

# Explanatory Note

## Draft Planning Agreement

### Development Consent SSD 9139102

#### 1 Background

- 1.1 The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft planning agreement (**Planning Agreement**), prepared pursuant to section 7.4 of the *Environmental Planning and Assessment Act 1979* (the **Act**).
- 1.2 This explanatory note has been prepared jointly by the parties as required by Clause 205 of the *Environmental Planning and Assessment Regulation 2021* (**Regulation**), and section 4.6 of the *Planning Agreements Practice Note – February 2021*.

#### 2 Parties to the Planning Agreement

- 2.1 The parties to the Planning Agreement are ESR KECT (Australia) Pty Ltd, and ESR Investment Management 1 (Australia) Pty Ltd, (together the **Landowners**) and ESR Developments (Australia) Pty Ltd (the **Developer**) and the Penrith City Council (**Council**).

#### 3 Description of the Land

- 3.1 The Planning Agreement applies to
- (a) the whole of the following lots:
- Lot 111 DP1296469;
  - Lot 112 DP1296469;
  - Lot 113 DP1296469;
  - Lot 114 DP1296469;
  - Lot 115 DP1296469; and

- (b) part of Lot 10 DP 1296455,

as shown hatched and labelled “Land Subject to the VPA”, on the land map at Annexure D in the draft Planning Agreement (**Land**), which is attached to this explanatory note – see attachment 1.

#### 4 Nature of the Development Proposed

- 4.1 The development to which the Planning Agreement applies is the development approved in relation to SSD 9138102 on 21 April 2023 as modified on 7 June 2024, (the **Development Consent** (as defined in the Planning Agreement)) in respect of the Land:

- Construction of the first stage of an industrial estate including bulk earthworks, subdivision, construction, fit out and operation of two warehouse buildings and ancillary office space with a total gross floor area of 81,417m<sup>2</sup>, landscaping, construction of estate roads and external road upgrades, site servicing and stormwater infrastructure, and
- Construction of external road works including upgrade of Mamre Road/Abbotts Road intersection, widening of Abbotts Road and widening a section of Aldington Road, (together defined in the Planning Agreement as **Stage 1 Development Consent**).

## **5 Summary of the Objectives, Nature and Effect of the Proposed Agreement**

5.1 The Planning Agreement requires the Developer to:

- undertake road upgrade works; and
- dedicate land necessary for the road upgrade works.

### **(Road Work and Land Dedication)**

5.2 Plans of the Road Work and a plan of Land Dedication are attached to this explanatory note – see attachment 2 & 3.

5.3 The Road Work and Land Dedication conforms with the Council's Mamre Road Precinct Development Contributions Plan (2022), being a contributions plan prepared in accordance with section 7.11 of the Act (**MRP CP**).

5.4 Under the Stage 1 Development Consent, the Developer is required to pay development contributions under the MRP CP. However, having regard to the value of the land to be dedicated, and the cost of the construction of the road works, Council has agreed to off-set the amount of contributions payable as against the value of the Road Work and Land Dedication.

5.5 The Developer is required to provide bank guarantees as security for the obligations under the Planning Agreement to carry out the Road Work. This security will ensure that, notwithstanding Council's agreement to off-set the contributions payable, the Council will be able to complete Road Work if the Developer was unable to complete the work. The Dedication Land is to be dedicated in any event.

5.6 Timing for the completion of the Road Works and Land Dedication will be at least 18 months from the date the Planning Agreement is executed.

5.7 The Planning Agreement will be registered on the title to the Land.

## **6 Assessment of the Merits of the Proposed Agreement**

### **(a) How the Planning Agreement promotes the public interest and one or more of the objects of the Act**

The Planning Agreement promotes the objects of the Act, in particular the objects identified in Section 1.3(c) and 1.3(g) of the Act which is to promote the orderly and economic use and development of land and to promote good design and amenity of the built environment.

The Planning Agreement will provide the timely delivery of critical public infrastructure required to unlock the Mamre Road precinct for the large format industrial development anticipated by the State Environmental Planning Policy Industry & Employment.

**(b) The impact of the Planning Agreement on the public or any section of the public**

The Planning Agreement will benefit the public and local community as it will provide for the upgrade of a major distributor road, which is not only of benefit to the occupants of the Mamre Road Precinct but also the broader Penrith area, as well as enable industrial development of the precinct providing new industrial road networks to the Land and also connecting other developers in the immediate vicinity of the Land to the broader road network.

**(c) The planning purpose or purposes of the Planning Agreement**

The Planning Agreement will serve the planning purpose by providing road infrastructure required to support the development of the precinct, which is consistent with the needs of the anticipated growth in freight and logistical development and other industrial activities within the precinct and near the Aerotropolis precinct.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve these planning purposes given the extent of the statutory tools that are available to Council by which it can deliver the proposed public benefits.

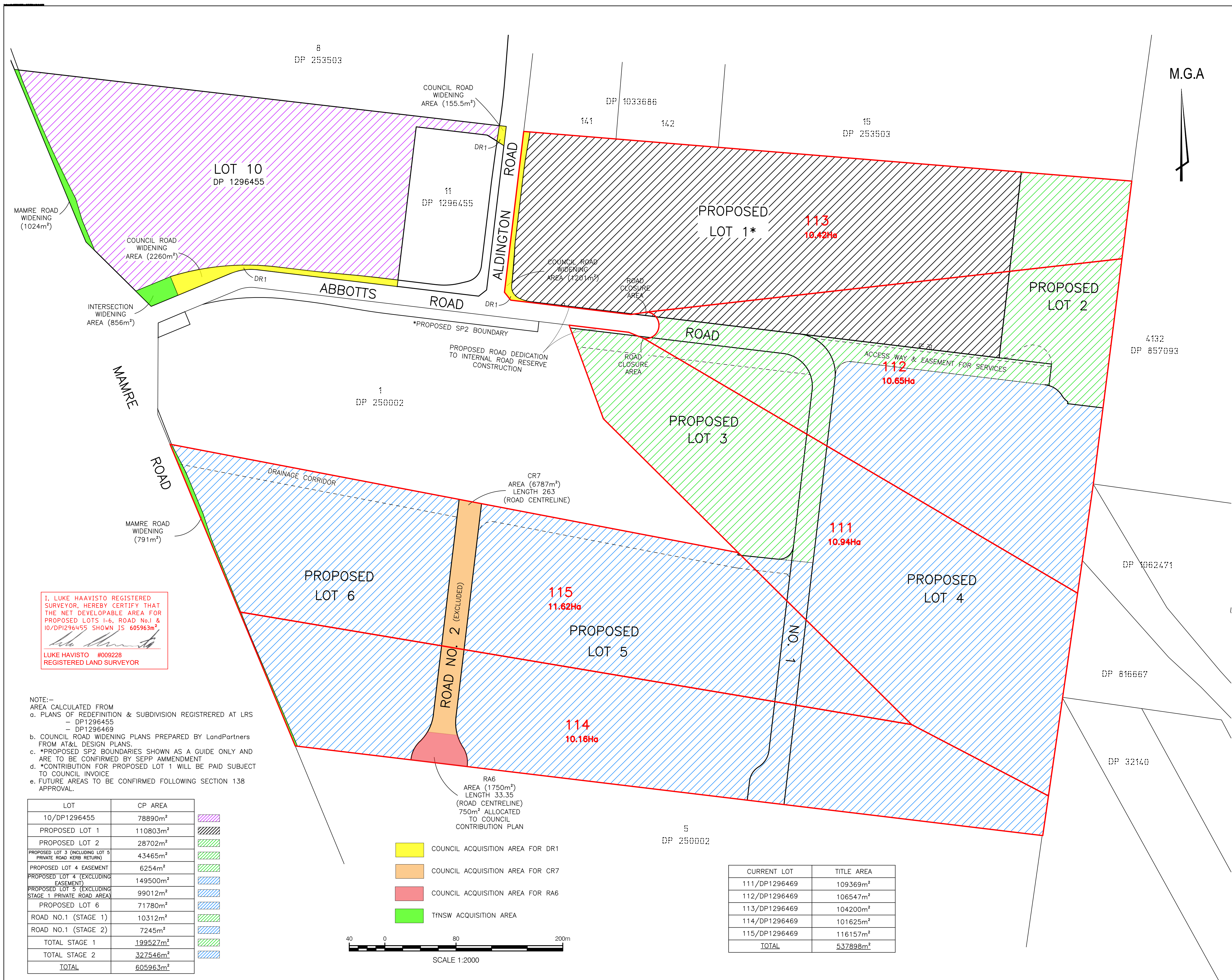
**(d) Compliance of certain requirements prior to issue of construction, occupation or subdivision certificates.**

The Road Works and Land Dedication will need to be completed prior to the issue of any occupation certificate for the approved warehouse number 4.

**Attachments:**

1. Map of Land Subject to the VPA (subject land shown hatched and labelled)
2. Plans of Road Work
3. Plan of Dedication

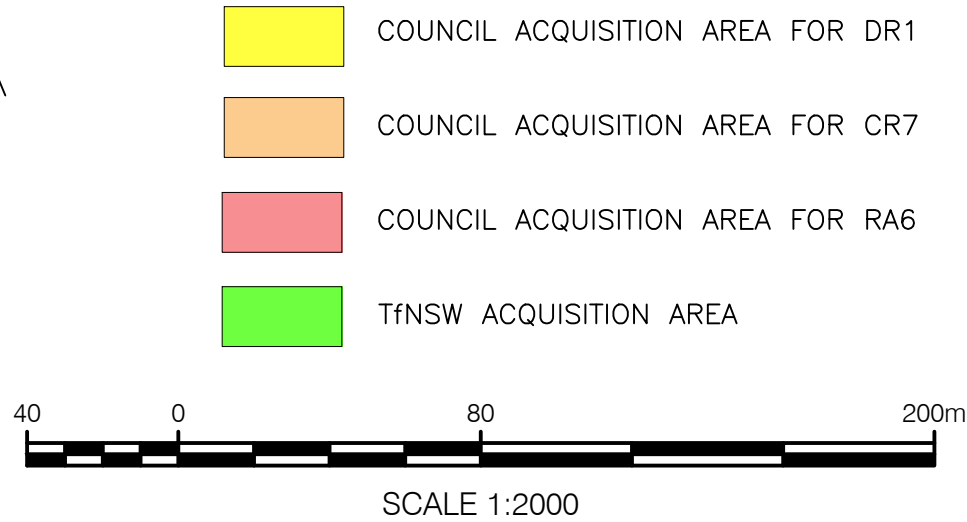
**Attachment 1 - Land Subject to the VPA**



NOTE:—  
AREA CALCULATED FROM

- a. PLANS OF REDEFINITION & SUBDIVISION REGISTERED AT LRS
  - DP1296455
  - DP1296469
- b. COUNCIL ROAD WIDENING PLANS PREPARED BY LandPartners FROM L&D DESIGN PLANS.
- c. \*PROPOSED SP2 BOUNDARIES SHOWN AS A GUIDE ONLY AND ARE TO BE CONFIRMED BY SEPP AMENDMENT
- d. \*CONTRIBUTION FOR PROPOSED LOT 1 WILL BE PAID SUBJECT TO COUNCIL INVOICE
- e. FUTURE AREAS TO BE CONFIRMED FOLLOWING SECTION 138 APPROVAL.

LOT	CP AREA
10/DP1296455	78890m <sup>2</sup>
PROPOSED LOT 1	110803m <sup>2</sup>
PROPOSED LOT 2	28702m <sup>2</sup>
PROPOSED LOT 3 (INCLUDING LOT 5 PRIVATE ROAD KERB RETURN)	43465m <sup>2</sup>
PROPOSED LOT 4 EASEMENT	6254m <sup>2</sup>
PROPOSED LOT 4 (EXCLUDING EASEMENT)	149500m <sup>2</sup>
PROPOSED LOT 5 (EXCLUDING STAGE 1 PRIVATE ROAD AREA)	99012m <sup>2</sup>
PROPOSED LOT 6	71780m <sup>2</sup>
ROAD NO.1 (STAGE 1)	10312m <sup>2</sup>
ROAD NO.1 (STAGE 2)	7245m <sup>2</sup>
TOTAL STAGE 1	199527m <sup>2</sup>
TOTAL STAGE 2	327546m <sup>2</sup>
TOTAL	605963m <sup>2</sup>



CURRENT LOT	TITLE AREA
111/DP1296469	109369m <sup>2</sup>
112/DP1296469	106547m <sup>2</sup>
113/DP1296469	104200m <sup>2</sup>
114/DP1296469	101625m <sup>2</sup>
115/DP1296469	116157m <sup>2</sup>
<b>TOTAL</b>	<b>537898m<sup>2</sup></b>

M.G.A

DRAINAGE PIPE U/G

DRAIN

ELECT. CABLE A/G

ELEC. CABLE U/G


GAS PIPE


FENCE LINE


SEWERAGE PIPE


TELSTRA CABLE


WATER PIPE

 **LANDPARTNERS**  
surveyors and planners

 ISO 9001:2015  
Management System  
CERTIFIED




 ISO 45001:2018  
Occupational Health and Safety  
Management System  
CERTIFIED

 ANZSIS  
ISO 14001:2015  
Environmental Management System  
CERTIFIED

 **CERTIFIED**  
**LOCATOR**  
a [www.locators.com.au](http://www.locators.com.au)

Sydney Office  
Level 2  
23-29 South Street  
Rydalmere NSW 2116

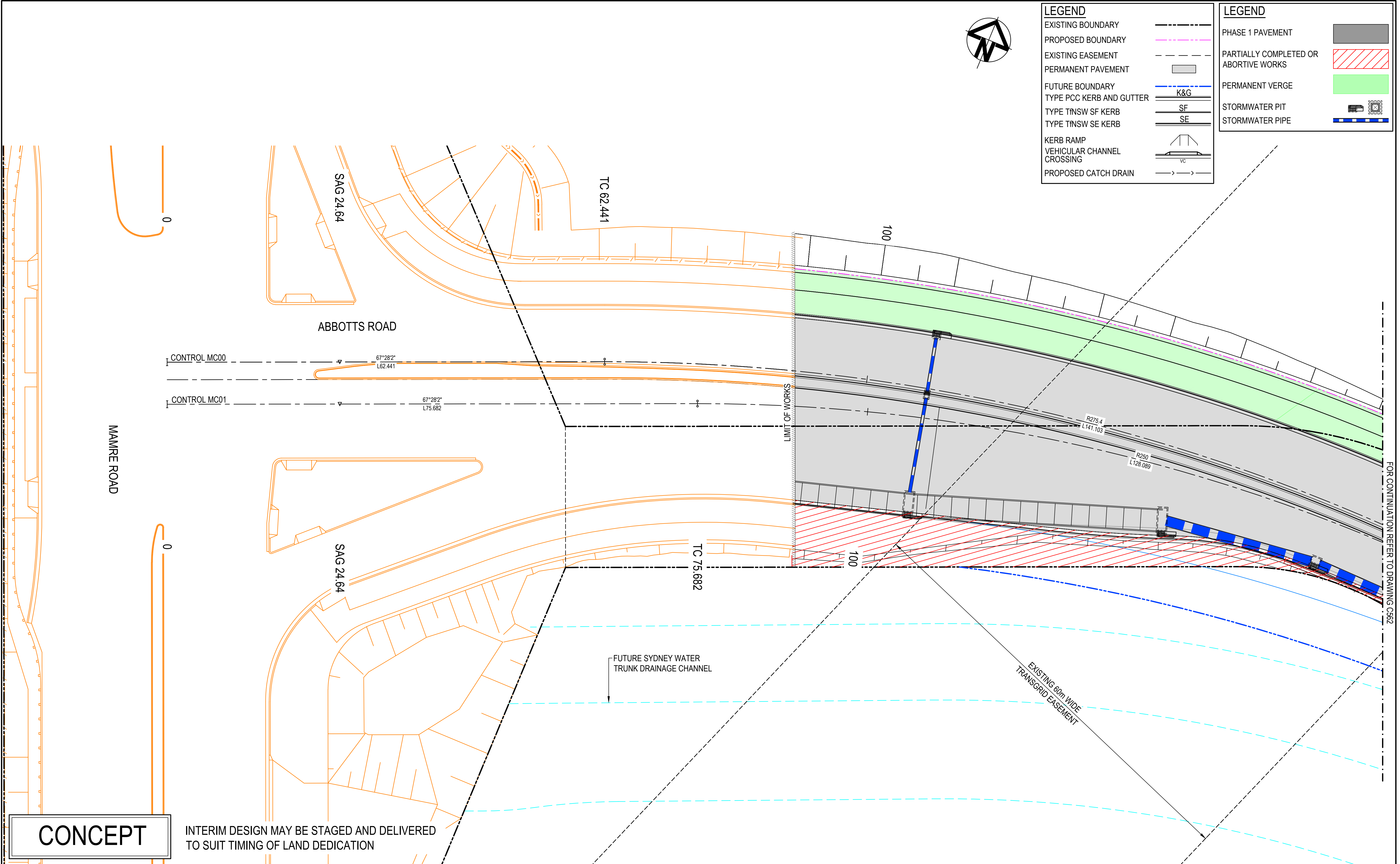
PO Box 1144  
Rydalmere  
NSW 2116

 (02) 9685 2000  
 f. (02) 9685 2011  
 [e.info@landpartners.com.au](mailto:e.info@landpartners.com.au)  
 [www.landpartners.com.au](http://www.landpartners.com.au)

HEIGHT DATUM AHD	LOCAL AUTHORITY PENRITH		
HEIGHT ORIGIN N/A	SCALE 1:2000 (A1)		
MERIDIAN MGA ZONE 56	CONTOUR INTERVAL N/A		
CO-ORD SYSTEM GDA 2020	SURVEYOR N/A	DATE OF SURVEY ~	
CCAD FILE 74698.000 IMPORTED...	DRAWN SF	DATE 18/06/2024	
AUTOCAD FILE SV074698.000.11.1	CHECKED LPH	DATE 18/06/2024	
ARCHIVE FILE	APPROVED GKO	DATE 18/06/2024	

## **Attachment 2 – Plans of Road Work**





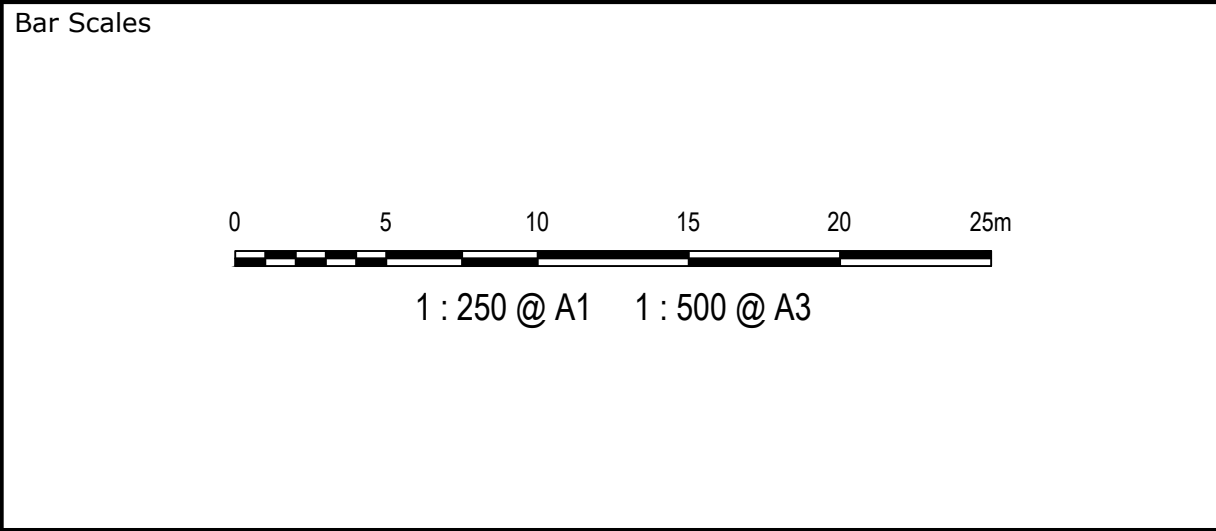
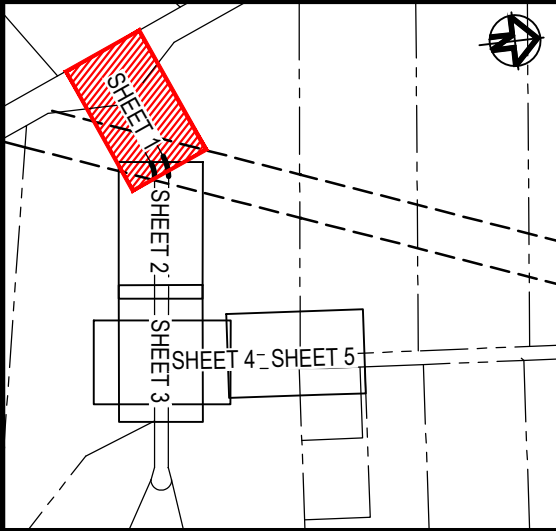
LEGEND	
EXISTING BOUNDARY	---
PROPOSED BOUNDARY	---
EXISTING EASEMENT	---
PERMANENT PAVEMENT	---
FUTURE BOUNDARY	---
TYPE PCC KERB AND GUTTER	---
TYPE TINSW SF KERB	---
TYPE TINSW SE KERB	---
KERB RAMP	---
VEHICULAR CHANNEL CROSSING	---
PROPOSED CATCH DRAIN	---

LEGEND	
PHASE 1 PAVEMENT	---
PARTIALLY COMPLETED OR ABORTIVE WORKS	---
PERMANENT VERGE	---
STORMWATER PIT	---
STORMWATER PIPE	---

CONCEPT

INTERIM DESIGN MAY BE STAGED AND DELIVERED TO SUIT TIMING OF LAND DEDICATION

Issue	Description	Date
P1	ISSUED FOR INFORMATION	01-02-24



Client

Scales	1 : 250	Drawn	JS
Grid	GDA2020	Designed	EH
Height Datum	AHD	Checked	AL
		Approved	

GDA2020

THIS DRAWING CANNOT BE COPIED OR REPRODUCED IN ANY FORM OR USED FOR ANY OTHER PURPOSE OTHER THAN THAT ORIGINALLY INTENDED WITHOUT THE WRITTEN PERMISSION OF AT&L

Project

PROPOSED INDUSTRIAL DEVELOPMENT WESTLINK KEMPS CREEK

Title

ABORTIVE WORKS PLAN SHEET 1

Civil Engineers and Project Managers

Level 7, 153 Walker Street  
North Sydney NSW 2060  
ABN 96 130 882 405  
Tel: 02 9439 1777  
Fax: 02 9923 1055  
www.atl.net.au  
info@atl.net.au

Status

FOR INFORMATION  
NOT TO BE ISSUED FOR CONSTRUCTION

Project - Drawing No.

24-1177-C561

Issue

P1

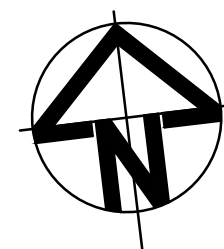






## LEGEND

EXISTING BOUNDARY	
PROPOSED BOUNDARY	
EXISTING EASEMENT	
PERMANENT PAVEMENT	
FUTURE BOUNDARY	
TYPE PCC KERB AND GUTTER	
TYPE TNSW SF KERB	
TYPE TNSW SE KERB	
KERB RAMP	
VEHICULAR CHANNEL CROSSING	
PROPOSED CATCH DRAIN	



## CONCEPT

P1	ISSUED FOR INFORMATION	01-02-2018
Issue	Description	Date



Project	PROPOSED INDUSTRIAL DEVELOPMENT WESTLINK KEMPS CREEK
Title	ABORTIVE WORKS PLAN SHEET 3





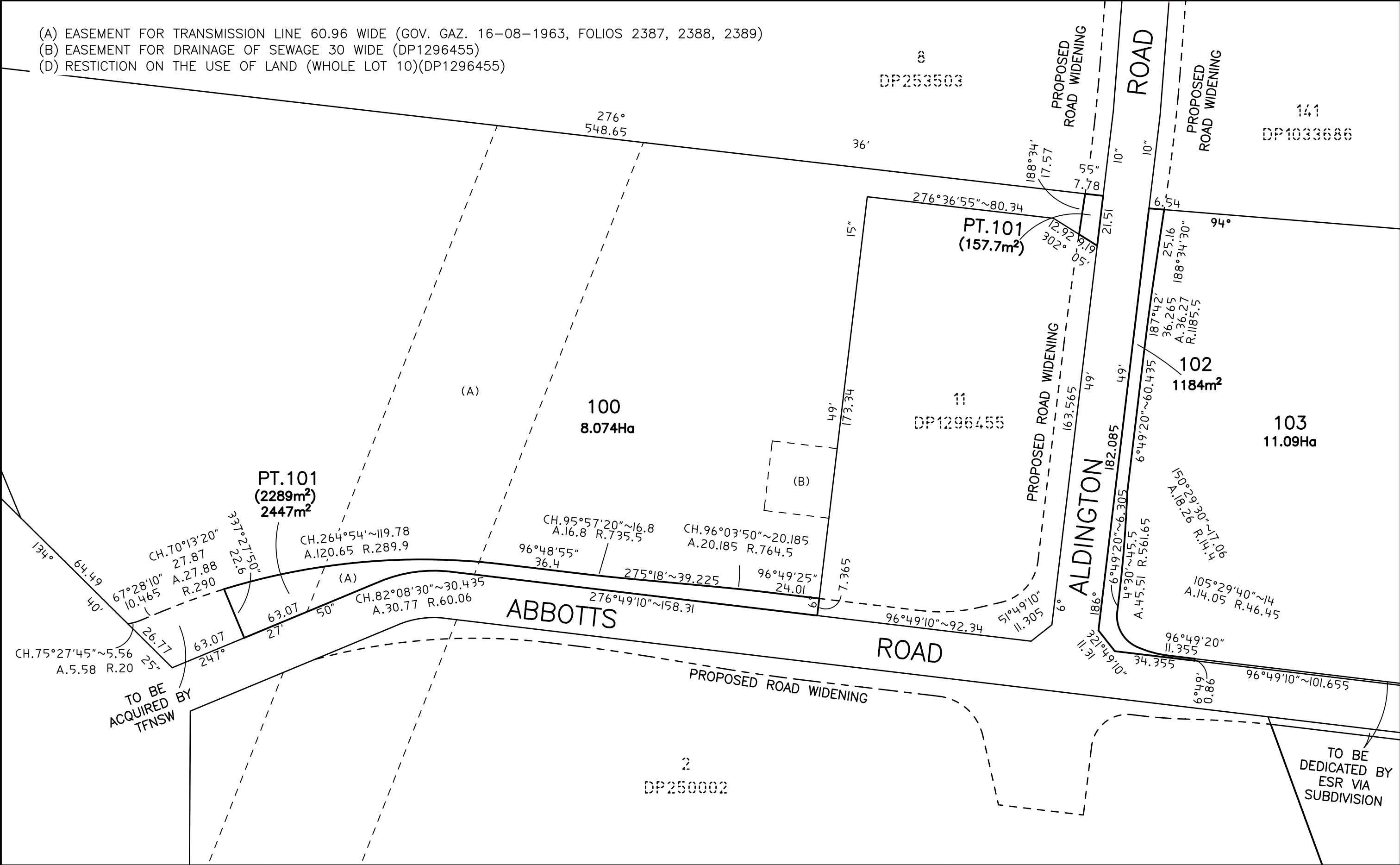




### **Attachment 3 – Plan of Dedication**



- (A) EASEMENT FOR TRANSMISSION LINE 60.96 WIDE (GOV. GAZ. 16-08-1963, FOLIOS 2387, 2388, 2389)
- (B) EASEMENT FOR DRAINAGE OF SEWAGE 30 WIDE (DP1296455)
- (D) RESTICTION ON THE USE OF LAND (WHOLE LOT 10)(DP1296455)



Surveyor:LUKE P HAAVISTO LandPartners PTY LTD PO BOX 1144 DUNDAS 2117 Date of Drawing: 18/07/2024 Surveyor's Ref: SY074698.000.15	PLAN OF PROPOSED ACQUISITION WITHIN LOT 10 DP1296455 & LOT 113 DP1296469	LGA: PENERITH Locality: KEMPS CREEK Subdivision No: Lengths are in metres. Reduction ratio 1:1500	Registered	
---	---	--	------------	--

10	20	30	40	50	Table of mm	90	100	110	120	130	140
----	----	----	----	----	-------------	----	-----	-----	-----	-----	-----