

# RESPONSE TO SUBMISSIONS FOR MODIFICATION 07\_0140 MOD 5

July 2016



## INTRODUCTION

This document sets out responses to submissions received in relation to the notification and exhibition of section 75W Modification 07\_0140 MOD 5. The modification was put on exhibition by the then Department of Planning and Environment as part of the assessment process.

Modification 07\_0140 MOD 5 proposes a revised configuration of residential allotments for Lot 12 DP 1021340 (Lot 12) within the Blighton Precinct of the Pitt Town subdivision area in the north west sector of Sydney. Lot 12 is part of a larger 661 lot subdivision that was approved under the provisions of Part 3A of the Environmental Planning and Assessment Act (1979) on 10 July 2008.

Six submissions were received from local and NSW government agencies and an individual following the exhibition of 07\_0140 MOD 5. The list of submissions is shown below:

- Hawkesbury City Council
- Transport for NSW
- The Environment Protection Authority
- Office of Environment and Heritage
- Roads and Maritime Services
- Coral Cleary (individual)

## RESPONSE TO SUBMISSIONS TO MODIFICATION 07\_0140 MOD 5

ITEM	SUBMISSION / COMMENT	RESPONSE
	<b>Hawkesbury City Council</b>	
1	<p>It is recommended that DP&amp;E consider the need for an archaeological assessment. Investigations undertaken when the site was being developed with the adjoining property at 1 Hall Street (Lot 11 DP 1021340) indicated the presence of Aboriginal and European relics to the north of the property, in particular relics from Blighton Farm may be present onsite.</p> <p>It is requested that any DP&amp;E approval include a revised clause showing the maximum number of lots by way of precinct - it appears the DP&amp;E have done this with previous modifications and the relevant clause appears to be <i>B3 – Lot Layout and Distribution</i>.</p> <p>We would also like to know if the Part 3A modification has any implications for existing VPAs that the DP&amp;E are a party to and what this may mean for Council in assessing future development applications.</p>	<p>An Aboriginal Heritage Impact Permit application has been initiated for the site to allow for further Heritage assessment. See Attachment 1 for full response in relation to Heritage matters.</p> <p>The Proponent will take advice from DP&amp;E in relation to the amendment to the Part 3A approval and the Voluntary Planning Agreement between DP&amp;E and the Proponent</p>
	<b>Transport for NSW</b>	
2	<p>TfNSW reviewed the modification and notified DP&amp;E that there was no comment</p>	Noted

ITEM	SUBMISSION / COMMENT	RESPONSE
	<b>Environment Protection Authority</b>	
3	<p>The EPA comment on 07-0140 MOD 5 referred to comments made for MOD 3 in 2013 which relate to:</p> <ul style="list-style-type: none"> <li>• Land use conflict</li> <li>• Waterways and stormwater management</li> <li>• Noise</li> <li>• Contaminated land; and</li> <li>• Waste</li> </ul>	<ul style="list-style-type: none"> <li>• No land use conflicts have been identified in the past and as part of this modification</li> <li>• Waterways and stormwater will be managed pursuant to the Voluntary Planning Agreement between Hawkesbury City Council and the Proponent and any future section 64 Plan</li> <li>• No noise issue have been identified as a result of this modification</li> <li>• A contaminated land assessment was carried out as part of the development application process and no issues identified</li> <li>• Waste generated from the development will be managed through the Hawkesbury City Council waste transfer station</li> </ul>
	<b>Office of Environment and Heritage</b>	
4	<p>OEH does not support the proposed modification</p>	See Attachment 1 for response in relation to Heritage matters
	<b>Roads and Maritime Services</b>	
5	<p>RMS has reviewed the subject application and has no objection to the modification of the Pitt Town Concept Plan.</p>	Noted

ITEM	SUBMISSION / COMMENT	RESPONSE
	<b>GENERAL PUBLIC</b>	
	<b>Coral Cleary</b>	
	Residual issues associated with the construction of a concrete block wall	There are no residual issues with the construction of the concrete block wall and the Proponent has complied with all necessary requirements of the development application. Lot 11 DP 1021340 referred to in Coral Cleary's letter is owned by Johnson Property Group

# **ATTACHMENT 1**

# SUBMISSIONS 07\_0140 MOD 5

## RESPONSE TO OFFICE OF ENVIRONMENT AND HERITAGE AND HAWKESBURY CITY COUNCIL SUBMISSIONS

A letter of advice from Kayandel Archaeological Consultants was submitted in support of this section 75W modification (07\_0140 MOD 5) application for a proposed revised lot reconfiguration for Lot 12 DP 1021340 (Lot 12) in the Blighton Precinct of the Pitt Town Development Area (PTDA). Kayandel are experienced and qualified Archaeological Consultants with substantial experience in Heritage matters.

Heritage related comments were subsequently received from the Office of Environment and Heritage (OEH) and Hawkesbury City Council (Council) following exhibition of the S75W modification application. This document sets out a response to the OEH and Council comments. This response provides additional context for the section 75W application including a list of past Heritage investigations, conclusions from the investigations, management strategies developed as part of the investigations as well as policy and legislative controls that are specifically applicable to the management of Heritage issues for the development of Lot 12.

### **Heritage Investigations**

Lot 12 is located north of Hall St Pitt Town and is part of the Blighton Precinct in PTDA. The Lot 12 development is approximately 50m directly west of the Cleary Precinct where substantial subdivision development has been ongoing for several years. As with the Cleary Precinct to the east and areas to the south of Hall St, it is an area of Heritage interest as these areas were part of Governor Bligh's model farm in the early days of the Australian colony and there is a history of Aboriginal occupation in Pitt Town. This has led to a series of comprehensive Heritage investigations carried out across the Blighton and Cleary precincts and surrounding areas of the PTDA. These investigations were done as part of the original Part 3A Concept Plan Environmental Assessment as well as follow up work for development application requirements for Council. Some of these investigations are listed below.

#### **Archaeological and Heritage Management Solutions Pty Ltd (AHMS)**

- *Historical Archaeological Assessment, Research Design & Test Excavation Methodology: Lots 11-18 in DP1021340, Pitt Town NSW (2005)*
- *Lots 11-18 Hall Street, Pitt Town NSW: Aboriginal archaeological survey and assessment. (2005)*
- *Area 3 in Lot 14, Hall Street at Pitt Town, NSW: Historical Archaeological Test Excavation Report (2005)*

#### **Mayne-Wilson & Associates**

- *Heritage Landscape and Visual Assessment of Part of the Site of Governor Bligh's 'Model Farm' Blighton Near Pitt Town, NSW (November 2005)*

#### **Graham Brooks and Associates Pty Ltd**

- *Blighton Conservation Management Strategy: Lots 11, 12, 14 and 15 North of Hall Street Pitt Town, NSW*
- *Pitt Town Residential Precinct MP 07\_0140 and MP 07\_0141 Director General's Requirements – Heritage Response* (December 2007)

#### **Donald Ellsmore, Heritage Advisor- compiled Report of the Working Group**

- *Pitt Town Cultural Landscape- Management of Heritage Values* (October 2003)

#### **Brown Consulting (NSW) Pty Ltd**

- *Pitt Town Master Plan* (Revised 25<sup>th</sup> March 2008)
- The area, including Lot 12 was the subject of a *Master Plan for Blighton* prepared by Brown Consulting, Ref: L03017-Bligh-V6, dated 7.10.08 Proposed Subdivision of Lots 11 & 12 in DP 1021340.

#### **Archnex Designs 2014 (Heritage and Building Consultants)**

- Statement of Heritage Impact (2014)

Copies of the majority of the above documents are available at:

<http://www.planning.nsw.gov.au/DevelopmentAssessments/Majorprojectregister/ProjectDevelopmentofPittTownResidential/tabid/349/Default.aspx>

The above investigations were carried out with broad consultation with a variety of stakeholders including OEH and Aboriginal Groups.

Consulting Archaeologist Graham Brooks in his document titled *Pitt Town Residential Precinct MP 07\_0140 and MP 07\_0141 Director General's Requirements – Heritage Response* (December 2007) and who has conducted extensive heritage assessments across the site concluded that:

***“We can confidently say that in our experience there are few historic cultural landscapes in New South Wales that have been studied in more detail or in a more comprehensive manner and few land development proposals that have benefited from such a detailed contribution of rigorous cultural heritage management practices. We have also coordinated extensive analysis of the Bligh's Farm area by Aboriginal Heritage Consultants, Historical Archaeologists and Cultural Landscape specialists”.***

The report by Archaeological and Heritage Management Solutions (AHMS) concluded that:

***“There were no archaeological or heritage constraints, either Aboriginal or Historic, on the future development of Lots 14 and 15 (Cleary Precinct) to the east of Lots 11 and 12 (Blighton Precinct).***



***They also recommended that there are no such constraints on the development of the land between the proposed Conservation Zone and Hall St” (end of second paragraph page 4 of the Blighton Conservation Management Strategy).***

After reviewing relevant Heritage investigations and the proposed section 75W modification 07\_0140 MOD 5 lot reconfiguration for Lot 12, Kayandel Archaeological Heritage Consultants concluded:

***“It is my considered professional opinion that the amendments proposed to the subdivision layout will have no substantive or material impacts on the Aboriginal Heritage present within Lot 12 above those considered by the previously approved works”.***

The above consistent conclusions are provided by three separate Archaeological consulting organisations with a long history of Heritage management across NSW.

### **Heritage Management Strategies for the Proposed Lot 12 Development**

As noted above, Lot 12 has been the subject of extensive Heritage investigations by multiple authors in consultation with OEH and Aboriginal groups over a long period of time. The conclusions from those investigations have been distilled into a Conservation Management Strategy (CMS) for the Blighton Precinct and surrounds as well as being used to inform the development of Chapter E of the Pitt Town Development Control Plan. The management strategies in the CMS have been successfully used to guide the development of the Blighton Precinct and the neighbouring Cleary Precinct to the east where development has been ongoing for several years. The following conclusions and management strategies have been developed for the surrounding subdivision developments including Lot 12.

- The CMS identifies the northern most area of Lot 12 (referred to as the Conservation Zone) as having a noteworthy level of interest for heritage issues. AHMS concluded that whilst the northern section of Lot 12 has noteworthy Heritage interest, there are no development constraints in the area to the south of the Conservation Zone.
- Proposed block 902 is within the northern section of the Conservation Zone and may require further investigations prior to development. This is similar to the management strategy currently being used to develop Lot 11 DP 1021340 (Lot 11) which borders Lot 12 to the west. To this end an Aboriginal Heritage Impact Permit (AHIP) application has been initiated for this area on Lot 12 and further investigations are likely to occur as part of the AHIP process which includes consultation with OEH and Aboriginal groups. The results of Ground Penetrating Radar (GPR) and subsequent excavations on the neighbouring Lot 11 may result in further GPR investigations on Lot 12 to investigate Historical Heritage interests depending on the results of the Lot 11 work
- Chapter E of the Pitt Town Development Control Plan developed by Council requires that the minimum lot size is 4000m<sup>2</sup> in the southern area of Lot 12 and 10000m<sup>2</sup> in the northern area of Lot 12. This lot size zoning restriction is a direct result of past Heritage investigations and CMS development that informed the development of the DCP. These lot sizes are significantly larger than the surrounding subdivision areas to the south and east that have a

minimum lot size of 2000m<sup>2</sup>. The large lot sizes for Lot 12 are a direct result of Heritage considerations for the Blighton Precinct. The proposed revised lot configuration set out in 07\_0140 MOD 5 on Lot 12 complies with these Heritage related lot size restrictions.

- The DCP also imposes restrictions on residential dwelling foot print areas (20% of the lot size) on the lots as well as fencing style and the selection of grass species for residential lawns and tree species. These development controls have also been imposed as a direct consideration of Heritage management and are appropriate under the circumstances
- Development Approval 0832/14 for the Lot 12 site requires the Proponent to transfer a significant area of river frontage land to Council (referred to as the Open Space area) to allow for public access. This is a direct requirement related to Heritage constraints for the development of Lot 12 and comes at significant sacrifice by the Proponent
- The Blighton and Cleary precincts were used as a citrus orchard prior to the current subdivision development across the precincts. Recent analysis of the location and extent of a swamp on Lot 12 (see Attachment A) prior to the development of the citrus orchard shows that the area covered by proposed blocks 903 to 907 would have been practically and logistically unsuitable for the construction of early colonial dwellings and would likely have restricted Aboriginal occupation. This is consistent with the conclusions of Heritage investigations that conclude that there are no Heritage constraints south of the Conservation Zone
- Section 146 of the Heritage Act (1977) allows for the management of relics should any be found during development of the blocks on Lot 12
- Section 89 of the National Parks and Wildlife Act (1974) allows for the management of artefacts should any be found during development of the blocks on Lot 12

## **Conclusion**

The above Heritage constraints and management strategies have been developed by experienced and qualified Archaeologists involving extensive consultation with OEH and Aboriginal groups. These constraints and management strategies have been used to guide development of surrounding areas and provide a robust series of management tools to protect Heritage values in relation to the future development of Lot 12. Provisions under the Heritage Act (1977) and the National Parks and Wildlife Act (1974) provide further management options should any artefacts or relics be discovered during the development of Lot 12.

It is therefore requested that the new proposed subdivision layout be approved on the basis that there are robust Heritage management strategies and controls in place that have been used to guide the past and current PTDA development and there is an acceptable level of Heritage impact.

# ATTACHMENT A

# **INTERPRETATION OF LOCATION OF PREVIOUS SWAMP LAND ON LOT 12 DP1021340 BLIGHTON PRECINCT PITT TOWN**

## **INTRODUCTION**

A large swamp was located across significant areas within and south of the Blighton and Cleary Precincts at Pitt Town prior to the construction of drainage works to drain the swamp in the 1940's (pers comm Phil Cleary – Lot 12 landholder). The drains were constructed as part of the development of a citrus orchard across the precincts during the 1940's and beyond. Phil Cleary was involved in the construction of the drains during the 1940's and subsequently worked on the citrus orchard all of his working life and has described the location and extent of the swamp and ground conditions.

This document sets out a series of aerial photos that assist with determining the location and extent of the swamp that covered the Blighton and Cleary Precincts which is consistent with the descriptions put forward by Phil Cleary.

## **AIM**

The purpose of determining the location and extent of the swamp is to eliminate areas where artefacts and relics are unlikely to be found during any investigative works carried out prior to land development i.e. it is very unlikely that artefacts or relics would be located in former swamp areas as Aboriginal people and early Colonists would have chosen more favourable locations for habitation. This allows future investigations and resources to focus on areas where likely discoveries may be made and adds to investigative work done previously

## **LOCATION AND EXTENT OF SWAMP AREAS**

The location and extent of the swamp can be largely determined from historic aerial photography as well as the anecdotes from Phil Cleary. The aerial photographs shown in Figures 1 –4 show the development of progressive citrus tree die back in southern and mid-section of Lot 12 from 1961 through to 1986 due to water logged conditions in the area previously covered by swamp. The approximate boundary of Lot 12 is shown by the red out line on the aerial photos. Figure 5 shows the locations of the drains in the Cleary Precinct (shown in red) as mapped by AHMS during field work. The green lines show two additional drains that were not mapped as one was filled in prior to the AHMS field work and the other western most drain on Lot 12 is a closed clay pipe / rubble drain structure.

It is clear from the aerial photographs that the drainage effort on Lot 12 was ineffective as demonstrated by the progressive dieback of the citrus trees in the southern and mid-section of Lot 12 due to water logging. However, the more extensive drainage effort in the Cleary Precinct was effective and allowed for the establishment of the citrus orchard.

## **HERITAGE IMPLICATIONS OF THE SWAMP**

Swamp ecosystems such as the swamp in the Blighton and Cleary precincts were also present across the Pitt Town Development Area such as the swamp along Bootles Lane in the Fernadell Precinct.

These swamps supported long lived mature Melaleuca and Eucalypt communities and would have developed over long periods of time ranging from hundreds to likely thousands of years.

It is therefore reasonable to assert that no dwelling or agricultural related structures could have been constructed in these swamps due to practical and logistical constraints. There were much more favourable locations for the construction of dwellings or agricultural related structures on higher ground away from the water logged areas during the days of the early Australian colony and also likely during Aboriginal occupation. This is consistent with the lack of artefacts found in these areas and also consistent with the conclusions of Heritage studies across the Blighton and Cleary Precincts i.e. the high ground on the northern section of the Blighton Precinct is the area most likely for the location of artefacts or relics.

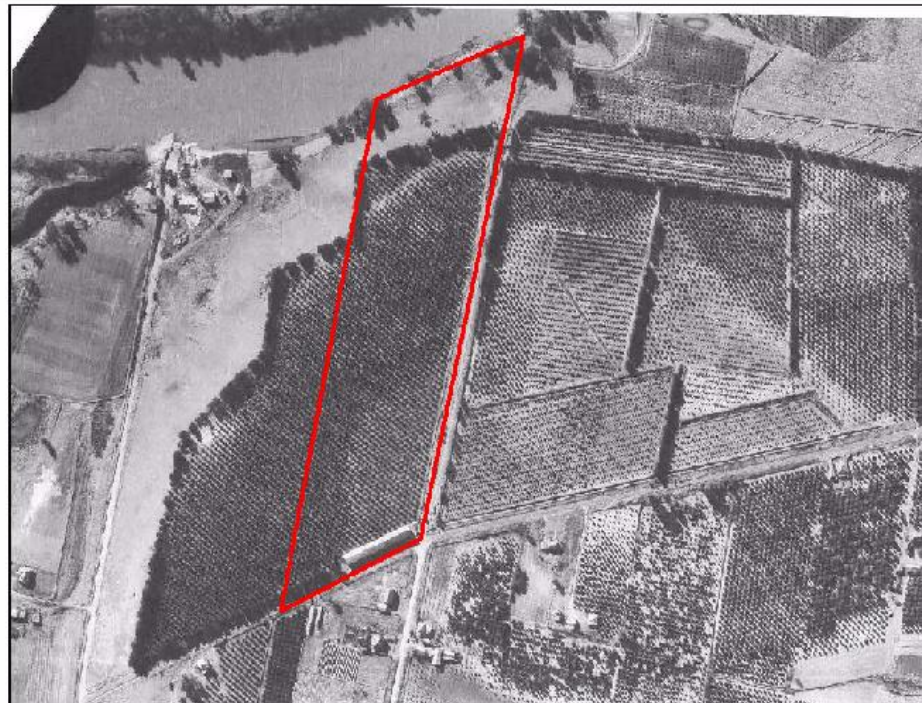


Figure 1. Lot 12 aerial photo 1961



Figure 2. Lot 12 aerial photo 1970



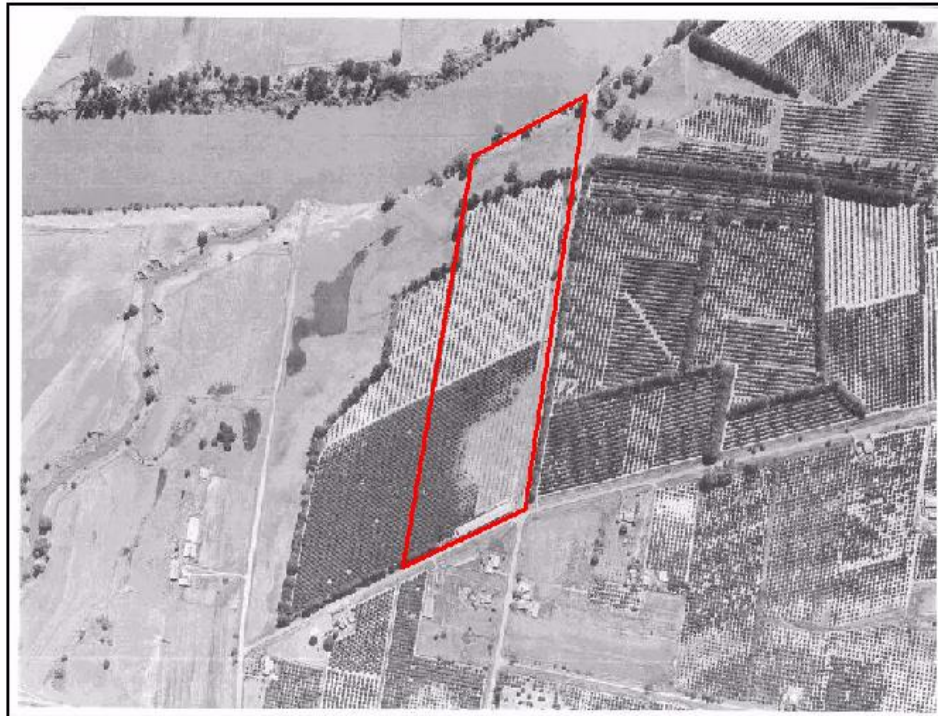


Figure 3. Lot 12 aerial photo 1978



Figure 4. Lot 12 aerial photo 1986



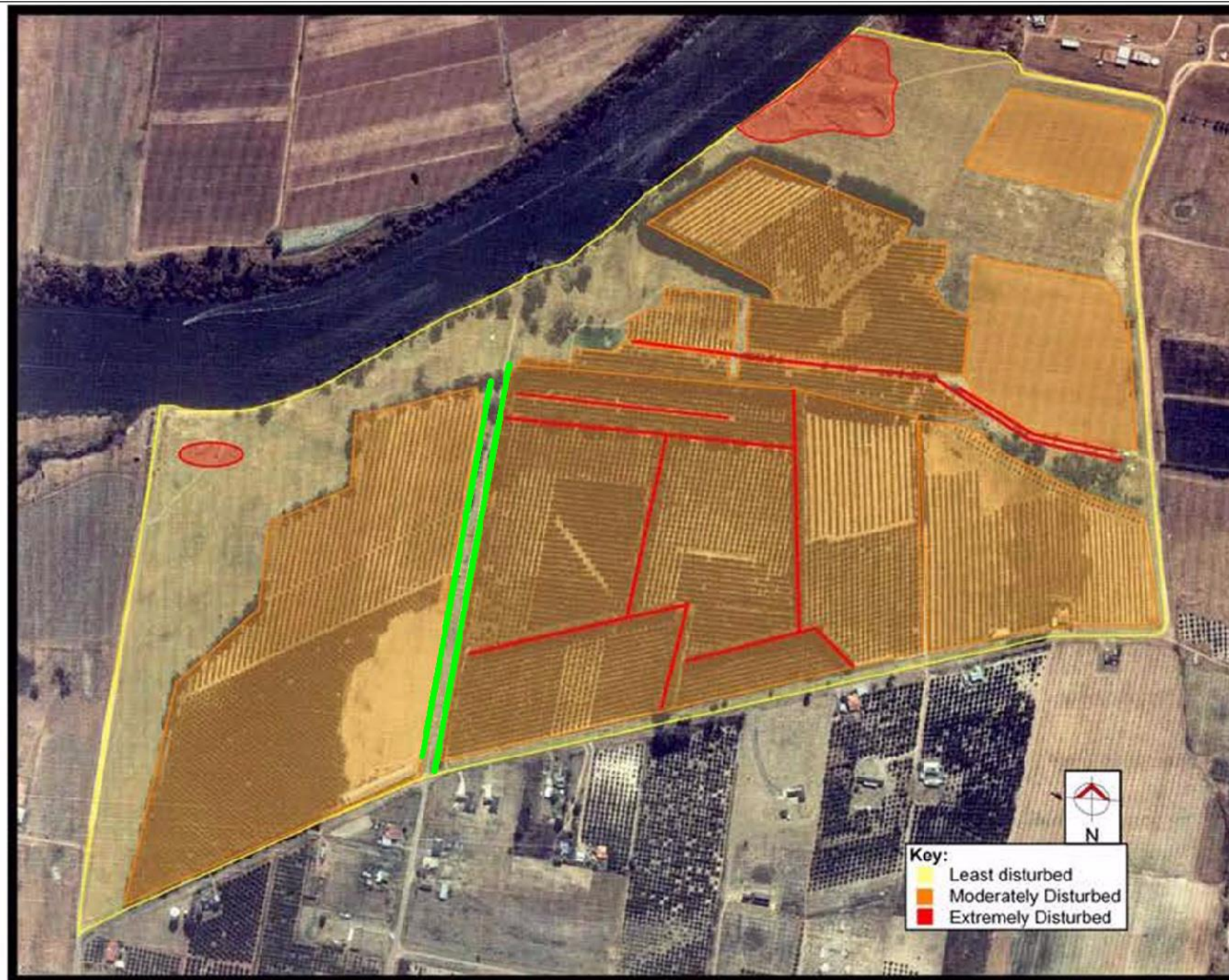


Figure 5. AHMS drain mapping (Red Lines) and additional unmapped drains (Green Lines)



## **CONCLUSION**

Past aerial photography, the presence of an extensive drainage system and anecdotes from Phil Cleary show that large sections of the mid and southern areas of the Blighton and Cleary precincts were covered in a swamp. The drainage system was constructed during the 1940's and beyond during the establishment of an citrus orchard. It is unlikely that artefacts or relics would be located in these previous swamp areas as there were more favourable locations for Aboriginal occupants and early European Colonists. This conclusion is consistent with conclusions reached during the extensive Heritage investigations carried out across the Blighton Precinct i.e. the area of highest likelihood for artefacts and relics is the northern most area of the precinct.