

Date: 15 September 2022

The General Manager  
Penrith City Council  
601 High Street  
Penrith NSW 2750

Attention: Katherine Sprang

Dear Mr Winn

**Letter of Offer - Terms of Voluntary Planning Agreement in connection with Planning Proposal relating to 57 Henry Street, Penrith**

This is an offer by By The Park Pty Ltd - ABN 56 120 830 967 (**the Applicant**) to Penrith City Council (**the Council**) to enter into a Voluntary Planning Agreement (**Planning Agreement**) in accordance with s 7.4 and s 7.7 of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**), subject to the following terms, which includes the matters prescribed at s.7.4(3) of the *EP&A Act* (**Offer**).

**Land affected by the Planning Agreement**

No. 57 Henry Street Penrith – The land is legally described as Lot 1 in DP103609, Lot A and Lot B in DP159402, Lot 1 in DP724160, Lot 1 in DP795083, Lot 1 in DP905016, and Lot 1 in DP1122794 (**the Site**).

**The Planning Proposal to which the Planning Agreement relates**

In relation to an amendment to the *Penrith Local Environmental Plan 2010* (**Penrith LEP**) sought by Planning Proposal PP\_2018\_PENRI\_002\_00. The Planning Proposal seeks to make the following changes to the Penrith LEP:

- a) Nominate the Land as a Key Site (12);
- b) Amend Clause 8.7 (Community infrastructure on certain key sites), sub-clause (4), to allow a 6.5:1 Floor Space Ratio (FSR) to be developed on the Land if community infrastructure is provided in accordance with the requirements of the clause; and
- c) Allow for additional permitted uses (residential flat buildings and shop top housing) to occur on the Land if the development includes a minimum floor space ratio of 0.75:1 for non-residential uses and if a development application is lodged within 5 years of the date of gazettal of the Instrument Change.

These amendments to the Penrith LEP will facilitate the development of a mixed-use development consisting of approximately 400 apartments, 1,500 sqm retail floor space, 4,000sqm of commercial floor space, associated basement parking, storage and servicing, and site landscaping (**the Development**).

The table below provides further details of the development uplift sought under the planning proposal and the material public benefits to be delivered as works in kind and the value of the works and land dedication proposed:

Site Area	8,664sqm including 1,242sqm zoned SP1 Local Road	Package of Public Benefits
Base FSR permitted by Penrith LEP	4:1 / (29,684 sqm)	Construction of civil works to deliver slip lane and intersection up grades
Amount of additional FSR sought	10,177 sqm	Dedication of Slip Lane
Base Height permitted under Penrith LEP	Part 12 metres and part 32 metres	
Revised height of building control	As existing. Height can be varied as per clause 8.7 if rezoning achieved	
Additional Permitted Use.	Allow for additional permitted uses (residential flat buildings and shop top housing) to occur on the Land if the development includes a minimum floor space ratio of 0.75:1 for non-residential uses and if a development application is lodged within 5 years of the date of gazettal of the Instrument Change.	

## The Offer

The public benefit offer is comprised of the following, to be delivered prior to the issue of any Occupation Certificate for the Development:

- Construction of a slip lane within the site frontage to Henry Street to the west of the intersection with Evan Street including the relocation of power poles, Telstra services, kerb and gutter and stormwater inlets, pipes and pits, and the construction of new footpaths as may be required as shown on the ptc Concept layout – intersection of Henry Street & Evan Street and the Swept Path Analysis – Intersection Henry Street & Evan Street (**Annexure 1** - 2021).
- General intersection works on the north western and north eastern portions of the intersection of Henry Street and Evan street within the site and the road reserve as shown on the ptc Concept layout – intersection of Henry Street & Evan Street and the Swept Path Analysis – Intersection Henry Street & Evan Street (**Annexure 1** - 2021.3)
- Dedication of land within the Site to accommodate the slip lane and intersection works as shown at **Annexure 2**.

Other material public benefits presented under this letter of offer include:

- o The Applicant will provide an Archaeological Impact Assessment (prepared by a suitably qualified archaeologist), in accordance with the recommendations of the non-aboriginal archaeological assessment prepared by Artefact, June 2022. The Archaeological Impact Assessment will be submitted to Council for review prior to works commencing or the issue of any Construction Certificate (whichever occurs first).

Estimated Value

The Applicant estimates, based on the cost estimate prepared by ptc that the value of the offer is as follows:

Sub-total: \$921,200 excl. GST

Total including 25% contingency: \$1,151,500 excl. GST

The ptc cost estimate is annexed to this Offer (**Annexure 3**).

Section 7.4 of the *EP&A Act*

A summary of the requirements in accordance with section 7.4 of the *EP&A Act* is set out below:

Subject and subsection of the Act	Planning Agreement
<p><b>Planning instrument and/or Development Application – Section 7.4(1)</b></p> <p>The Landowners have:</p> <p>Sought a change to an environmental planning instrument</p> <p>Made, or propose to make a Development Application</p> <p>Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<b>Description of the land to which the planning Agreement applies – Section 7.4(3)(a)</b>	See above.
<b>Description of the change to the environmental planning instrument or development to which the Planning Agreement applies - Section 7.4(3)(b)</b>	See above.
<b>The scope, timing and manner of delivery of contributions required by the Planning Agreement – Section 7.4(3)(c)</b>	Dedication of land and undertaking of intersection upgrade at the frontage of 57 Henry Street (corner Henry and Evan Street) prior to any Occupation Certificate for the Development.
<b>Applicability of section 7.11, 7.12 and 7.24 of the Act – Section 7.4(3)(d)</b>	Section 7.11 and 7.12 applies and as provided for under section 7(d) of this agreement benefits under this agreement are not to be taken into consideration in determining a development contribution under section 7.11.

	The Planning Agreement will not exclude the application of Section 7.24 contributions
<b>Whether the benefits are or are not to be taken into consideration in determining a development contribution under section 7.11 – Section 7.4(3)(e)</b>	See above.
<b>Mechanism for dispute resolution – Section 7.4(3)(f)</b>	Conventional dispute resolution mechanisms including mediation will be included in the Planning Agreement
<b>Enforcement of the Planning Agreement by a suitable means – Section 7.4(3)(g)</b>	Suitable security for the delivery of the contributions is to be negotiated and agreed with the parties.
<b>Registration of the Planning Agreement – Section 7.6</b>	The Applicant agrees to register this Planning Agreement on the titles of all land the subject of the Planning Agreement
<b>No obligation to grant consent or exercise functions – Section 7.4(9)</b>	No provision of the Planning Agreement will constitute any fetter on the exercise of any Discretion

### **Capability to deliver infrastructure**

The Applicant confirms that suitably qualified consultants and contractors will be engaged to manage and complete infrastructure works.

The Applicant has the technical and financial capacity to arrange for the delivery of the public benefits proposed in this Offer.

### **Management of Risks**

Under the proposed Planning Agreement, the Applicant will agree to undertake the proposed works entirely at its own cost and risk. This includes any management or remediation of contamination present on the Site.

Additionally, the Planning Agreement will make provision for adequate insurance, indemnities and securities to mitigate any financial or construction risk to Council.

Finally, the Applicant agrees to pay Council's reasonable costs in relation to the preparation, notification and registration of the Planning Agreement.

### **The Planning Agreement**

It is intended that this offer will be consolidated and crystallised into a Planning Agreement with the Council. The agreement will comply with the requirements of the *EP&A Act* and *Environmental Planning and Assessment Regulations 2000* and will contain mechanisms for completion of any works and / or land dedication.

The Applicant will, upon agreement with Council of the broad terms under this letter of offer, prepare the draft Planning Agreement reflecting the terms of this public benefit offer.



By The Park Pty Ltd

Director

Date



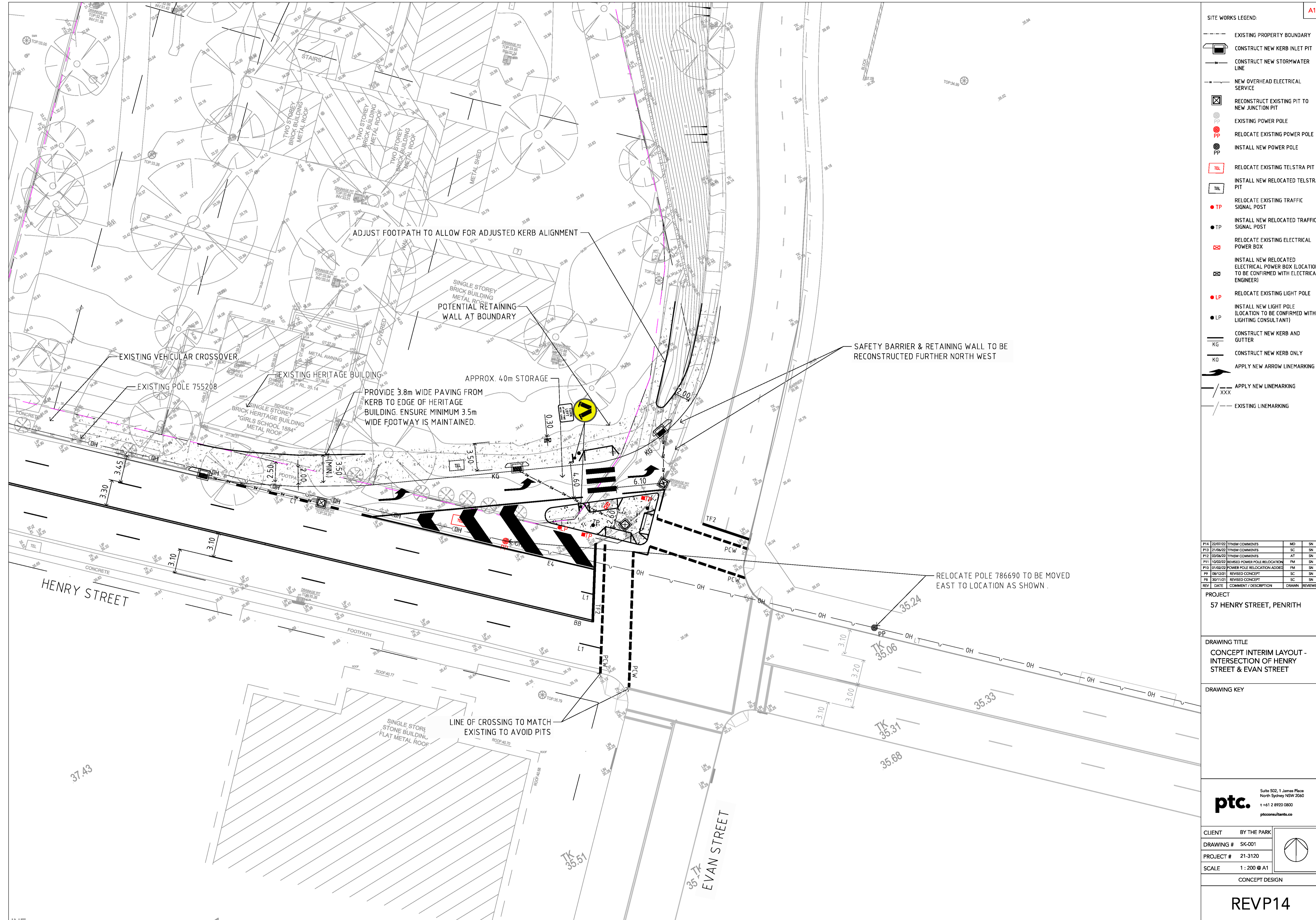
By The Park Pty Ltd

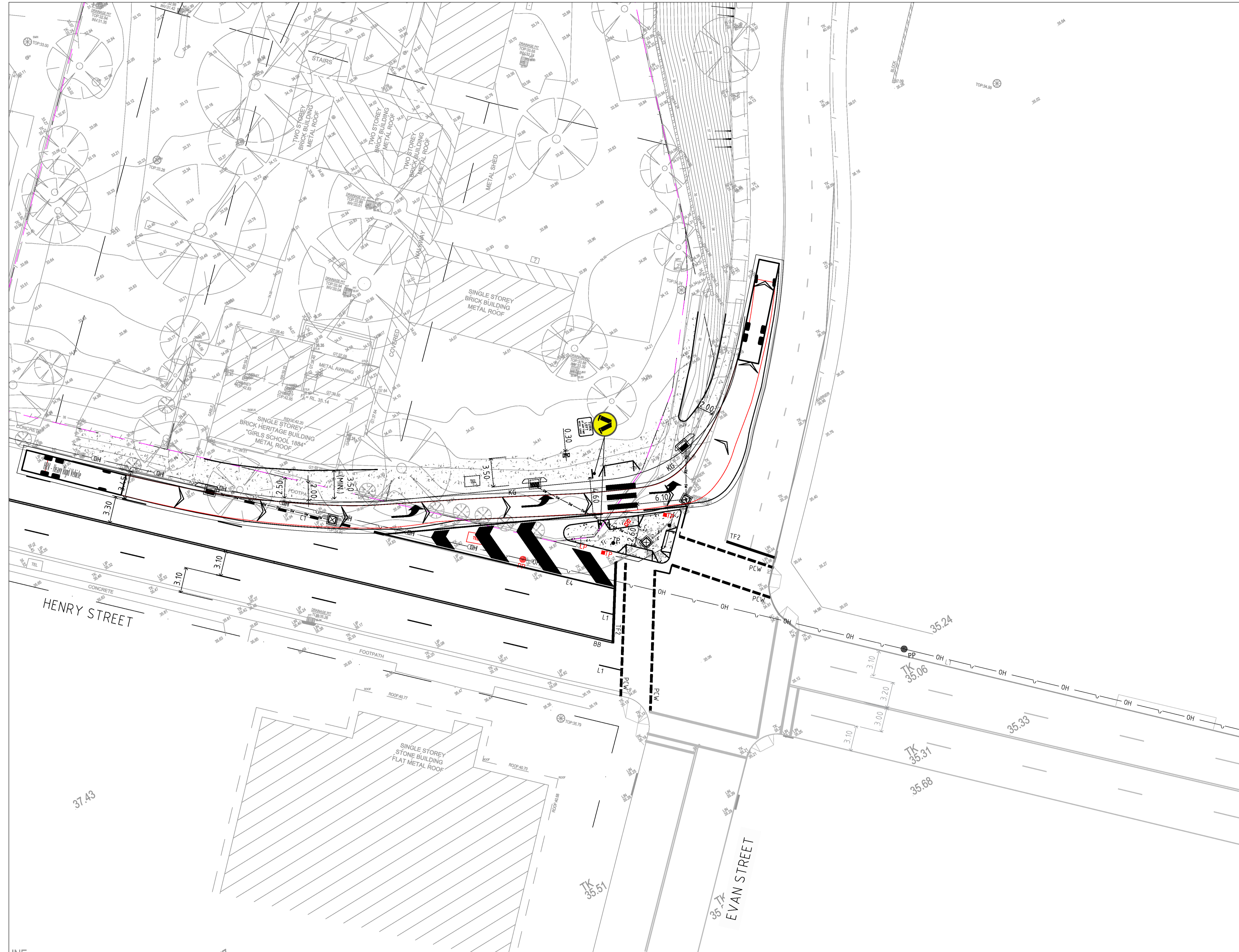
Director

Date

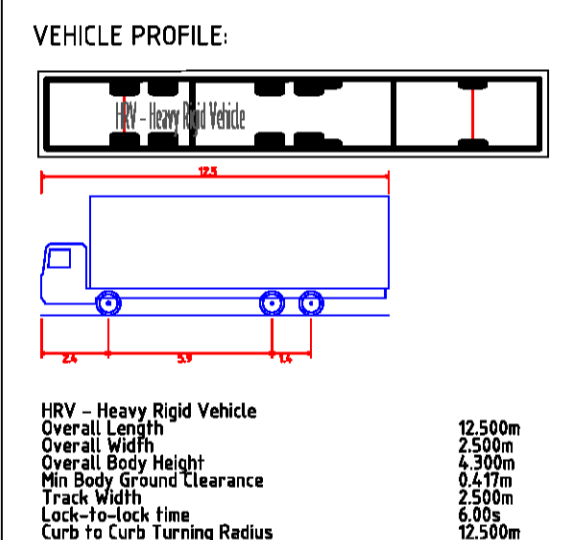
## ANNEXURES

1. Concept Intersection Design and Swept Paths
2. ASIC Extract – By The Park Pty Ltd
3. ptc Intersection Upgrade Cost Estimate





- SITE WORKS LEGEND:**
- EXISTING PROPERTY BOUNDARY
  - CONSTRUCT NEW KERB INLET PIT
  - CONSTRUCT NEW STORMWATER LINE
  - NEW OVERHEAD ELECTRICAL SERVICE
  - RECONSTRUCT EXISTING PIT TO NEW JUNCTION PIT
  - EXISTING POWER POLE
  - RELOCATE EXISTING POWER POLE
  - INSTALL NEW POWER POLE
  - RELOCATE EXISTING TELSTRA PIT
  - INSTALL NEW RELOCATED TELSTRA PIT
  - RELOCATE EXISTING TRAFFIC SIGNAL POST
  - INSTALL NEW RELOCATED TRAFFIC SIGNAL POST
  - RELOCATE EXISTING ELECTRICAL POWER BOX
  - INSTALL NEW RELOCATED ELECTRICAL POWER BOX (LOCATION TO BE CONFIRMED WITH ELECTRICAL ENGINEER)
  - RELOCATE EXISTING LIGHT POLE
  - INSTALL NEW LIGHT POLE (LOCATION TO BE CONFIRMED WITH LIGHTING CONSULTANT)
  - CONSTRUCT NEW KERB AND GUTTER
  - CONSTRUCT NEW KERB ONLY
  - APPLY NEW ARROW LINEMARKING
  - APPLY NEW LINEMARKING
  - EXISTING LINEMARKING



P15	22/07/22	TTNSW COMMENTS	MD	SN
P14	21/06/22	TTNSW COMMENTS	SC	SN
P13	09/06/22	TTNSW COMMENTS	AT	SN
P12	10/02/22	REVISED POWER POLE RELOCATION	FM	SN
P11	01/02/22	POWER POLE RELOCATION ADDED	FM	SN
P10	08/12/21	REVISED CONCEPT	SC	SN
P9	30/11/21	REVISED CONCEPT	SC	SN
REV	DATE	COMMENT / DESCRIPTION	DRAWN	REVIEWED

**PROJECT**  
57 HENRY STREET, PENRITH

**DRAWING TITLE**  
INTERIM SWEEP PATH ANALYSIS  
- INTERSECTION OF HENRY STREET & EVAN STREET

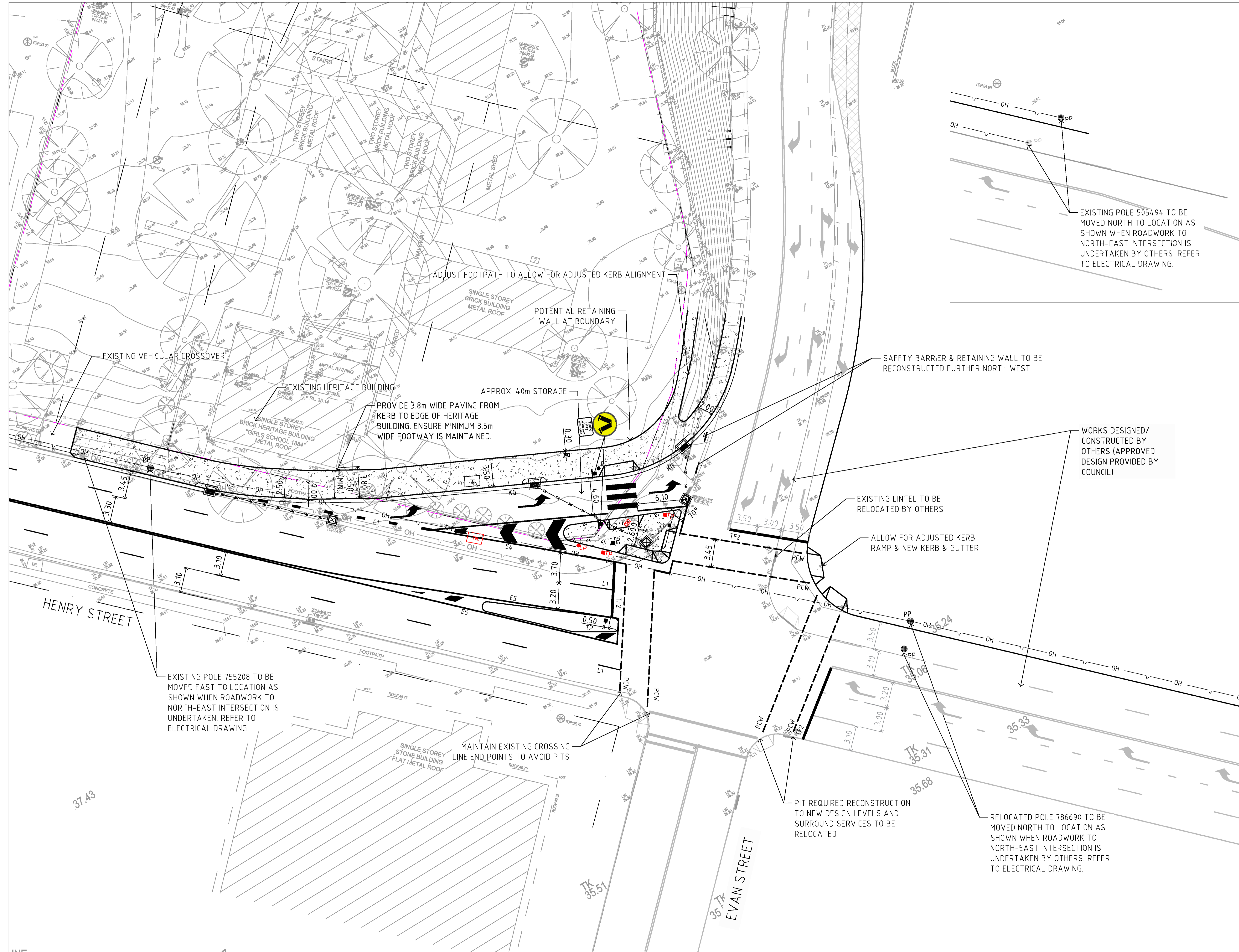
**DRAWING KEY**

**ptc.**  
Suite 502, 1 James Place  
North Sydney NSW 2060  
t +61 2 8920 0800  
ptcconsultants.co

CLIENT	BY THE PARK	
DRAWING #	SK-002	
PROJECT #	21-3120	
SCALE	1:200 @ A1	

CONCEPT DESIGN

**REVP15**



SITE WORKS LEGEND:

EXISTING PROPERTY BOUNDARY

CONSTRUCT NEW KERB INLET PIT

CONSTRUCT NEW STORMWATER LINE

NEW OVERHEAD ELECTRICAL SERVICE

RECONSTRUCT EXISTING PIT TO NEW JUNCTION PIT

EXISTING POWER POLE

RELOCATE EXISTING POWER POLE

INSTALL NEW POWER POLE

RELOCATE EXISTING TELSTRA PIT

INSTALL NEW RELOCATED TELSTRA PIT

RELOCATE EXISTING TRAFFIC SIGNAL POST

INSTALL NEW RELOCATED TRAFFIC SIGNAL POST

RELOCATE EXISTING ELECTRICAL POWER BOX

INSTALL NEW RELOCATED ELECTRICAL POWER BOX (LOCATION TO BE CONFIRMED WITH ELECTRICAL ENGINEER)

RELOCATE EXISTING LIGHT POLE

INSTALL NEW LIGHT POLE (LOCATION TO BE CONFIRMED WITH LIGHTING CONSULTANT)

CONSTRUCT NEW KERB AND GUTTER

CONSTRUCT NEW KERB ONLY

APPLY NEW ARROW LINEMARKING

APPLY NEW LINEMARKING

NEW ARROW LINEMARKING (BY OTHERS)

NEW LINEMARKING (BY OTHERS)

PT17

22/07/22

TFNSW COMMENTS

MD

SN

PT16

21/06/22

TFNSW COMMENTS

SC

SN

PT15

09/06/22

TFNSW COMMENTS

AT

SN

PT14

11/05/22

LINEMARKING UPDATE

AT

SN

PT13

10/02/22

REMOVED POWER POLE RELOCATION

FM

SN

PT12

01/02/22

POWER POLE RELOCATION ADDENDUM

FM

SN

PT11

08/12/21

REVISED CONCEPT

SC

SN

REV

DATE

COMMENT / DESCRIPTION

DRAWN

REVIEWED

PROJECT

57 HENRY STREET, PENRITH

DRAWING TITLE

CONCEPT ULTIMATE LAYOUT - INTERSECTION OF HENRY STREET & EVAN STREET

DRAWING KEY

Suite 502, 1 James Place  
North Sydney NSW 2060  
t +61 2 8920 0800  
ptcconsultants.co

ptc.

CLIENT

BY THE PARK

DRAWING #

SK-003.1

PROJECT #

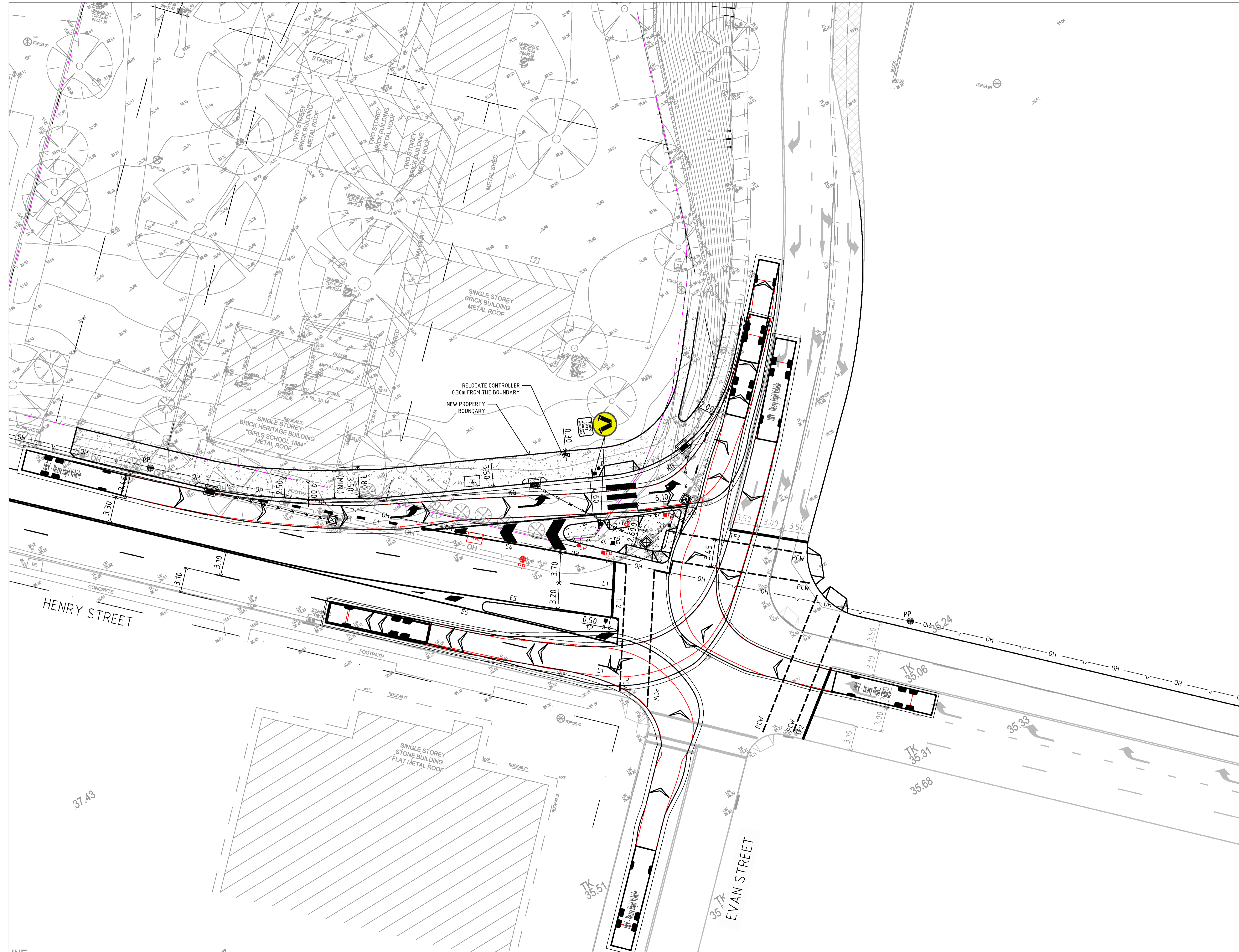
21-3120

SCALE

1:200 @ A1

CONCEPT DESIGN

REV P17



- SITE WORKS LEGEND:**
- EXISTING PROPERTY BOUNDARY
  - CONSTRUCT NEW KERB INLET PIT
  - CONSTRUCT NEW STORMWATER LINE
  - NEW OVERHEAD ELECTRICAL SERVICE
  - RECONSTRUCT EXISTING PIT TO NEW JUNCTION PIT
  - EXISTING POWER POLE
  - RELOCATE EXISTING POWER POLE
  - INSTALL NEW POWER POLE
  - RELOCATE EXISTING TELSTRA PIT
  - INSTALL NEW RELOCATED TELSTRA PIT
  - REPLACE EXISTING TRAFFIC SIGNAL POST WITH TYPE 8 (SQUARE)
  - INSTALL NEW TRAFFIC SIGNAL POST - TYPE 8 (SQUARE)
  - RELOCATE EXISTING ELECTRICAL POWER BOX
  - INSTALL NEW RELOCATED ELECTRICAL POWER BOX (LOCATION TO BE CONFIRMED WITH ELECTRICAL ENGINEER)
  - RELOCATE EXISTING LIGHT POLE
  - INSTALL NEW LIGHT POLE (LOCATION TO BE CONFIRMED WITH LIGHTING CONSULTANT)
  - CONSTRUCT NEW KERB AND GUTTER
  - CONSTRUCT NEW KERB ONLY
  - APPLY NEW ARROW LINEMARKING
  - XX / XXX APPLY NEW LINEMARKING
  - NEW ARROW LINEMARKING (BY OTHERS)
  - XX / XXX NEW LINEMARKING (BY OTHERS)

**VEHICLE PROFILE:**

HRV - Heavy Rigid Vehicle

Overall Length	12.500m
Overall Width	2.500m
Overall Body Height	4.300m
Min Body Ground Clearance	0.417m
Track Width	2.500m
Lock-to-lock Time	6.00s
Curb to Curb Turning Radius	12.500m

P14	22/07/22	TFNSW COMMENTS	MD	SN
P15	21/06/22	TFNSW COMMENTS	SC	SN
P14	09/06/22	TFNSW COMMENTS	AT	SN
P13	10/02/22	REVISED POWER POLE RELOCATION	FM	SN
P12	01/02/22	POWER POLE RELOCATION ADDED	FM	SN
P11	08/12/21	REVISED CONCEPT	SC	SN
P10	08/11/21	REVISED CONCEPT	SC	SN
REV	DATE	COMMENT / DESCRIPTION	DRAWN	REVIEWED

**PROJECT**  
57 HENRY STREET, PENRITH

**DRAWING TITLE**  
ULTIMATE SWEEP PATH  
ANALYSIS - INTERSECTION OF  
HENRY STREET & EVAN STREET

**DRAWING KEY**

**ptc.**  
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t +61 2 8920 0800  
ptcconsultants.co

CLIENT	BY THE PARK	
DRAWING #	SK-004.1	
PROJECT #	21-3120	
SCALE	1:200 @ A1	

CONCEPT DESIGN

**REVP16**

10 August 2022

General Manager of Penrith City Council  
Attn: Kathryn Sprang  
601 Hight Street, Penrith  
NSW 2750

**TERMS OF VOLUNTARY PLANNING AGREEMENT OFFER IN CONNECTION WITH  
PLANNING PROPOSAL RELATING TO 57 HENRY STREET, PENRITH**

Further to our recent meetings with Council and in support of our submitted planning proposal we are pleased to present the terms of a proposed Voluntary Planning Agreement for the delivery of road and intersection upgrades and road widening.

The works and land dedication presented under the proposed Voluntary Planning Agreement will assist the Council to deliver improved traffic circulation in and around the Penrith CBD.

The attached offer presents details of the works proposed, area of land to be dedicated and a quantification of the value of the works and land. The nominated works will be delivered by the applicant as part of a future development application for the site development consistent with the concept presented in the planning proposal.

A copy of the ASIC extract is annexed to this letter.

We look forward to the opportunity to discuss the terms of this proposal with Council.

Yours sincerely,



Helen Harb

Director



Ahmad Diab

Director



ASIC

Australian Securities & Investments Commission

## Current Company Extract

**Name:** BY THE PARK PTY LTD

**ACN:** 606 359 344

**Date/Time:** 09 August 2022 AEST 04:23:47 PM

This extract contains information derived from the Australian Securities and Investments Commission's (ASIC) database under section 1274A of the Corporations Act 2001.

Please advise ASIC of any error or omission which you may identify.

EXTRACT

Organisation Details	Document Number
<b>Current Organisation Details</b>	
Name: BY THE PARK PTY LTD	2E1957703
ACN: 606 359 344	
ABN: 96606359344	
Registered in: New South Wales	
Registration date: 11/06/2015	
Next review date: 11/06/2023	
Name start date: 11/06/2015	
Status: Registered	
Company type: Australian Proprietary Company	
Class: Limited By Shares	
Subclass: Proprietary Company	

Address Details	Document Number
<b>Current</b>	
Registered address: 11 Egerton Street, SILVERWATER NSW 2128	7E9180900
Start date: 30/06/2017	
Principal Place Of Business address: 11 Egerton Street, SILVERWATER NSW 2128	7E9180900
Start date: 23/06/2017	

Contact Address
Section 146A of the Corporations Act 2001 states 'A contact address is the address to which communications and notices are sent from ASIC to the company'.
<b>Current</b>
Address: ALLTAX ACCOUNTANTS, Unit 7A, 101 Rockwood Road, YAGOONA NSW 2199
Start date: 19/05/2021

Officeholders and Other Roles	Document Number
<b>Director</b>	
Name: AHMAD DIAB	7E7305795
Address: Unit 8, 548-556 Woodville Road, GUILDFORD NSW 2161	
Born: 25/06/1978, SYDNEY, NSW	
Appointment date: 16/09/2015	
Name: HELEN HARB	7EBA11331
Address: 85 Victoria Street, ASHFIELD NSW 2131	
Born: 14/06/1963, SYDNEY, NSW	
Appointment date: 03/09/2020	
<b>Secretary</b>	
Name: AHMAD DIAB	7E7305795
Address: Unit 8, 548-556 Woodville Road, GUILDFORD NSW 2161	
Born: 25/06/1978, SYDNEY, NSW	

Appointment date: 16/09/2015

**Share Information****Share Structure**

Class	Description	Number issued	Total amount paid	Total amount unpaid	Document number
ORD	ORDINARY	100	100.00	0.00	2E1957703

**Members**

Note: For each class of shares issued by a proprietary company, ASIC records the details of the top twenty members of the class (based on shareholdings). The details of any other members holding the same number of shares as the twentieth ranked member will also be recorded by ASIC on the database. Where available, historical records show that a member has ceased to be ranked amongst the top twenty members. This may, but does not necessarily mean, that they have ceased to be a member of the company.

Name: HAS CORP PTY LTD  
 ACN: 146 088 815  
 Address: 11 Egerton Street, SILVERWATER NSW 2128

Class	Number held	Beneficially held	Paid	Document number
ORD	50	no	FULLY	7EAA38212

Name: EMPIRE DEVELOPMENTS NSW PTY LTD  
 ACN: 169 229 654  
 Address: 33 Cotswold Road, STRATHFIELD NSW 2135

Class	Number held	Beneficially held	Paid	Document number
ORD	50	no	FULLY	7EAA83051

**Documents**

Note: Where no Date Processed is shown, the document in question has not been processed. In these instances care should be taken in using information that may be updated by the document when it is processed. Where the Date Processed is shown but there is a zero under No Pages, the document has been processed but a copy is not yet available.

Date received	Form type	Date processed	Number of pages	Effective date	Document number
03/09/2020	484E Change To Company Details Appointment Or Cessation Of A Company Officeholder	03/09/2020	2	03/09/2020	7EBA11331

ptc intersection Upgrade Works Cost Estimate  
 Prepared by Steven Naughton  
 10 August 2022 Rev 1

Construction Type	Cost	per unit	Proposed (approx.)	Estimated Cost
Asphalt pavement	\$500	m <sup>2</sup>	390	\$195,000.00
Kerb & gutter (inc Median)	\$200	L-M	150	\$30,000.00
Concrete footpath (inc Median infill)	\$290	m <sup>2</sup>	230	\$66,700.00
Pavement marking	\$3	m	500	\$1,500.00
Pit reconstruction	\$5,000	pit	3	\$15,000.00
New pits to new kerb alignment & pipe connection	\$5,000	pit	3	\$15,000.00
Light pole relocation	\$15,000	pole	2	\$30,000.00
Traffic signal adjustments (inc sensors, controller, posts)	\$75,000	pole	2	\$150,000.00
High voltage power pole relocation	\$75,000	pole (inc removal of redundant pole)	2	\$150,000.00
Telstra pit adjustments	Unknown	-	-	
Reconstruct retaining wall / guard rail	\$150,000	wall	1	\$150,000.00
Dedication of land to facilitate works	\$400	m <sup>2</sup>	295	\$118,000.00
Removal of and provision of new street trees	\$150	tree	3	
			<b>TOTAL</b>	<b>\$921,200.00</b>
			<b>+ CONTINGENCY (25%)</b>	<b>\$1,151,500.00</b>