

Report to the Future Melbourne (Planning) Committee

Agenda item 6.5

Planning Permit Application: TP-2016-225, 69 Hardiman Street, Kensington 7 February 2017

Presenter: Jane Birmingham, Practice Leader Statutory Planning

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of a Planning Application TP-2016-225 for a Planning Permit to develop the land at 69 Hardiman Street, Kensington (the application).
2. The site is located on the north side of Hardiman Street in Kensington. The site is in the Mixed Use Zone and is affected by the Land Subject to Inundation Overlay (LSIO) and Environmental Audit Overlay (EAO).
3. The site has a frontage of 10m to Hardiman Street and a total area of approximately 355m². The site is currently occupied by a single-storey rendered warehouse of no heritage significance.
4. The proposal seeks to develop the land with a five storey residential building comprising eight dwellings (4x2BR and 4x1BR) with a maximum building height of 15.3m. Eight car parking spaces and three bicycle parking spaces will be provided at the ground floor, with vehicle access proposed via Hardiman Street and Little Hardiman Street.
5. Notably, the development proposed under the application is identical to a development authorised under Planning Permit TP-2011-770/A, which expired on 10 May 2015. The planning controls affecting the site have not changed since Planning Permit TP-2011-770/A was last amended (24 August 2014), however, in the intervening period Amendment C190 has attained 'seriously entertained' status.
6. The application is not exempt from notice and has attracted 21 objections from 17 properties.

Key issues

7. Key issues to consider in the assessment of the application include the development's design response to its urban context, built form, streetscape integration, internal amenity, management of environmental risks and parking and traffic, and the development's level of compliance with Amendment C190.
8. The proposed development is considered to represent a highly resolved structure. The building setbacks, screening, raked profile of walls abutting sensitive interfaces and overall height were iteratively negotiated prior to the granting of Amended Permit TP-2011-770/A to ensure that the development presents an appropriate response to the amenity of surrounding dwellings.
9. The key change in the policy framework is Amendment C190, which seeks to implement Stage 1 of the 'Arden-Macaulay Structure Plan', which encourages development of a dense, mixed-use inner city suburb while protecting key industrial sites.
10. When considered against the new Schedule to the Design and Development Overlay forming part of Amendment C190 the proposed development is considered acceptable, having regard to the specified design objectives and built form outcomes for the site.
11. Subject to conditions, the proposed development is considered to be consistent with the current planning policy framework, in addition to the vision for the area contained in Amendment C190. The proposed parking and traffic arrangements are also considered to be appropriate.

Recommendation from management

12. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Permit to Planning application TP2016-225, subject to the conditions outlined in the Delegate's Report (Attachment 4).

Attachments:

1. Supporting Attachment (page 2 of 46)
2. Locality Plan (page 3 of 46)
3. Selected Plans (page 4 of 46)
4. Delegate Report (page 15 of 46)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (Act) sets out the requirements in relation to applications for permits pursuant to the relevant planning scheme.
2. As objections have been received, sections 64 and 65 of the Act provide that the responsible authority must give the applicant and each objector notice in the prescribed form of its decision to either grant a permit or refuse to grant a permit. The responsible authority must not issue a permit to the applicant until the end of the period in which an objector may apply to the VCAT for a review of the decision or, if an application for review is made, until the application is determined by the VCAT.

Finance

3. There are no direct financial issues arising from the recommendations contained within this report.

Conflict of interest

4. No member of Council staff, or other person engaged under a contract, involved in advising on or preparing this report has declared a direct or indirect interest in relation to the matter of the report.

Stakeholder consultation

5. The application was advertised in accordance with the requirements of Section 52 of the Act.
6. Community consultation was not undertaken (i.e. through a planning application conference) due to the unique characteristics of the proposal, representing an identical development to that previously authorised under an expired planning permit (see Appendix 1 of the attached Delegate Report (refer to Attachment 4) for a complete history of the expired permit).
7. Comprehensive consideration of concerns raised in submissions received by Council has been undertaken in the attached Delegate Report (refer to Attachment 4).

Relation to Council policy

8. Relevant Council policies are discussed in the attached Delegate Report (refer to Attachment 4).

Environmental sustainability

9. Pursuant to Clause 22.19 and Clause 22.23 of the Melbourne Planning Scheme, an environmentally sustainable design statement was submitted confirming that the development will incorporate a number of sustainable design initiatives, including water sensitive urban design principles and waste management.



















Locality Plan

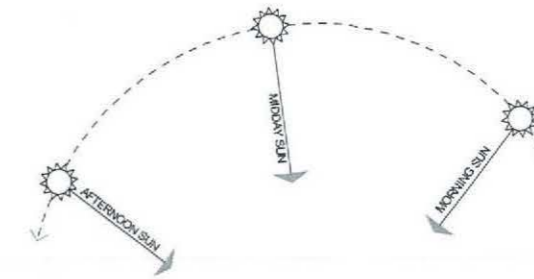
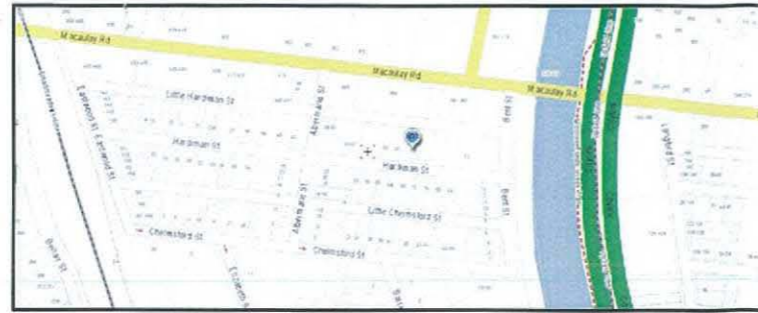
Attachment 2
Agenda item 6.5
Future Melbourne Committee
7 February 2017

69 Hardiman Street, Kensington



LEGEND

-  EXISTING STRUCTURE SHOWN HATCHED
 -  SUBJECT SITE - EXISTING WAREHOUSE
 -  EXISTING SINGLE STOREY BRICK DWELLING
 -  EXISTING DOUBLE STOREY BRICK DWELLING
 -  EXISTING GARAGE/SHED/CARPORT
 -  EXISTING CROSSOVER
 -  EXISTING SWIMMING POOL
 -  EXISTING SINGLE STOREY WEATHERBOARD DWELLING
 -  EXISTING DOUBLE STOREY WEATHERBOARD DWELLING
 -  PUBLIC TRANSPORT (KENSINGTON TRAIN STATION 300M)
 -  1.6KM ROYAL PARK
 -  2.4KM DOCKLANDS
 -  2.2KM FLEMINGTON RACECOURSE
 -  3.4km (APPROX) MELBOURNE CBD
 -  EXISTING CROSSOVER TO BE REMOVED
-
-  habitable room window
 -  pole
 -  existing trees to remain



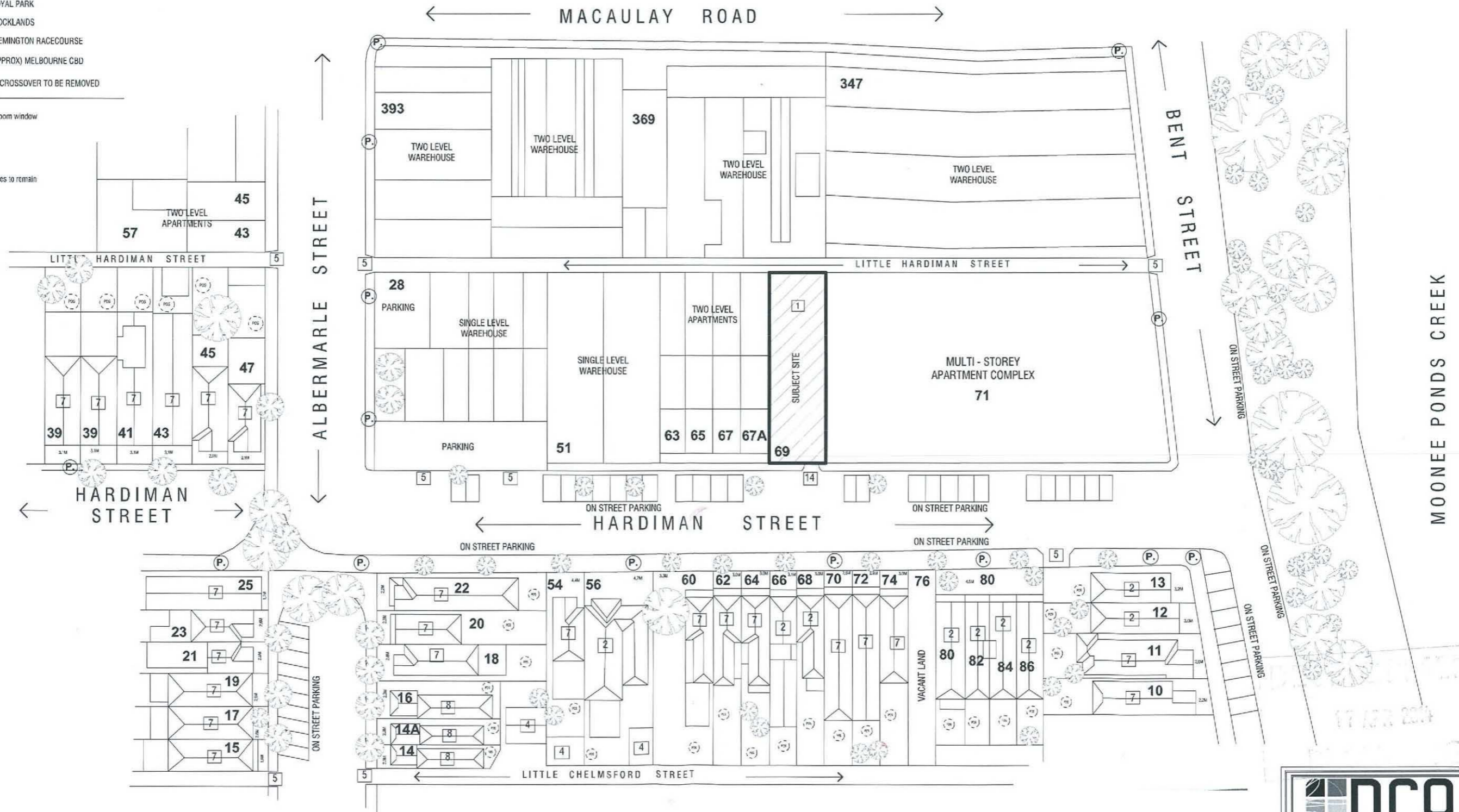
CLIENT: PAGE 1 OF 21
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Proposed Apartment Complex
Address: 69 Hardiman Street
Kensington VIC

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Job Number: 1339 Date: 10/04/14

Attachment 3
Agenda item 6.5
Future Melbourne Committee
7 February 2017



NEIGHBOURHOOD & SITE DESCRIPTION PLAN 1:500

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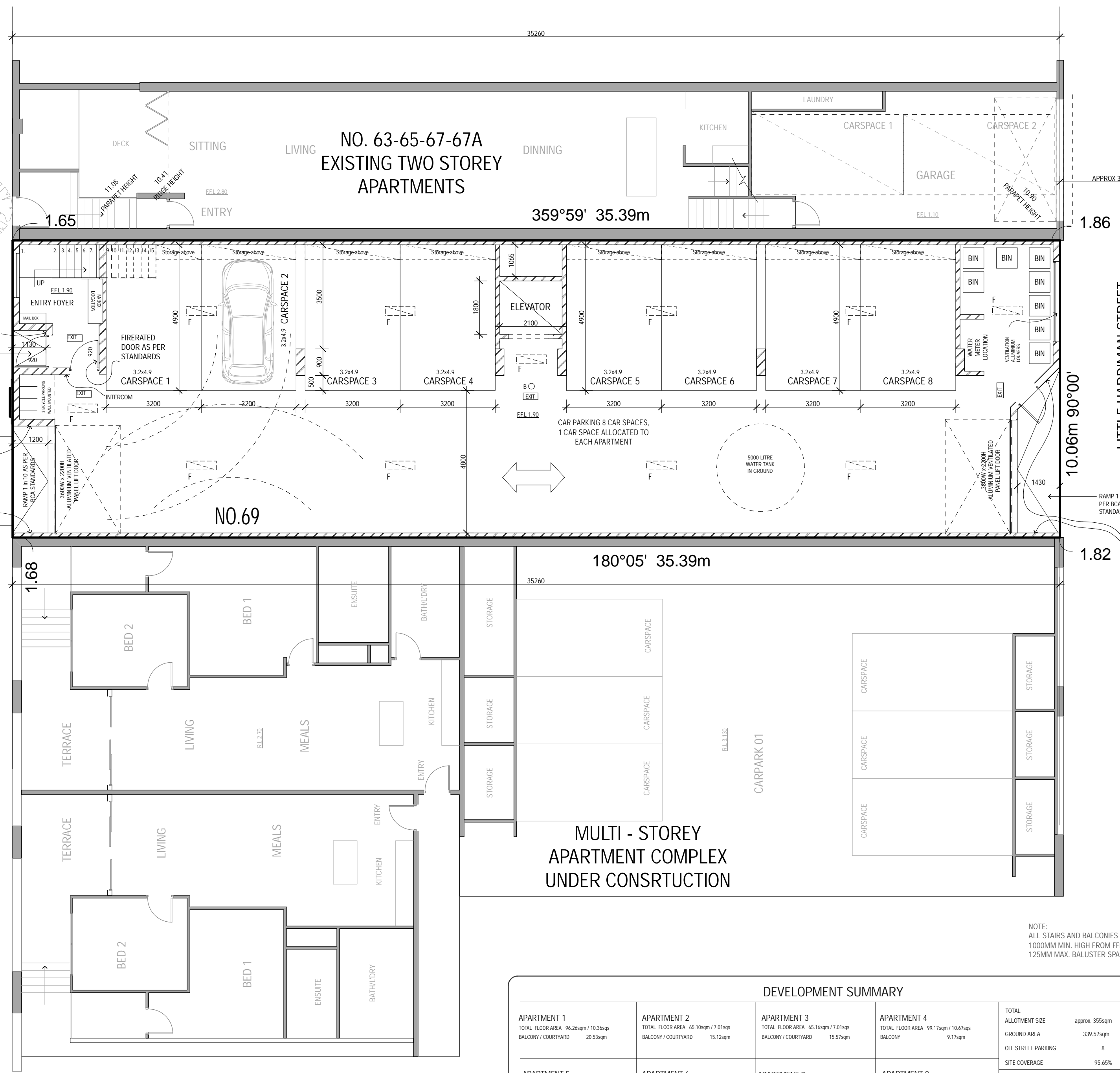
Proposed Apartment Complex
 Address:
 69 Hardiman Street
 Kensington VIC

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Job Number: 1339 Date: 03/09/14

B LOW LEVEL BOLLARD LIGHTING
 F ENERGY EFFICIENT FLOURESCENT LAMPS

NOTE: ALL AIR CONDITIONING UNITS TO BE
 SCREENED BEHIND BALCONY BALUSTRADES AND
 NOT TO BE HIGHER THAN BALUSTRADE



HARDIMAN STREET

10.00m

270°00'

1.65

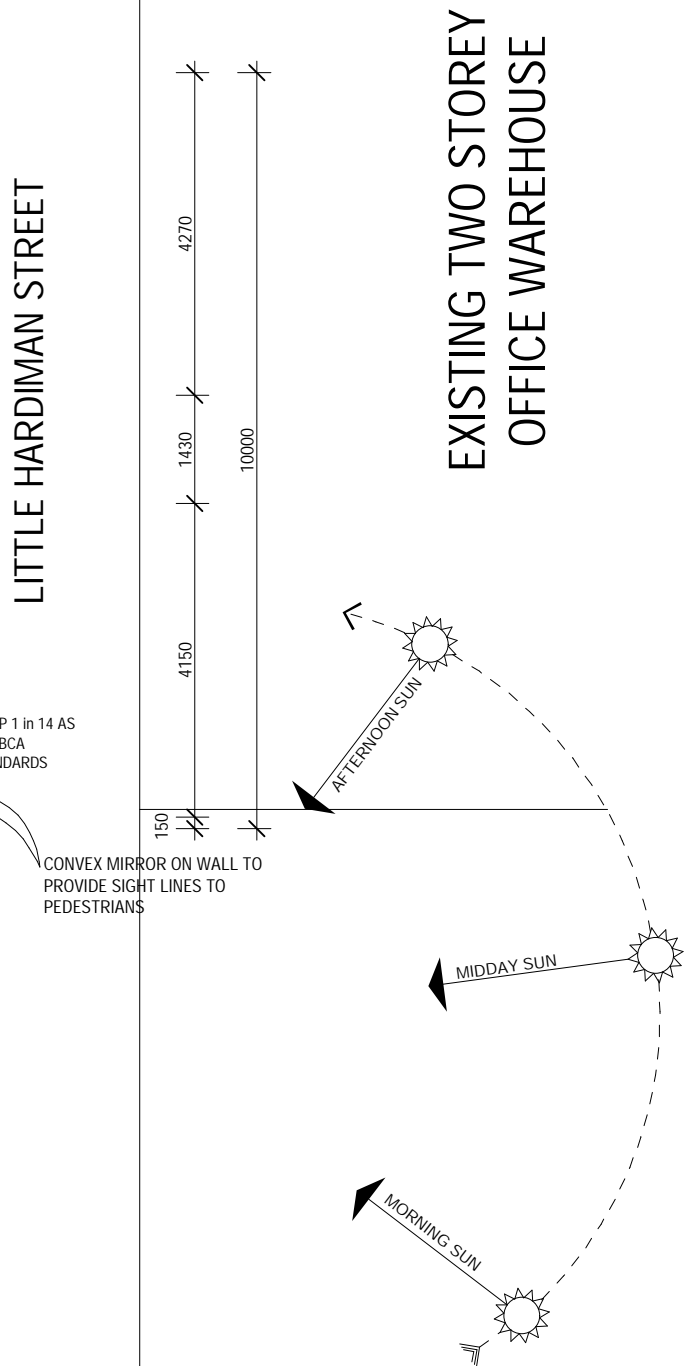
1.68

10.06m 90°00'

1.86

1.82

CONVEX MIRROR ON WALL TO PROVIDE SIGHT LINES TO PEDESTRIANS



NOTE:
 SECURE STORAGE LOCATED
 1.65M ABOVE F.F.L (3.1(W)X0.9
 (H)X0.5(D)m = 1.395m³

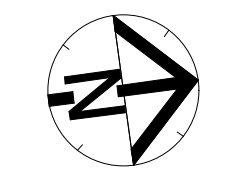
NOTE:
 NO EXPOSED PLUMBING

NOTE:
 ALL EXTERNAL EQUIPMENT AND
 FIXTURES TO BE SCREENED FROM
 PUBLIC VIEW

NOTE:
 ALL TAPS LOCATED AT THE FRONT OF
 THE HOUSE MUST BE FIXED TO A WALL
 FACE OR FENCE. LETTER BOXES TO BE
 OF A MASONRY CONSTRUCTION AND
 MATCH HOUSE FINISH AND COLOUR

NOTE:
 ALL STAIRS AND BALCONIES HANDRAILING
 1000MM MIN. HIGH FROM FFL
 125MM MAX. BALUSTER SPACING

DEVELOPMENT SUMMARY				
APARTMENT 1 TOTAL FLOOR AREA 96.26sqm / 10.36sqp BALCONY / COURTYARD 20.53sqm	APARTMENT 2 TOTAL FLOOR AREA 65.10sqm / 7.01sqp BALCONY / COURTYARD 15.12sqm	APARTMENT 3 TOTAL FLOOR AREA 65.16sqm / 7.01sqp BALCONY / COURTYARD 15.57sqm	APARTMENT 4 TOTAL FLOOR AREA 99.17sqm / 10.67sqp BALCONY 9.17sqm	TOTAL ALLOTMENT SIZE approx. 355sqm GROUND AREA 339.57sqm OFF STREET PARKING 8 SITE COVERAGE 95.65%
APARTMENT 5 TOTAL FLOOR AREA 65.10sqm / 7.01sqp BALCONY 9.00sqm	APARTMENT 6 TOTAL FLOOR AREA 65.10sqm / 7.01sqp BALCONY 9.00sqm	APARTMENT 7 TOTAL FLOOR AREA 130.28sqm / 14.02sqp BALCONY 1 10.22sqm BALCONY 2 7.04sqm	APARTMENT 8 TOTAL FLOOR AREA 149.19sqm / 16.05sqp BALCONY 1 13.10sqm BALCONY 2 9.41sqm	GROUND FLOOR AREA 339.57sqm / 36.55sqp FIRST FLOOR AREA 349.85sqm / 37.66sqp SECOND FLOOR AREA 287.85sqm / 30.98sqp THIRD FLOOR AREA 230.79sqm / 24.84sqp FOURTH FLOOR AREA 121.41sqm / 13.06sqp TOTAL FLOOR AREA 1329.47sqm / 143.10sqp

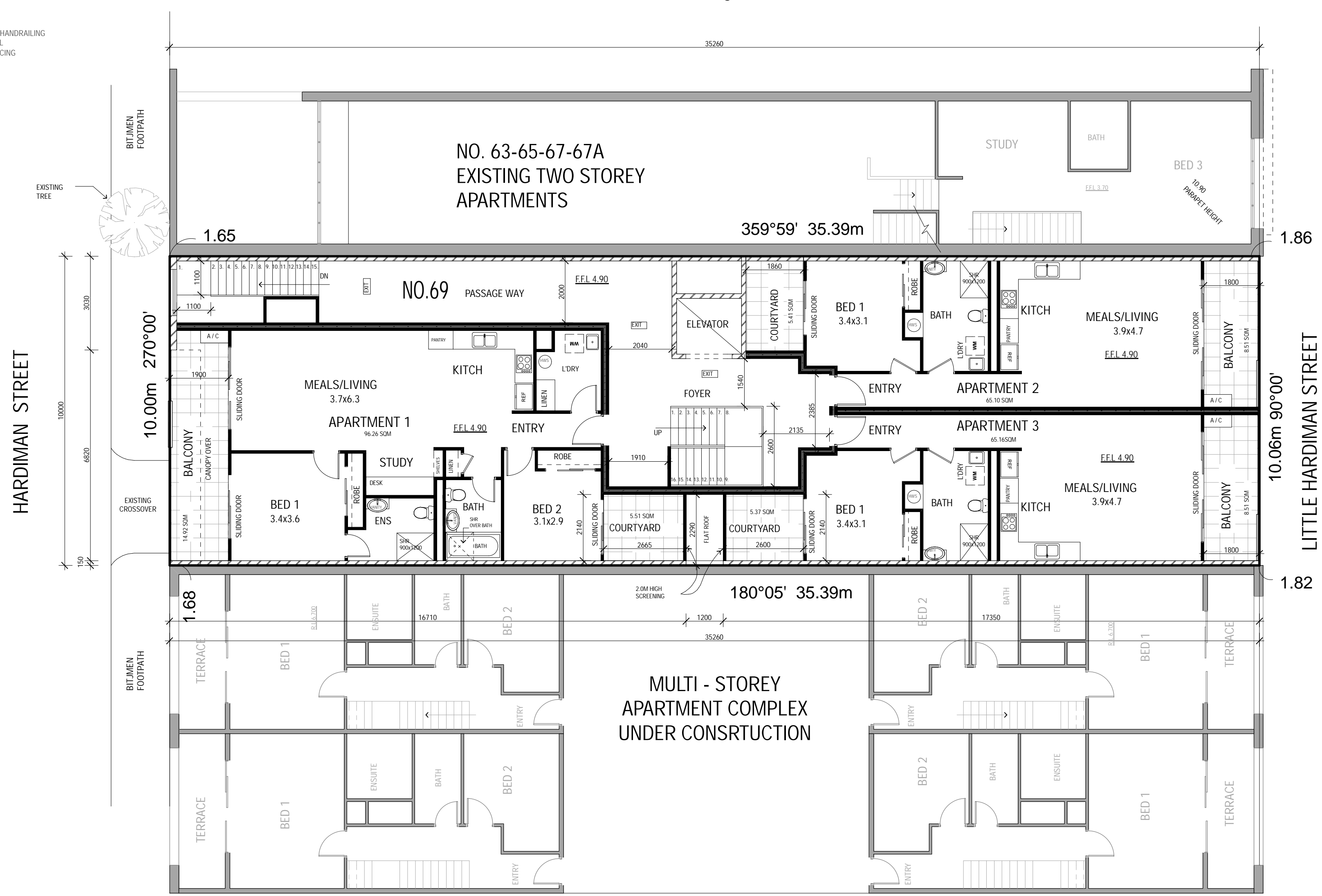


SITE/GROUND FLOOR PLAN
 SCALE 1 : 100

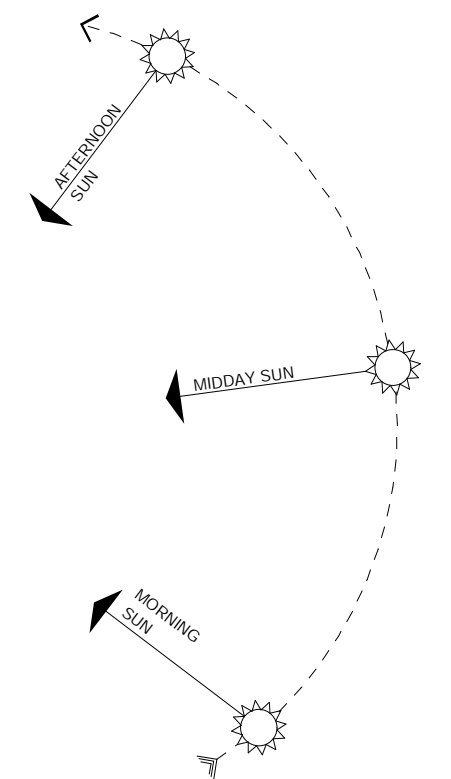
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NOTE:
ALL STAIRS AND BALCONIES HANDRAILING
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125MM MAX. BALUSTER SPACING

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Proposed Apartment Complex	
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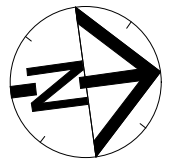
EXISTING TWO STOREY
OFFICE WAREHOUSE



NOTE:
NO EXPOSED PLUMBING

NOTE:
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FIXTURES TO BE SCREENED FROM
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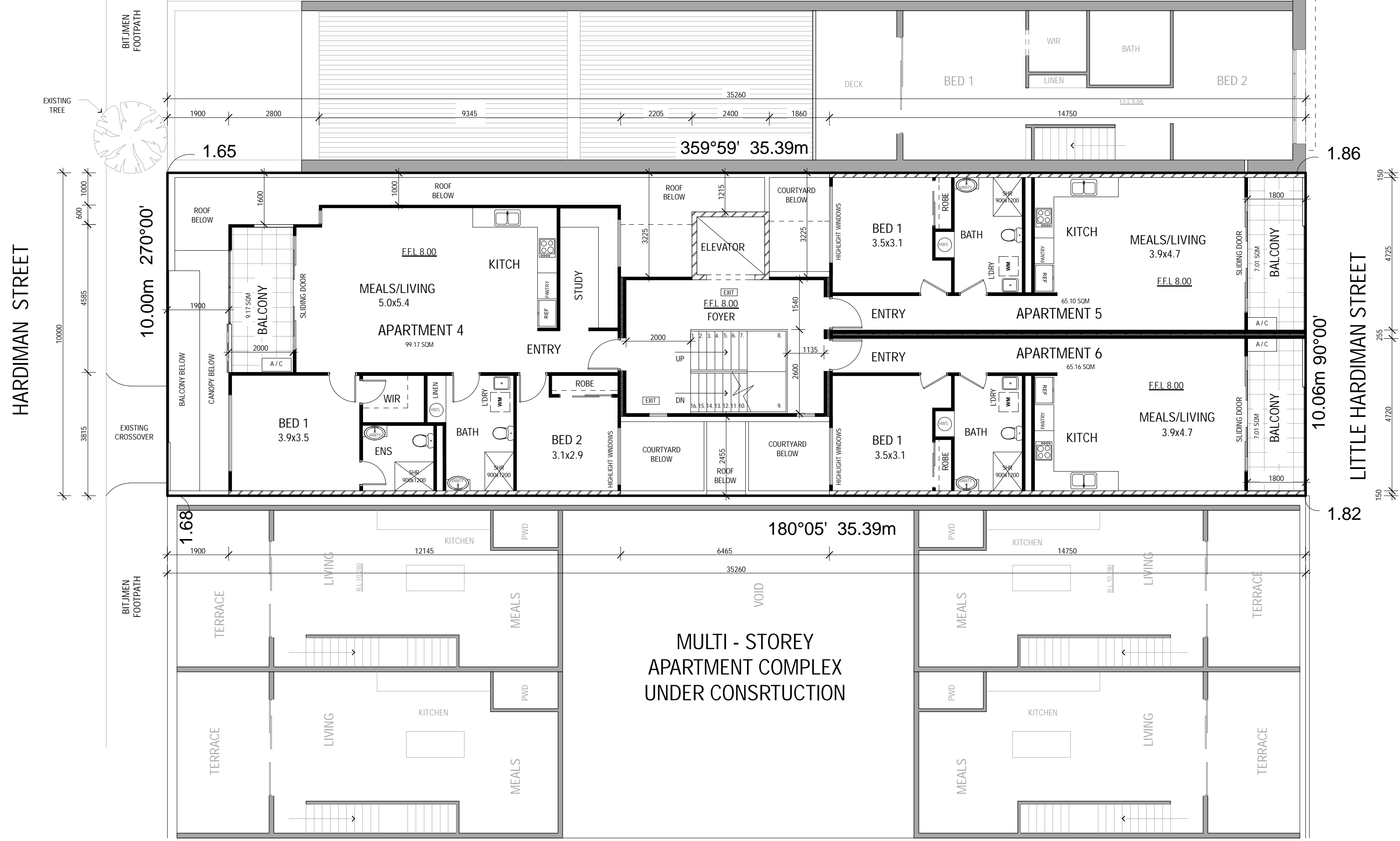
SITE/FIRST FLOOR PLAN
SCALE 1 : 100

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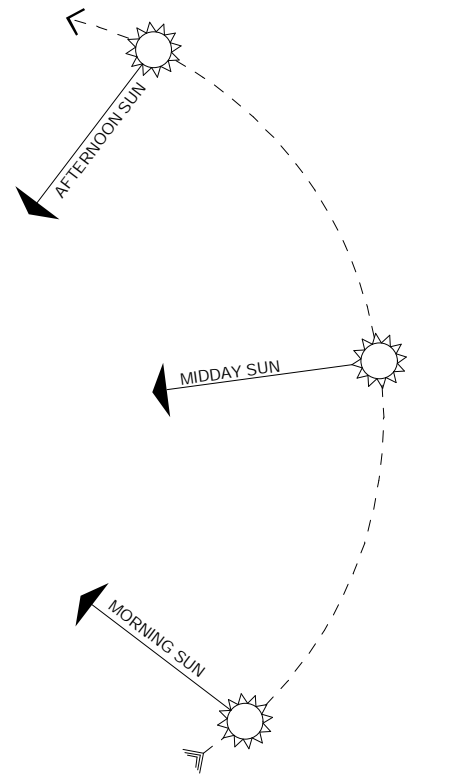
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 NO. 63-65-67-67A
 EXISTING TWO STOREY
 APARTMENTS

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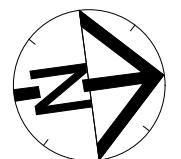
EXISTING TWO STOREY
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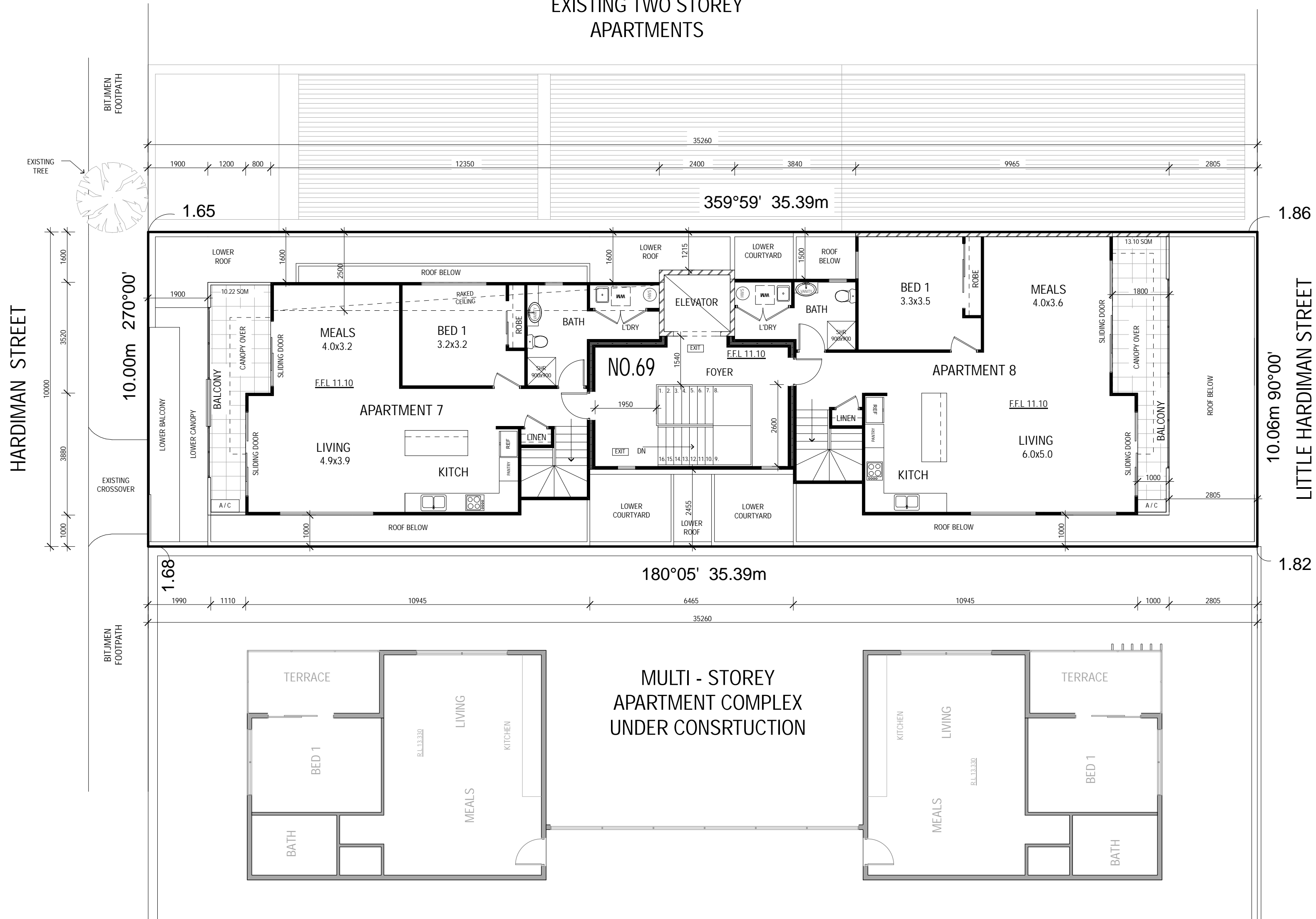
SITE/SECOND FLOOR PLAN
 SCALE 1 : 100

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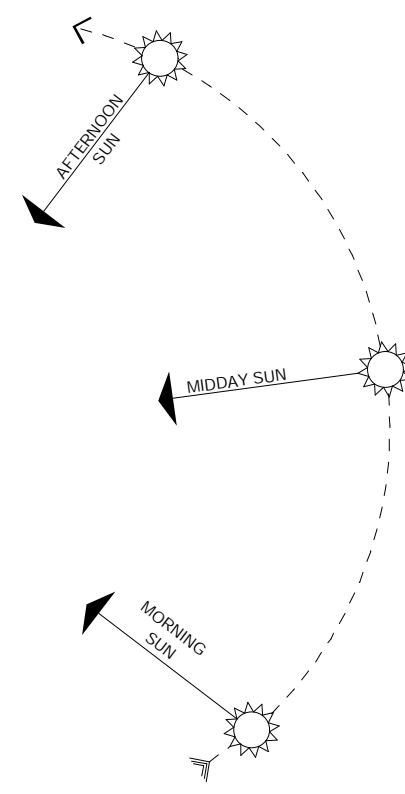
NO. 63-65-67-67A EXISTING TWO STOREY APARTMENTS

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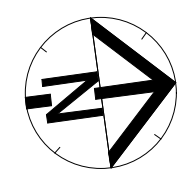
EXISTING TWO STOREY
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LETTER BOXES TO BE OF A MASONARY
CONSTRUCTION AND MATCH HOUSE FINISH AND
COLOUR



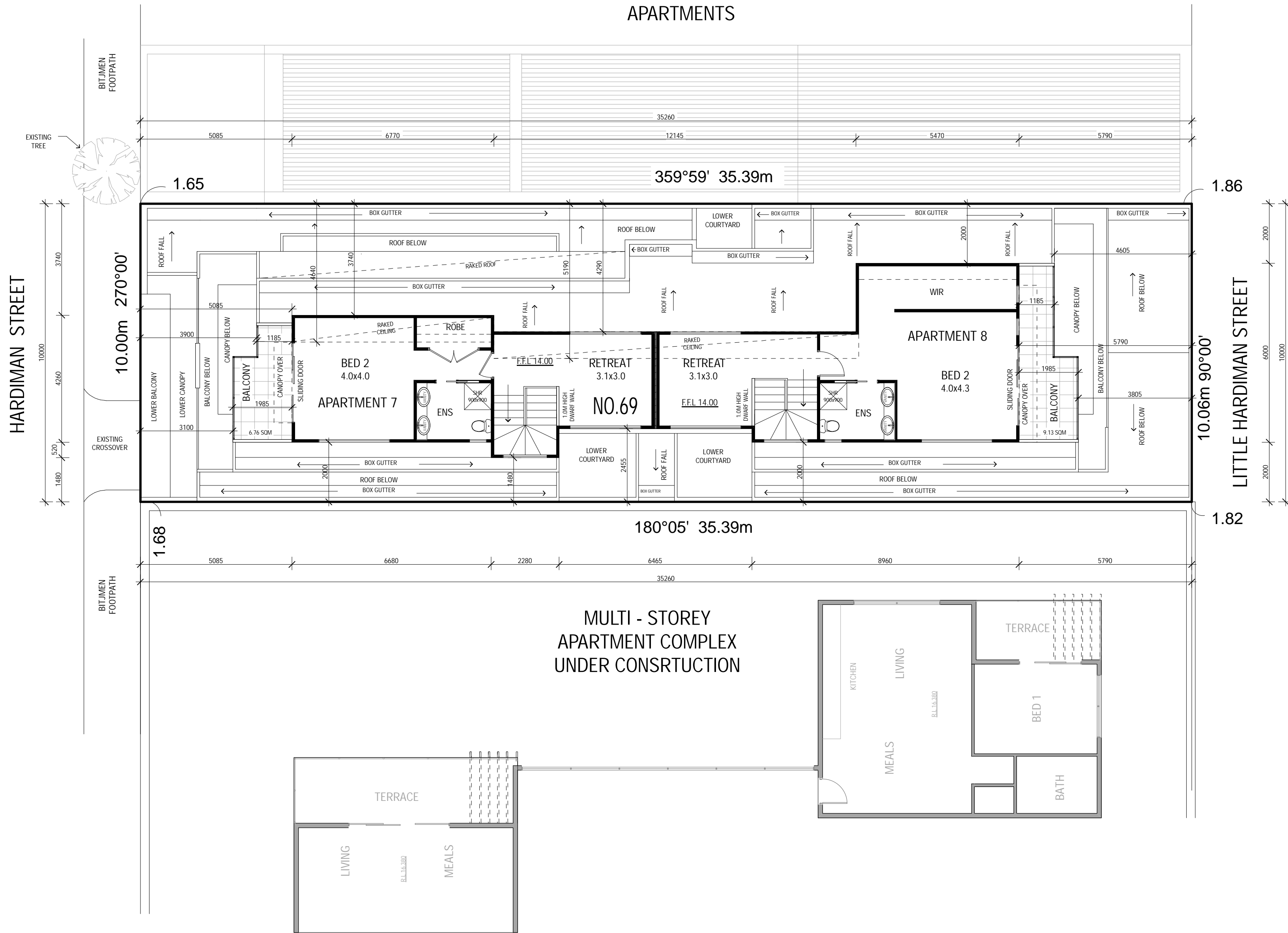
SITE/THIRD FLOOR PLAN
SCALE 1 : 100

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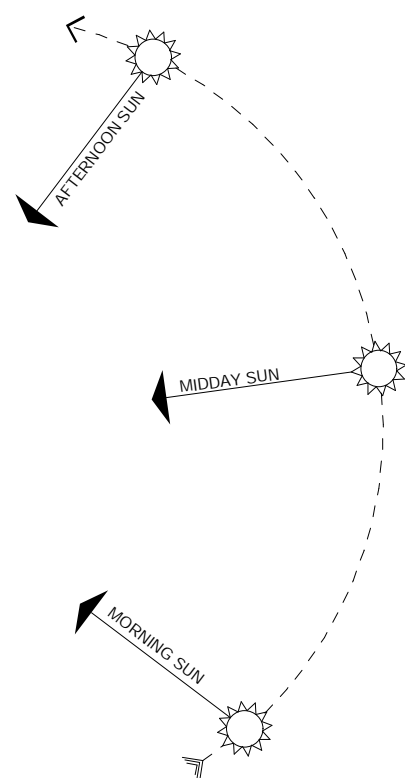
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 APARTMENTS

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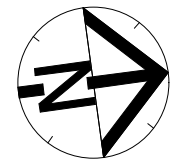
EXISTING TWO STOREY
 OFFICE WAREHOUSE



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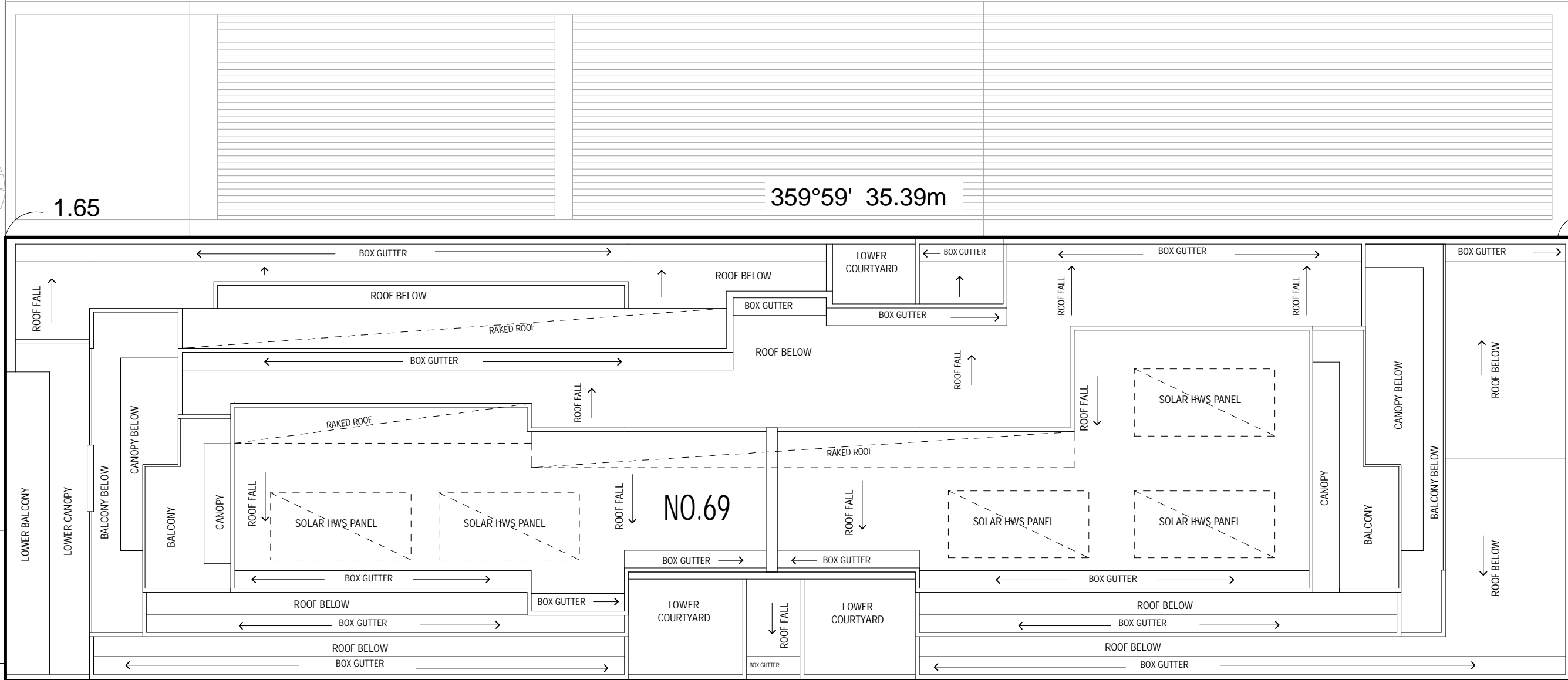


SITE/FOURTH FLOOR PLAN
 SCALE 1 : 100

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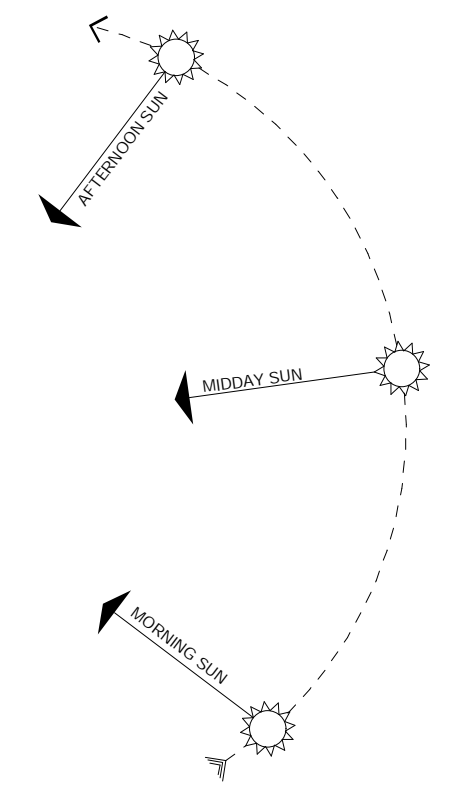
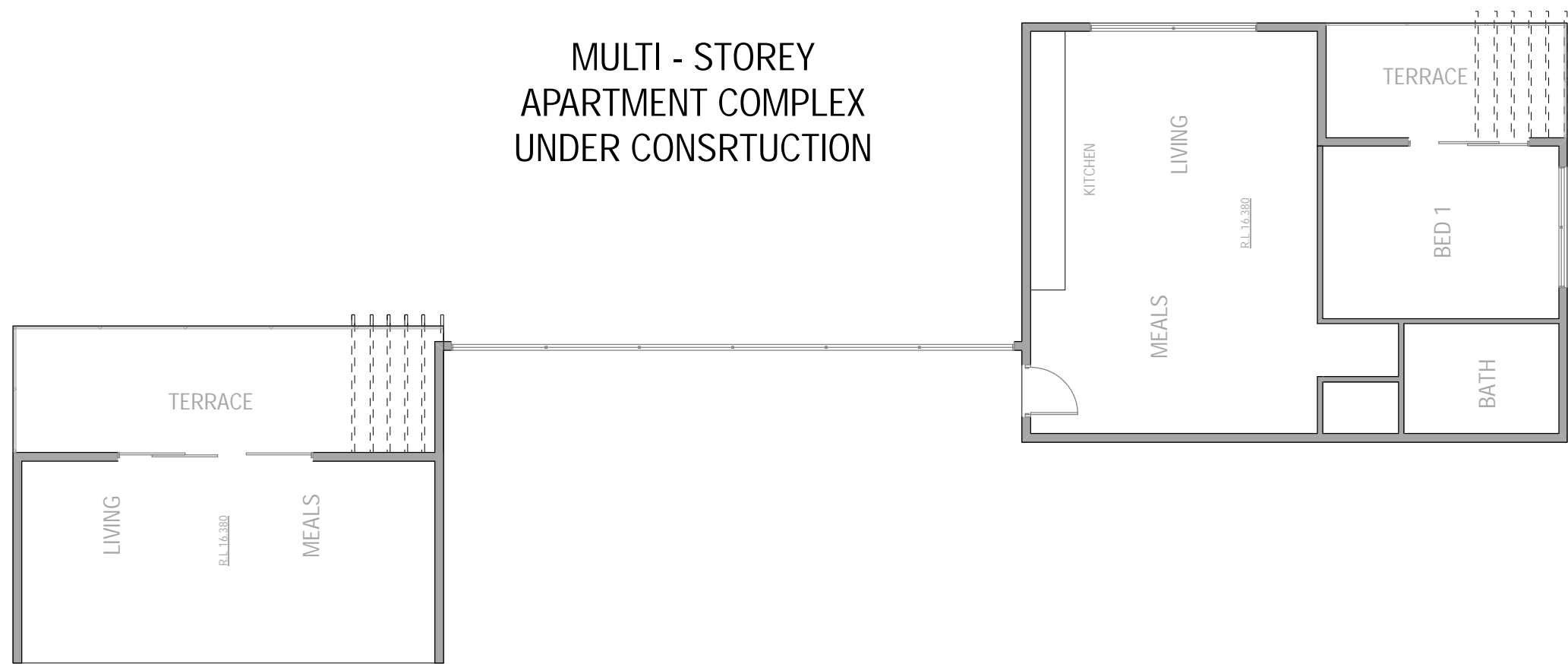
HARDIMAN STREET
 10.00m 270°00'
 EXISTING CROSSOVER
 1.65
 1.86
 1.68



1.86
 10.06m 90°00'
 1.82

EXISTING TWO STOREY
 OFFICE WAREHOUSE

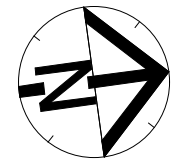
MULTI - STOREY
 APARTMENT COMPLEX
 UNDER CONSRUCTION



NOTE:
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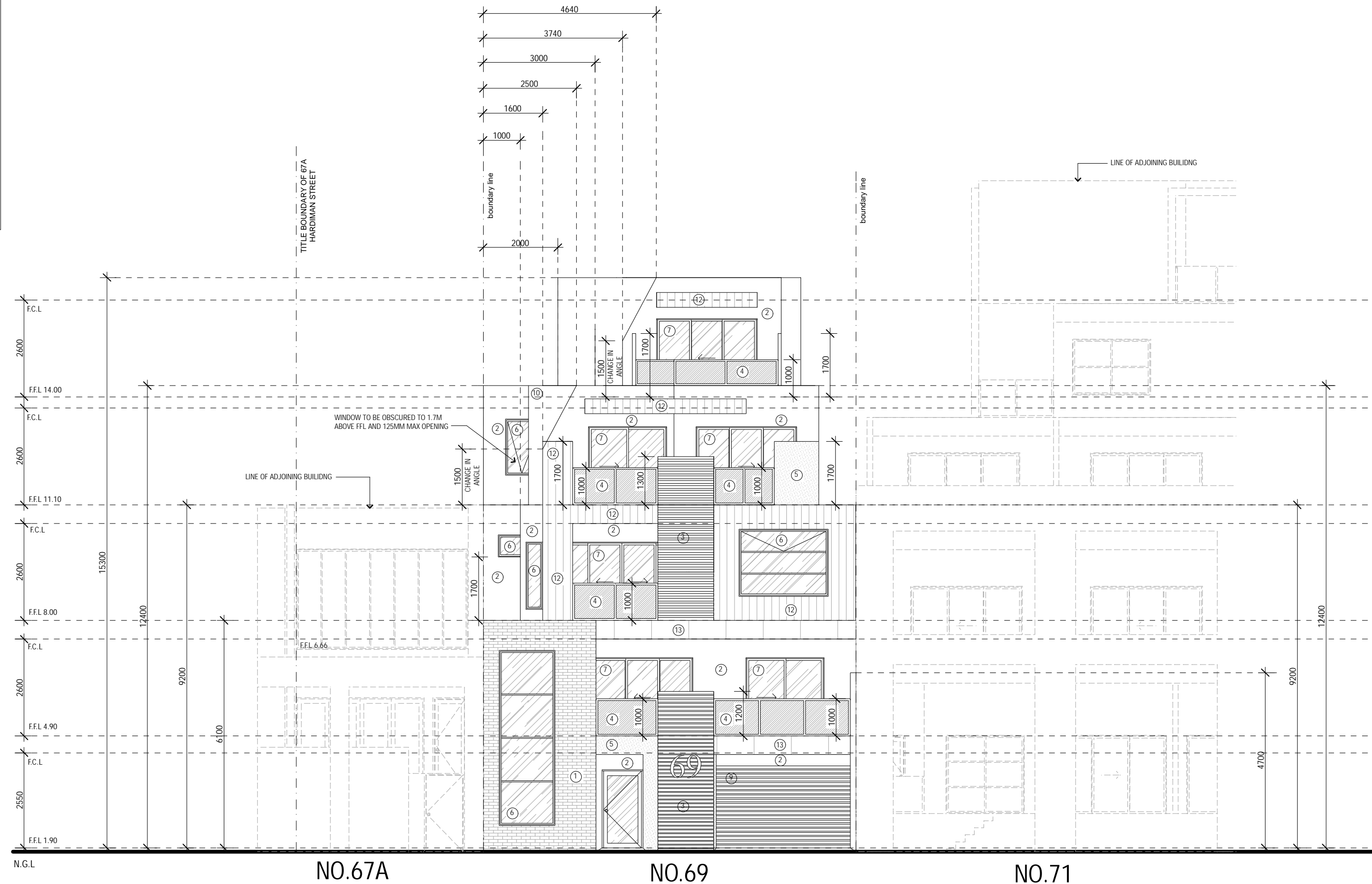


SITE/ROOF PLAN
 SCALE 1 : 100

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- LEGEND**
- ① BRICK FINISH
 - ② RENDER FINISH
 - ③ SELECTED ALUMINIUM LOURVE FINISH
 - ④ GLASS BALUSTRADE
 - ⑤ BLUEBOARD WITH RENDER FINISH
 - ⑥ ALUMINIUM WINDOWS
 - ⑦ ALUMINIUM SLIDING DOOR
 - ⑧ ALUCOBOND FINISH
 - ⑨ ALUMINIUM VENTILATED PANEL LIFT DOOR
 - ⑩ CONCRETE PANEL WALL
 - ⑪ METAL ROOF ANGLED WALL
 - ⑫ SELECTED SEAM ZINC CLADDING
 - ⑬ ALUCOBOND FINISH



SOUTH ELEVATION
SCALE: 1:100

NOTE:
ALL STAIRS AND BALCONIES HANDRAILING
1000MM MIN. HIGH FROM FFL
125MM MAX. BALUSTER SPACING

NOTE:
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LEGEND:
LINE REPRESENTS
NEIGHBOURS
BUILDING OUTLINE

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- LEGEND**
- ① BRICK FINISH
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 - ⑨ ALUMINIUM VENTILATED PANEL LIFT DOOR
 - ⑩ CONCRETE PANEL WALL
 - ⑪ METAL ROOF ANGLED WALL
 - ⑫ SELECTED SEAM ZINC CLADDING
 - ⑬ ALUCOBOND FINISH



NORTH ELEVATION
SCALE: 1:100

NOTE:
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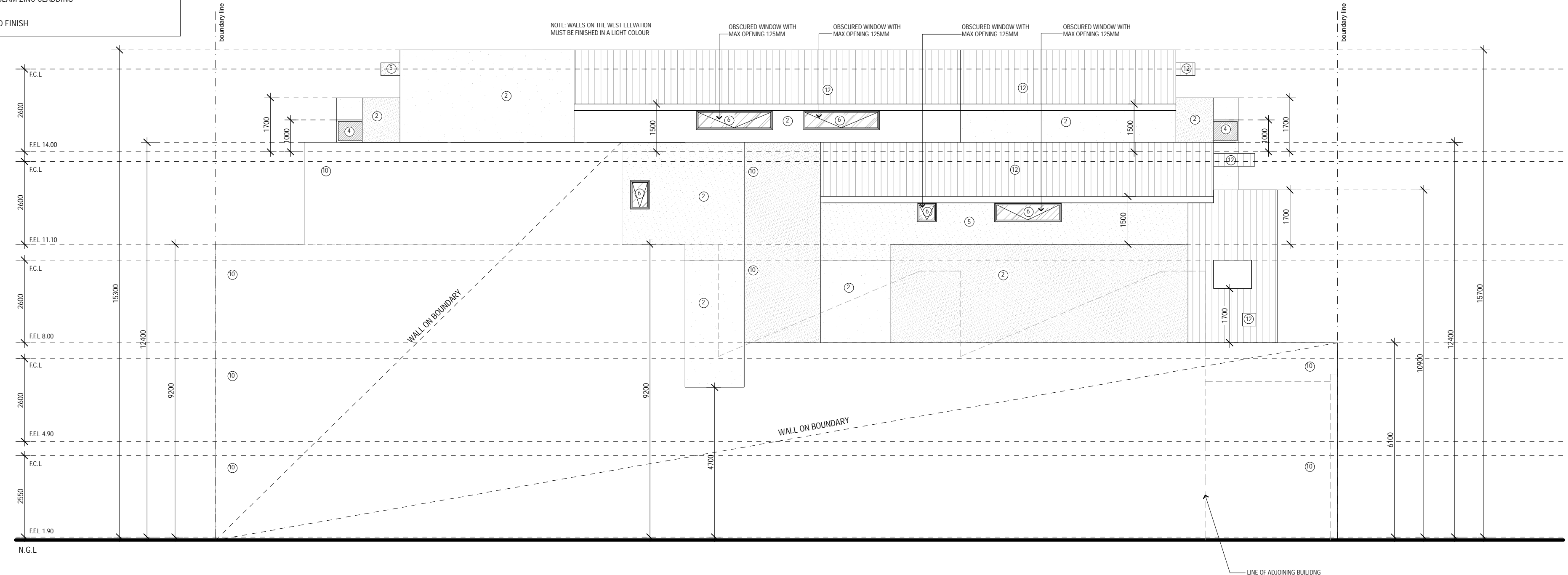
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LEGEND:
LINE REPRESENTS
NEIGHBOURS
BUILDING OUTLINE

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Proposed Apartment Complex	
Address: 69 Hardiman Street Kensington VIC	
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Job Number: 1339	Date: 03/09/14

- LEGEND**
- ① BRICK FINISH
 - ② RENDER FINISH
 - ③ SELECTED ALUMINIUM LOURVE FINISH
 - ④ GLASS BALUSTRADE
 - ⑤ BLUEBOARD WITH RENDER FINISH
 - ⑥ ALUMINIUM WINDOWS
 - ⑦ ALUMINIUM SLIDING DOOR
 - ⑧ ALUCOBOND FINISH
 - ⑨ ALUMINIUM VENTILATED PANEL LIFT DOOR
 - ⑩ CONCRETE PANEL WALL
 - ⑪ METAL ROOF ANGLED WALL
 - ⑫ SELECTED SEAM ZINC CLADDING
 - ⑬ ALUCOBOND FINISH



NOTE:
ALL STAIRS AND BALCONIES HANDRAILING
1000MM MIN. HIGH FROM FFL
125MM MAX. BALUSTER SPACING

NOTE:
NO EXPOSED PLUMBING

NOTE:
ALL EXTERNAL EQUIPMENT AND
FIXTURES TO BE SCREENED FROM
PUBLIC VIEW

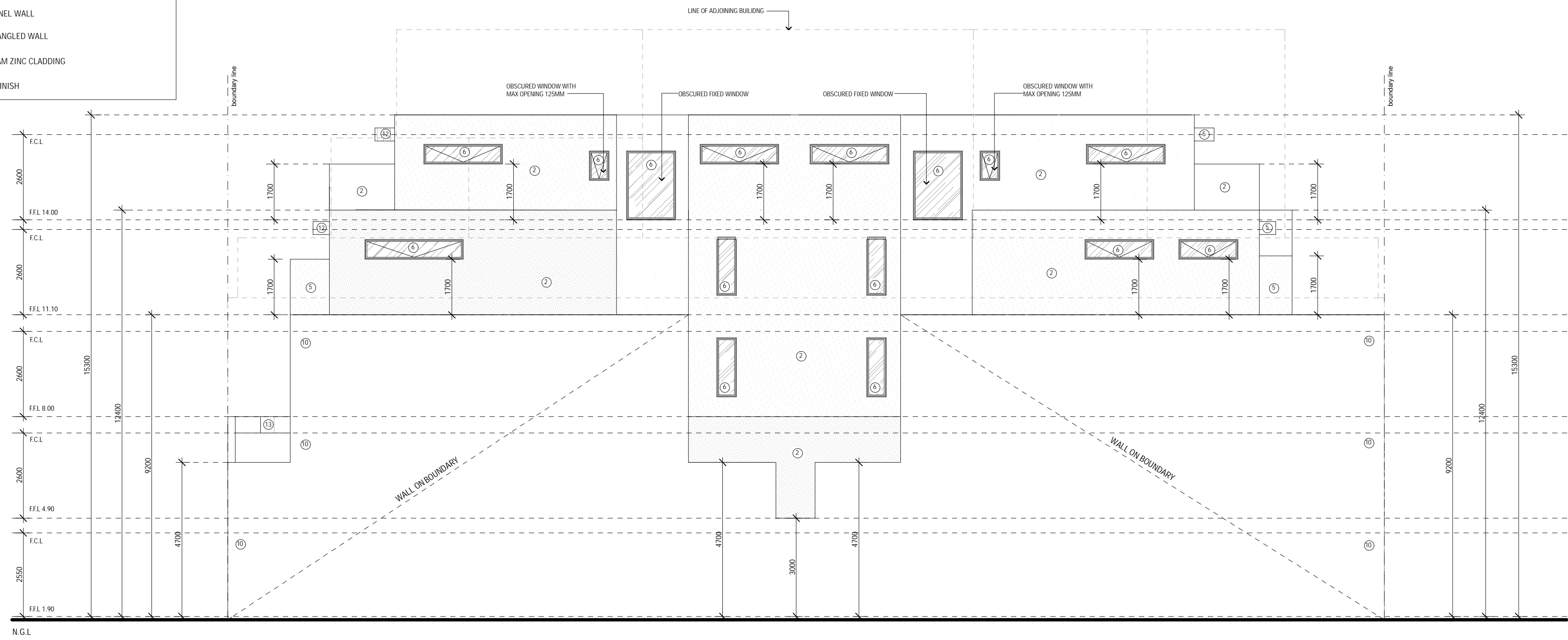
NOTE:
ALL TAPS LOCATED AT THE FRONT OF
THE HOUSE MUST BE FIXED TO A WALL
FACE OR FENCE. LETTER BOXES TO BE
OF A MASONRY CONSTRUCTION AND
MATCH HOUSE FINISH AND COLOUR

LEGEND:
— LINE REPRESENTS
NEIGHBOURS
- - - BUILDING OUTLINE

nr9
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architectural building designers
4/140 Keilor Road, Essendon North VIC 3041
Ph: 0418 390099 Fax: 03 9374 3817
Email: krno@nr9buildingdesigns.com.au

CLIENT: Clock Pty Ltd	PAGE 10 OF 10
Proposed Apartment Complex	
Address: 69 Hardiman Street Kensington VIC	
© copyright 2014 NRG Building Designs These drawings are not to be copied in part or in whole without the written consent of the author	PAGE SCALE A2
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EAST ELEVATION
SCALE: 1:100

NOTE:
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DELEGATED PLANNING APPLICATION REPORT

Application number:	TP-2016-225
Applicant:	Nick Robins (Glossop Co Pty Ltd)
Address:	69 Hardiman Street, Kensington
Proposal:	Develop a five-storey building comprising 8 dwellings
Date of application:	24 March 2016
Date of report:	23 January 2017
Responsible officer:	Colin Charman

1 SUBJECT SITE AND SURROUNDS

Planning Application TP-2016-225 (the application) concerns the subject property known as:

- 69 Hardiman Street, Kensington
- Lot 1 on Title Plan 858049U, Vol. 10878, Fol. 245

The subject property is located to the north of Hardiman Street in Kensington, comprising a flat rectangular lot with a frontage of 10 metres to Hardiman Street to the south and a maximum depth of 35.39 metres, producing an overall site area of approximately 355 square metres.

The subject property abuts Little Hardiman Street to its north, a 3.58 metre wide Council laneway.

The subject property is currently occupied by a single-storey rendered warehouse, of no heritage significance, which is built to the title boundaries.

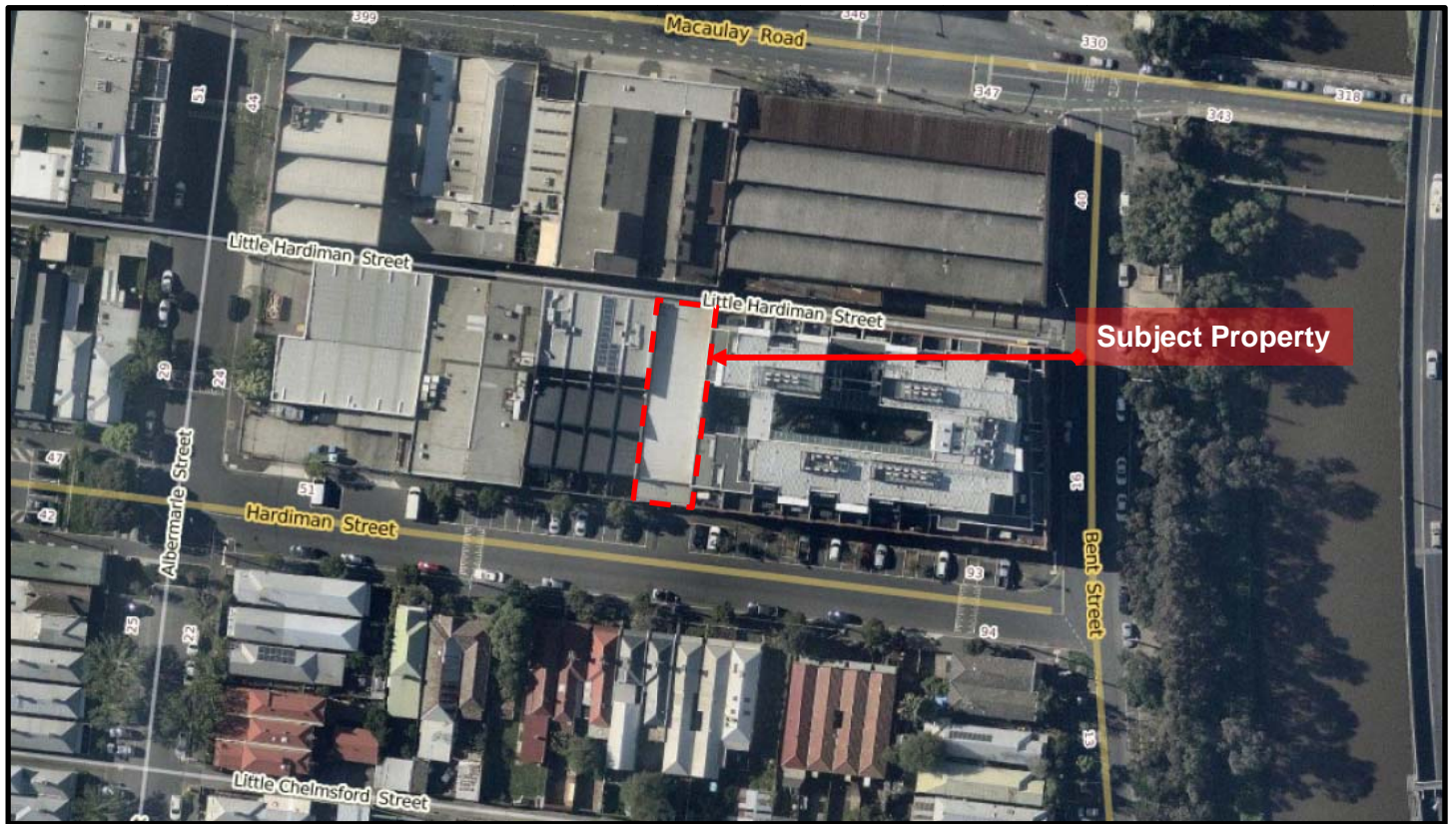
The immediate surrounding locality is generally informed by:

- North (opposite Little Hardiman Street): 369-391 Macauay Road; a single-storey warehouse built to the title boundaries.
- South: Hardiman Street, a single-carriageway road with 90° car parking along its north and south alignment. The full width of the road (inclusive of pavement areas) is approximately 20 metres.

Opposite Hardiman Street to the south are a row of single-storey attached terrace dwellings at 66-72 Hardiman Street, Kensington, which are 'D' graded pursuant to Melbourne City Council's (MCC's) Heritage Places Inventory June 2016 (HPI), with secluded private open space provided within the rear setback at ground-level.

- East: 16-28 Bent Street; a five-storey apartment building comprising 53 dwellings and basement car parking, built to the title boundaries. Vehicle access to this apartment building is provided via Bent Street.
- West: 63-67A Hardiman Street; a row of four three-storey townhouses, built to the title boundaries, with secluded private open space provided within the front setback at second floor level. Vehicle access is provided via Little Hardiman Street.

Aerial Photo / Locality Plan (Captured: 8 October 2016)



2 BACKGROUND AND HISTORY

2.1 Planning Application History

Planning Permit TP-2011-770

Planning Permit TP-2011-770 was issued at the direction of VCAT on 10 May 2013, authorising:

- Construction of a four storey building for eight dwellings and waiver of the requirement for visitor parking in accordance with the endorsed plans.

Planning Permit TP-2011-770 was amended pursuant to section 72 of the *Planning and Environment Act 1987* on 28 August 2014, authorising:

- Construction of a five storey building for eight dwellings and waiver of the requirement for visitor parking in accordance with the endorsed plans.

Plans were endorsed under the permit on 16 January 2015.

Planning Permit TP-2011-770 expired on 10 May 2015.

The plans endorsed under Planning Permit TP-2011-770 are virtually identical to those submitted with Application TP-2016-225, with the exception of some minor changes to exterior finishes / materials, and an increase in the height of the lift overrun by 550mm from 12.4m to 12.95m.

It is further noted that the planning controls affecting the subject property have not changed since the date that Planning Permit TP-2011-770 was first granted.

The key change in the planning scheme policy framework governing development of the subject property, is the adoption of Planning Scheme Amendment C190 by Council, which now represents a seriously entertained planning policy that has been submitted to the Minister for Planning and is pending approval.

3 PROPOSAL

3.1 Plans / Reports considered in assessment

The plans which have been considered in this assessment are identified in Table 1 below:

Table 1: Plans / Reports considered in assessment			
Plan / Report Title	Drawing/ Report No.	Plan/Report Date	Date Lodged
Town planning report prepared by Glossop Co Pty. Ltd.	N/A	March 2016	24 March 2016
Town planning submission responding to adoption of Amendment C190	N//A	21 September 2016	21 September 2016
Environmentally Sustainable Design Statement prepared by Sustainability House Pty. Ltd.	SH76579	18 March 2016	24 March 2016
Town planning architectural drawings, prepared by NRG Building Designers Pty. Ltd.	1722	2 March 2016	24 March 2016

3.2 Summary of proposed development

The Application seeks planning approval for the following:

A summary of the key relevant details of the proposed development are provided in Table 2 below:

Table 2: Summary of proposed development			
Site Area:	355sq.m	Site Coverage:	100%
Building Envelope:	355sq.m	Maximum height	Five-storeys 15.3 metres
Site Permeability	0%	Floor to ceiling heights:	Ground Floor: 2.55m First to Fourth Floor: 2.6m
Car parking spaces:	8 spaces	Bicycle facilities:	3 spaces
Total dwellings: 8	1BR: 4	2BR: 4	3BR: 0

3.3 Proposed development (detail)

Demolition

The proposed development will require demolition of the existing single-storey warehouse on the land, however a planning permit is not required for works associated with the demolition of the existing building on the land.

Development

The Application seeks to construct a five-storey building as follows:

- **Ground Floor**

The ground floor of the building will comprise the entry foyer to the building (with mail boxes for residents), 8 car parking spaces for residents of the building with cantilevered storage space above, 3 bicycle parking spaces, utility rooms and a bin storage room.

The ground floor will be built to the title boundaries of the subject property.

• **First Floor**

The first floor of the building will comprise the following apartment mix:

- 2 x 1 Bedroom (BR) apartment floor area: 65.1sq.m
- 1 x 2BR apartment floor area: 96.3sq.m

Each 1BR apartment is provided with an 8.4sq.m terrace balcony with convenient access to living areas.

The 2BR apartment is provided with a 12.9sq.m terrace balcony with convenient access to the living room.

Internal courtyards/light wells are provided with a minimum dimension of 1.86 metres, and minimum area of 5.37sq.m, to provide light and ventilation to bedrooms which do not abut a street frontage.

The first floor will be built to the title boundaries of the subject property.

• **Second Floor**

The second floor comprises the following apartment mix:

- 2 x 1 Bedroom (BR) apartment floor area: 65.1sq.m
- 1 x 2BR apartment floor area: 99.2sq.m

Each 1BR apartment is provided with an 8.4sq.m terrace balcony with convenient access to living areas.

The 2BR apartment is provided with a 9.2sq.m terrace balcony with convenient access to living areas.

Internal courtyards/light wells are provided with a minimum dimension of 1.86 metres, and minimum area of 5.37sq.m, to provide light and ventilation to bedrooms which do not abut a street frontage.

The second floor will be setback the following distances from the property boundaries:

North (Little Hardiman Street): 0m	South (Hardiman Street): 1.9m	East (side): 0m	West (side): 0m (1m to Apartment 4)
---------------------------------------	----------------------------------	--------------------	---

• **Third Floor**

The third floor of the development contains the lower floor of Apartment 7 and Apartment 8, which have the following floor areas:

- 2 x 2BR apartment floor area: 130.3sqm to 149.2sq.m

Apartment 7 is provided with a 10.2sq.m balcony with convenient access to living areas.

Apartment 8 is provided with a 13.1sq.m balcony with convenient access to living areas.

The third floor will be setback the following distances from the property boundaries:

North (Little Hardiman Street): 3.8m	South (Hardiman Street): 3.1m	East (side): 1m	West (side): 0m (1.6m to Apartment 7)
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• **Fourth Floor**

The fourth floor of the development contains the upper floor of Apartment 7 and Apartment 8.

Apartment 7 is provided with a 6.76sq.m balcony accessed via a bedroom.

Apartment 8 is provided with a 9.13sq.m balcony accessed via a bedroom.

The fourth floor will be setback the following distances from the property boundaries:

North (Little Hardiman Street): 5.8m	South (Hardiman Street): 5.09m	East (side): 1.48m	West (side): 2m (3.74m to Apartment 7)
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4 STATUTORY CONTROLS

The following clauses in the Melbourne Planning Scheme apply to the Land and are relevant to the proposed development:

Table 3: Zone and Overlays	
Clause	Permit Trigger
Zone	
Clause 32.04 – Mixed Use Zone	<p><i>Two or more dwellings on a lot – Permit required</i></p> <p>Pursuant to Clause 32.04-6, a permit is required to construct two or more dwellings on a lot.</p> <p>Accordingly, a permit is required to construct the proposed building containing 8 dwellings under the zone.</p> <p>The Schedule to Clause 32.04 does not specify:</p> <ul style="list-style-type: none"> • A maximum building height requirement for a dwelling or residential building; • That the application is exempt from the notice and review requirements of the <i>Planning and Environment Act 1987</i>; or • Any application requirements in addition to those found at Clause 32.04-11; or • Any decision guidelines in addition to those found at Clause 32.04-13.
Overlays	
Clause 45.03 – Environmental Audit Overlay	<p>Requirement applies</p> <p>Pursuant to Clause 45.03-1, before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:</p> <ul style="list-style-type: none"> • A certificate of environmental audit must be issued for the land in accordance with Part IXD of the <i>Environment</i>

Table 3: Zone and Overlays	
Clause	Permit Trigger
	<p><i>Protection Act 1970, or</i></p> <ul style="list-style-type: none"> An environmental auditor appointed under the <i>Environment Protection Act 1970</i> must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.
Clause 44.04 – Land Subject to Inundation Overlay	<p>Buildings and Works – Permit required</p> <p>Pursuant to Clause 44.04-1, a permit is required to construct a building or to construct a building or construct or carry out works.</p> <p>Accordingly, a permit is required under the Land Subject to Inundation Overlay for the proposed development.</p>

Table 4: Particular Provisions											
Clause	Permit Trigger										
Particular Provisions											
Clause 52.06 – Car Parking	<p>Reduce or waive the car parking requirements – Permit required</p> <p>Pursuant to Clause 52.06, a permit is required to reduce the number of car parking spaces required under Clause 52.06-5.</p> <p>The table to Clause 52.06-5 includes the following car parking rate, which applies to the proposed development:</p> <table border="1"> <thead> <tr> <th>Use</th> <th>Rate</th> <th>Car Parking Measure</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Dwelling</td> <td>1</td> <td>To each one or two bedroom dwelling, plus</td> </tr> <tr> <td>2</td> <td>To each three or more bedroom dwelling (with studies or studios that are separate rooms counted a bedroom) plus</td> </tr> <tr> <td>1</td> <td>For visitors to every 5 dwellings for developments of 5 or more dwellings</td> </tr> </tbody> </table> <p><i>Car parking rate formula: $1(8 \times 1/2BR) + 1\left(\frac{8}{5}\right) = 9.6$</i></p> <p>The required car parking rate is: 9 car parking spaces</p> <p><i>(note: Clause 52.06-5 specifies that if in calculating the number of car parking spaces the result is not a whole number, the required number of car parking spaces is to be rounded down to the nearest whole number).</i></p> <p>The proposed number of car parking spaces is 8 spaces.</p> <p>Accordingly, a permit is required to reduce the required car parking rate for the development under Clause 52.06-5 by 1 car parking space.</p> <p>Refer to Engineering Services Branch referral comments in Section 10.1.1 of this report for consideration of the sought waiver.</p>	Use	Rate	Car Parking Measure	Dwelling	1	To each one or two bedroom dwelling, plus	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted a bedroom) plus	1	For visitors to every 5 dwellings for developments of 5 or more dwellings
Use	Rate	Car Parking Measure									
Dwelling	1	To each one or two bedroom dwelling, plus									
	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted a bedroom) plus									
	1	For visitors to every 5 dwellings for developments of 5 or more dwellings									

Table 4: Particular Provisions						
Clause	Permit Trigger					
Clause 52.34 – Bicycle Facilities	<p><i>Reduce or waive bicycle facilities requirements– Permit not required</i></p> <p>Pursuant to Clause 52.34-1, a new use must not commence until the required bicycle facilities and associated signage has been provided on the land.</p> <p>The table to Clause 52.34-3 include the following bicycle facilities rate, which applies to the proposed development:</p>					
	Use	<table border="1"> <thead> <tr> <th>RESIDENT</th> <th>VISITOR</th> </tr> </thead> <tbody> <tr> <td>Dwelling</td> <td> <p>In developments of four or more storeys, 1 to each 5 dwellings</p> <p>In developments of four or more storeys, 1 to each 10 dwellings</p> </td> </tr> </tbody> </table>	RESIDENT	VISITOR	Dwelling	<p>In developments of four or more storeys, 1 to each 5 dwellings</p> <p>In developments of four or more storeys, 1 to each 10 dwellings</p>
	RESIDENT	VISITOR				
Dwelling	<p>In developments of four or more storeys, 1 to each 5 dwellings</p> <p>In developments of four or more storeys, 1 to each 10 dwellings</p>					
<p>The required bicycle facilities rate is: 2 bicycle spaces</p> $\text{Bicycle parking formula: } 1\left(\frac{8}{5}\right) + 1\left(\frac{8}{10}\right) = 2.4$ <p><i>(note: Clause 52.34-3 specifies that if in calculating the number of bicycle facilities the result is not a whole number, the required number of bicycle facilities is the nearest whole number. If the fraction is one-half, the requirement is the next whole number.</i></p> <p>The proposed number of bicycle spaces is 3 spaces.</p> <p>All 3 bicycle parking spaces will utilise a vertical bicycle parking device (BPD).</p> <p>Accordingly, a permit is not required to reduce or waive the requirements of Clause 52.34 (Bicycle Facilities).</p>						
Clause 52.35 – Urban Context Report and Design Response for Residential Development of Five or More Storeys	<p>Pursuant to Clause 52.35, an application for a residential development of five or more storeys in any zone must be accompanied by:</p> <ul style="list-style-type: none"> • An urban context report. • A design response. 					

5 STRATEGIC FRAMEWORK

5.1 State Planning Policy Framework (SPPF)

The relevant provisions of the SPPF are summarised as follows:

- Clause 9 – Plan Melbourne
- Clause 10 – Operation of the State Planning Policy Framework
- Clause 11 – Settlement
 - Clause 11.01 – Activity Centres
 - Clause 11.02 – Urban Growth
 - Clause 11.04 – Metropolitan Melbourne
 - Clause 11.04-2 – Housing Choice and Affordability
 - Clause 11.04-4 – Liveable Communities and Neighbourhoods
 - Clause 11.04-5 – Environment and Water

- Clause 13 – Environmental Risk
 - Clause 13.02-1 – Floodplain Management
 - Clause 13.03-1 – Use of Contaminated and Potentially Contaminated Land
- Clause 15 – Built Environment and Heritage
 - Clause 15.01 – Urban Design
 - Clause 15.01-5 – Cultural identity and neighbourhood character
 - Clause 15.02 – Sustainable Development
 - Clause 15.03 – Heritage
 - Clause 15.03-1 – Heritage Conservation
- Clause 16 – Housing
 - Clause 16.01 – Residential Development
 - Clause 16.01-1 – Integrated Housing
 - Clause 16.01-2 – Location of Residential Development
- Clause 18 – Transport
 - Clause 18.02 – Movement Networks

5.2 Local Planning Policy Framework (LPPF)

5.2.1 Municipal Strategic Statement (MSS)

The relevant provisions of the MSS are summarised as follows:

- Clause 21.01 – The Municipal Strategic Statement – introduction
- Clause 21.02 – Municipal Profile
- Clause 21.03 – Vision
- Clause 21.04 – Settlement
 - Clause 21.04-1 – Growth Area Framework
- Clause 21.06 – Built Environment and Heritage
- Clause 21.07 – Housing
- Clause 21.10 – Infrastructure
 - Clause 21.10-4 – Health Facilities
- Clause 21.14 – Proposed Urban Renewal Areas
 - Clause 21.14-2 – Arden-Macaulay

5.2.2 Local Policies

The relevant local policies are summarised as follows:

- Clause 22.05 – Heritage Places Outside the Capital City Zone
- Clause 22.17 – Urban Design Outside the Capital City Zone
- Clause 22.19 – Energy, Water and Waste Efficiency
- Clause 22.23 – Stormwater Management (Water Sensitive Urban Design)

6 PARTICULAR PROVISIONS

The following particular provisions apply to the application:

- Clause 52.06 – Car Parking
- Clause 52.34 – Bicycle Facilities

- Clause 52.35 – Urban Context Report and Design Response for Residential Development of Five or More Storeys

7 GENERAL PROVISIONS

The following general provisions apply to the application:

- Clause 65 – Decision Guidelines, which includes the matters set out in Section 60 of *the Planning and Environment Act 1987*.

8 PLANNING SCHEME AMENDMENTS

8.1 Amendment C190

Purpose

Planning Scheme Amendment C190 seeks to implement Stage 1 of the 'Arden-Macaulay Structure Plan', a long term strategy for the urban renewal of the Arden-Macaulay area, to encourage development of a dense, mixed-use inner city suburb whilst protecting key industrial sites.

Status and Weight in Assessment

Council adopted Amendment C190 at a meeting on 30 August 2016.

Amendment C190 has been submitted to the Minister for Planning seeking approval, along with a request for a Ministerial Amendment under section 20(4) of the *Planning and Environment Act 1987*, which will introduce an interim development contributions control over the area affected by Amendment C190.

Amendment C190 satisfies the criteria of being a 'seriously entertained' amendment, insofar as it has been placed on public exhibition, reviewed by a Panel, adopted by Council and submitted to the Minister for Planning for approval.

At para 32 of *Greentree v Macedon Ranges SC [2016] VCAT 1117*, Member Rundell sets out the key principles regarding a 'seriously entertained' amendment as follows:

- *It can be considered in determining a permit application.*
- *It is not clear whether a failure to take into account a seriously entertained proposal would in the absence of statutory modification constitute an error of law.*
- *A decision maker is not required to refuse a proposal simply because it is inconsistent with a seriously entertained planning proposal.*
- *At the same time inconsistency with a seriously entertained planning proposal may be a decisive consideration.*
- *The weight to be given to a seriously entertained planning proposal will depend on all the circumstances of the case.*

Implications for Subject Property

Amendment C190 makes four key changes to planning controls within the vicinity of the subject property:

- Rezoning land within the vicinity of the subject property to encourage residential development and commercial land uses.
- Application of Schedule 26 'North and West Melbourne Noise Attenuation Area' to the Design and Development Overlay to rezoned land, to ensure that new development associated with sensitive land uses incorporates acoustic attenuation to protect proximal existing industrial land uses.
- Application of a new Schedule 'Arden-Macaulay Area, Kensington and North Melbourne' to the Design and Development Overlay (referred to as DDO63 in the Amendment) to control built form (e.g. building heights and setbacks).

- Application of an Environmental Audit Overlay to rezoned industrial land, to ensure that land that is to be put to a sensitive use is appropriately remediated prior to this use commencing.

Of the above changes, the only change that is of consequence to the proposed development is the application of the new Schedule 'Arden-Macaulay Area, Kensington and North Melbourne' to the Design and Development Overlay, which will affect the subject property.

Assessment

The Application has been assessed against the requirements of the new Schedule 'Arden-Macaulay Area, Kensington and North Melbourne' to the Design and Development Overlay under Amendment C190 in section 11.2 of this report.

9 PUBLIC NOTIFICATION

It was determined that the proposal may result in material detriment.

Notice of the application was given by ordinary mail to the owners and occupiers of adjoining and surrounding properties, and by requiring the Applicant to erect one notice sign on the Hardiman Street frontage, and one notice sign on the Little Hardiman Street frontage, in accordance with Section 52 of the *Planning and Environment Act 1987*.

Letters were posted on 3 June 2016 and the formal notice period concluded on 17 June 2016.

Objections

The application has received 21 objections from 17 properties

The concerns raised by neighbouring and surrounding properties in each submission have been summarised below to identify key themes and issues raised and have informed consideration of the application in section 11 of this report.

Where concerns raised in a submission have not been addressed in section 11 of this report, consideration is provided in section 9.1 of this report below.

Summary of Concerns

- Neighbourhood character / impact on surrounding heritage fabric
- Inappropriate high density
- Building height
- Overlooking
- Overshadowing
- Traffic and parking
- Waste management
- Capacity of public transport systems
- Management of construction site
- Obstruction of views
- Noise & disturbance
- Structural integrity of adjoining buildings
- Creation of a wind tunnel
- Property values
- Inconsistency with Amendment C190

9.1 Consideration of Concerns Not Addressed in Section 11 (Assessment)

Concern

- Capacity of public transport systems (i.e. tram / train / bus lines at their limit and any increase in density cannot be accommodated by existing system.

Consideration

- The proposed development, comprising 8 new dwellings, is not considered to contribute to the residential density of the surrounding area to a degree that might significantly impact on the capacity of nearby public transport systems in the manner suggested in submissions to Council.

Furthermore, there are numerous State and Local Planning Policies which seek to encourage higher density residential development within proximity to established public transport systems, including at Clause 18.01-2, which states:

- *Encourage higher land use densities and mixed use developments near railway stations, major bus terminals, transport interchanges, tramways and principal bus routes.*

It is noted that Clause 52.36 of the Melbourne Planning Scheme provides that a residential development comprising 60 or more dwellings or lots must be referred to the Public Transport Development Authority pursuant to section 55 of the *Planning and Environment Act 1987*.

Concern

- Disruption to amenity of neighbourhood associated with the demolition/construction of the proposed development (including construction noise and the parking of vehicles).

Consideration

- A condition will be included on any permit being granted requiring the developer to prepare and submit a detailed construction management plan to Council's Site Services Team, which, when approved, will set out how construction processes will be carried out having regard to the following considerations:
 - public safety, amenity and site security.
 - operating hours, noise and vibration controls.
 - air and dust management.
 - stormwater and sediment control.
 - waste and materials reuse.
 - traffic management.
 - protection of street trees.

Concern

- The development will interrupt views and vistas from surrounding dwellings/apartments.

Consideration

- *Tashounidis v Shire of Flinders (1987) 1 AATR 116 and Healy v Surf Coast SC [2005] VCAT 990*, establish the following principles in regard to view sharing:
 - a) *There is no legal right to a view;*
 - b) *Views form part of the existing amenity of a property and their loss is a relevant consideration to take into account;*
 - c) *The availability of views must be considered in light of what constitutes a reasonable sharing of views;*
 - d) *In addressing the concept of "reasonableness", it is relevant to consider;*
 - i. *The importance of the view to be lost within the overall panorama available; and*

ii. *Whether those objecting have taken appropriate steps to optimise development of their own properties*

e) *Added emphasis will be placed on principles b) and c) above if the issue of views is specifically addressed in the planning scheme.*

Concerns have been raised by occupants of the building at 18 Bent Street, Kensington that the proposed development will result in the loss of views for west-facing apartments.

Addressing the Tashounidis principles identified above, the proposed development is considered acceptable, having regard to the loss of views, for the following reasons:

- The Melbourne Planning Scheme, as it relates the subject property, does not seek to enshrine or protect views or vistas from the direction of the apartment building at 18 Bent Street in Kensington.
- It is not considered that the proposed development will result in the loss of a significant or important view from the west-facing apartments at 18 Bent Street in Kensington.

Concern

- Noise generated by the use of the outdoor areas of private open space to each apartment.

Consideration

- The remit of the Responsible Authority's discretion with respect to potential noise impacts associated with the proposed development are limited to the location of plant equipment (e.g. air conditioning units).

The reasonable enjoyment of outdoor areas associated with a residential development of the type proposed (which will lead to the generation of noise) is part and parcel of the amenity of living in an urban environment.

The *Environment Protection (Residential Noise) Regulations 2008* list items and times when noise from a residential use is unreasonable. If noise generated by a residential property is excessive, and this issue cannot be resolved through civil communication, the behaviour can be reported to the police.

Concern

- The impact of the proposed development on the structural integrity of adjoining dwellings.

Consideration

- Should a Planning Permit be granted pursuant to the *Planning and Environment Act 1987*, prior to any demolition or buildings and works commencing a Building Permit must also be obtained under the *Building Act 1993*.

The *Building Act 1993* sets out the obligations that must be met by a property owner who is seeking to carry out buildings and works to protect adjoining properties from potential damage, providing the appropriate legal framework for these types of disputes to be resolved.

Further details of these obligations can be found at the Victorian Building Authority's website:

<http://www.vba.vic.gov.au/consumer-resources/building/pages/protection-of-adjoining-property>

Concern

- Potential for the development to contribute to the creation of a wind tunnel / wind disturbances

Consideration

- The maximum height of the development is 15.3 metres. At this height, it is not considered that the proposed development would contribute to wind conditions that would

result in measurable discomfort for pedestrians on Hardiman Street or Little Hardiman Street, and therefore does not command a requirement for a wind analysis report.

Concern

- Potential for adjoining and surrounding properties to be devalued

Consideration

- The possible effect of planning decisions on property prices is not a matter that falls within the remit of the Responsible Authority's discretion, and does not provide a basis for refusing to grant a permit in respect of the application, or requiring conditions to be included on any permit being granted.

10 REFERRALS

10.1 Internal

10.1.1 Engineering Services Branch

The Application was referred to Council's Engineering Services Branch for comment on 2 June 2016.

Traffic

Council's Traffic Engineer responded on 23 June 2016, and advised as follows:

I refer to your memorandum dated 2 June 2016, regarding the above planning application. Engineering Services has reviewed the Planning report by Glossop Town Planners and the plans by NRG building designs and the following comments are offered.

Proposed Development

It is understood that it is proposed to construct a five storey building comprising 8 dwellings at the above site. The development will comprise four, 1 bedroom dwellings and four 2 bedroom dwellings.

Eight individual at-grade parking spaces are to be provided via a single crossover to Hardiman Street with one space allocated to each unit. Access to the carpark will also be available from Little Hardiman Street. Three bicycle parking spaces are also proposed to be provided.

It is further understood that on 27 August 2014, Council approved a Section 72 amendment to Planning Permit TP-2011-770 to allow construction of a five storey building containing eight dwellings and a reduction in the statutory requirement for visitor Parking.

Traffic Engineering Comments

From the information and plans provided, it appears that the development proposal is very similar to the previous proposal. The carpark layout plan shows that each parking spaces is proposed to be 3.2 metres wide and 4.9 metres long accessed from a 4.8 metre wide isle.

These dimensions are in accordance with Planning Scheme requirements and therefore Engineering Services offers no objection to the carpark layout, including the provision of bicycle parking facilities. It would be preferable to provide one bicycle parking space for each dwelling, however it is accepted that the proposed number complies with Planning Scheme requirements.

The parking allocation for each dwelling also complies with the Planning Scheme requirements and therefore no objection is offered in this regard. Engineering Service accepts the waiver of the visitor parking requirement of one space. It should be noted however that as this development proposal increases the residential density, residents of this development will not be eligible for resident parking permits.

A note will be included on any permit being granted to identify that residents of the development will not be eligible for resident parking permits.

Civil Design

Council's Civil Engineer responded on 23 June 2016, and recommended the inclusion of a number of standard conditions for new development within the City of Melbourne, to ensure adequate drainage provision and to protect City of Melbourne's road-based assets.

Urban Services (Waste)

Council's Urban Services Engineer responded on 19 July 2016, and recommended the inclusion of conditions requiring the developer to undertake a new Waste Management Plan that clearly sets out that waste collection will not be undertaken from Little Hardiman Street.

A condition will be included in any permit being granted requiring an amended WMP (generally in accordance with the WMP prepared by Sustainability House dated 18 March 2016) to be provided to the satisfaction of the Responsible Authority, which identifies that waste collection will not be undertaken from Little Hardiman Street.

10.2 External

10.2.1 Melbourne Water

The Application was referred to Melbourne Water, a Determining Referral Authority, pursuant to section 55 of the *Planning and Environment Act 1987* on 2 June 2016.

Melbourne Water responded on 22 June 2016, and advised as follows:

Melbourne Water, pursuant to Section 56 (1) of the Planning and Environment Act 1987, does not object to the proposal, subject to the following conditions and footnotes:

1. *Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.*

Footnote(s) to be placed on Permit

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 191156.

Advice to Council/Applicant

Please note that as the Responsible Authority under Section 66 of the Planning and Environment Act 1987 you must give Melbourne Water a copy of any permit which you decide to grant and a copy of any notice given under Section 64 or 65. Please forward a copy of any Notice of Decision, Planning Permit or Refusal to Melbourne Water for our records.

Flood Level Information

Information available at Melbourne Water indicates that the property is not subject to flooding from Melbourne Water's drainage system, based on a flood level that has a probability of occurrence of 1% in any one year. Melbourne Water's records indicate that the property may be subject to flooding from the local Council drainage system.

11 ASSESSMENT

The Application seeks planning approval for the following:

- Construct a five-storey building comprising 8 dwellings on a lot in the Mixed Use Zone;
- Buildings and works under the Land Subject to Inundation Overlay;
- Buildings and works associated with a sensitive land use on land affected by the Environmental Audit Overlay; and
- Reduce the number of car parking spaces required under Clause 52.06 (Car Parking).

The key issues for consideration in the assessment of this application include the following:

- The potential for the development to adversely impact nearby historic buildings within the nearby Kensington local heritage precinct.
- The development's compliance with the Higher Density Residential Guidelines.
- The development controls provided in the new Schedule 'Arden-Macaulay Area, Kensington and North Melbourne' to the Design and Development Overlay under Amendment C190, representing a seriously entertained amendment.
- Potential amenity impacts of the proposed development and the development's compliance with Clause 55.04 (Two or More Dwellings on a Lot) where relevant.
- The appropriateness of the proposed development, having regard to the relevant requirements of the Land Subject to Inundation Overlay and Environmental Audit Overlay.
- The appropriateness of the proposed development having regard to other applicable local planning policies.

11.1 Heritage

The existing building occupying the site is not graded under Melbourne City Council's (MCC's) Heritage Places Inventory June 2016 (HPI).

The immediately adjoining buildings to the east and west, 18 Bent Street, Kensington and 67A Hardiman Street, Kensington, respectively, are not graded under MCC's HPI.

Directly opposite Hardiman Street to the south are four properties at 66 to 72 Hardiman Street, comprising part of a row of single-storey Victorian terrace dwellings which are affected by the Heritage Overlay, and are 'D' graded and abut a level '2' streetscape pursuant to MCC's HPI.

It is noted that the subject property:

- Is not affected by a Heritage Overlay;
- Forms part of a demonstrably different streetscape to that of the Victorian era terrace dwellings to the south of Hardiman Street, as per the photographs provided in Figure 1 and Figure 2 overleaf.

For these reasons, in addition to the development's compliance with the design objectives and built form outcomes specified in the new Schedule 'Arden-Macaulay Area, Kensington and North Melbourne' to the Design and Development Overlay under Amendment C190, it is considered that the proposed development will not adversely affect the significance of the local heritage precinct.

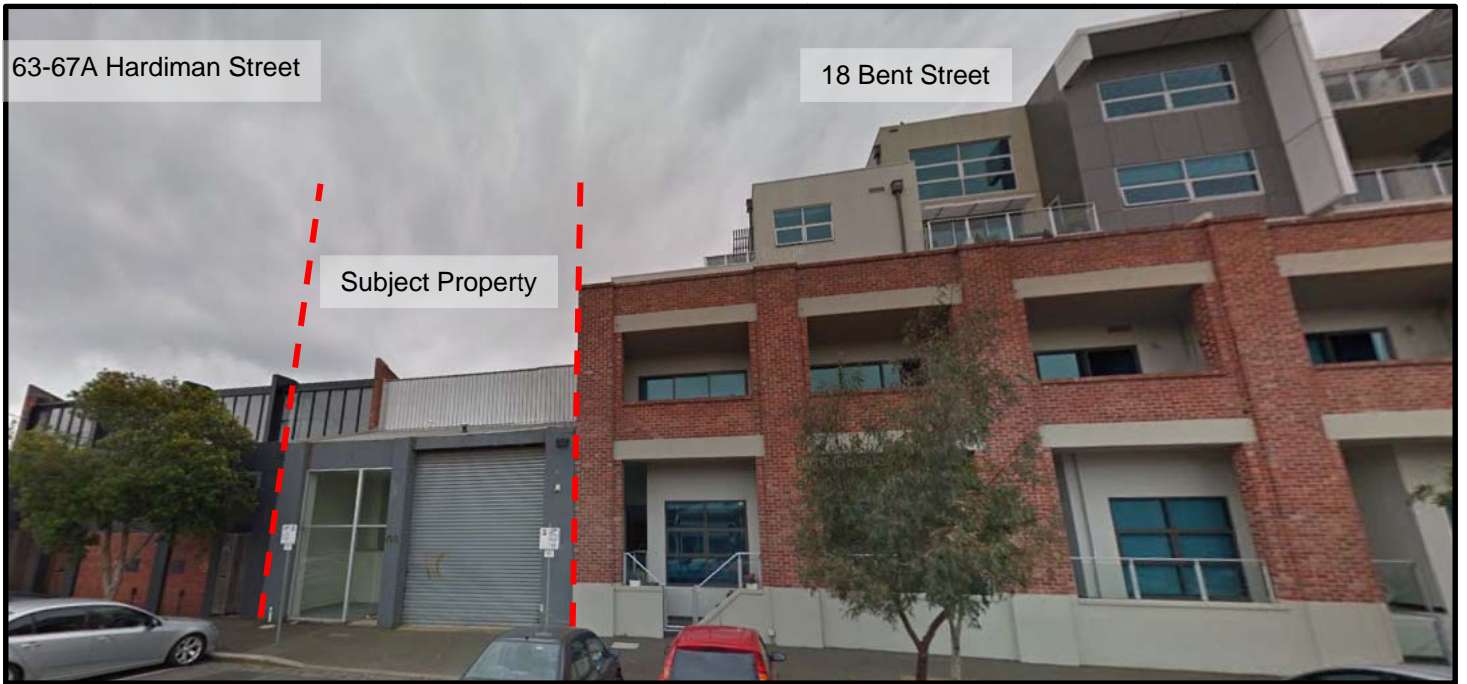


Figure 1: Photograph of streetscape to north of Hardiman Street, Captured October 2016 (Google Streetview)



Figure 2: Photograph of streetscape opposite subject property to south of Hardiman Street, Captured October 2016 (Google Streetview)

11.2 Design Response and Higher Density Residential Guidelines

11.2.1 Element 1: Urban Context

There is currently no preferred neighbourhood character objective for this area (although Amendment C190 does set development principles relating to building height, street wall height and upper level setbacks).

The proposed development has therefore been assessed against the existing neighbourhood character.

The subject site is located immediately to the west of 18 Bent Street which is a five storey building. The five storey building contains a three storey wall on all boundaries with a generous setback of the fourth and fifth levels of the building from the common boundary of the subject site.

The fourth and fifth levels of the building (closest to Hardiman Street) are setback 5.52m from the common boundary. The main difference between the five storey building at 18 Bent Street and the proposed five storey building for the subject site is that the proposed building is 2.68m lower in height.

The main view of the proposal will be from the western end of Hardiman Street (corner of Hardiman Street and Albermarle Street). At this point the bulk of the building will be absorbed by the higher five storey building at 18 Bent Street.

When observing the proposal from directly opposite on Hardiman Street the transition in height and side setback from 18 Bent Street to the subject site, then to the high two storey form of 63-67 Hardiman Street is not considered to be inconsistent with the existing neighbourhood character.

Whilst on the south side of Hardiman Street there is a finer grain residential vernacular, the northern side comprises medium rise buildings with high (generally 100%) site coverage.

It is considered that the proposed development is generally consistent with the existing neighbourhood character and therefore meets Objective 1.1 and 1.2 of the Higher Density Residential Development Guidelines (HRDG).

11.2.2 Element 2: Building Envelope

It is considered that the height, massing and setbacks of the development generally respond to the existing urban context and design objectives for the area provided in Amendment C190, and therefore meets Objective 2.1, 2.2 and 2.4 of the HDRG.

A detailed assessment of the development against the built form controls that are to be applied to the site under Amendment C190 has been undertaken in section 11.3 of this report.

The proposed development is considered to provide adequate separation from its east and west boundaries to support the private amenity of adjoining dwellings and to provide equitable access to outlook and sunlight for the dwellings at 67A Hardiman Street and 18 Bent Street, Kensington, therefore meeting Objective 2.5, 2.6 and 2.7 of the HDRG.

A detailed assessment of the development against the relevant Objectives of Clause 55 (Two or More Dwellings on a Lot), related to daylight to habitable room windows, north-facing habitable room windows and overshadowing has been undertaken in section 11.4 of this report.

The proposed development will incorporate strategies to limit views into the habitable room windows and secluded private open space of adjoining dwellings, and apartments within the development, meeting Objective 2.8 and 2.9 of the HDRG.

A detailed assessment of the development against the relevant Objectives of Clause 55 (Two or More Dwellings on a Lot), related to overlooking and internal views, has been undertaken in section 11.4 of this report.

11.2.3 Element 3: Street Pattern and Street-Edge Quality

The proposed development will incorporate a street façade with a highly articulated and fenestrated exterior, creating visual interest. Furthermore vehicle entry points will not dominate the street frontage, therefore meeting Objective 3.3 of the HDRG.

11.2.4 Element 4: Circulation and Services

Council's Engineering Services Branch have reviewed the proposed car parking and bicycle parking layout for the development, and have advised that it is satisfactory. Accordingly, it is considered the development meets Objective 4.1 and 4.2 of the HDRG.

Conditions will also be included on any permit being granted to address Objectives 4.4, 4.5 and 4.6 of the HDRG (broadly related to ESD, water use and waste management, respectively).

11.2.5 Element 5: Building Layout and Landscape Design

The proposed development comprises a 50:50 mix of 1BR and 2BR apartments, providing a degree of dwelling diversity capable of catering to varied households, and is considered to meet Objective 5.1 of the HDRG.

The layout of the building and internal spaces is considered to be highly site-responsive, locating the service core adjacent to courtyards and light courts centrally within the site, reducing the length of passageways and providing convenient access to each apartment within the development, meeting Objective 5.2 of the HDRG.

Each apartment is considered to be provided with a functional internal layout, with a good standard of natural lighting and ventilation and access to adequate storage space at ground level, meeting Objectives 5.3, 5.4 and 5.5 of the HDRG.

11.3 Amendment C190 –Design and Development Overlay

11.3.1 Arden-Macaulay Area, Kensington and North Melbourne

The proposed development has been assessed against the Council adopted version of the new Schedule to the Design and Development Overlay proposed under Amendment C190 (DDOC190) below.

Clause 1.0 of DDOC190 specifies the following design objectives, which are relevant to the proposed development:

- *To create a compact, high density, mid-rise 6-12 storey walkable and high amenity neighbourhood.*
- *To provide for development that steps down at the interface with the low scale surrounding established residential neighbourhoods.*
- *To ensure the height and setbacks of new development at the interface with existing established residential neighbourhoods is compatible with the scale, amenity and context of these areas.*
- *To provide a highly walkable neighbourhood.*
- *To create urban streetscapes that are defined by a generally consistent plane of building facades that enclose streets but allow daylight and sunlight to penetrate to the streets and to lower building levels.*
- *To ensure buildings align to the street edge.*
- *To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.*
- *To promote passive surveillance of the public realm.*

Table 1 to Clause 2.0 of DDOC190 specifies the following built form outcomes, which are applicable to the development at the subject property

Area	Built Form Outcomes
A3	<p>Deliver a scale of development that provides street definition and a pedestrian friendly scale.</p> <p>Deliver a scale of development that provides appropriate access to sunlight and daylight.</p> <p>Protect the amenity of existing residential development by avoiding overlooking and overshadowing of private open space and minimising the visual impact of upper levels.</p> <p>Ensure laneways have appropriate levels of access to daylight and sunlight.</p>

Table 2 to Clause 2.0 of DDOC190 specifies the following building height requirements, which are applicable to development at the subject property:

Area	Preferred maximum height	Absolute maximum height
A3	6 storeys	8 storeys

Table 3 to Clause 2.0 of DDOC190 specifies the following street wall height and setback requirements, which are applicable to development at the subject property:

Interface type shown on Plan	Built Form Outcomes
Residential interface street (Hardiman Street)	<p>Development at the frontage must not exceed a height of 3 storeys.</p> <p>Development above the street wall should be setback at least 10 metres and be visually recessive.</p>
Laneway (Little Hardiman Street)	<p>Development along the laneway must not exceed a height of 3 storeys.</p> <p>Development above the street wall should be setback 4 metres. In addition, development on the northern side of an east-west laneway should be setback 1 metre for every metre of height above the preferred maximum height.</p>

Consideration

The proposed development has been assessed against the applicable built form controls of DDOC190 in Table 5 below:

Criteria	Requirement	Assessment
Building Height	Preferred: 6 storeys Maximum: 8 storeys	Proposed: 5 storeys Complies
Hardiman Street Street Wall Height	Maximum: 3 storeys	Proposed: 2 storeys Complies
Little Hardiman Street Street Wall Height	Maximum: 3 storeys	Proposed: 3 storeys Complies

Table 5: Assessment of proposed development against DDOC190		
Criteria	Requirement	Assessment
Hardiman Street Setback above Street Wall	Preferred: 10 metres	Proposed: Third Floor: 3.1m Variation: 6.9m Fourth Floor: 5.09m Variation: 4.9m
Little Hardiman Street Setback above Street Wall	Preferred: 4 metres	Third Floor: 3.81m Variation: 0.9m Fourth Floor: 5.79m Complies

Figure 3 provided overleaf identifies the building envelope for the site contemplated by DDOC190 (blue) and encroachments beyond this building envelope (red).

The silhouette of the adjoining residential apartment building at 18 Bent Street and the proposed development are also delineated in bold black and yellow dashed lines, respectively.

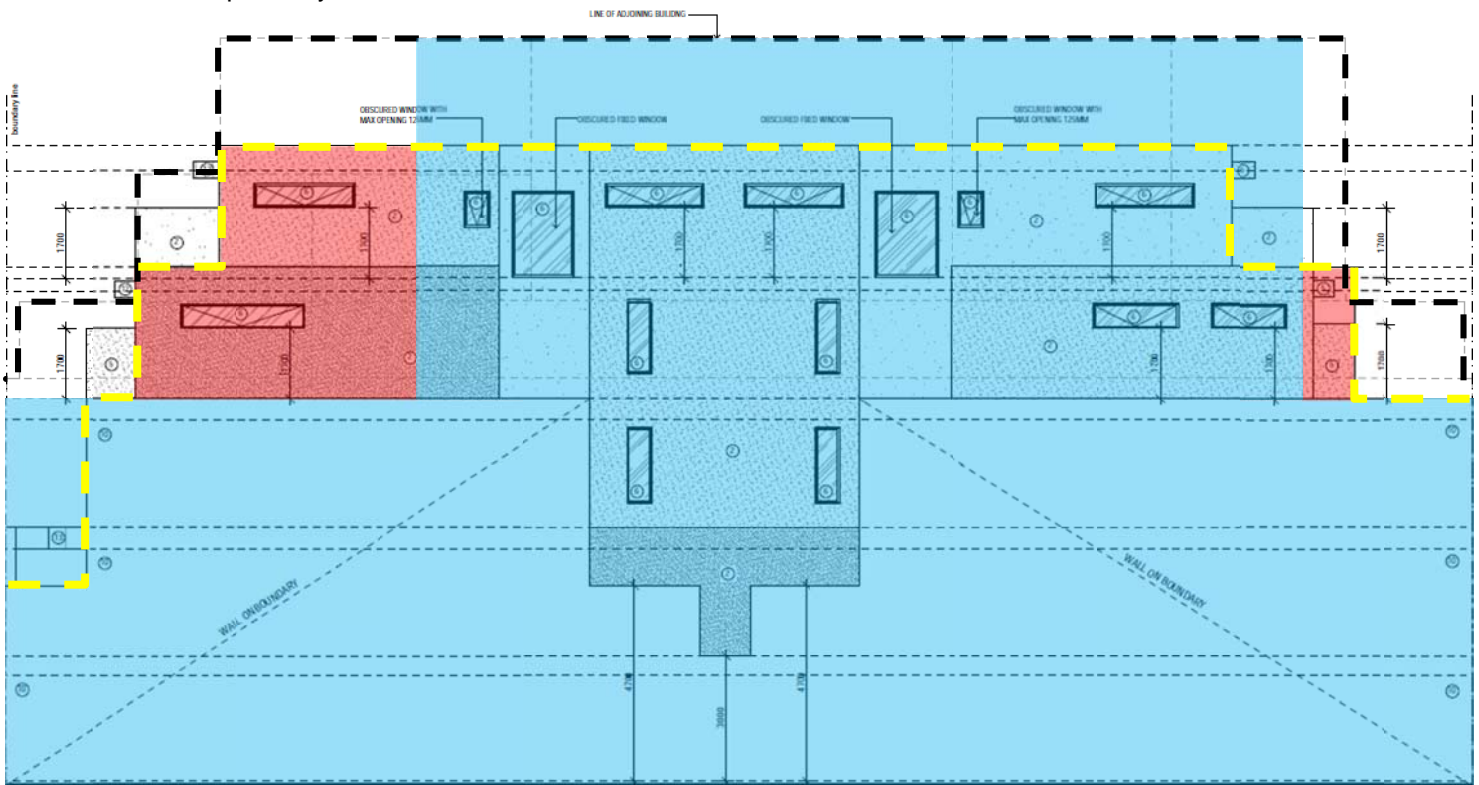


Figure 3: Notated excerpt from 'East Elevation Plan' prepared by NRG Building Designs Pty Ltd

The proposed development, including the variations from the preferred development setbacks above the street-wall height, are considered acceptable having regard to the relevant design objectives and built form outcomes specified in DDOC190 for the following reasons:

- The development complies with the preferred building height requirement of 6 storeys under DDOC190, adopting a reduced height of 5 storeys (15.3 metres), stepping down in height from the neighbouring residential apartment building at 18 Bent Street

in Kensington (which is also five storeys in height, albeit with elevated floor to ceiling heights for its ground floor and first floor due to the reuse of the brick façade of a historic factory at this site).

- The development complies with the preferred street wall height of 3 storeys under DDOC190, adopting a reduced street wall height of 2 storeys to Hardiman Street, and a street wall height of 3 storeys to Little Hardiman Street.
- The development, whilst not achieving the preferred 10 metre setback above a street wall height of 3 storeys to Hardiman Street, is considered to provide an appropriately recessive building envelope for the following reasons:
 - The setbacks above the street wall height are respectful of the upper level setbacks of the adjoining property at 18 Bent Street;
 - Meaningful setbacks to the east and west property boundaries will ensure that the development is visually recessive at oblique angles; and
 - An articulated façade with varied materials above the street wall will distinguish upper levels from a clearly defined street edge.

Figures 4 and 5 below and overleaf depict the visually recessive third and fourth floors to the building, highlighting the extent of floor area encroaching beyond the preferred 10 metre setback (red), setbacks (blue), and the shared front setback with the adjoining residential apartment building at 18 Bent Street, Kensington (purple line).

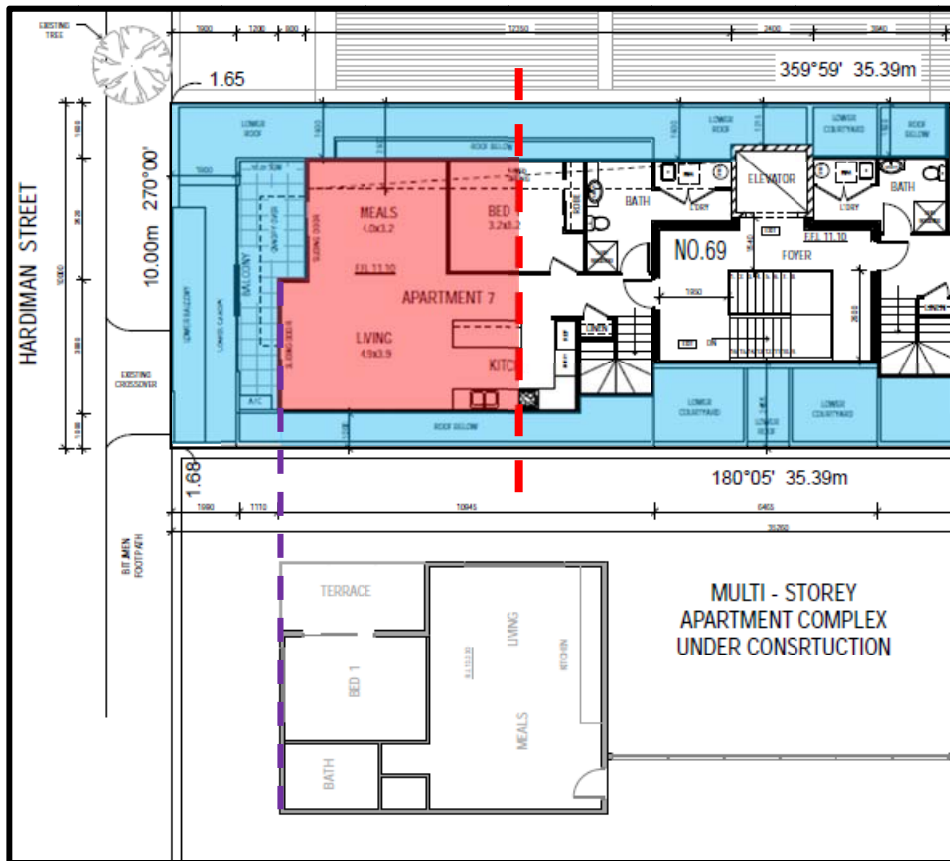


Figure 4: Notated excerpt from the 'Third Floor Plan' prepared by NRG Building Designs Pty Ltd

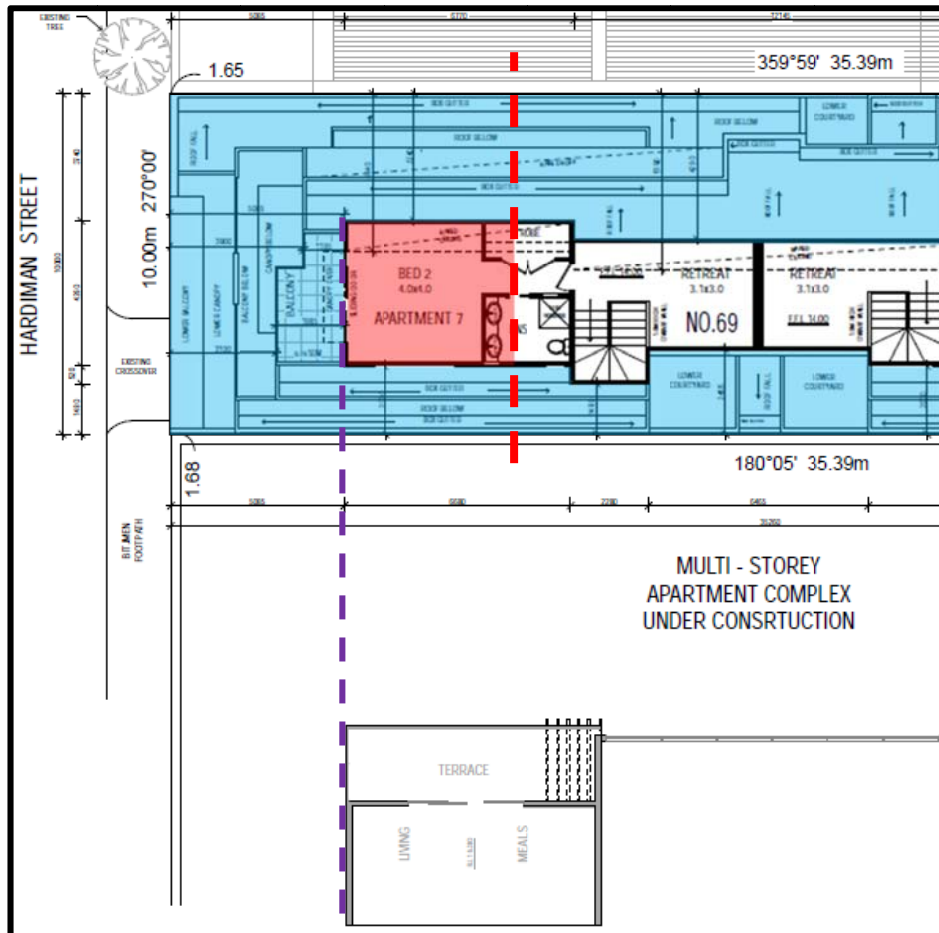


Figure 5: Notated excerpt from 'Fourth Floor Plan', prepared by NRG Building Designs Pty Ltd

- Broadly, it is considered that the development will provide suitable street definition; will ensure appropriate access to sunlight and daylight for Hardiman Street, and represents an appropriate response to the amenity of existing residential development (as per the assessment undertaken in section 11.4 of this report).

It is further noted that the development generally complies with the preferred setback above the street wall height to Little Hardiman Street, and will protect daylight and sunlight access to this laneway.

11.4 Potential Amenity Impacts

The application has been assessed against the Objectives of Clause 55.04 (Amenity Impacts – Two or More Dwellings on a Lot), as deemed applicable to a five-storey development below:

11.4.1 Clause 55.04-3 – Daylight to Existing Windows Objective

Clause 55.04-3 provides the following objective, which the proposed development must meet:

- To allow adequate daylight into existing habitable room windows.

Standard B19 to Clause 55.04-3 specifies the following:

Buildings opposite an existing habitable room window should provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.

Walls or carports more than 3 metres in height opposite an existing habitable room window should be set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window.

The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.

Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window.

Assessment

Existing habitable room windows opposite the proposed building will be provided with a light court that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, complying with Standard B19 to Clause 55.04-3.

Accordingly, the development is considered to meet the objective of Clause 55.04-3.

11.4.2 Clause 55.04-4 – North-facing Windows Objective

Clause 55.04-4 provides the following objective, which the proposed development must meet:

- *To allow adequate solar access to existing north-facing habitable room windows.*

Standard B20 to Clause 55.04-4 specifies the following:

If a north-facing habitable room window of an existing dwelling is within 3 metres of a boundary on an abutting lot, a building should be setback from the boundary 1 metre, plus 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres, for a distance of 3 metres from the edge of each side of the window. A north-facing window is a window with an axis perpendicular to its surface oriented north 20 degrees west to north 30 degrees east.

Assessment

There are no north-facing habitable room windows of an existing dwelling within 3 metres of a boundary on an abutting lot.

Accordingly, the development is considered to meet the objective of Clause 55.04-4.

11.4.3 Clause 55.04-5 – Overshadowing Open Space Objective

Clause 55.04-5 provides the following objective, which the proposed development must meet:

- *To ensure buildings do not significantly overshadow existing secluded private open space.*

Standard B21 to Clause 55.04-5 specifies the following:

Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.

If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

Assessment

As detailed in the shadow diagrams submitted with the Application, the proposed development will contribute slightly to the extent of overshadowing over the ground level secluded private open space to 63-67A Hardiman Street, Kensington within the morning period during the September Equinox (9.00am to 12.00pm).

Overshadowing over the full extent of ground level secluded private open space to 67A Hardiman Street during this period has previously been deemed acceptable by the Tribunal in *Clock Pty Ltd v Melbourne CC VCAT Ref 2883/2012* (where it considered a four-storey development on the subject property).

Notwithstanding the increased height associated with the development proposed under the Application, this additional height will only contribute to a marginal increase in the extent of overshadowing over the ground level secluded private open space of 63-67 Hardiman Street

at 9.00am and 10.00am during the September Equinox, and will not extend the period within which 67A Hardiman Street will be overshadowed beyond 12.00pm.

For these reasons it is considered that the development will not significantly overshadow existing secluded private open space, therefore meeting the Objective of Clause 55.04-5.

11.4.4 Clause 55.04-6 – Overlooking Objective

Clause 55.04-6 provides the following objective, which the proposed development must meet:

- *To limit views into existing secluded private open space and habitable room windows.*

Standard B22 to Clause 55.04-6 specifies the following:

A habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.

A habitable room window, balcony, terrace, deck or patio with a direct view into a habitable room window of existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio should be either:

- *Offset a minimum of 1.5 metres from the edge of one window to the edge of the other.*
- *Have sill heights of at least 1.7 metres above floor level.*
- *Have fixed, obscure glazing in any part of the window below 1.7 metre above floor level.*
- *Have permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent.*

Obscure glazing in any part of the window below 1.7 metres above floor level may be openable provided that there are no direct views as specified in this standard.

Screens used to obscure a view should be:

- *Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.*
- *Permanent, fixed and durable.*
- *Designed and coloured to blend in with the development.*

This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary.

Assessment

Key sensitive interfaces for the subject property include the east and west elevations.

As detailed on the east and west elevation plans submitted with the application, a combination of the following methods have been utilised to limit views:

- highlight windows with sill heights of 1.7m;
- fixed obscure glazing; and
- solid 1.7m high balustrading to the east and west perimeters of terrace balconies to each apartment.

The above techniques are considered to limit direct views into the habitable room windows and secluded private open space of dwellings on adjoining properties in accordance with

Standard B22 to Clause 55.04-6, and the development is therefore considered to meet the Objective of Clause 55.04-6.

11.4.5 Clause 55.04-6 – Internal Views Objective

Clause 55.04-7 provides the following objective, which the proposed development must meet:

- *To limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development.*

As detailed on the first and second floor plans, a combination of the following methods have been utilised to limit internal views between apartments:

- Solid partition walls between terrace balconies;
- Highlight windows (e.g. to Apartment 4 Bed 2 and Apartment 6 Bed 1 on the Second Floor Plan)
- Internal structures (e.g. the lift shaft breaking line of sight between Apartment 4 Study and Apartment 5 Bed 1 on the Second Floor Plan)

The development is therefore considered to meet the Objective of Clause 55.04-6.

11.4.6 Clause 55.04-6 – Noise Impacts Objective

Clause 55.04-8 provides the following objective, which the proposed development must meet:

- *To contain noise sources in developments that may affect existing dwellings.*

Exterior plant associated with the solar hot water units for the development will be located on the roof-top, away from any sensitive interfaces.

A/C condensers are shown as being located on the balcony to each apartment, which is considered to represent an appropriate location, as 1.7 metre high solid balustrading to the east and west perimeter of each terrace balcony (to prevent overlooking) will assist with attenuating noise associated with the operation of these facilities.

Accordingly, the development is considered to meet the Objective of Clause 55.04-8.

11.5 Environmental Risk

11.5.1 Land Subject to Inundation Overlay

Clause 44.04-6 specifies the following relevant decision guideline that the Responsible Authority must consider before deciding on an application under the Land Subject to Inundation Overlay:

- *Any comments from the relevant floodplain management authority.*

Comments from the relevant floodplain management authority (Melbourne Water) were received on 22 June 2016.

Melbourne Water did not object to a permit being granted for the proposed development, subject to recommended conditions being included on any permit being granted.

11.5.2 Environmental Audit Overlay

Clause 45.03-1 specifies the following requirement that applies to the proposed development:

Before a sensitive use (residential use, child care centre, pre-school centre or primary school) commences or before the construction or carrying out of buildings and works in association with a sensitive use commences, either:

- *A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or*
- *An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.*

The following condition will be included on any permit being granted to satisfy the requirements of the Environmental Audit Overlay:

Prior to the commencement of the development (including bulk excavation) the owner of the site must provide either:

- a. A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or*
- b. A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. This Statement must specifically state that the site is suitable for the intended use(s) hereby permitted.*

11.6 Sustainability

11.6.1 Clause 22.19 – Energy, Water and Waste Efficiency

Clause 22.19 provides that it is policy to encourage buildings that:

- *Minimise greenhouse gas emissions and maximise energy efficiency.*
- *Minimise mains potable water consumption and encourage the use of alternative water sources, such as rainwater and grey water.*
- *Provide the facilities that will enable building users and occupants to reduce waste sent to landfill, maximise the recycling and reuse of materials and support the municipality's progress towards becoming a resource and material-efficient city.*

Conditions will be included on any permit being granted to give effect to the Waste Management Plan and Environmentally Sustainable Design Statement and ensure that the development complies with Local Planning Policy Clause 22.19.

11.6.2 Clause 22.23 – Stormwater Management (Water Sensitive Urban Design)

The objectives of this policy include:

- *To achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 (or as amended).*
- *To promote the use of water sensitive urban design, including stormwater re-use.*

Clause 22.23 provides that it is policy that development applications relating to extensions to existing buildings which are 50 square metres in floor area or greater incorporate water sensitive urban design that achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Guidelines, CSIRO 1999 (or as amended).

Conditions will be included on any permit being granted, as recommended by Council's Civil Engineer, to ensure that the development complies with Local Planning Policy Clause 22.23.

11.7 Conclusion

For the reasons described above it is considered that subject to conditions the proposed development is acceptable; having regard to:

- The State Planning Policy Framework;
- The Local Planning Policy Framework;
- The Mixed Use Zone and applicable overlays;
- All relevant Particular Provisions; and
- Planning Scheme Amendment C190.

The proposed development will contribute to the , providing acceptable levels of internal amenity, in a well-serviced location in Kensington, and will not unreasonably impact on the amenity of adjoining or surrounding properties, or on the local heritage significance of the area.

Accordingly, it is considered that a Notice of Decision to Grant a Permit should be issued for the proposal, subject to conditions.

12 RECOMMENDATION

That a Notice of Decision to Grant a Permit be issued subject to the following conditions and notes:

12.1 Conditions

Amended Plans

1. Prior to the commencement of the development, including any bulk excavation, two copies of plans, which are drawn to scale, must be submitted to the Responsible Authority generally in accordance with the plans received on 24 March 2016, but amended to show:
 - a) Levels to Australian Height Datum (AHD) to the ridge-line of the development, and a spot level to AHD taken from the centre of the site's Hardiman Street frontage from the footpath surface.
 - b) An amended materials schedule and external finishes legend, which includes a swatch for translucent glazing and solid screening devices and the following annotations:
 - i. Translucent glazing is to be no more than 25 per cent transparent, and is to be applied to any part of the window below 1.7 metres above the finished floor level.
 - ii. Translucent glazing in any part of a window below 1.7 metres above floor level may be openable provided that there are no direct views into secluded private open space or a habitable room window for a neighbouring property.
 - iii. Solid screens used for the purpose of obscuring views must not exceed a maximum of 25 per cent openings and must be permanent, fixed and durable.
 - a) Any design revisions to the development layout shown in the Waste Management Plan endorsed under Condition 13 of this permit.

These amended plans must be to the satisfaction of the Responsible Authority and when approved shall be the endorsed plans of this permit.

2. The development as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
3. Prior to the commencement of the development, including any bulk excavation, a schedule of all external materials, colours and finishes, including a colour rendered and notated plan / elevation, must be submitted to and approved by the Responsible Authority.
4. Prior to the occupation of the development, all buildings and works required by this permit must be completed to the satisfaction of the Responsible Authority.
5. No permanent architectural features, plant and equipment or services other than those shown on the endorsed plans are permitted above the finished floor level of the rooftop terrace, unless with the prior written consent of the Responsible Authority.

Safety / Amenity

6. All external lighting of the site, including car parking areas and buildings, must be located, directed and baffled so that no nuisance is caused to adjoining or nearby residents. All external lighting must be energy efficient. External lighting must be to the satisfaction of the Responsible Authority.
7. The mechanical roller-doors must be routinely serviced and maintained to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land by the emission of noise.

Environmentally Sustainable Design

8. The performance outcomes specified in the Environmentally Sustainable Design (ESD) Statement prepared by Sustainability House Pty Ltd dated 18 March 2016 must be achieved in the completed development.

Prior to the commencement of the development, including any bulk excavation, any change during detailed design that prevents or alters the attainment of the performance outcomes specified in the endorsed ESD Statement must be documented by the author of the endorsed ESD statement in an addendum to this report, which must be provided to the satisfaction of the Responsible Authority.

9. Within six months of the occupation of the development, a report from the author of the endorsed ESD Statement must be provided to the satisfaction of the Responsible Authority, which details design initiatives implemented within the completed development that achieve the performance outcomes specified in the endorsed ESD Statement.

Waste Management

10. Prior to the commencement of the development, including any bulk excavation, a Waste Management Plan (WMP) generally in accordance with the WMP prepared by Sustainability House dated 18 March 2016 must be provided to the satisfaction of the Responsible Authority. The WMP must:

- a) Be amended to identify that waste collection will not be undertaken from Little Hardiman Street (except with the consent of Council's Engineering Services Branch)
- b) Comply with City of Melbourne's 'Guidelines for Preparing a Waste Management Plan 2015'.

When provided to the satisfaction of the Responsible Authority, the WMP will be endorsed to form part of this permit.

Waste storage and collection arrangements as shown in the endorsed WMP must not be altered without the prior consent of the City of Melbourne - Engineering Services.

11. No garbage bin or waste materials generated by the permitted use may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of the Responsible Authority.

Construction Management Plan

12. Prior to the commencement of the development, including any bulk excavation, a detailed construction and demolition management plan must be submitted to and be approved by the Responsible Authority – Construction Management Group.

This construction management plan must be prepared in accordance with the City of Melbourne - Construction Management Plan Guidelines and is to consider the following:

- a) public safety, amenity and site security.
- b) operating hours, noise and vibration controls.
- c) air and dust management.
- d) stormwater and sediment control.
- e) waste and materials reuse.
- f) traffic management.
- g) protection of street trees.

Street Tree Protection

13. No street tree adjacent to the site or on a nearby road reservation may be removed, lopped, pruned or root-pruned without the prior written consent of the Responsible Authority.

Civil Engineering

14. Prior to the commencement of the development, including any bulk excavation, a stormwater drainage system, incorporating integrated water management design principles, must be submitted to and approved by the Responsible Authority – Engineering Services. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system.
15. Prior to the occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel reconstructed, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
16. Prior to the occupation of the development, the footpath adjoining the site along Hardiman Street must be reconstructed together with associated works including the reconstruction or relocation of kerb and channel and/or services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Responsible Authority – Engineering Services.
17. Existing street levels in Hardiman Street and Little Hardiman Street must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining approval from the Responsible Authority – Engineering Services.
18. Existing public street lighting must not be altered without first obtaining the written approval of the Responsible Authority – Engineering Services.
19. The title boundaries for the property may not exactly agree with the road alignments of the abutting Council lane. The approved works must not result in structures that encroach onto any Council lane.

Remediation of Contaminated Land

20. Prior to the commencement of the development (including bulk excavation) the owner of the site must provide either:
 - a. A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or
 - b. A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. This Statement must specifically state that the site is suitable for the intended use(s) hereby permitted.

Melbourne Water (Determining Referral Authority)

21. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

Permit Expiry

22. This permit will expire if one of the following circumstances applies:

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing before the permit expires, or within six months afterwards.

The Responsible Authority may extend the time for completion of the development if a request is made in writing within 12 months after the permit expires and the development started lawfully before the permit expired.

12.2 NOTES

Building Approval Required

This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.

Building Works to Accord with Planning Permit

The applicant/owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant/owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.

Projections

All projections over the street alignment must conform to Building Regulations 2006, Part 5, Sections 505 to 514 as appropriate, unless with the report and consent of the Municipal Building Surveyor.

Drainage Point and Method of Discharge

The legal point of stormwater discharge for the proposal must be to the satisfaction of the responsible authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the Responsible Authority prior to the commencement of any buildings or works.

Other Approvals May be Required

This Planning Permit does not represent the approval of other departments of Melbourne City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.

On-street Parking

Council will not change the on-street parking restrictions to accommodate the access, servicing, delivery and parking needs of this development.

Residents not Eligible for Parking Permits

As this development proposal increases the residential density, residents of this development will not be eligible for resident parking permits.

Melbourne Water

If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on (03) 9679 7517, quoting Melbourne Water's reference 191156.

APPENDIX 1: PLANNING PERMIT TP-2011-770 TIMELINE

21 September 2011	Application TP-2011-770 received by Council, seeking planning approval for the development of a five-storey apartment complex, comprising: <ul style="list-style-type: none"> • 11 dwellings; • 8 car spaces and 4 bicycle parking spaces; and • Maximum building height of 16.1 metres.
22 September 2011 to 6 October 2011	Formal notice period of Application TP-2011-770 (44 objections received)
20 February 2012	Application TP-2011-770 formally amended, reducing the height of the development from five storeys to four storeys, comprising: <ul style="list-style-type: none"> • 8 dwellings; • 8 car spaces and 4 bicycle parking spaces; and • Maximum building height of 12.7 metres.
20 February 2012 to 7 March 2012	Formal notice period of amended Application TP-2011-770
7 August 2012	Planning Officer's recommendation that Application be approved referred to Future Melbourne Committee for Council's consideration.
14 August 2012	Planning Officer's recommendation overturned by Council, Application TP-2011-770 refused on following grounds: <ul style="list-style-type: none"> • The proposed development would create excessive overshadowing to the adjoining properties. • The proposed development would result in a loss of sunlight to adjoining properties. • The bulk and mass of the proposed development is excessive for the site.
2 October 2012	Melbourne City Council receives notice from VCAT that an Application for Review of Council's Decision to Refuse Application TP-2011-770 pursuant to section 77 of the <i>Planning and Environment Act 1987</i> had been received.
29 April 2013	Merits hearing held in respect of <i>Clock Pty Ltd v Melbourne CC</i> VCAT Ref: P2883/2012 Summary of key issues at hearing dated 29 April 2013: <ul style="list-style-type: none"> • The effect of the proposed development on the amount of sunlight reaching the areas of secluded private open space of No. 67A, the terrace dwelling to the site's immediate west. • The extent of overshadowing caused by the development over other dwellings to the east and west. <p>The Permit Applicant substituted amended plans at the VCAT proceeding for assessment, 'VCAT Agreement Plans', which included a number of changes suggested by Council, Objectors and the Permit Applicant, generally comprising:</p>

	<ul style="list-style-type: none"> • Mirrored floor pan; • Reduction in floor-to-ceiling heights from 2.7 to 2.6 metres, increasing setbacks to west boundary and the southerly half of the development's second and third floors, and northerly half of the third floor.
30 April 2013	Member Read issues order directing that a permit be granted, subject to conditions.
10 May 2013	<p>Planning Permit TP-2011-770 issued, authorising:</p> <ul style="list-style-type: none"> • Construction of a four storey building for eight dwellings and waiver of the requirement for visitor parking in accordance with the endorsed plans. <p>Condition 15 of the permit specifies that the permit will expire if development has not commenced by 10 May 2015, and is not completed by 10 May 2017.</p>
16 April 2014	<p>Application to amend Planning Permit TP-2011-770 pursuant to section 72 of the <i>Planning and Environment Act 1987</i> received, seeking the following modifications to the plans:</p> <ul style="list-style-type: none"> • Construction of a fifth level, containing an additional bedroom and retreat for dwellings 7 and 8; • Increase in the maximum building height from 12.7 metres to 15.7 metres; and • Amending the preamble of what the permit allows to permit a five-storey building.
1 May 2014 to 15 May 2014	Formal notice period of Application TP-2011-770/A (12 objections received)
4 July 2014	Planning Officer's recommendation that Application TP-2011-770/A be approved referred to Future Melbourne Committee for Council's consideration.
28 July 2014	Planning Officer's recommendation affirmed by Council, Notice of Council's Decision to Grant an Amended Permit issued.
28 August 2014	<p>Planning Permit TP-2011-770 amended after receiving notice from VCAT that no appeals had been lodged against Council's decision, authorising:</p> <ul style="list-style-type: none"> • Construction of a five storey building for eight dwellings and waiver of the requirement for visitor parking in accordance with the endorsed plans.
16 January 2015	Plans endorsed under Condition 1 of permit.
10 May 2015	Planning Permit TP-2011-770 expires.