

## Report to the Future Melbourne Committee

Agenda item 6.1

**Planning Permit Application: TP-2020-796**  
**570-574 Lygon Street, Carlton**

5 April 2022

**Presenter:** Marjorie Kennedy, Head of Statutory Planning

### Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of Planning Permit Application TP-2020-796 for land located at 570-574 Lygon Street, Carlton (refer Attachment 2 – Locality Plan). The proposal seeks to use the existing building as a rooming house.
2. The applicant is B A Lygon Street Pty Ltd, the owner is Clause 1 Town Planning Consultants, and the architect is Buckerfield Architects.
3. The land is located within the Residential Growth Zone Schedule 1 (RGZ1) and is affected by Parking Overlay Schedule 12 (PO12). A planning permit is required to use the land for the purpose of a rooming house with 11 bedrooms and where the total floor area of all buildings on the land exceeds 300 square metres.
4. The planning scheme provides a particular provision (Clause 52.23) that specifies where a rooming house proposal is exempt from requiring a planning permit. This proposal does not meet the relevant exemption as more than nine bedrooms are proposed and the total floor area of all buildings on the land exceeds 300 square metres.
5. Public notice of the proposal was given and a total of 382 objections were received.
6. The application was formally amended under Section 57A of the *Planning and Environment Act 1987* (amendments after notice) to respond to an internal amenity issue raised by planning officers which resulted in the reduction in the total number of rooms from 18 to 11. This was to provide each room with direct access to a window in an external wall of the building.

### Key issues

7. The key issues in the consideration of this application are the appropriateness of the proposed use of the land as a rooming house, the layout of the proposed use having regard to Clause 55 (ResCode), and the matters raised in the objections.
8. Subject to conditions, the proposed rooming house is considered to be acceptable as it provides for housing diversity and responds to the purpose and decision guidelines of the RGZ1.
9. The operational management plan will ensure the use is operated in an orderly manner.
10. The application complies with the objectives and standards of Clause 55 regarding internal and external amenity considerations and design.

### Recommendation from management

11. That the Future Melbourne Committee resolves to issue a Notice of Decision to Grant a Planning Permit subject to the conditions outlined in the Delegate Report (refer Attachment 4 of the report from management - Delegate Report).

### Attachments:

1. Supporting Attachment (Page 2 of 32)
2. Locality Plan (Page 3 of 32)
3. Selected Plans (Page 4 of 32)
4. Delegate Report (Page 7 of 32)

## **Supporting Attachment**

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### **Legal**

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (Act) sets out the requirements in relation to application 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 the objectors 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 the objectors 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 material or general conflict of interest in relation to the matter of the report.

### **Health and Safety**

5. Relevant planning considerations such as traffic and waste management, potential amenity impacts that could impact on health and safety have been considered within the planning permit application and assessment process.

### **Stakeholder consultation**

6. Public notice of the application has been undertaken to surrounding owners and occupiers, pursuant to Section 52 of the Act.

### **Relation to Council policy**

7. Relevant Council policies are discussed in the attached delegate report (refer Attachment 4).

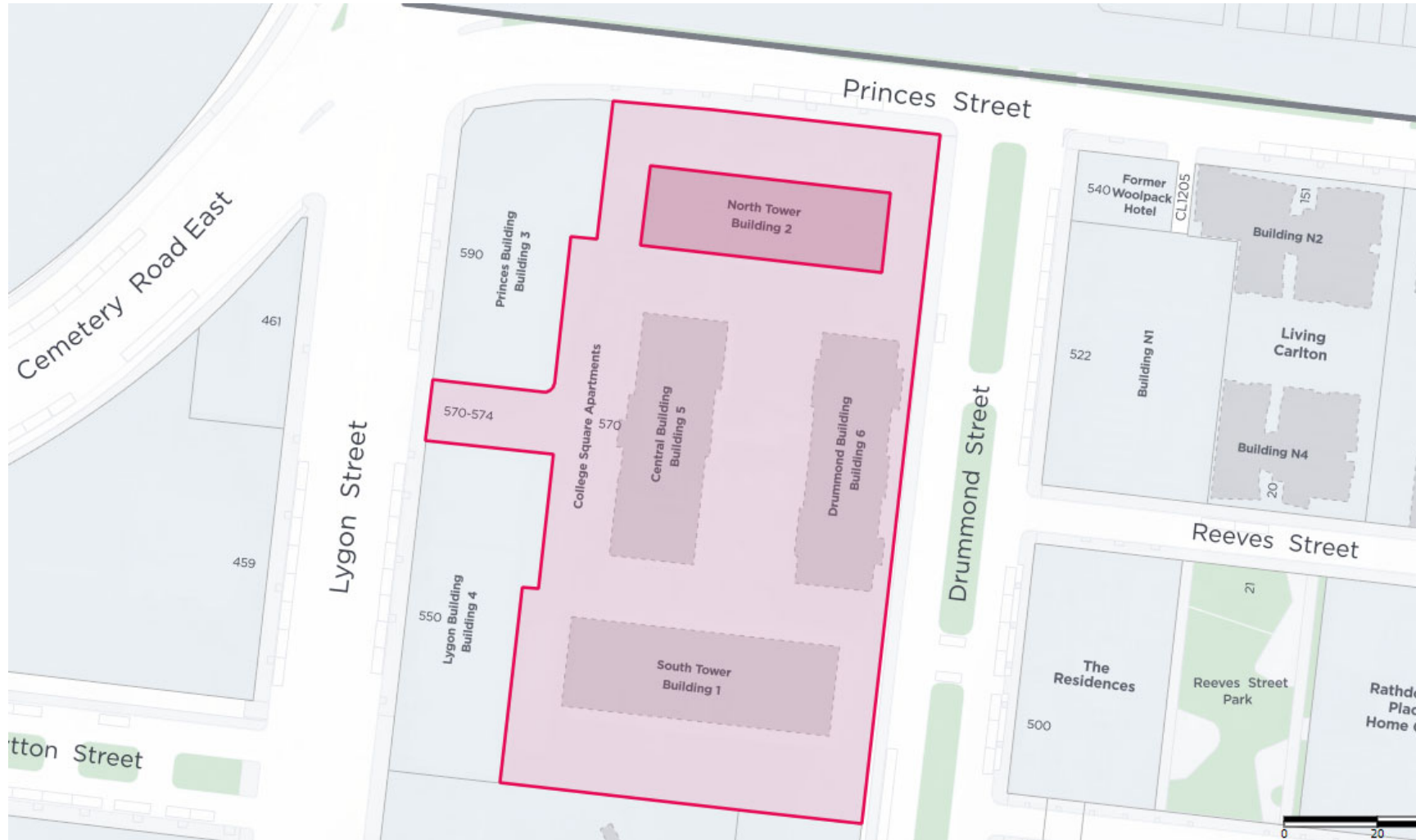
### **Environmental sustainability**

8. The proposed use will appropriately manage waste via an approved Waste Management Plan to ensure compliance with the relevant performance measures set out in Clauses 22.19 (Energy, Water and Waste Efficiency) of the Melbourne Planning Scheme.

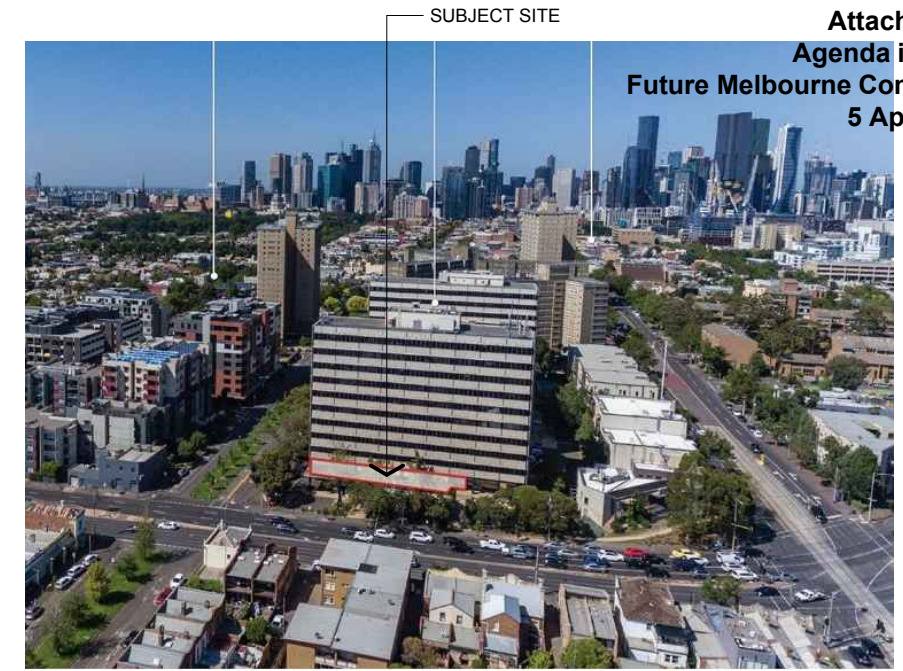
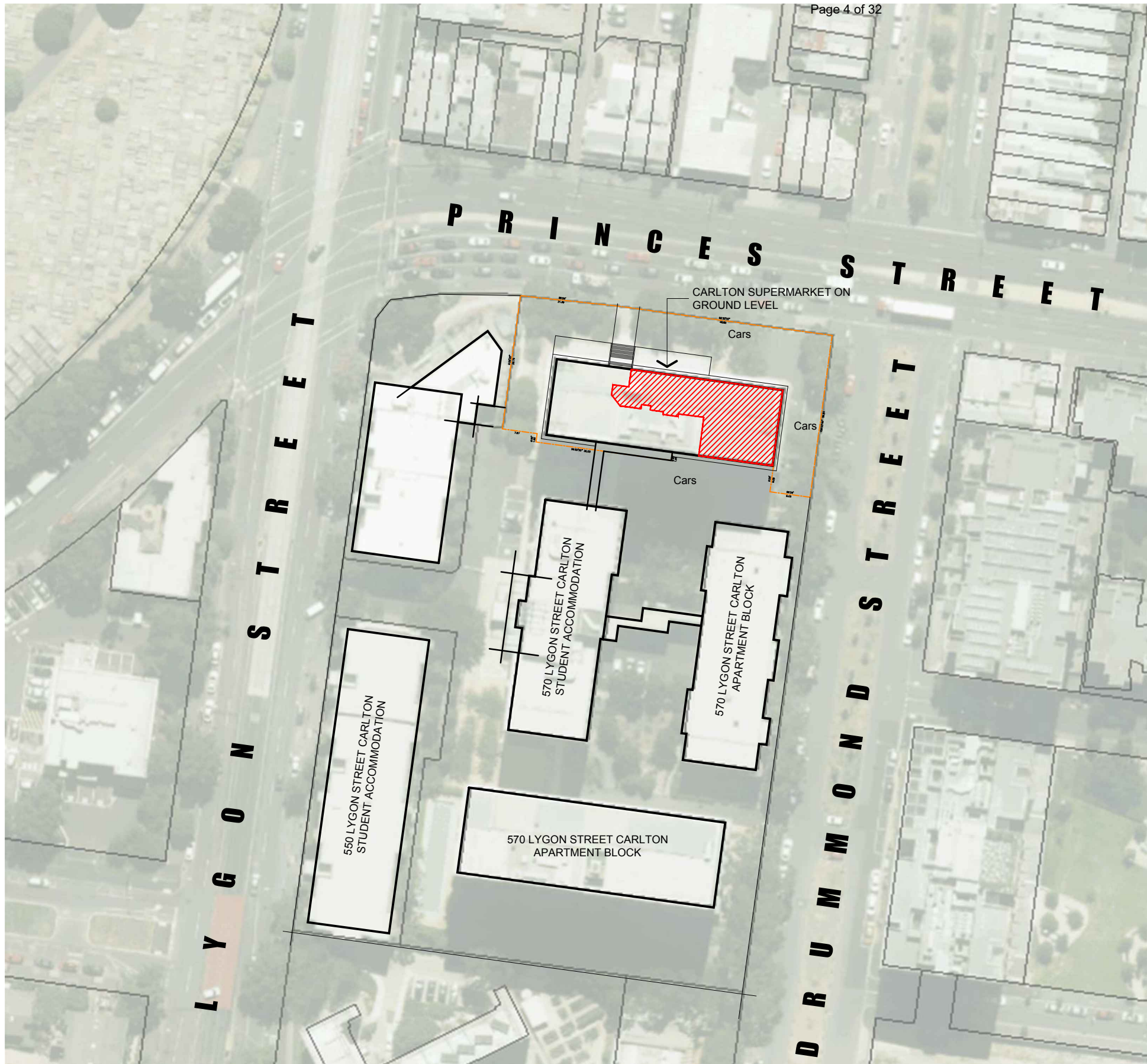
# Locality Plan

Attachment 2  
Agenda item 6.1  
Future Melbourne Committee  
5 April 2022

## 570-574 Lygon Street, Carlton





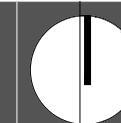


S SITE PLAN 1:1000A3

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REV. DATE DESCRIPTION INITIAL

**LEGEND**  
SUBJECT SITE - S9 570 LYGON ST  
Cars CAR PARK AND DRIVEWAY ON GROUND

**buckerfield architects**



**BOARDING HOUSE PROPOSAL**  
LOT S9 570 LYGON STREET CARLTON VIC 3064

SITE LOCATION PLAN

JOB NO: DWG NO: REV:

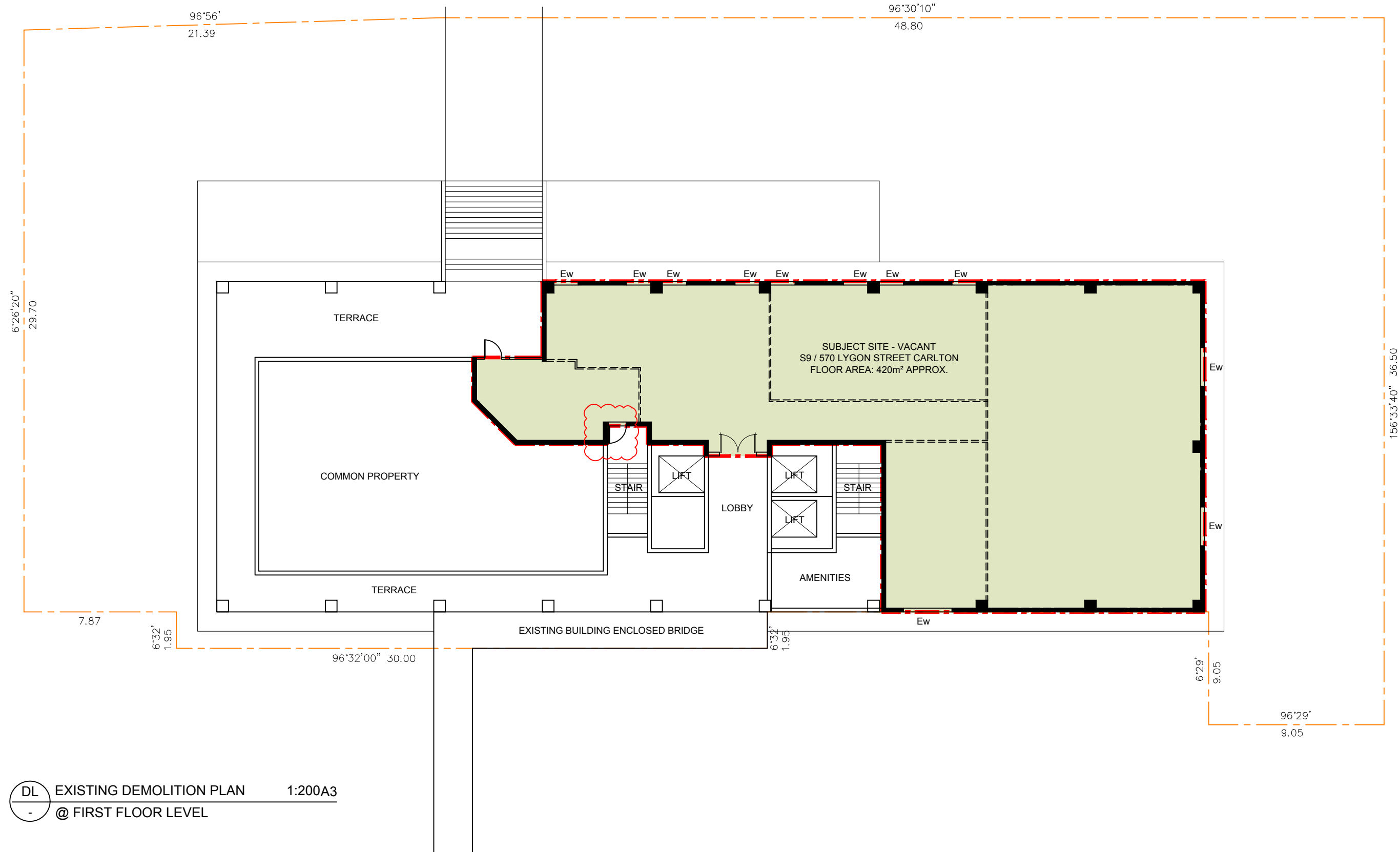
**0634 TP01 PR**

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TOWN PLANNING COUNCIL RFI 09.FEBRUARY.2021



P R I N C E S S T R E E T



D R U M M O N D S T R E E T

DL EXISTING DEMOLITION PLAN 1:200A3  
 @ FIRST FLOOR LEVEL

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REV.	DATE	DESCRIPTION	INITIAL
A	09Feb.21	Stair fire door added	cd

**LEGEND**

	Subject site boundary		Existing windows
	Existing wall/window		
	Demolished wall		
	New wall		

**buckerfield architects**

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**BOARDING HOUSE PROPOSAL**  
 LOT S9 570 LYGON STREET CARLTON VIC 3064

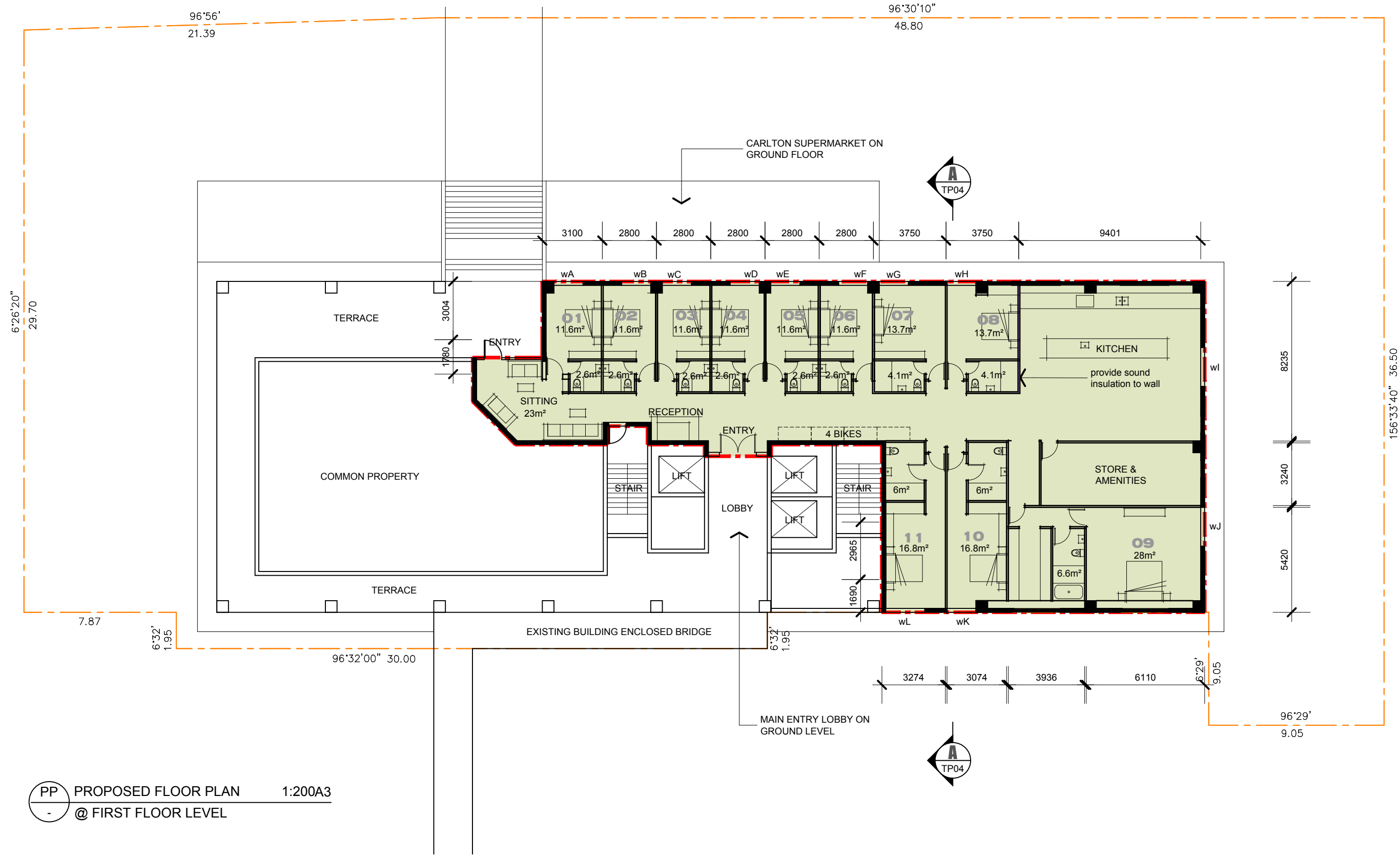
EXISTING DEMOLITION PLAN

JOB NO: 0634 | DWG NO: TP02 | REV: A

TOWN PLANNING COUNCIL RFI 09.FEBRUARY.2021

# P R I N C E S S T R E E T

# D R U M M O N D S T R E E T



PP PROPOSED FLOOR PLAN 1:200A3  
@ FIRST FLOOR LEVEL

**NOTES**

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REV.	DATE	DESCRIPTION	INITIAL
B	14Oct.21	Permit issue	cd
C	10Nov.21	Internal layout revised	cd
D	21Dec.21	Internal layout revised	cd

**LEGEND**

	Subject site boundary		Ew Existing windows
	Existing wall/window		Demolished wall
	New wall		

**buckerfield architects**

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**BOARDING HOUSE PROPOSAL**  
LOT S9 570 LYGON STREET CARLTON VIC 3064

PROPOSED FLOOR PLAN

JOB NO: 0634 DWG NO: TP03 REV: D

TOWN PLANNING FOR REVIEW 21.DECEMBER.2021

## DELEGATED PLANNING APPLICATION REPORT

<b>Application number:</b>	TP-2020-796
<b>Applicant:</b>	Clause 1 Town Planning Consultants
<b>Owner:</b>	B A Lygon Street Pty Ltd
<b>Architect:</b>	Buckerfield Architects
<b>Address:</b>	570-574 Lygon Street, CARLTON VIC 3053
<b>Proposal:</b>	Use of the land as a rooming house
<b>Cost of works:</b>	\$70,000
<b>Date of application:</b>	16 December 2020
<b>Responsible officer:</b>	Ryan Cottrell, Acting Principal Urban Planner

### 1 SUBJECT SITE AND SURROUNDS

#### 1.1 The Site

This permit application relates to the land known as Lot S9, 32C, 33C, 34C and 35C on Plan of Subdivision 415534H which is part of the land also known as 570-574 Lygon Street, Carlton (the Site).

The Site is located on the east side of Lygon Street, Carlton near where Lygon Street intersects with Princes Street (Figure 1).

The Site is irregular with a Lygon Street frontage of approximately 13 metres, a Princess Street frontage of approximately 69 metres, a Drummond Street frontage of approximately 147 metres, and a total area of approximately 11,350 square metres. The land falls from Lygon Street (west) to Drummond Street (east).

This application relates to the northern-most building on the Site which is known as 'North Tower, Building 2' (individually identified at Figure 1). This report will refer to this building as 'the Building'.

The Site contains other buildings known as 'Central Building, Building 5', 'Drummond Building, Building 6', and 'South Tower, Building 1' which are all south of the Building. These buildings are used for student accommodation and dwellings.

The Building has a width of approximately 17 metres, a length of approximately 51 metres, and contains multiple levels (Figure 2).

The Building is used as a supermarket at Lower ground level, vacant at the Upper ground level (Lot S9), and accommodation / residential uses above.

Lot S9 is located on the upper ground level and is presently vacant and Lots 32C to 35C are car parking spaces located on the Lower ground level. There is a small terraced area located along the north, east, and south elevations of the Building.

Pedestrian access to the Site is possible via all frontages that adjoin roads. There is direct pedestrian access to the Building via steps from Princes Street (Figure 3) as well as the lobby at the Central Building, Building 5 which has an undercover bridge

walkway connecting to the Building that enables access over the lower level car parking vehicle entrance (Figure 4).

Car parking access to the Site is provided via Lygon Street and Drummond Street. There is a small car parking area at the north-east corner of the Site that services the supermarket (Figure 5).

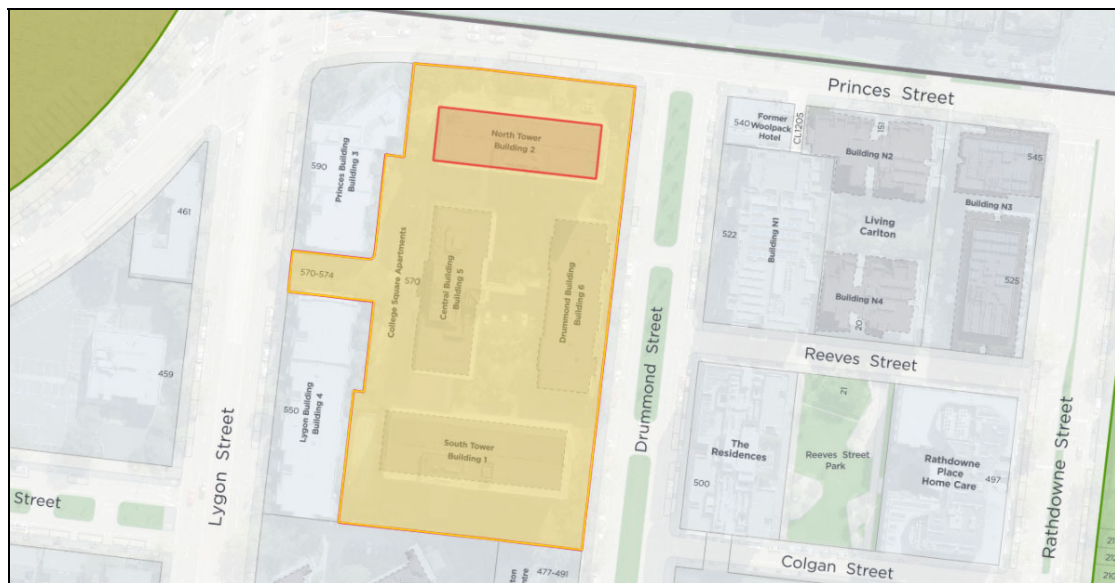
The Site is not included in the City of Melbourne's Heritage Places Inventory February 2020 (Amended July 2020) Part A or Part B as it does not contain heritage fabric.

There is a Section 173 legal agreement applied to the land that restricts owners from selling car parking lots to people other than owners of residential lots on the land. This application does not breach the agreement.

The land title for 570-574 Lygon Street, Carlton (the Title) contains easements for carriageway that enable access rights over the land known as E-1, E-5, and E-10. The Title also shows other easements for drainage, power lines, and light and air that are not relevant to this application.

The Title shows the pathway from the Lygon Street entrance, through the Central Building, Building 5, to the Building is common property (Figure 6 and 7).

**Figure 1 – Locality map**





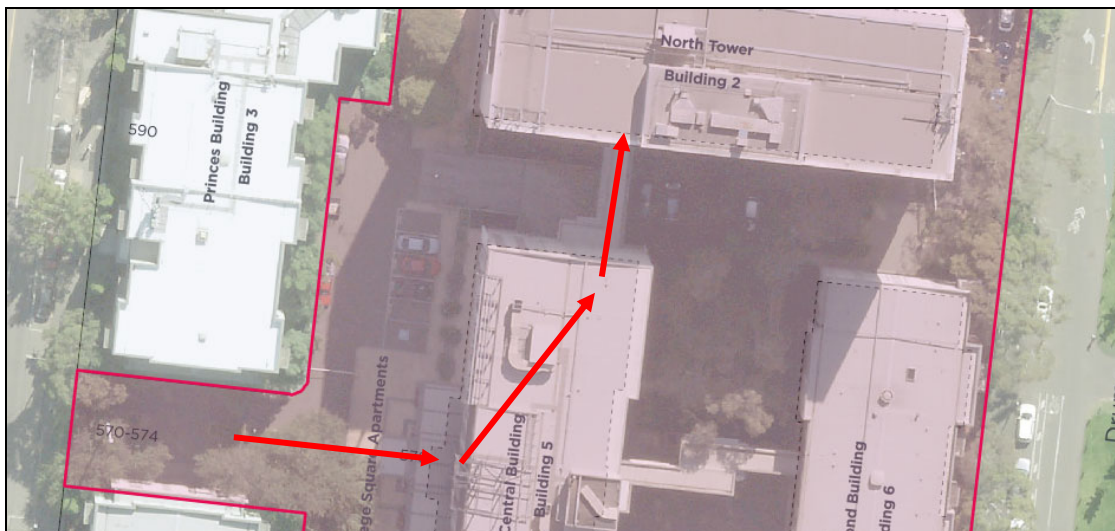
**Figure 2 – The Site (street view take from the north / Princes Street)**



**Figure 3 – The Site (street view from Princes Street showing the Building entrance)**



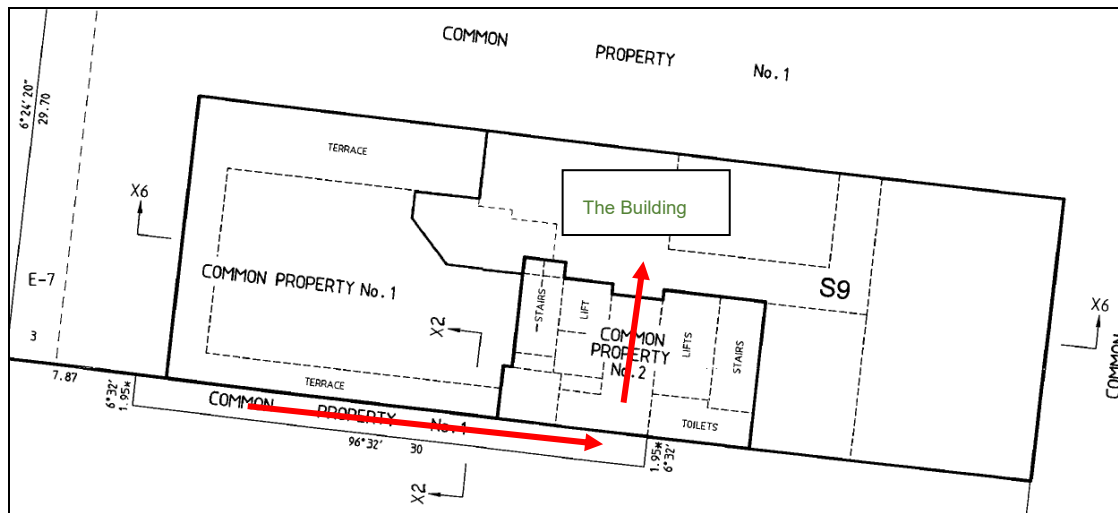
**Figure 4 – Pedestrian access pathway via the Central Building**







**Figure 7 – The Title for the Building (ground level)**



## 1.2 Surrounds

The immediate surrounds predominately contain accommodation / residential uses however, there are also office and child care uses nearby as well as a cemetery.

A description of the neighbouring properties is found at Table 1:

Table 1 – Surrounding Context		
<b>North</b>		
Address	Description	Land Use
Princes Street	30 metre wide road reserve.	Road.
Properties ranging from 192-208 Princes Street, Carlton North	A mix of single and double storey buildings.	Dwellings.
<b>East</b>		
Address	Description	Land Use
Drummond Street	30 metre wide road reserve.	Road.
500 Drummond Street, Carlton.	A nine storey contemporary building.	Dwellings.
518-538 Drummond Street, Carlton.	An eight storey contemporary building.	Dwellings.
540-544 Drummond Street, Carlton.	A two storey building built in 1870.	Dwellings and retail premises.
<b>South</b>		
Address	Description	Lane Use

473-479 Rathdowne Street, Carlton.	A large site containing four multi-level buildings (Public housing).	Dwellings
477-491 Drummond Street, Carlton.	A single storey brick building.	Child care.
<b>West</b>		
<b>Address</b>	<b>Description</b>	<b>Land Use</b>
Melbourne General Cemetery – Lygon Street, Carlton North.	A large cemetery.	Cemetery.
459 Lygon Street, Carlton	A two storey building and car park (VicRoads office)	Office.
461 Lygon Street, Carlton	A four storey brick apartment building with ground level parking.	Dwellings.

## 2 BACKGROUND AND HISTORY

### 2.1 Amendments to the application

#### 2.1.1 Amendment prior to notice

Prior to notice being given, the application was amended under Section 50 of the *Planning and Environment Act 1987* (amendments prior to notice) in the following manner:

- Reduce the number of rooms from 19 to 18.
- Update the drawings to show an existing door at the western stairwell.
- Room 1 deleted and converted to bicycle parking and sitting area.
- Replace the previous sitting room with a reception area.

#### 2.1.2 Amendment after notice

After notice was given, the application was amended under Section 57A of the *Planning and Environment Act 1987* (amendments after notice) to respond to internal amenity issued raised by CoM planning officers:

- Reduce the number of rooms from 18 to 11 to enable each room to have direct access to a window in an external wall.
- Internal rearrangements.

## 3 PROPOSAL

This application seeks planning approval to use the land as a rooming house for the purposes of medium term (6-12 months) accommodation.

### 3.1 Plans / Reports considered in assessment

The plans and reports which have been considered in this assessment are identified in Table 3 below:

<b>Table 3 - Plans / Reports considered in assessment</b>
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Plan / Report Title	Drawing/ Report No/ Author.	Dated
Copy of Title	Plan of Subdivision 415534X Volume 10419, Folio 464	30/11/2020
Section 50 amendment	Clause 1 Planning Consultants	02/03/2021
Section 57A amendment	Clause 1 Planning Consultants	02/02/2022
Planning Report	Clause 1 Planning Consultants	01/02/2022
Response to RFI Letter	Clause 1 Planning Consultants	02/03/2021
Drawings	Drawings: TP01, TP02, TP03, and TP04 all Revision prepared by Buckerfield Architects	21/12/2021
Operational Management Plan	Omni Property Group	13/07/2021
Waste Management Plan	Clause 1 Planning Consultants	01/02/2022

### 3.2 Summary of proposal

The application seeks planning approval to use the land as a rooming house. Clause 73.03 provides the following land use definition for a rooming house:

*“Land used for a rooming house as defined in the Residential Tenancies Act 1997.”*

Pursuant to The *Residential Tenancies Act 1997*, a rooming house is defined as:

*“Rooming house means a building, other than an SDA enrolled dwelling, in which there is one or more rooms available for occupancy on payment of rent—*

*(a) in which the total number of people who may occupy those rooms is not less than 4; or*

*(b) in respect of which a declaration under section 19(2) or (3) is in force”*

The specific details of the use are at Table 4:

Table 4 – Proposed rooming house details	
Use	Rooming house located at the upper ground level of the Building (Lot S9).
Rooms	11 Rooms with ranging from 11.6 square metres to 28 square metres, each with an additional room with toilet, shower, and basin with a minimum size of 2.6 square metres. Each bedroom will have its own ensuite bathroom, wardrobe and desk.
Residents	Maximum of 11 residents – one per room.
Floor area	420 square metres.
Works	Internal work to create 11 bedrooms, kitchen, amenities (laundry), storage room, reception, and sitting area.

Car Parking	4 car parking spaces provided at Lower ground level.
Bicycle Parking	4 bicycle parking spaces located within the Building (Lot S9).
Pedestrian Access	Stairs leading up from Princes Street and via the Lygon Street Site entrance and through the Central Building, Building 5 lobby.
Vehicle access	The 4 car parking spaces are accessed via the Lower ground level which is accessed via Drummond Street. The car parking area is secured with a gate.

Figure 8 – Existing floor plan (Lot S9)

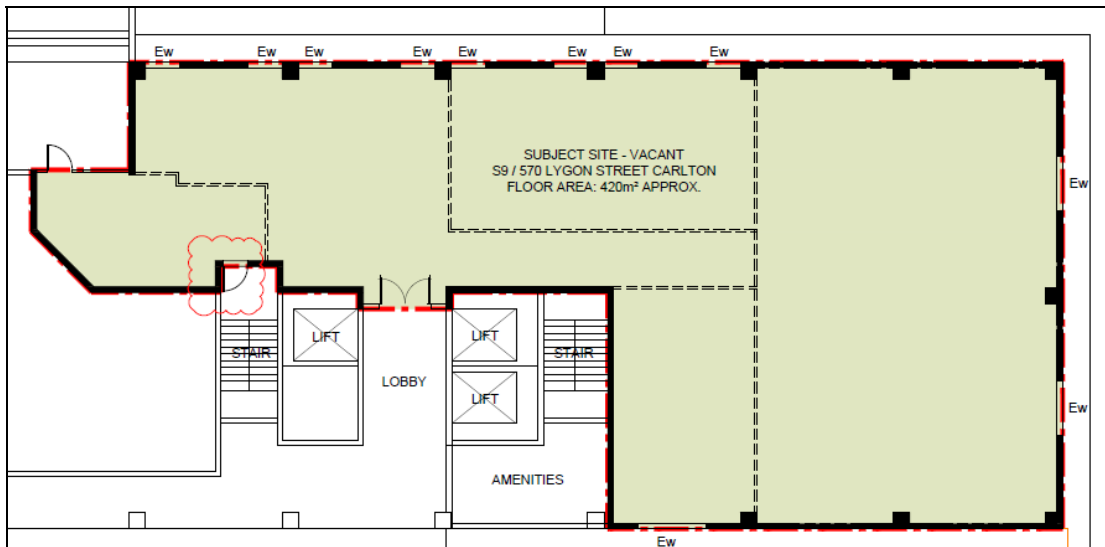
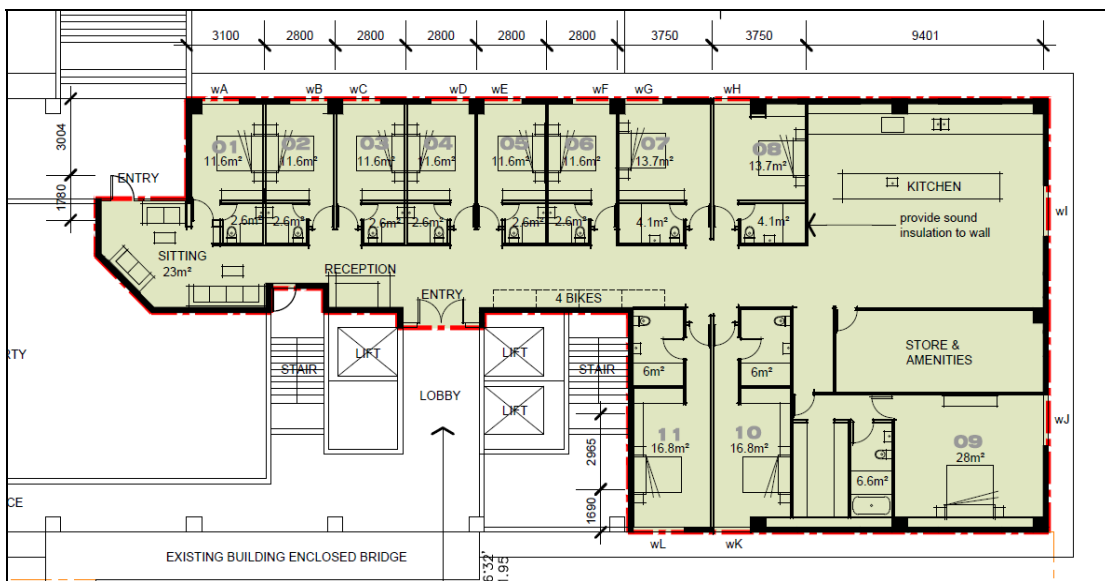


Figure 9 – Proposed floor plan



The submitted operational management plan, which includes a set of 'house rules', contains the following relevant information:

<b>Table 5 - Management Plan Details</b>	
Manager	There will be a nominated off-site manager. The manager is to be contactable during business hours and after hours for emergencies. The manager will deal with any issues and liase between the residents, non-residents, and neighbours.
Vetting	In order to ensure potential tenants are suitable and of good character, the manager will attain copies of the following prior to allowing tenants to lease the premises: <ul style="list-style-type: none"> <li>▪ Personal identification.</li> <li>▪ Names and contact details of rental or personal referees.</li> <li>▪ Rental history.</li> <li>▪ Rent payment receipts or statements.</li> <li>▪ Employment details and history.</li> <li>▪ Proof of income.</li> <li>▪ Bank details and copies of bank statements.</li> </ul>
Lease Term	6-12 month leases. The minumum lease term is 6 months.
Residents	This rooming house is aimed at professionals who require short term accomodation.
Access	Pedestrian access will be via the Princes Street entrance as well as the Site's main shared pedestrian entry located to the south of the Building which is accessed via the Central Building, Building 5 lobby.
Servicing	Rooms will be serviced weekly including cleaning and restocking of shared supplies in the common areas.
Maintenance of rooms	Residents must maintain their rooms in a clean manner and in a way that does not interfere with the reasonable comfort of the other residents, and in a way that does not create a fire or health hazard. Residents must not intentionally or recklessly damage or destroy any part of their rooms or common areas in the Rooming House.
Smoking	The rooming house is to be a smoke free zone.
Illicit drugs	The possession and / or use of illegal drugs by residents is strictly prohibited.
Waste	Each room will have its own bin and the common area / kitchen will contain a 50-60 L bin. Waste is to be deposited into the Buildings waste chute located at level 1 which is accessed via stairs.  Garbage is to be enclosed in a plastic bag (tied at the top) and placed in the bins in the garbage area. No domestic rubbish, food scraps, food wrappers, goods or materials are to be left in the hallways, common areas or outside the premises.
Laundry	The laundry facilities are not to be used before 7am or after 10pm.

Fire safety	<p>The rooming house will comply with essential fire safety measures outlined in the Building Act 1993 and Building Regulations 2018, including but not limited to the following:</p> <ul style="list-style-type: none"> <li>▪ A copy of the annual fire safety statement and current fire safety schedule for the premises will be prominently displayed in the Rooming House entry area.</li> <li>▪ A floor plan will be permanently fixed to the inside of the door of each room to indicate the available emergency egress routes from the respective room.</li> <li>▪ The Manager will be trained in relation to the operation of the Emergency Management and Evacuation Plan.</li> <li>▪ The Rooming House will provide annual certification for the Essential fire safety measures to comply with the Building Act 1993 and Building Regulations 2018.</li> <li>▪ Emergency numbers will be provided on the building noticeboards.</li> </ul>
Security	Security is not proposed.
Outdoor areas	There is an existing terrace that runs along the north, east, and south elevations of the building which can be assessed near the stairs that connect the Site and Princes Street.
Guests	No guest are permitted in the rooming house between 9pm and 8am. Guests are to be made aware of the house rules.

#### 4 STATUTORY CONTROLS

The relevant statutory controls and permit requirements are at Table 6.

Table 6 – Permit Requirements	
Clause	Permit Trigger
Clause 32.07 Residential Growth Zone Schedule 1	<p>Pursuant to Clause 32.07, a rooming house is a Section 1 use provided the proposal meets the requirements of Clause 52.23-2 (Rooming House).</p> <p>The proposal does not meet the requirements of Clause 52.23-2 therefore, the use is a Section 2 use and a <b>permit is required</b>.</p> <p>Pursuant to Clause 62.02-2, any requirement in this scheme relating to the construction of a building or the construction or carrying out of works does not apply to the internal rearrangement of a building or works provided the gross floor area of the building, or the size of the works, is not increased and the number of dwellings is not increased.</p> <p>The proposed internal works comply with the above exemption; therefore a permit is not required for the internal works.</p> <p>Despite the works being exempt, Clause 32.07-5 (Construction and extension of a residential building) states that a development <b>must</b> meet the requirements of Clause 55 (ResCode).</p>
Clause 52.23 Rooming House	<p>Clause 52.23 provides scenarios where a permit is not required for a rooming house in specific zones.</p> <p>Pursuant to Clause 52.23, any requirement in the Residential Growth</p>



	<p>Zone to obtain a permit to use land for a rooming house does not apply if <b>all</b> of the following requirements are met:</p> <ul style="list-style-type: none"> <li>▪ Any condition opposite the use 'rooming house' in the table of uses in the zone or schedule to the zone is met.</li> <li>▪ The total floor area of all buildings on the land, measured from the outside of external walls or the centre of party walls, does not exceed 300 square metres, excluding outbuildings.</li> <li>▪ No more than 12 persons are accommodated.</li> <li>▪ No more than 9 bedrooms are provided.</li> </ul> <p>The proposal seeks to provide a rooming house use where the floor area exceeds 300 square metres and where more than 9 rooms (11) are proposed. As such, the exemption does not apply and a permit is required.</p>
<p>Clause 45.09 Parking Overlay Schedule 12</p>	<p>Clause 45.09 Schedule 12 provides maximum car parking rates for dwellings.</p> <p>This application does not propose dwellings; therefore Clause 45.09, Schedule 12 does not apply and a permit is not required.</p>
<p>Clause 52.06 Car Parking</p>	<p>Pursuant to Clause 52.06-1, Clause 52.06 applies to a new use.</p> <p>Pursuant to Clause 52.06-3, a permit is required to reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.</p> <p>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.</p> <p>The Table at Clause 52.06-5 states that a rooming house require 1 car parking space to each 4 bedrooms.</p> <p>The proposal contains 11 bedrooms, requiring 2 car parking spaces.</p> <p>The proposal contains 4 car parking spaces; therefore the application does not seek to reduce or waive the requirement and a permit is not required.</p>
<p>Clause 52.29 Land Adjacent to the Principal Road Network</p>	<p>Princes Street is a road in a Transport Zone 2.</p> <p>Pursuant to Clause 52.29-2, a permit is required to:</p> <ul style="list-style-type: none"> <li>▪ Create or alter access to: <ul style="list-style-type: none"> <li>- A road in a Transport Zone 2.</li> <li>- Land in a Public Acquisition Overlay if a transport manager (other than a municipal council) is the acquiring authority and the acquisition is for the purpose of a road.</li> </ul> </li> </ul> <p>Given the application relies on an existing crossover for vehicle access via Drummond Street and not Princes Street, there is no access change to the Transport Zone 2; therefore, no permit is required.</p>
<p>Clause 52.34 Bicycle Facilities</p>	<p>Pursuant to Clause 52.34-1, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.</p> <p>Pursuant to Clause 52.34-2, a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6.</p>

	<p>Table 1 to Clause 52.34-5 states that a residential building (includes rooming house) requires:</p> <ul style="list-style-type: none"> <li>▪ In developments of four or more storeys, 1 to each 10 lodging rooms for Residents.</li> <li>▪ In developments of four or more storeys, 1 to each 10 lodging rooms for Visitors.</li> </ul> <p>As such, the rooming house use requires:</p> <ul style="list-style-type: none"> <li>▪ 1.1 bicycle spaces (1 x [11/10] = 1.1) for residents.</li> <li>▪ 1.1 bicycle spaces (1 x [11/10] = 1.1) for visitors.</li> </ul> <p>The bicycle spaces required are:</p> <ul style="list-style-type: none"> <li>▪ 1 bicycle space for residents; and</li> <li>▪ 1 bicycle space for visitors.</li> </ul> <p>The proposal provides 4 bicycle parking spaces on the land; therefore, a permit is not required.</p>
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## **5 STRATEGIC FRAMEWORK**

### **5.1 Planning Policy Framework (PPF)**

Clause 11 - Settlement

Clause 15 - Built Environment and Heritage

Clause 16 - Housing

Clause 17 - Economic Development

Clause 18 - Transport

### **5.2 Local Planning Policy Framework (LPPF)**

#### **5.2.1 Municipal Strategic Statement (MSS)**

Clause 21 - Municipal Strategic Statement

Clause 21.02 - Municipal Profile

Clause 21.03 - Vision

Clause 21.04 - Settlement

Clause 21.07 - Housing

Clause 21.08 - Economic Development

Clause 21.09 - Transport

Clause 21.11 - Local Areas

Clause 21.16 - Other Local Areas

Clause 21.16-3 – Carlton

#### **5.2.2 Local Policies**

Clause 22.19 - Energy, Water and Waste Efficiency

## **6 PARTICULAR PROVISIONS**

Clause 52.06 - Car Parking

Clause 52.23 - Rooming House

Clause 52.34 - Bicycle Parking

Clause 55 - Two or More Dwellings on a lot and Residential Buildings

**7 GENERAL PROVISIONS**

Clause 62.02 - Buildings and Works

Clause 65 - Decision Guidelines

**8 OPERATIONL PROVISIONS**

Clause 73 - Meanings of Terms

Clause 73.03 - Land Use Terms

**9 PUBLIC NOTIFICATION**

Clause 32.09 (Residential Growth Zone, Scheduled 1) does not exempt the proposed land use from public notice.

It was determined that the proposal may result in material detriment. Notice of the proposal was given by ordinary mail to the owners and occupiers of surrounding properties and by posting a notice on the Princes Street frontage of the site for a 14 day period, in accordance with Section 52 of the *Planning and Environment Act 1987*.

The amended drawings substituted as the application drawings under Section 57A of the *Planning and Environment Act 1987* were circulated to objectors.

It was determined that formal notice to all adjoining properties was not required as the amended drawings would not introduce further material detriment beyond what was originally advertised. This is based on the amendment reducing the intensity of the use by reducing the total number of rooms (18 to 11).

**10 OBJECTIONS AND SUPPORT**

**10.1 Objections**

A total of 382 objections were received, and raised the following concerns with the proposal:

<b>Table 7 - Matters raised by objectors (summarised)</b>	
Land use	<ul style="list-style-type: none"> <li>▪ The proposal nominates that it is for professionals but may open up to others.</li> <li>▪ There is no room for a rooming house at this location and a standalone facility would be more appropriate.</li> <li>▪ The proposal does not meet the Consumer Affairs Victoria minimum standards for a rooming house.</li> <li>▪ The proposal is not necessary as there is an oversupply of apartments in Melbourne.</li> <li>▪ The existing residents don't want homeless people or drug users on the Site.</li> <li>▪ The building is for residential not commercial business.</li> <li>▪ The new internal works create fire egress issues.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ The space can be better utilized for the betterment of the owners.</li> <li>▪ Concern that the use will attract low income tenants.</li> <li>▪ The Building is purpose built for student accommodation.</li> <li>▪ The use may accommodate people with social problems.</li> <li>▪ Proximity to public housing.</li> <li>▪ There are limited resident amenities.</li> <li>▪ Security concern from multiple access points and internal stairs. Use of common area utilities.</li> </ul>
Management	<ul style="list-style-type: none"> <li>▪ There is no 24 hour security.</li> <li>▪ A rooming house only requires two days for notice to vacating.</li> <li>▪ A separate reception will cause confusion.</li> <li>▪ Risk of people staying indefinitely.</li> <li>▪ The use will create additional burdens on complex staff.</li> <li>▪ No background check for rooming house tenants.</li> <li>▪ Lack of staffing.</li> </ul>
Amenity	<ul style="list-style-type: none"> <li>▪ The space is too small for 18 residents (objection lodged before the Section 57A amendment).</li> <li>▪ The proposal will create noise problems.</li> <li>▪ Restriction of views.</li> <li>▪ Loss of privacy.</li> <li>▪ More residents requires more landscaping. The existing landscaping is not shown on the plans.</li> <li>▪ Lack of open space does not comply with standard D19 of Clause 58.</li> </ul>
Waste	<ul style="list-style-type: none"> <li>▪ The use requires an appropriate waste management plan.</li> <li>▪ There is rubbish left around the building.</li> </ul>
Process	<ul style="list-style-type: none"> <li>▪ There has been no consultation.</li> <li>▪ Failure to notify the Owners Corporation.</li> <li>▪ The notice period did not leave enough time to object.</li> <li>▪ MCC has failed to notify Lytton Street residents.</li> <li>▪ The notice sign was erected incorrectly.</li> </ul>
Traffic	<ul style="list-style-type: none"> <li>▪ Vehicle concerns as more people will generate more traffic.</li> <li>▪ The car parking provision is insufficient.</li> </ul>
Other	<ul style="list-style-type: none"> <li>▪ The proposal will devalue the property.</li> <li>▪ The proposal will increase the rent for current renters.</li> <li>▪ The proposal will decreased rental value.</li> </ul>



	<ul style="list-style-type: none"> <li>▪ The proposal will introduce the same risks as a safe injecting facility.</li> <li>▪ The zone that affects the land may change.</li> <li>▪ The Owners Corporation is against the application so it should be refused.</li> <li>▪ No one will be accountable for property damage.</li> <li>▪ Compliance with Owners Corporation rules regarding works.</li> <li>▪ The current Owners Corporation fees paid by the owner of Lot S9 won't cover the cost implications on the building.</li> <li>▪ Greater density equals greater risk of Covid-19 transmission.</li> <li>▪ Construction noise.</li> </ul>
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## 10.2 Support

A total of 5 letters of support were received in response to the application being advertised. The letters of support included the following (summarised where required):

- The use will provide diversity of housing choices and housing affordability and is supported.
- The land is already used for a mix of residential and student accommodation. This application provides a housing option for those who require it.
- The use will improve the overall facility.
- Using the vacant level is supported.
- Melbourne needs more short term accommodation.

## 11 CONSULTATION

Given the receipt of the above objections, the objections were forwarded to the applicant for their consideration.

It was also requested that an operational management plan be prepared which was circulated to the objectors for comment.

A total of 4 objections were formally withdrawn in response to the circulated management plan.

A total of 5 further objections were received in response to the management plan. These additional objections were lodged by existing objectors. They raised the following new matters:

- If the target cohort is not met, it's not clear how management will fill the rooms.
- An alternative lease period should be considered for circumstances that a 6-to-12-month lease be unsuitable for a tenant.
- The management plans state that the front door of the premises will be closed at all times. However, from the application plans, there are two entrances, which is the front door? Also, "closed" is not locked. What are the security protocols for entrance as the current building requires a security pass for entry and exit.

- Rooming house tenants are expected to move their waste and recycling through common areas of the complex building to access the pre-existing rubbish system.
- The nominated manager is off-site. As they are off-site, there is no-one around to enforce rules and oversee tenants and their guests. Consequently, this would be left for the complex's current management / security team to deal with immediate issues / complaints as they are on-site. This would also be an added strain for neighbours.
- The proposal does not consider the amenity of the residents in a lockdown.

The above matters are addressed at Section 14 of this report.

## **12 INTERNAL REFERRALS**

The application was referred internally to the following internal departments.

### **12.1 Waste and Recycling**

The application's advertised Waste Management Plan (WMP) was referred to the City of Melbourne's waste and recycling team who provided the following comment:

"These apartments will not be individually rated – the 18 apartments will have a single rates assessment, which will entitle this tenancy to a Council collection of up to 120L garbage and 240L recycling per week. Given that the waste generated will be well in excess of this threshold, waste will need to be managed separately and collected by a private operator. This tenancy can't leverage off the City of Melbourne waste collection service as proposed in the Waste Management Plan."

#### **Planner's Response**

The City of Melbourne's waste team have not accepted the WMP.

It is recommended that any permit issued for the proposal contains a permit condition requiring an updated WMP which includes private collection, to be submitted and approved.

### **12.2 Health and Wellbeing**

The application was referred to the City of Melbourne's Health and Wellbeing team. A summary of the comments are provided below:

- The applicant will be required to make application to register the premises under Public Health and Wellbeing Act 2008 / Regulations 2009.
- The applicant will require building approval from CoM Building Control Group.
- The applicant will need to be licenced by Consumer Affairs Victoria for purposes as a Rooming House Operator.

#### **Planner's Response**

The health team have not raised any issues and noted other approvals are required. If a permit is issued, it is recommended that a note be included advising the permit holder they may require additional approvals.

## **13 EXTERNAL REFERRALS**

The application was not required to be referred externally.

## 14 ASSESSMENT

The application seeks planning approval to use the land for a rooming house. The key matters for consideration include:

- The appropriateness of the use.
- The objectives and standards of Clause 55 (ResCode).
- The matters raised in the objections received.

### 14.1 Land Use

The proposed land use is an acceptable response to the purpose and decision guidelines of the Residential Growth Zone (RGZ) for the following reasons:

- The use aligns with the purpose of the RGZ.
- The use can be appropriately managed via a management plan and planning permit conditions.

#### 14.1.1 Policy Assessment

The purpose of the Residential Growth Zone (RGZ) is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The proposed rooming house land use is an acceptable response to the purpose and decision guidelines of the RGZ1 for the following reasons:

- The proposal reasonably responds to the purpose of the zone which seeks to provide housing diversity and a transition of use intensity between Melbourne's Central Business District and the lower scale residential uses to the north and east.
- The proposal seeks to utilise a vacant lot within the Building that contains similar residential uses (accommodation / dwellings).
- The proposal seeks to introduce housing diversity in a location that has good access to services and amenities. This includes transport, shops, employment, and open space for recreation.
- The proposal will enable access to housing for people who require medium term accommodation.
- The proposal does not introduce built form that will change the appearance of the Building or introduce external amenity concerns.
- The use relates to accommodation which is not likely to result in unreasonable noise impacts to the surrounding neighbours and properties.

- The proposal satisfies the car parking and bicycle parking provision required for a rooming house. Given no permit for car parking or bicycle parking is required, the on-site transport related provisions are appropriate.
- The waste generated by the use can be effectively managed on-site. It is this officer's recommendation that a waste management plan be required via a permit condition (if a permit is issued) to ensure waste is appropriately managed.
- The proposal complies with the requirements of Clause 55 (ResCode) (assessed at section 14.2 of this report).

#### **14.1.2 Management of the use**

The key concern raised by objectors relates to the ongoing management of the proposed rooming house. Specifically, the following matters have been raised:

- The potential for anti-social behaviour and general disturbances.
- The lack of on-site management.
- The ability for proposed residents to access other parts of the complex and the Building.

The proposed use responds appropriately to the purpose and decision guidelines of the RGZ1. To ensure this type of use is managed appropriately, the most effective approach is to require an Operational Management Plan (OMP).

As detailed at Table 5 of this report, the OMP supplied contains information regarding how the use will be managed as well as containing a set of house rules.

The OMP provides for resident cohort, manager duties, resident management, building management, and a set of 'house rules'. The 'house rules' provide for behaviour, maintenance of rooms, guests, pets, waste, drugs, smoking, noise, Owners Corporation rules, and access.

One key matter raised by objectors relates to who is staying at the proposed rooming house and how the manager will ensure the rooming house continues to provide for professionals. The management plan indicates the following measures will be considered when lease applications are received:

- Personal identification.
- Names and contact details of rental or personal referees.
- Rental history.
- Rent payment receipts or statements.
- Employment details and history.
- Proof of income.
- Bank details and copies of bank statements.

These measures are reasonable to ensure the use secures appropriate tenants regardless of their work background; similar to a regular accommodation lease agreement.

It is noted that whilst the rooming house is targeted at working professionals requiring medium term accommodation, other demographics may also require rooming accommodation and it is not considered appropriate to constrain the use of the rooming house one specific demographic.



The objections also raise that the proposal is not specific about how it will ensure the minimum lease term will be adhered to, noting there is no contingency plan for the use where they are not able to obtain 6 month minimum leases.

The OMP specifies that 6-12 month leases are expected with 6 months being the minimum. This is to be managed by the property manager. This tenure is included in the OMP and if the use is permitted, it will be required to adhere to the plan.

Movement within the Site and Building is possible via land which is in common property (see section 1 of this report). The proposed rooming house tenants will also be able to use parts of the Site within common property, which Lot S9 has a right to as a part owner of the common property. This issue is a matter best dealt with by the Owners Corporation for the Building and Site as Lot S9 is part of the Building.

Whilst the OMP is considered to cover most issues, there is some specific information that should be included to ensure the use is managed appropriately. This includes:

- How the 4 car parking spaces are accessed and managed.
- How potential littering will be managed.
- How movement to other parts of the Building will be managed.
- A complaint handling process to ensure that any incidents are properly recorded and addressed, and preventative strategies for minimising disturbances on the Site.
- How security of the Building will be managed.

The above specific information is recommended to be included in an updated OMP. The following information is recommended to be required through permit conditions:

- a. Details relating to how internal movement of the residents within the overall complex and building where the rooming house is located will be managed to provide security to the neighbouring residential properties.
- b. Procedures, and standards for residents to minimise amenity and parking problems in the neighbourhood.
- c. Establishment of a complaints hotline for, and regular meetings with, adjacent residents.
- d. Security against thefts and break-ins, including security of residents' belongings.
- e. Updated rules including details relating to littering.
- f. Appropriate management and security practices so as to prevent the congregation of residents and visitors in communal and outdoor areas after 10pm.
- g. No amplified sound or speakers to be permitted in the external areas at all times.
- h. Contact details of the relevant land manager being Omni Property Group.

The availability and transparency of a management plan for the premises would clearly articulate specific requirements for residents of the rooming house and would be the responsibility of the manager of the rooming house to enforce / adhere to.

The subsequent endorsement of the management plan to form part of any permit to issue will allow for dialogue to occur between adjacent residents and the site operators / managers which would assist in minimising and appropriately managing /

addressing incidents of anti-social behaviour as well as being enforceable under any Planning Permit issued.

Lastly, it is noted the Section 57 amendment to reduce the number of rooms to 11 was not accompanied by an updated OMP. It is recommended that any permit issued contains a condition requirement to provide an updated OMP.

## **14.2 Clause 55**

Clause 55 (ResCode) sets out objectives and standards relating to neighbourhood character, site layout and building massing, off-site and on-site amenity, and detailed design.

As stated at Section 4 of this report, the use is subject to Clause 55 regardless of a permit being required for development. Clause 55 will provide the guidance necessary to determine if the internal and external amenity of the proposed use is acceptable.

As demonstrated in the Clause 55 assessment for this application (Appendix 1), the proposal satisfies all the relevant objectives and standards. Areas of non-compliance with standards or where an objection has been received are addressed below.

### **14.2.1 Landscaping Objective – Clause 55.03-8**

An objection was received relating to landscaping, indicating that more should be provided as a result of the proposed increase of people residing on the land.

The objective of Clause 55.03-8 seeks:

*To encourage development that respects the landscape character of the neighbourhood;*

*To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance;*

*To provide appropriate landscaping; and*

*To encourage the retention of mature vegetation on the site.*

The existing Site features include several trees and landscaping which are not proposed to be removed.

The objective of Clause 55.03-8 is met.

### **14.2.2 Overshadowing Objective – Clause 55.04-5**

An objection was received relating to overshadowing.

The objective of Clause 55.04-5 seeks to ensure buildings do not significantly overshadow existing secluded private open space.

The proposal does not introduce any additional overshadowing as there are no new buildings proposed. The objective of Clause 55.04-5 is met.

### **14.2.3 Overlooking Objective – Clause 55.04-6**

Overlooking was raised by neighbouring residents following advertising of the application.

The objective of Clause 55.04-6 seeks to limit views into existing secluded private open space and habitable room windows.

The application does not introduce any new habitable room window within 9 metres of an existing habitable room window as the nearest building is to the south and is 13 metres away. The proposal complies with Standard B22.

#### 14.2.4 Internal Views Objective – Clause 55.04-7

The objective of Clause 55.04-7 seeks:

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

Pursuant to Standard B23, windows and balconies should be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower-level dwelling or residential building directly below and within the same development.

The proposal does not allow for any internal views of any habitable room window or secluded private open space; complying with the standard B23.

The objective of Clause 55.04-7 is met.

#### 14.2.5 Private Open Space Objective – Clause 55.05-4

This application does not provide private open space as it seeks to retrofit an existing building.

The objective of Clause 55.05-4 seeks:

*To provide adequate private open space for the reasonable recreation and service needs of residents.*

Pursuant to Clause 55.05-4, Standard B28 provides various private open space types that can be applied including:

- An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room; or
- A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room; or
- A roof-top area of 10 square metres with a minimum width of 2 metres and convenient access from a living room.

The application seeks to vary Standard B28 by not providing any private open space on the land for the rooming house occupants. The variation of Standard B28 is acceptable for the following reasons:

- The internal amenity and size of each proposed room is greater than a standard apartment bedroom.
- The Site is within walking distance to amenities and open space for recreational purposes.
- The existing dwellings on the land do not have private open space.

The objective of Clause 55.05-4 is met.

### 14.3 Objections

The matters raised by objectors that have not been addressed above are individually addressed below (Table 8):

Table 8 - Matters raised by objectors (summarised)	
Objection	Planning Response
The proposal does not meet the Consumer Affairs Victoria (CAV)	Council is responsible for assessing this planning application under the decision guidelines of the

minimum standards for a rooming house.	applicable zone. In this instance the guidelines do not require an assessment of the requirements of CAV. It should be noted that if a planning permit is granted, the operator will require CAV permission.  It is noted this objection was received prior to the application being amended to reduce the rooms to 11.
The proposal is not necessary as there is an oversupply of apartments in Melbourne.	The site is located in a Residential Growth Zone which encourages increases densities and diversity of housing types in locations offering good access to services and transport.
Proximity to public housing	The provision of a rooming house provides for a diversity of housing types within the surrounding area.
<b>Management</b>	
Rooming house only requires two days for notice to vacating.	Leasing arrangements are addressed at Section 14.1.2 of this report.
Separate reception will cause confusion.	A reception provides a service to new residents in the rooming house.
Risk of people staying indefinitely.	The management plan indicates the property manager would oversee matters relating to lease agreements.
The use will create additional burdens on complex staff.	This is a matter between the permit applicant and the Owners Corporation.
Lack of staffing.	The management of the use is assessed at Section 14.1.2 of this report.
<b>Amenity</b>	
The space is too small for 18 residents.	Internal amenity is assessed at Section 14.2 of this report.  It is noted this objection was received prior to the application being amended to reduce the rooms to 11.
Compliance standard D19 of Clause 58.	Standard D19 and Clause 58 relate to apartment developments for dwellings. This application is not for an apartment building and the requirements of Clause 58 and Standard D19 do not apply.  This application is subject to Clause 55 and if it complies with the relevant objectives and standards.
<b>Process</b>	
There has been no consultation.	Notice of the application was given and additional information in the form of a management plan has been circulated in direct response to the matters raised by objectors.
Direct notice not provided to owners of the site.	The City of Melbourne directs notice in the form of notice to the owners and occupiers of the affected properties, which included the other lots on the subject

	site.
The notice period did not leave enough time to object.	14 days for notice is the required period for planning permit application in Victoria as per the Planning and Environment Regulations.  An objection can be lodged up until a decision is made on the application.
MCC has failed to notify Lytton Street residents.	Notice of the application was given to the adjoining properties and via notices on the land in accordance with the <i>Planning and Environment Act 1987</i> .
The notice sign was erected incorrectly.	Photo evidence of the notices being correctly erected is on file in accordance with the City of Melbourne's standard practice.
<b>Other</b>	
<p>Failure to comply with the Owners Corporation (OC) rules, including:</p> <ul style="list-style-type: none"> <li>▪ Failure to formally notify the Owners Corporation.</li> <li>▪ Fire safety.</li> <li>▪ Obtaining the relevant permissions for works.</li> <li>▪ Notification of the change of use.</li> <li>▪ Health and safety.</li> </ul>	<p>Owners Corporation Rules are established under the <i>Owners Corporation Act 2006</i> where there are multiple lots on a larger parcel and areas of common property.</p> <p>Council does not have a role as part of this rules, rather they operational rules for all members of the Owners Corporation.</p> <p>Any concerns with respect to following these rules is a civil matter that that needs to be raised with the Owners Corporation directly.</p> <p>It is noted that the OC were sent formal notice of the application as part of the planning process. The OC have also objected which indicates they are aware of the proposal and can have regard to their processes separately.</p>
The proposal will decrease the rental and sale value of the existing dwellings on the land.	Property / rental value is not a planning consideration.
The proposal will increase the rent for current renters.	Property / rental value is not a planning consideration.
The zone that affects the land may change.	All planning applications are decided on the planning controls at the time of the decision. There are no current planning scheme amendments which seek to change the controls, including the zoning, of the land.
The Owners Corporation opposes the application so it should be refused.	Planning permits are not subject to Owners Corporation rules. This is a matter between the permit applicant and the Owners Corporation.
No one will be accountable for property damage.	This is a matter between the permit applicant and the Owners Corporation.
Compliance with Owners Corporation rules regarding works.	Planning permits are not subject to Owners Corporation rules. This is a matter between the permit applicant and the Owners Corporation.



Greater density equals greater risk of Covid-19 transmission.	This is not a planning consideration.
Construction noise.	As the proposed works are internal only and do not require a planning permit, construction noise is not a relevant planning matter.

## 15 RECOMMENDATION

It is considered that the proposal is an acceptable response to the relevant provisions on the Melbourne Planning Scheme and that a Notice of Decision to Grant a Planning Permit be issued subject to conditions.

It is recommended the notice contains the following description / preamble:

*Use of the land for a rooming house in accordance with the endorsed plans.*

## 16 CONDITIONS

### Amended Plans

1. Prior to the commencement of the use on the land, electronic plans drawn to scale must be submitted to the Responsible Authority generally in accordance with the plans prepared by Buckerfield Architects, dated 21 December 2021, but amended to show:
  - a) Any changes as required by the updated Operational Management Plan required condition 4.
  - b) Any changes as required by the Waste Management Plan required by condition 5.

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

### Compliance with Endorsed Plans

2. The use as shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

### Resident Capacity

3. The maximum number of residents on the premises must be no more than 11 at any one time unless with the prior written consent of the Responsible Authority.

### Operational Management Plan

4. Prior to the commencement of the use, the applicant must submit an updated Operational Management Plan (OMP) generally in accordance with the OMP prepared by Omni Property Group, dated 13 July 2021. The updated OMP must include:
  - a. The number of rooms reduced to 11.
  - b. Details relating to how internal movement of the residents within the overall complex and building where the rooming house is located will be managed to provide security to the neighbouring residential properties.
  - c. Procedures, and standards for residents to minimise amenity and parking problems in the neighbourhood.

- d. Establishment of a complaints hotline for, and regular meetings with, adjacent residents.
- e. Security against thefts and break-ins, including security of residents' belongings.
- f. Updated rules including details relating to:
  - i. Alcohol consumption in communal open space and communal rooms.
  - ii. Littering.
- g. Appropriate management and security practices so as to prevent the congregation of residents and visitors in communal and outdoor areas after 10pm.
- h. No amplified sound or speakers to be permitted in the external areas at all times.
- i. Contact details of the relevant land manager being Omni Property Group.

The updated OMP must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the management plan will form a part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed OMP unless with the prior written consent of the Responsible Authority.

### **Waste Management**

5. Prior to the commencement of the use, a Waste Management Plan (WMP) must be prepared, submitted and approved by the Melbourne City Council – Waste and Recycling. The WMP should detail waste storage and private collection arrangements and be prepared with reference to the Melbourne City Council Guidelines for Preparing a Waste Management Plan.

Waste storage and collection arrangements must not be altered without prior consent of the Melbourne City Council - Waste and Recycling.

6. 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.

### **Noise**

7. A sign must be attached to an internal wall in a prominent position adjacent to the entry / exit points to advise residents to leave the premises in a quiet and orderly fashion. The sign must be to the satisfaction of the Responsible Authority.

### **Permit Expiry**

8. This permit will expire if the use is not started within two 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.

### **Notes**

- This planning permit does not constitute Owners Corporation approval.

- 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.
- 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.