the potential yield of this precinct and therefore the overall environmental impacts of the proposal will be reduced further than that previously considered acceptable by the Department during their assessment of the original Part 3A modification.

3.2 Alternative Masterplan for Blighton Precinct

Lot 11 is owned by JPG. Lot 12 is not owned by JPG.

The owner of Lot 12 has applied to the Department of Planning to modify their proposed subdivision layout for Lot 12 so that they can develop independent of JPG. Refer MPA07_0140 MOD 3.

Therefore, this proposed modification seeks to provide an alternative layout for Lot 11 whilst still achieving the same objectives of the Part 3A Concept Plan conditions (specifically Condition B2) and the Part 3A Statement of Commitments.

The proposed number of lots increase by 2 in this precinct and, combined with the reduction of lots in the Cleary precinct, would still have lesser environmental impacts than that previously considered acceptable.

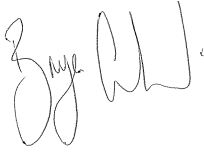
For ease, we have adopted the modified lot layout of Lot 12 (being that proposed in MPA07_0140 MOD 3) and included this layout on the attached Blighton Masterplan.

3.2 Change to Overall Pitt Town Masterplan

As a result of the changes proposed within the Blighton and Cleary precincts, a new Pitt Town Masterplan has been prepared and is enclosed within this submission for approval.

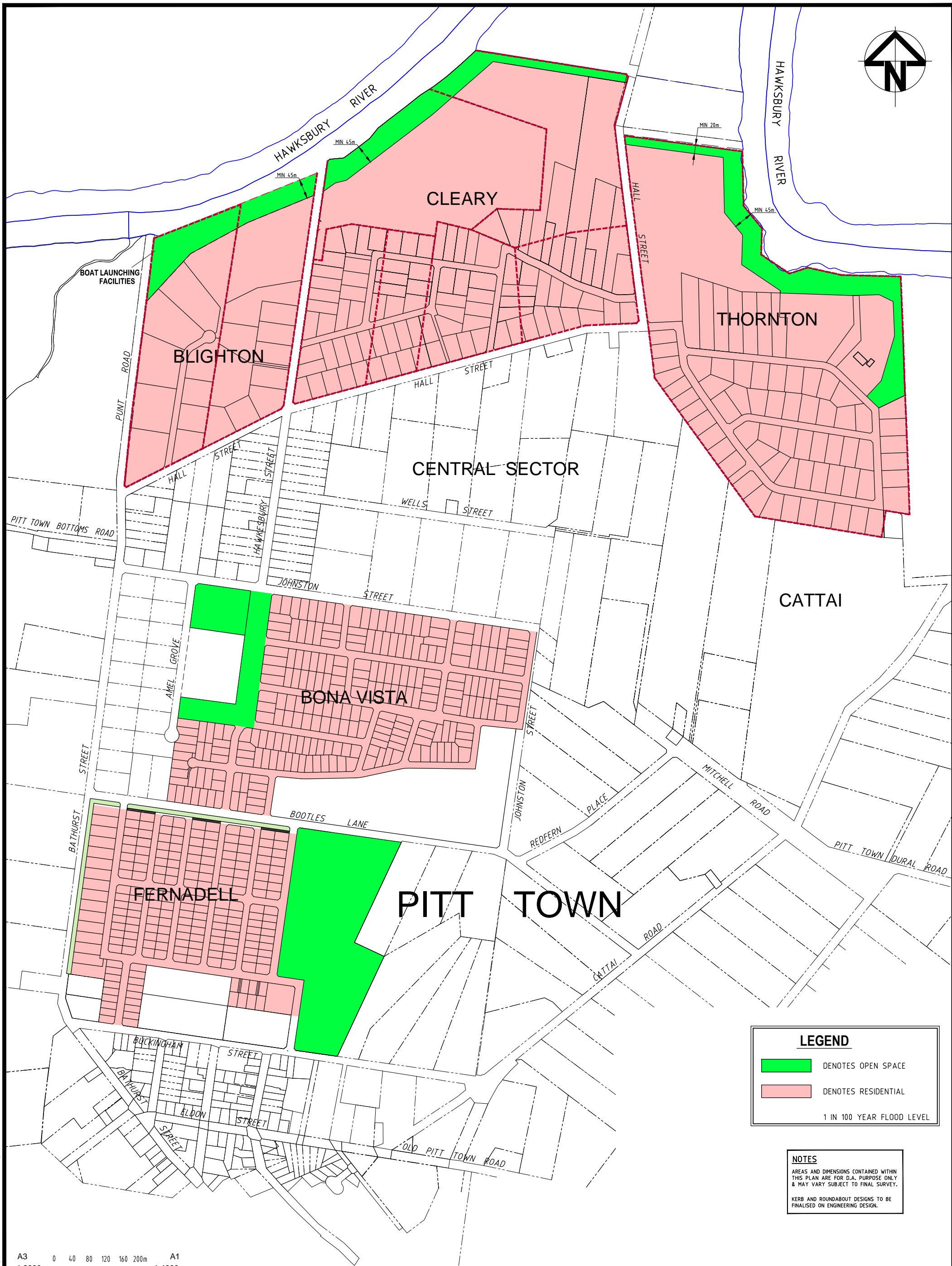
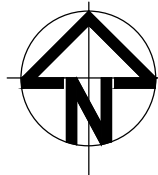
Should you require further information, feel free to contact me on 0408 991 888.

Yours sincerely
Johnson Property Group




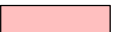
Bryan Garland
Development Director
B Urb & Reg Planning, Dip Civ Eng

Encl: Pitt Town Masterplan
Masterplan for Cleary Precinct
Masterplan for Blighton Precinct



LEGEND

 DENOTES OPEN SPACE

 DENOTES RESIDENTIAL

1 IN 100 YEAR FLOOD LEVEL

NOTES

AREAS AND DIMENSIONS CONTAINED WITHIN THIS PLAN ARE FOR D.A. PURPOSE ONLY & MAY VARY SUBJECT TO FINAL SURVEY.

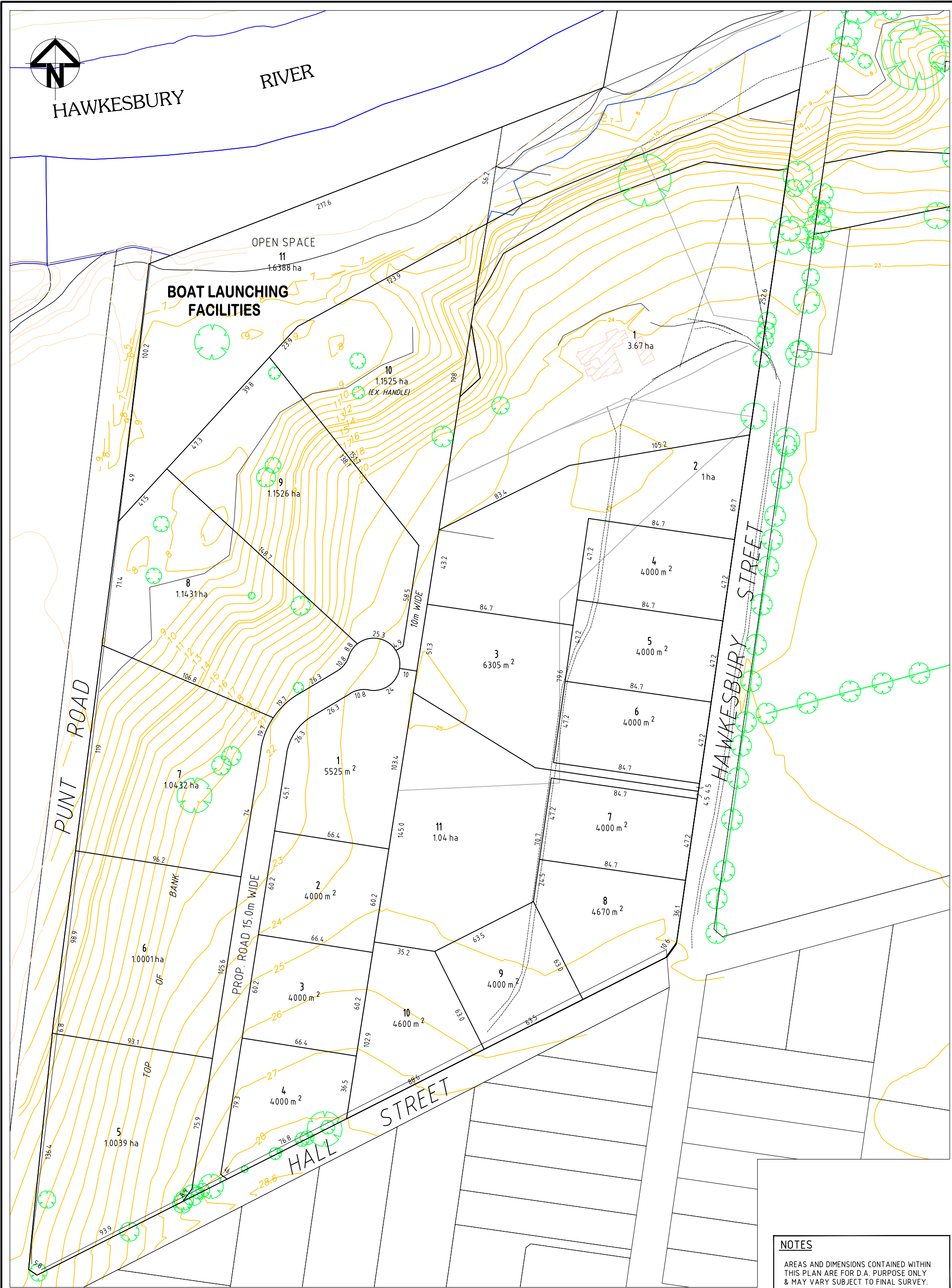
KERB AND ROUNDABOUT DESIGNS TO BE FINALISED ON ENGINEERING DESIGN.

A3 1:8000 0 40 80 120 160 200m A1 1:4000

Revisions	Issue	Drawn	Design	Check	Appd.	Date	Revision Details
07	PW	AP	AP	AP		21/03/2014	CLEARY, BLIGHTON LOTS REVISED

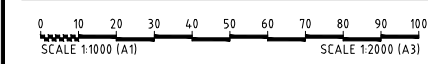
PITT TOWN MASTERPLAN

REVISION 7 - 21ST MARCH 2014



NOTES

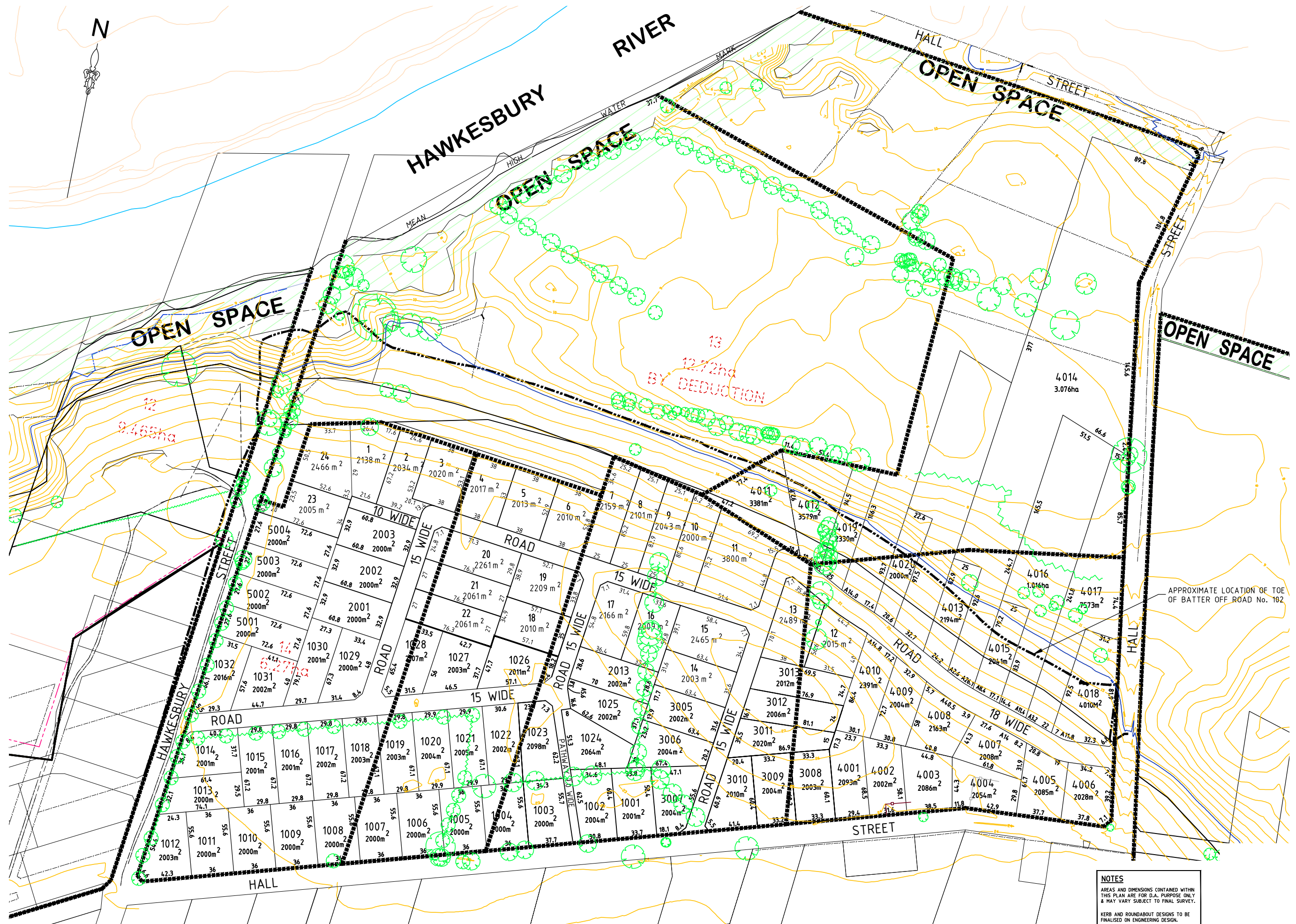
AREAS AND DIMENSIONS CONTAINED WITHIN THIS PLAN ARE FOR D.A. PURPOSE ONLY & MAY VARY SUBJECT TO FINAL SURVEY.



REDUCTION RATIO PLAN 1:1000 @ A1, 1:2000 @ A3						<div>Disclaimer and Copyright: ALL DIMENSIONS TO BE CHECKED ON SITE BY SUPERINTENDANT PRIOR TO CONSTRUCTION. USE WRITTEN DIMENSIONS ONLY, DO NOT SCALE.</div> <div> Quality Endorsed Company ISO 9001 L18C-098</div> <div> © 2014 www.brownconsulting.com.au</div>		 people. property. passion.		HAWKESBURY CITY COUNCIL PITT TOWN		0 ISSUE	ORIGINAL ISSUE DESCRIPTION	19-3-2014 DATE
DATUM	AHD	DESIGN	P.L.	CHECKED	A.C.	DRAWING. No. L03017.500-F4		MASTERPLAN FOR BLIGHTON		AMEND. 0				
SURVEY	TRACED	A.C.	DATE	19-3-2014										
SHEET 1 OF 1 SHEETS														

Sheet: 21.03.2014, By: jpc/aw/aw
H:\03017.500-F4.dwg Blighton\Planning\Drawings\Final\H03017.500-F4.dwg

Sheet: 21.03.2014, By: Benjamin Lawrence
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NOTES
AREAS AND DIMENSIONS CONTAINED WITHIN THIS PLAN ARE FOR D.A. PURPOSE ONLY & MAY VARY SUBJECT TO FINAL SURVEY.
KERB AND ROUNDABOUT DESIGNS TO BE FINALISED ON ENGINEERING DESIGN.

REDUCTION RATIO			
PLAN 1:1000 @ A0			
DATUM AND DESIGN	L.S. CHECKED	DATE 24/11/08	BY DATE APPROVED AUTOCAD
SURVEY BAA PA TRACED	A.C.		



HAWKESBURY CITY COUNCIL PITT TOWN			
SUBDIVISION OF LOTS 13-18 IN D.P. 1021340			
REVISION	REVISION	REVISION	REVISION
1	2	3	4
OP BOUNDARY LOT 13 REVISED	LOT 13 REVISED	LOT 13 REVISED	LOT 13 REVISED
24-11-07	24-11-07	24-11-07	24-11-07
ORIGINAL ISSUE			
DRAWING No. L03017-CLEARY-V6-9	SHEET 1 OF 1 SHEETS		
AMEND.	6		