

Report to the Future Melbourne Committee

Agenda item 6.1

Planning Permit Application: TP-2021-538/B
179 Boundary Road, North Melbourne

21 September 2021

Presenter: Larry Parsons, Head of Statutory Planning

Purpose and background

1. The purpose of this report is to advise the Future Melbourne Committee of an application to amend an existing planning permit, seeking approval for the construction of a mezzanine level (between ground and first floor), and an associated reduction in the statutory car parking requirements of Clause 52.06-3.
2. The applicant is Pro Urban Advisory, Planning and Management acting on behalf of the owner VMR Property Investments Pty Ltd. The architect is Archsign.
3. The site on the corner of Boundary and Racecourse Roads is located within the Commercial 1 Zone and is not affected by any overlays. It previously formed part of the City of Moonee Valley, who issued the original permit (MV-18744-2007) for a nine-storey residential building in 2008.
4. The proposal seeks permission to amend the planning permit and the endorsed plans to introduce a mezzanine level in the ground tenancy Lot 12 of title of the existing occupied building, with an associated reduction in the statutory car parking requirements (from five to zero). The existing ground floor space and the proposed mezzanine (total floor area 186.6sqm) and is to be used as an 'office'. No planning permit is required for use of the land as an office.
5. Public notice of the proposal has been undertaken and a total of 27 objections have been received. Many objectors understand the use of the tenancy as a gymnasium to be associated with communal use for the host building, however there is no title or permit condition to this effect.

Key issues

6. Key issues for consideration are the appropriateness of the proposed buildings and works to construct the mezzanine level, and the associated reduction in car parking sought for the proposed office use.
7. The proposed development is consistent with the purpose of the Commercial 1 Zone and would not result in any unreasonable amenity impacts. The waiver of car spaces is considered appropriate for the use in this location due to high public transport accessibility and amenities.
8. It may be the case that approval from the Owners Corporation will be required for any approved planning permit to be acted on. This is a matter that sits outside the planning permit application and assessment process.

Recommendation from management

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

Attachments:

1. Supporting attachment (Page 2 of 21)
2. Locality Plan (Page 3 of 21)
3. Plans (Page 4 of 21)
4. Delegate Report (Page 6 of 21)

Supporting Attachment

Legal

1. Division 1 of Part 4 of the *Planning and Environment Act 1987* (the 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 in 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, waste management and 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

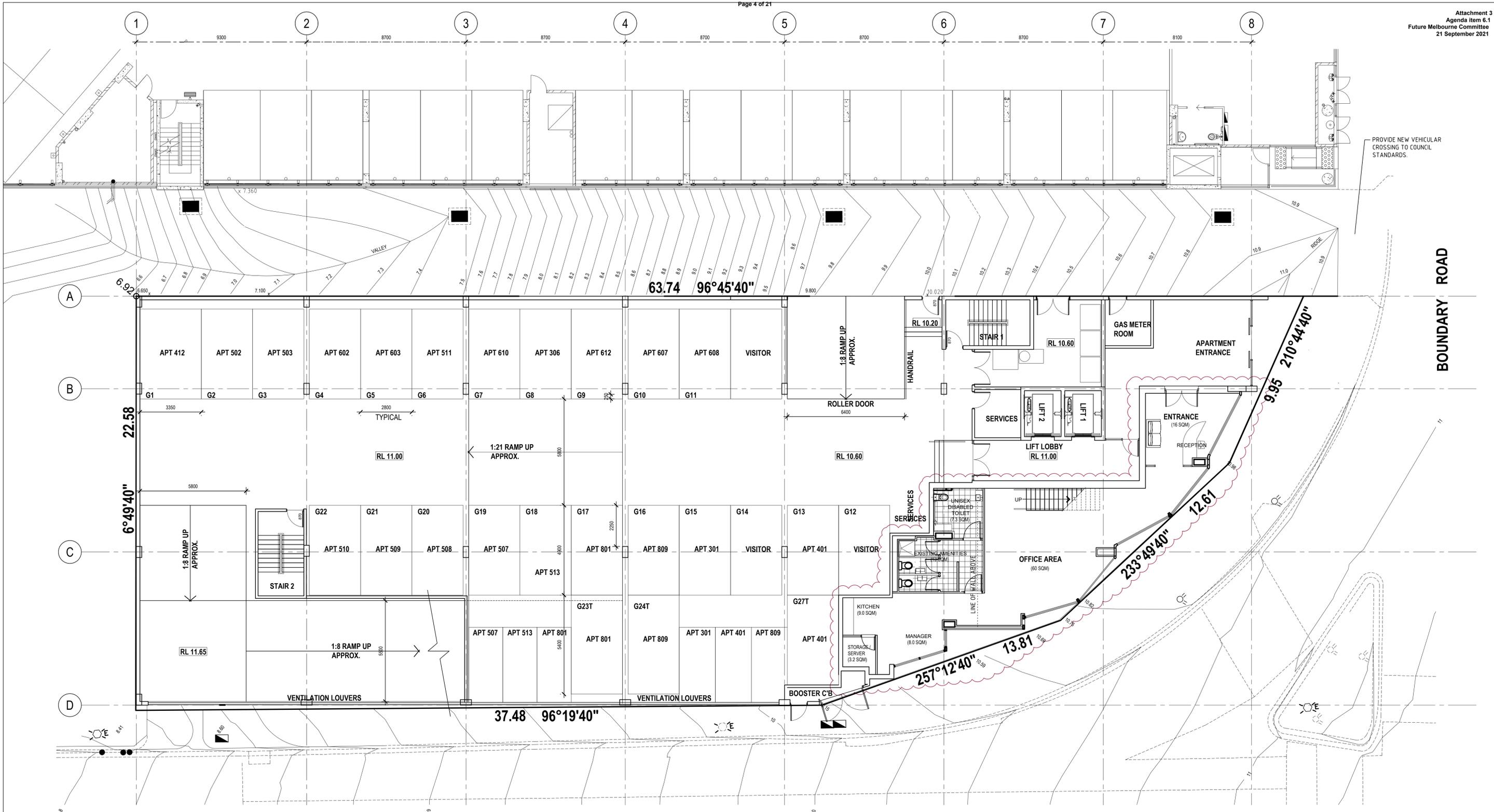
8. The Waste Management Plan (WMP) submitted with the application confirms the use will achieve the relevant performance measures set out in Clause 22.19 (Energy, Water and Waste Efficiency) and the WMP has been accepted by the City of Melbourne's waste and recycling department.
9. Permit conditions requiring an Environmentally Sustainable Design (ESD) Report and Water Sensitive Urban Design (WSUD) Response are recommended to ensure the development will achieve the ESD performance requirements of Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management).

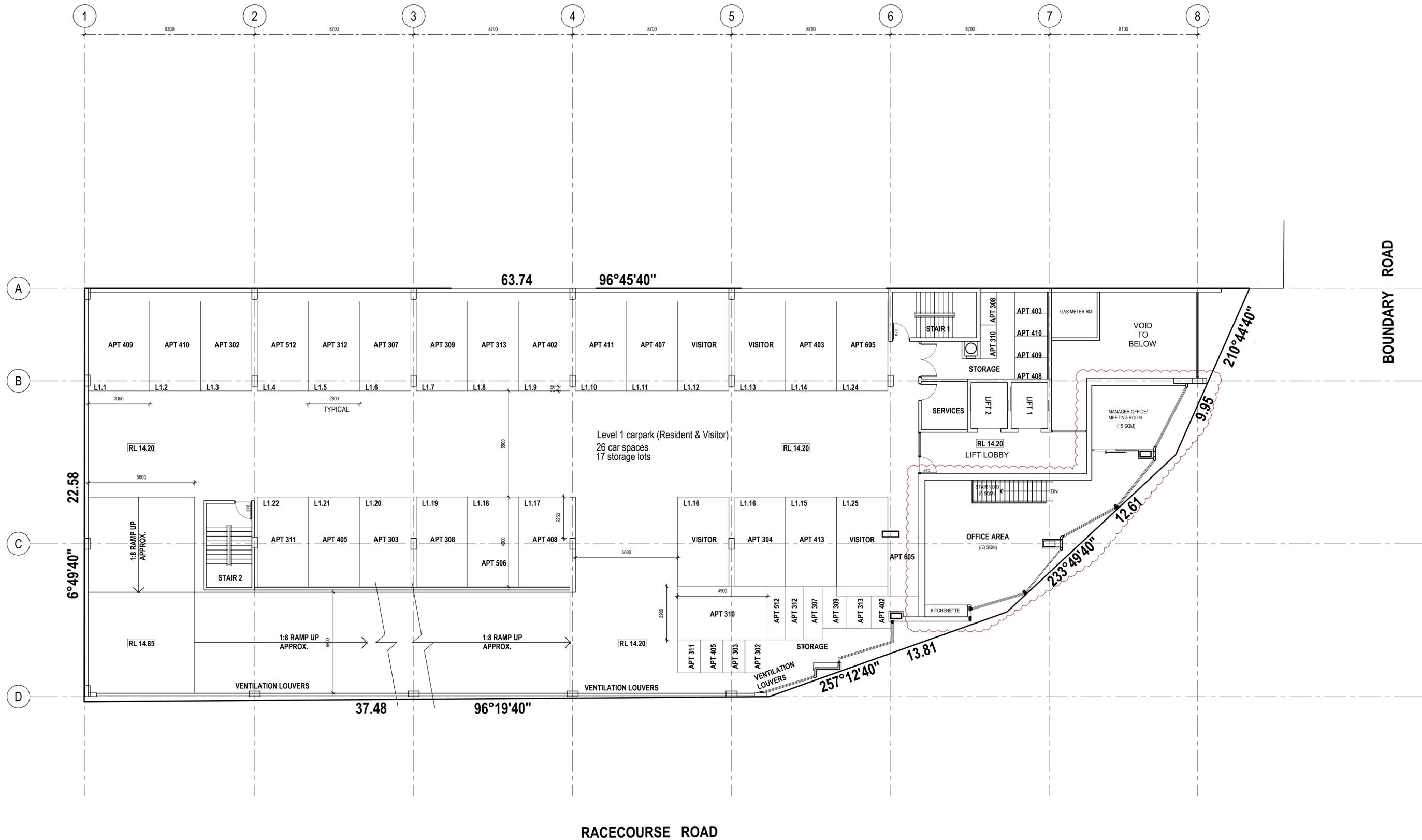
Locality Plan

Attachment 2
Agenda item 6.1
Future Melbourne Committee
21 September 2021

179 Boundary Road, North Melbourne



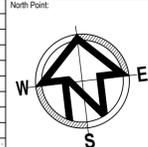




RACECOURSE ROAD

LEVEL 1 FLOOR PLAN
SCALE: 1:100

Revision No.	Revision Description	Revision Date	Rev. No.
1	TOWN PLANNING SECONDARY CONSENT	23 AUGUST 2021	D
2	TOWN PLANNING SECONDARY CONSENT	21 MAY 2021	C
3	PRELIMINARY REVIEW	20 MAY 2021	B
4	PRELIMINARY REVIEW - OPTION 1	19 MAY 2021	A
5	PRELIMINARY REVIEW - OPTION 2	12 MAY 2021	-



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Drawing Name: **TOWN PLANNING SECONDARY CONSENT**
Drawing Issue: **FIRST FLOOR PLAN**

Job No.:	20187
Scale:	A1 = 1:100, A3 = 1:200
Date:	11 MAY 2021
Sheet No.:	TP2.00 (D)
Checked:	SH
Drawn:	AC
Revision:	D

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Project: **EXISTING GYM CONVERSION TO AN OFFICE SPACE**
AT
44-68 RACECOURSE ROAD, NORTH MELBOURNE

DELEGATE REPORT

PLANNING PERMIT APPLICATION

Application number:	TP-2021-538/B
Applicant:	proUrban Advisory, Planning & Management
Owner:	VMR Property Investments Pty Ltd
Architect:	Archsign
Address:	179 Boundary Road, North Melbourne, VIC 3051
Proposal:	Amending the planning permit and endorsed plans pursuant to s.72 of the Planning and Environment Act 1987 for the construction of a mezzanine level (between ground and first floor), and an associated reduction in the statutory car parking requirements of Clause 52.06-3.
Date of application:	21 July 2021
Responsible officer:	Matthew Mukhtar

1 SUBJECT SITE AND SURROUNDS

1.1 Site

Planning Permit application TP-2021-538/B (**Application**) concerns the land at 179 Boundary Road, North Melbourne (**Site**) which is formally recognised as Lot 12 on Plan of Subdivision 604364T.

Approved in 2008 by the City of Moonee Valley under planning permit MV-18744-2007, the Site contains a nine storey residential building principally accommodating a gym, dwellings, and basement and podium car parking.

The host building is known as the 'Kira Apartments'.

The areas of works (that is to say the area of the building that is specifically subject to the Application) is the part of the ground floor (identified as Lot 12 on the Plan of Subdivision) that is currently utilised as a 'gym'. It is located toward the north-west corner of Racecourse and Boundary Roads. The gym is utilised by the residents of the host building. As discussed in further detail below, the gym is not expressly linked to the dwellings under MV-18744-2007 and there are no conditions on the planning permit that control its use.

The surrounding area is characterised by a mix of commercial, residential and industrial uses all with differing building forms.

The Site is well serviced by all modes of public transport services including Flemington Bridge Railway Station and tram services along Racecourse Road and Flemington Road.

See **Figures 1 - 4** below.

1.2 Title Particulars

The area of works (being Lot 12 on the Plan of Subdivision) is in private ownership by VMR Property Investments Pty Ltd.

The register search statement identifies that the Site is burdened by a Section 173 Agreements, being:

- Instrument AJ083508U, which has regard to the use and management of the existing car parking facilities at the Site – see Clause 6 of Instrument AJ083508U.

The Application will not result in a breach of the above Section 173 Agreement, as the car parking conditions are not purposed to be changed. See **Figure 4** below.



Figure 1: Aerial photograph of Site (source: CoMPass; image taken 4 April 2021)



Figure 2: Image of the Site from the corner of Boundary Road and Racecourse Road (facing west) (Source: Google; image taken January 2021)



Figure 3: Image of the Site from Racecourse Road (facing north) (Source: Google; image taken March 2021)

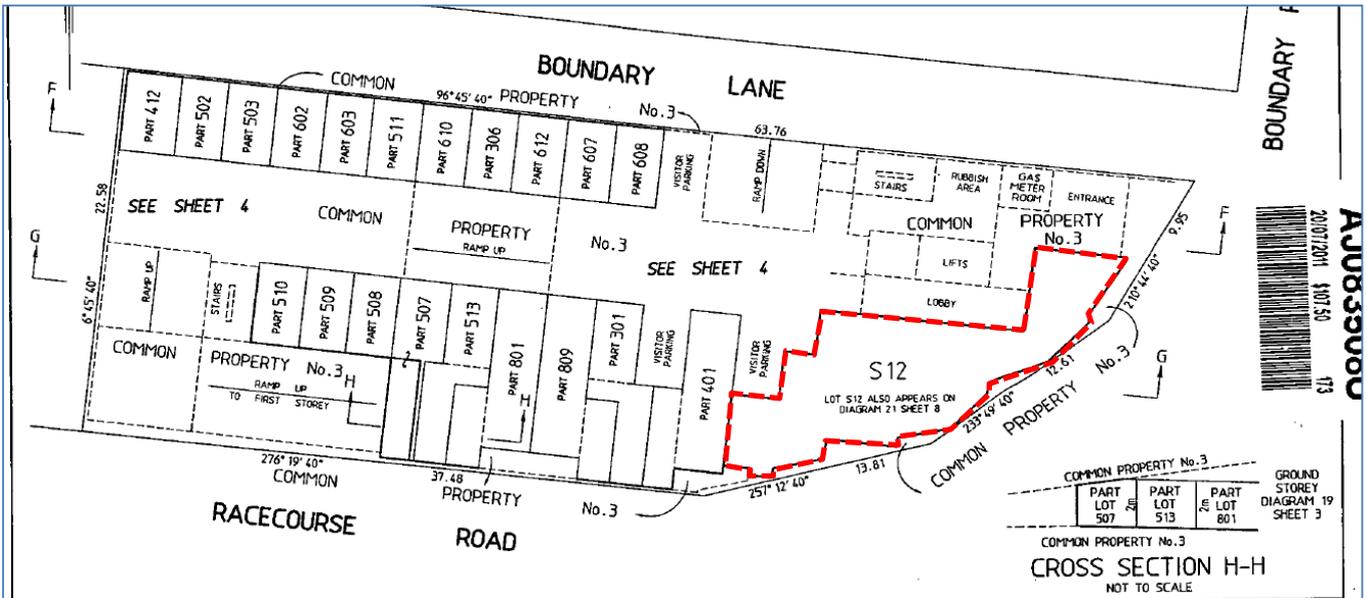


Figure 4 – Extract of the Certificate of Title (Source: applicant, the Site being ‘S12’ outlined in red by Council).

2 BACKGROUND AND HISTORY

2.1 Planning Application History

The City of Moonee Valley, at its ordinary Council meeting on 15 April 2008 issued a Notice of Decision (**NOD**) to Grant a Planning Permit MV-18744-2007 at 44-68 Racecourse Road, North Melbourne.

The permit allowed to ‘Use and develop the land for the purpose of a nine (9) storey building (with a semi-basement) comprising 73 dwellings, the reduction in the car parking requirements, and alterations to access in a Road Zone 1’. The approved development included an ancillary communal gym on the ground floor. As discussed above, there are no conditions controlling the use of the gym on the planning permit. Further, the gym was not specifically required as shared / amenity space or the like.

The NOD was subject to an appeal to the Victorian Civil and Administrative Tribunal (**VCAT**) pursuant to s.82 of the *Planning and Environment Act 1987 (Act)*. The hearing had specific regard to car parking and traffic matters. On 30 June 2008, planning permit MV-18744-2007 was issued in accordance with VCAT's order to 'Use and develop the land for the purpose of a 9 storey building (with a semi-basement) comprising 73 dwellings, a reduction in the car parking requirements, and alterations to access in a Road Zone Category 1'.

The permit was amended on 7 October 2008 to correct formatting errors.

The permit was further amended on 24 May 2011 to make an amendment to the preamble and endorsed plans (the specific details of this amendment are unknown).

Following the construction and subdivision of the approved development, the Site was re-addressed as 179 Boundary Road, North Melbourne.

Sometime following the issuing of the amended (/A) planning permit, the Site (alongside others) was amalgamated into the City of Melbourne municipal boundaries.

2.2 Planning Scheme Amendments

In the intervening period between when the Application was first received by Council and the date of this report, no planning scheme amendments have been gazetted, which have altered the planning controls or statutory framework as bearing on the proposed development and Site.

3 AMENDMENTS DURING THE APPLICATION

3.1 S.57A

On 14 September 2021, the Application was amended under S.57A of the Act.

The changes made as part of this amendment to the application were in direct response to a number of identified inconsistencies in the proposed architectural plans. The inconsistencies related to the car parking and storage layout of the proposed ground floor and first floor plans when compared to the endorsed plans.

The amendment under s.57A clarified these inconsistencies by updating the plans to reflect car parking and storage layout of the endorsed plans.

The application was therefore not readvertised.

The s.57A plans are drawn by Archsign dated 11 May 2021 (Rev D).

4 PROPOSAL

Pursuant to s.72 of the Act, the Application seeks to:

- Amend the endorsed plans under the planning permit to introduce a mezzanine level between the ground and first floors (total floor area circa 186.6sqm).
- The use of the existing gym and proposed mezzanine areas as an 'office' (no planning permit required for the use), with an associated reduction (to zero) in the statutory car parking requirements for the 'office' use.

The finished floor level of the proposed mezzanine level sits at circa RL 14.2, which is 3.2m above the ground floor (at RL 11). The applicant circulated a section to confirm the floor to ceiling height between the ground floor and mezzanine is 2.7m.

No external buildings and works are proposed.

There is no additional car parking or bicycle parking sought by the proposal.

See **Figures 5 - 7** below.

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

Table: Forms / Plans / Reports considered in assessment		
Forms / Plan / Report Title	Drawing/ Report Author	Drawing/Report Date
Application Form	proUrban	20 July 2021
Certificates of Title	Landdata	21 May 2021
Planning Submission	Landdata	20 July 2021
Plans (TP1.00 (D) and TP2.00 (D))	Archsign	11 May 2021 (Rev D)
WMP	Frater	25 May 2021

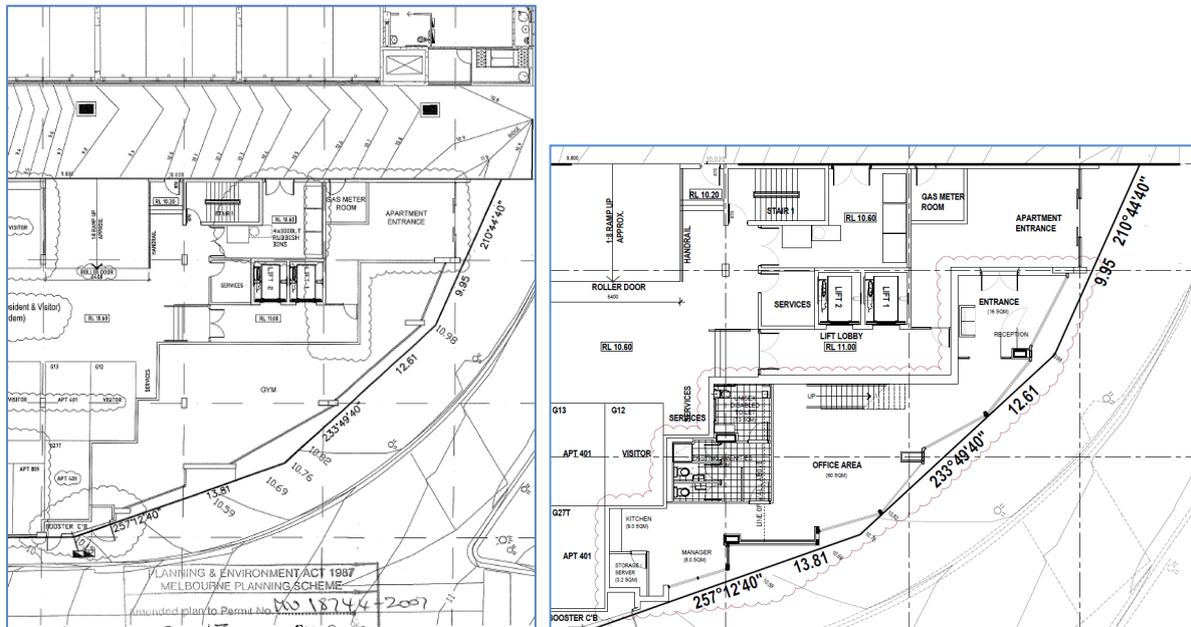


Figure 5: Extract of the endorsed ground floor plan (left) compared to the extract of the proposed ground floor plan (right) (Source: applicant)

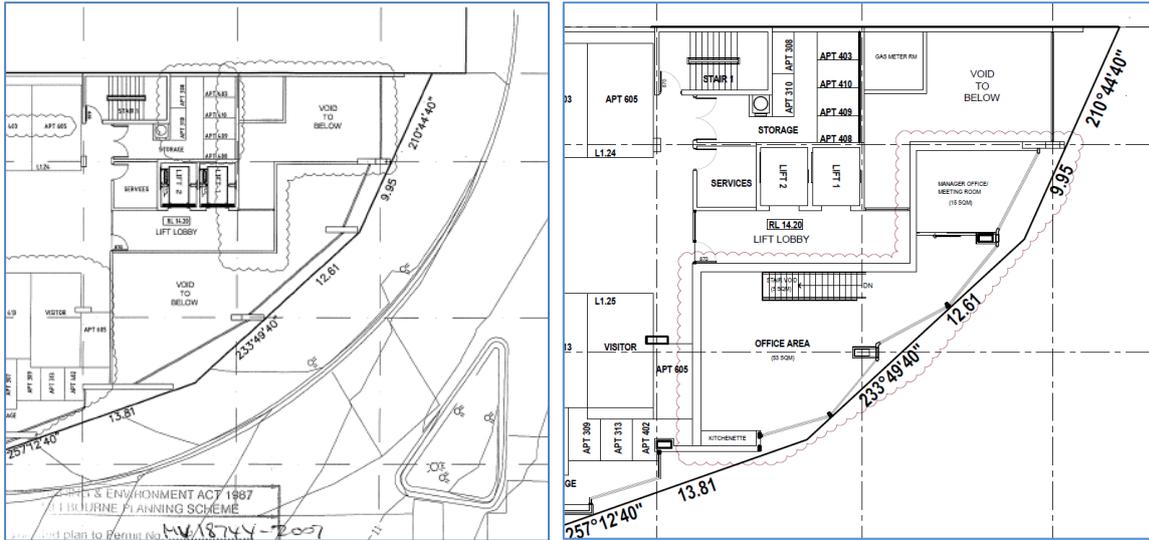


Figure 6: Extract of the endorsed level one floor plan (left) compared to the extract of the proposed level one floor plan (right) (Source: applicant)

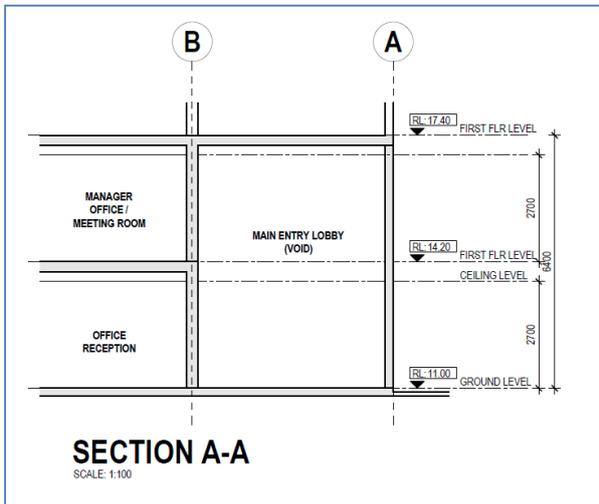


Figure 7: Section through the proposed office (Source: applicant)

5 PLANNING PERMIT TRIGGERS

The following clauses in the *Melbourne Planning Scheme (Scheme)* require a planning permit for this proposal:

Statutory Controls	
Commercial 1 Zone	<p><i>Use – permit not required</i></p> <p>Pursuant to Clause 34.01-1 a permit is not required to use the Site for the purpose of an ‘office’.</p> <p>Clause 73.03 defines an ‘office’ as ‘Land used for administration, or clerical, technical, professional or other like business activity. No office goods or materials intended for manufacture, sale, or hire may be stored on the land. Other than electoral office and medical centre, it does not include any other defined use.’</p>

	<p><i>Buildings and works - permit required (existing permit trigger)</i></p> <p>Pursuant to Clause 34.01-4 a planning permit is required for the construction of buildings and works. As the proposed building and works increase the floor area of the existing building, a permit is required.</p>
Particular Provisions	
<p>Clause 52.06 (Car Parking)</p>	<p><i>Reduction in car parking - permit required (existing permit trigger)</i></p> <p>Clause 52.06 applies as the Application introduces a new use and proposes to increase the floor area of the Site.</p> <p>As per the Certificate of Title, the existing gym has no car parking spaces associated with it. It is submitted by the applicant that users of the proposed office will not have use of the car parking spaces of the host building.</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.</p> <p>The Site is located within the Principal Public Transport Network (PPTN), as such Column B rates apply in Clause 52.06-5.</p> <p>Clause 52.06-5 states that for every 100sqm of net floor area of 'office' use 3 car parking spaces are required. The proposed 'office' use is 186sqm which results in a requirement of 5 spaces (186sqm / 100 x 3). As no additional car parking is proposed, a reduction of 5 spaces is sought.</p>
<p>Clause 52.29 (Land Adjacent To A Road Zone, Category 1, Or A Public Acquisition Overlay For A Category 1 Road)</p>	<p><i>Create or alter access to a road in a Road Zone, Category 1 – permit required (existing permit trigger)</i></p> <p>Pursuant to Clause 52.29-2, a permit is required to (amongst other things) create or alter access to a road in a Road Zone, Category 1.</p> <p>Both Boundary Road and Racecourse Road are zoned within the Road Zone, Category 1.</p> <p>An application to create or alter access to, or to subdivide land adjacent to, a road declared as a freeway or arterial road under the Road Management Act 2004, land owned by the Head, Transport for Victoria for the purpose of a road, or land in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority for the land, must be referred to the Head, Transport for Victoria under section 55 of the Act.</p> <p>The proposal was discussed with a VicRoad's with reference to the <i>Peninsula Blue Developments Pty Ltd v Frankston CC [2015] VCAT 571 VCAT</i> decision. As advised by VicRoads, this application could be considered to alter the access to the Road Zone, Category 1 and therefore a permit is triggered under Clause 52.29-2. The Application was referred to</p>

	VicRoads under Section 55 of the Act. See discussions at Chapter 10.2.1 below.
Clause 52.34 (Bicycle Facilities)	<p><i>Bicycle provision – no permit required</i></p> <p>Pursuant to Clause 52.34-3, a permit is required to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6.</p> <p>Pursuant to Clause 52.34-5, the requirement to provide bicycle spaces is only triggered if the 'office' net floor area exceeds 1000sqm.</p> <p>As such, no permit is required.</p>

6 STRATEGIC FRAMEWORK

The relevant provisions of the Scheme are summarised as follows:

Planning Policy Framework	<ul style="list-style-type: none"> • Clause 17 – Economic Development • Clause 18 – Transport
Municipal Strategic Statement	<ul style="list-style-type: none"> • Clause 21.02 – Municipal Profile • Clause 21.03 – Vision • Clause 21.06 – Built Environment and Heritage • Clause 21.08 – Economic Development • Clause 21.09 – Transport • Clause 21.16-5 – North and West Melbourne
Local Planning Policy Framework	<ul style="list-style-type: none"> • Clause 22.17 – Urban Design Outside of the Capital City Zone • Clause 22.19 – Energy, Water and Waste Energy • Clause 22.23 – Stormwater Management (Water Sensitive Urban Design)
General Provisions	<ul style="list-style-type: none"> • Clause 65 – Decision Guidelines, which includes the matters set out in Section 60 of the Act.

7 PUBLIC NOTIFICATION

7.1 Notice of the Lodged Application

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 the Site, in accordance with Section 52 of the Act.

During the notice period, Council became aware of the following:

- A clerical error causing the details and materials of the Application to display incorrectly on the online register.
- Some parties receiving notice were unclear of the nature of the amendment application given the planning permit's reference number which included the initials 'MV' (meaning Moonee Valley) and the redundant address of the planning permit (44-68 Racecourse Road, North Melbourne).

Council was understanding of the above and as such, on 19 August 2021, letters were re sent to all parties who received the original notice informing them of the following (in substance):

- Reference number of MV-18744-2007/B was updated to TP-2021-538/B.
- Reference was given to the new address (179 Boundary Road, North Melbourne) into the address field of the Application.
- If any party objected to application MV-18744-2007/B, the objection remained valid and on record.
- Extension of the formal advertising period to 2 September 2021.

7.2 Notice of the S.57A Amendment Application

Notice of the S.57A Amended Application received on 14 September 2021 was not given under S.57B of the Act, as the changes made to the application under the S.57A Amendment:

- Did not seek to alter any part of the proposal as originally advertised.
- Directly responded to clerical errors identified by Council and the objectors on the ground floor and first floor plans to make the plans consistent with those endorsed under the permit.

8 OBJECTIONS

A total of 27 objections were received, and raised the following concerns with the proposal:

- No approval provided by the Owners Corporation.
- Loss of amenity to owners and occupiers resulting from the removal of the gym area.
- Security issues associated with office workers using the residential lobby.
- Concerns that existing car parks are being removed.
- Loss of property value.
- Inappropriate waste outcome.
- Impact on traffic and the proposed car parking reduction.

9 CONSULTATION

Given the receipt of the above objections, the following consultation was undertaken:

- Ongoing phone and email discussions with the objector parties.
- Ongoing phone and email discussions with the applicant and an opportunity provided for the permit applicant to respond to the referral comments and objections.

10 REFERRALS

10.1 Internal

The application was referred internally to the following departments and their comments are summarised below:

10.1.1 Waste

A WMP was provided with the application dated 25 May 2021. On review, Council's waste department provide the following:

'The office is a commercially rated property which is entitled to a Council collection. Whilst the waste generated from the development is minimal, confirmation from Building Management (on company letterhead) is required to confirm BM are in agreeance with the shared bin arrangement.'

In response, the applicant submitted that the owners of the Site pays rates fees for waste collection as a part of the Owner's Corporation payments. The applicant provided evidence

of this, also stating that this acknowledges that waste can be collected in the shared waste area from this allotment.

Council's waste department accepted the evidence provided, stating:

'We have reviewed the WMP for this development and found it to be acceptable.

Waste Condition:

The waste storage and collection arrangements must be in accordance with the Waste Management Plan (WMP) prepared by Frater Consulting dated 25th May 2021.

The submitted WMP must not be altered without prior consent of the City of Melbourne – Waste and Recycling.'

Planner's Comments

The permit condition relating to waste will be amended to include the details of the amended WMP.

10.2 External

10.2.1 VicRoads

The Application was referred to VicRoads (a determining referral authority) on 23 July 2021 pursuant to Clause 52.29.

On 14 September 2021, VicRoads responded in writing that it has considered the Application and does not object to the grant of a permit. It noted that planning permit conditions 20 to 27 remain unchanged as a result of the amended application.

11 ASSESSMENT

In considering the Application, regard has been given to the PPF, LPPF, and MSS, the provisions of the Scheme and any objections received.

Pursuant to Section 72 of the Act, the ambit of discretion is limited to the proposed changes sought by the applicant. Consideration cannot be given to elements already approved as part of the original application but not sought to be amended.

The key issues for consideration are:

- The purpose and decision guidelines of the Commercial 1 Zone.
- The car parking and traffic impacts of the proposal.
- Sustainability.
- The view of referral authorities.
- The adequacy of the waste storage arrangements.
- Objector concerns.

11.1 The purpose and decision guidelines of the Commercial 1 Zone.

11.1.1 Use

The Application proposes to utilise the existing gym area (and the proposed mezzanine level) for use as an 'office'. It is noted that the use as an 'office' does not require a planning permit under the Commercial 1 Zone (C1Z).

As discussed above, the use of the subject area as a gym was considered to be ancillary to the wider use of the subject building for dwellings. There are also no conditions on the planning permit linking the use of the gym to the dwellings. Further, there are no restrictions on the operation of the gym in the permit conditions. As such, whilst it is acknowledged that the loss of the gym will be a detriment to some of the owners / occupiers within the Site,

Council can only assess a proposal with reference to the allowable uses within the Scheme and the conditions of a planning permit.

As discussed below, alongside the proposed use of the Site as an ‘office’ is an associated reduction in the statutory car parking requirements. As such, in this instance, it is appropriate to nominate the proposed use of the subject area as an ‘office’.

11.1.2 Buildings and works

The Application involves internal buildings and works to introduce a mezzanine level between the ground and first floor (an existing void space).

Access to this area is maintained from the existing lobby area accessed via Boundary Road.

Clause 34.01-8 (decision guidelines) of the C1Z provides guidelines for the responsible authority to consider when deciding an application. The buildings and works sought by the application are considered acceptable, having regard to relevant provisions of Clause 34.01-8 for the following reasons:

- *General* - the proposal is consistent with Clause 17 (Commercial) and Clause 18 (Transport) of the PPF by locating office space within a growth area with excellent access to public transport. The creation of additional office area space will ensure that development is continuing to meet the community’s need for office services. The proposal will also continue to activate the public realm as the glazing to the street is maintained. The Site is located within a commercial precinct (with all abutting sites being zoned C1Z), as such it is considered to be an excellent location for such a use.
- With regard to amenity impacts of the proposal, access to the proposed use is proposed via the existing lobby space to Boundary Road. The existing gym is accessed via the same arrangement. Directly access to Racecourse Road / Boundary Road is not possible due to the ground floor level being recessed below the footpath level and the need to cross common property (see Figure 4 above) in order to access the space. As such, the access to the proposed office via the lobby is considered appropriate.
- The proposed mezzanine level sits at circa RL 14.2, which is 3.2m above the ground floor (at RL 11). The resulting floor to ceiling height is 2.7m which is consistent with similar small scale office spaces and afford reasonable amenity to the proposed office spaces.
- *Buildings and works* – see the table below.

Decision Guideline	Response
<i>The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.</i>	The Application seeks to utilise an existing shell within the building, as well as create a new mezzanine space above the ground floor. The Application does not seek to provide car parking, and has provided an updated WMP to consider the waste impacts of the proposal. The applicant submits that the movement of users of the space will be controlled with a key pass system to ensure the security of the subject building. As such, the movement of pedestrians, cyclists, vehicles, waste removal, emergency services, and public transport is not considered to be impacted significantly by the Application.
<i>The provision of car parking.</i>	No car parking is provided, see the discussion below at Chapter 11.2.

<i>The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.</i>	As above, the Application seeks to utilise an existing shell and utilise existing pedestrian entrances to the subject building. The use of the space and the introduction of a mezzanine is seen to positively affect the streetscape. The Application is not considered to have a negative impact on the streetscape.
<i>The storage of rubbish and materials for recycling.</i>	As above, a WMP has been lodged and approved by the City of Melbourne. The small scale office is not considered to have a significant impact on the storage of rubbish.
<i>Defining the responsibility for the maintenance of buildings, landscaping and paved areas.</i>	N/A
<i>Consideration of the overlooking and overshadowing as a result of building or works affecting adjoining land in a General Residential Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone</i>	N/A
<i>The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.</i>	N/A
<i>The availability of and connection to services.</i>	The Application utilises the services of the host building and there is no evidence to suggest that these services are insufficient.
<i>The design of buildings to provide for solar access.</i>	N/A
<i>The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to an apartment development.</i>	N/A
<i>For an apartment development, the objectives,</i>	N/A

<i>standards and decision guidelines of Clause 58.</i>	
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11.2 Car and bicycle parking, and traffic impacts of the proposal.

11.2.1 Use

In regard to car parking, as discussed above the proposal has a statutory requirement to provide for five additional car parking spaces. No car parking spaces are proposed. The proposed car parking reduction is considered appropriate on the following grounds:

- The Site is within a commercial area located near to a variety of public transport services including Train, Tram and Bus Routes. As such, it is considered that key workers and other professionals would likely use more sustainable modes of transport to access the site and places of employment.
- The approved building under the planning permit has been constructed and it is not considered feasible to retrospectively add car parking spaces.
- Fewer car spaces than the statutory requirement will further encourage use of the above services and resources. Occupants of the proposal will not be entitled to parking permits as per Council policy.

In regard to bicycle parking, as previously noted, the proposal does not trigger the provision of bicycle parking spaces.

As such, providing no parking facilities on site remains acceptable.

11.2.2 Traffic

As discussed at Chapter 10.2 above, the proposal does not seek to provide any car parking, does not seek to alter the current car parking arrangements within the host building, and will not have access to the car parking spaces within the host building.

11.3 Sustainability

Clause 22.19 (Energy, Water and Waste Efficiency) 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.’*

Clause 22.23 (Stormwater Management) sets out the following objectives:

- *‘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.’*

Permit conditions requiring an Environmentally Sustainable Design (ESD) Report and Water Sensitive Urban Design (WSUD) Response are recommended to ensure the development will achieve the ESD performance requirements of Clauses 22.19 and 22.23.

The WMP submitted with the application confirms the use will achieve the relevant performance measures set out in Clauses 22.19 and the WMP has been accepted by the City of Melbourne’s waste and recycling department.

It is therefore considered that the proposed development will meet the relevant requirements of Clauses 22.19 and 22.23.

11.4 The view of referral authorities

Refer to Chapter 10.2.1 above.

11.5 Other Objector Concerns

Where concerns raised in an objection have not been addressed in the above assessment, these matters have been separately considered below.

11.5.1 Owners Corporation / Loss of Amenity

It is understood by that there are ongoing correspondence between the owner of the Site (being the existing gym space) and the Owners Corporation (OC) in regard to the renewal of an existing lease for an operator at the existing gym. Specifically in regard to whether the lease for the gym has been extended or otherwise.

In considering this matter, it is important to note that approval from an OC is not required as part of a planning permit application. OC approval may occur before or after the approval of a planning permit application, for a variety of reasons. As discussed above, the subject area is privately owned, as such, the owner may pursue a planning permit application.

The planning permit does not control the use of the gym and the use as an office does not require a planning permit. As such, the owner of the land is entitled to determine the land use of the property within the bounds of planning permission, and Council has no power to dictate a particular land use or require a particular business to operate within the premises.

The remit of this planning permit assessment is to consider the impacts of the proposed buildings and works, and the impact of the car parking reduction.

As discussed above, from a planning perspective the proposed buildings and works, land use and associated parking reduction are considered acceptable.

11.5.2 Removal of existing car parking spaces

As discussed above, the proposal seeks to reduce (to zero) the statutory car parking requirement for the proposed office use. There is no proposed reduction or rearrangement of the existing car parking conditions at the Site.

As raised by an objector, the lodged plans appeared to show an alteration to the location of the visitor and private car parking spaces. As confirmed with the application, this was a clerical error and was rectified by the submission of amended plans under S.57A which restored the ground floor and first floor layout to be consistent with the endorsed plans.

11.5.3 Loss of amenity from the removal of the existing gym

Refer to Chapter 11.5.1 above.

11.5.4 Noise / security from future occupants of the building

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

With regard to security, it is understood access to the building will be controlled with a key pass system to ensure that users of the office and bona fide visitors can only access the premises.

11.5.5 Loss of property value

The loss of income or devaluation of a property, in association with a proposed development, does not fall within the remit of Council's discretion when assessing a planning application in accordance with the Act.

12 OFFICER RECOMMENDATION

Having considered all relevant provisions of the Melbourne Planning Scheme, in addition to the matters required under Section 60 of the Planning and Environment Act 1987, Planning officers recommend that the Future Melbourne Committee direct that a Notice of Decision to Grant a Permit be issued, subject to the conditions set out below.

12.1 Conditions

It is recommended that the Planning Permit be amended as follows (changes in **bold**):

- **Amend Permit No.** to:

TP-2021-538/B

- **Amend Address of the Land** to:

179 Boundary Road, North Melbourne

- **Amend Condition 4** to include:

The waste storage and collection arrangements, as it relates to Lot S12 on Plan of Subdivision 604364T, must be in accordance with the Waste Management Plan (WMP) prepared by Frater Consulting dated 25th May 2021. The submitted WMP must not be altered without prior consent of the City of Melbourne – Waste and Recycling.

- **Amend Condition 28** to extend the commencement and completion dates:

The development approved by amendment TP-2021-538/B will expire if one or more of the following circumstances apply:

28(a) The development is not started within two (2) years of the date of the amended permit; or

28(b) The development is not completed within four (4) years from the date of the amended 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.

- **Add Condition 29** to ensure compliance with Clauses 22.19 and 22.23:

Prior to the commencement of the development approved under TP-2021-538/B, an Environmentally Sustainable Design (ESD) Statement and Water Sensitive Urban Design (WSUD) Response shall be prepared by a suitably qualified professional and submitted to and be endorsed by the Responsible Authority.

The ESD Statement must demonstrate that the building has the preliminary design potential to achieve the following, to the satisfaction of the Responsible Authority:

- a) Compliance with the energy efficiency requirements of the Sustainable Design Scorecard or equivalent.
- b) 3 points for Wat-1 credit under a current version of the Green Building Council of Australia's Green Star – Education rating tool or equivalent.

The WSUD response must respond to the requirements of Clause 22.23 of the Melbourne Planning Scheme, to the satisfaction of the Responsible Authority.

- **New note:**

Separate approval from the relevant Owners Corporation may be required prior to the commencement of the development.

Details of Amendment:

Amending the planning pursuant to Section 72 of the *Planning and Environment Act 1987 (Vic)* in the following manner:

- Amending the permit number and address of the land to reflect the City of Melbourne as the responsible authority and the re-addressing of the site as a result of a previous subdivision.
- Amending Condition 4 to give effect to the WMP.
- Amending Condition 28 to ensure the expiry provisions are relevant to the amended permit.
- New Condition 29 to ensure compliance with Clause 22.19 and 22.23.
- New note regarding owners corporation approval.