



Town Planning Evidence Statement

Victorian Civil and Administrative Tribunal
Application for Review P1539/2020, P1631/2020, P1637/2020 and
P1644/2020

7 Selwyn Street, Elsternwick

Demolition of the existing building, construction of a nine (9) storey building,
use of the land for office, a place of assembly, sale and consumption of liquor,
reduction of the car parking requirements and display of advertising signage.

Glen Eira Planning Scheme
Statement prepared by John Glossop, Director
Glossop Town Planning Pty Ltd

Date: 8 June 2021



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1. INTRODUCTION

1. I received a request from HWL Ebsworth Lawyers acting on behalf of the permit applicant to prepare a statement of town planning evidence for this application for review.
2. I have agreed to prepare this statement of planning evidence in support of the Application for Review. In preparing this evidence, I was shown concept plans that included options to chamfer the north west corner to reduce overshadowing. A copy of the concept plan that I prefer is attached to my evidence (see **Appendix E**). My support for the proposal is not conditional upon the plans being amended to reflect that change being made, but it is an improvement that does not unreasonably impact the proposed development outcome or lead to any negative off site impacts. On that basis, I consider that the change should be supported.

What is this Review About?

3. The review concerns an appeal under Section 82 of the Planning and Environment Act (1987) (the 'Act') by objectors to review Council's Notice of Decision to Grant a Permit ('the NOD') in relation to the demolition of the existing building; construction of a nine storey building, use of the land for offices and a place of assembly, sale and consumption of liquor, reduction of the car parking requirements and display of advertising signage on land affected by the Heritage Overlay and Design and Development Overlay' on land commonly referred to as 7 Selwyn Street, Elsternwick ('the review site').
4. Council, at its Ordinary Meeting on 1 September 2020, adopted the Officer's recommendation to support the application and issue a Notice of Decision to Grant a Planning Permit (dated 4 September 2020).






5. The appeal has been initiated by four (4) objectors¹. The grounds are summarised as follows:
- The proposal does not provide for an equitable development outcome with 9 Gordon Street, Elsternwick (Classic Cinema)².
 - Windows on or near the boundary are inappropriate and do not comply with BCA regulations or fire ratings.
 - Does not provide for the proper and orderly planning of the area.
 - Inappropriate demolition of heritage building.
 - Proposed development will unreasonably impact on the amenity of apartments at 17 Gordon Street.
 - Car parking impacts associated with the reduction of car parking requirement sought (to zero) and reliance on unsuitable spaces.
 - Proposed height and built form inappropriate in the context of existing single storey residential development and neighbourhood context.
 - Proposed development does not respect the Heritage Overlay.
 - Inconsistent with the Purpose of the Mixed Use Zone.
6. No changes have been formally made to the plans. A set of plans have been prepared in response to the Condition 1 requirements of the NOD.
7. I have earlier referred to a concept plan that demonstrates an increase in solar access to some apartments at 17 Gordon Street. This change can be addressed by a permit condition. I have included the amended plans to reduce the shadow impact at **Appendix E**.

¹ One representing a number of objectors.

² The submission relating to equitable development has been withdrawn by the landowner of 9 Gordon Street.



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8. I understand that expert evidence will be provided by others in relation to traffic engineering and urban design. I defer to their evidence in relation to those matters.

My Evidence

9. In preparing this statement, I have:
- Inspected the review site and surrounds (see **Appendix B**);
 - Reviewed the Application for a Planning Permit and accompanying information;
 - Considered relevant aspects of the Glen Eira Planning Scheme (see **Appendix C**);
 - Read the Council Officer Report and associated Notice of Decision to Grant a Permit;
 - Considered the Condition 1 plans; and
 - Reviewed the Application for Review.
10. I have not considered the requirements of the Aboriginal Cultural Heritage Act 2006 as this is outside my area of expertise. A report prepared by Andrew Long and Associates was submitted with the application and it demonstrates that a Cultural Heritage Management Plan is not required. I note that Council accepted this position.

Summary of Opinion

11. Having regard to these matters, I conclude that the proposal is worthy of the grant of a town planning permit and that the Application for Review should be dismissed.
12. My conclusions and recommendations are set out at **Section 3** of this Statement.



2. PLANNING EVIDENCE

What is the town planning control framework and what are the town planning considerations?

What is proposed?

13. This application proposes the demolition of an existing building and the construction of a nine storey building comprising the equivalent of a three storey podium and a five storey upper form. The building is currently occupied by a community organisation.
14. The building will have an overall height of 42.95m to the top of the architectural feature parapet. The height to the top of the building roof will be 37m. The building will be used for performing arts with liquor licenced areas (basement levels 1-3), a museum with ancillary café/ bar (ground floor level and levels 1-2), end of trip facilities including showers/ toilets/ change rooms/ bike storage and lockers (mezzanine level) and a co-share office space with ancillary café (levels 3-7 within the tower).

What are the permit triggers?

15. Clause 32.04 (Mixed Use Zone) applies to the land. The Purpose of the Zone is:
 - *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
 - *To provide for housing at higher densities.*
 - *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
 - *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*




16. Clause 32.04-2 states that a permit is not required to use land for a Museum. Clause 32.04-2 states that a permit is required to use the land for a Place of assembly and Office (as the leasable floor area exceeds 250 square metres requirement in Section 1).
17. Clause 32.04-9 states a permit is required to construct a building or construct or carry out works for a use in Section 2 (i.e. the Place of assembly and Office). There is no maximum building height requirement at Clause 32.04-11 or within Schedule 1 to the zone. There is no mandatory garden area requirement.
18. The Decision Guidelines at Clause 32.04-14 state that in addition to the decision guidelines at Clause 65, the responsible authority must consider, as appropriate, matters including:
 - *The Municipal Planning Strategy and the Planning Policy Framework.*

Refer to the body of this statement.
 - *The objectives set out in a schedule to this zone.*

There are no objectives specified in the schedule to the zone.
 - *Any other decision guidelines specified in a schedule to this zone.*


There are no other decision guidelines specified in the schedule to this zone.
 - *The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a Mixed Use Zone or Residential Growth Zone.*

The adjoining land to the north is also within the MUZ and will not be affected by shadow nor does it contain any dwellings. There are solar panels on the top of the apartments at 17 Gordon Street to the north-west, however, this part of the site is zoned Commercial 1 and the decision guideline on rooftop solar cells is, therefore, not applicable.
19. Schedule 1 to the Mixed Use Zone contains no objectives, no maximum building height requirement and no additional decision guidelines.

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20. Clause 43.02 (Design and Development Overlay) applies to the land. Clause 43.02-2 states that a permit is required to construct a building or construct or carry out works. A building must be constructed in accordance with any requirements in a schedule to this overlay.
 21. Schedule 10 to the DDO applies to the land and relates to the Elsternwick Activity Centre. The proposed development requires a permit for buildings and works. Section 2.0 provides discretionary requirements, as relevant to the proposal for 'building height', 'setbacks', 'building design', 'outlook, overlooking and passive surveillance', and 'access and parking – commercial/mixed use'. The decision guidelines at Clause 5.0 and at Clause 43.02-6 are relevant. An assessment against the guidelines is included at **Appendix A**. The *Elsternwick Structure Plan, 2018-2031 (February 2018)* is a reference document in the schedule.
 22. Clause 43.01 (Heritage Overlay) applies to the land. Clause 43.01-1 states that a permit is required to demolish or remove a building, construct a building or construct or carry out works and construct or display a sign.
 23. A permit is also required for a business identification sign pursuant to Clause 52.05.
 24. In relation to matters of car parking reductions triggered by Clause 52.06 and the bicycle facility requirements under Clause 52.34, I defer to the expert evidence of others.
 25. A permit is required for a liquor license pursuant to Clause 52.27.

What are the key considerations?

26. The key town planning considerations are whether:
 - The proposal is strategically justified;
 - The proposal provides an acceptable built form response;
 - The off-site amenity impacts are reasonable;
 - The heritage considerations are appropriate;
 - The proposed signage is appropriate; and

- 
- The liquor licence is acceptable.

27. I address each of these matters in turn. I also provide an assessment of the proposal against the objectives and decision guidelines of DDO10 at **Appendix A** and include a cumulative impact assessment at **Appendix D**.

Is the proposal strategically acceptable having regard to the Planning Policy Framework and Local Planning Policy Framework?

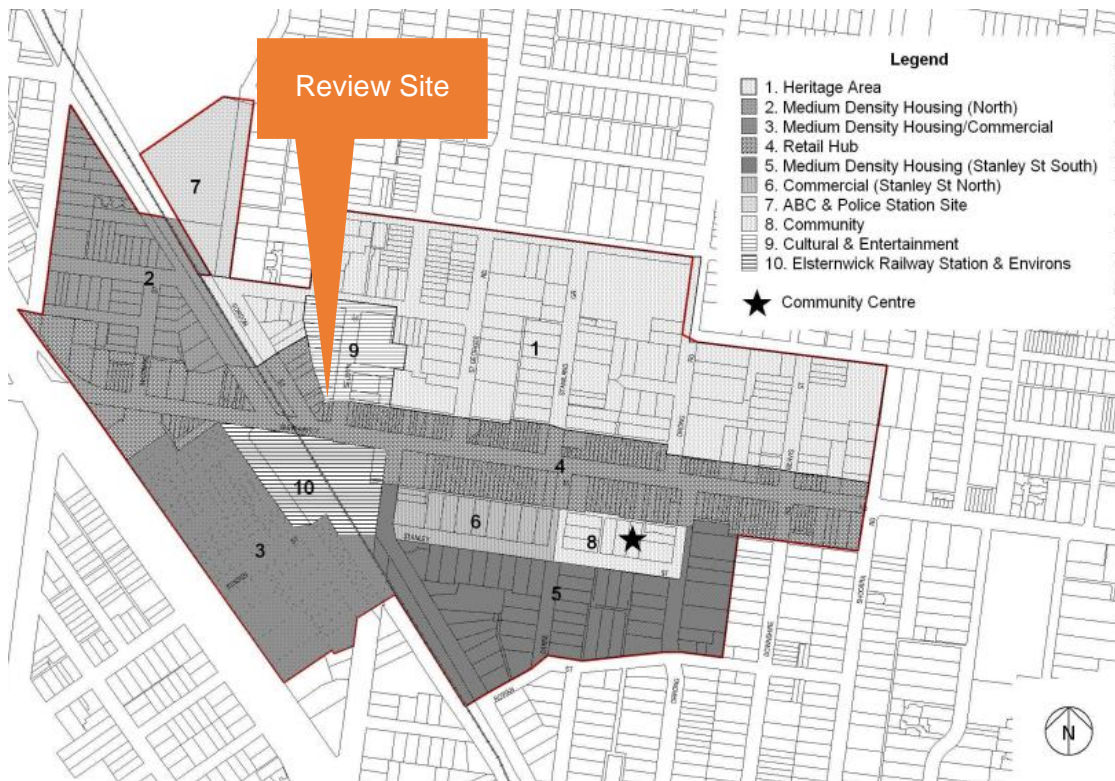
28. The review site forms part of the Elsternwick Major Activity Centre³. The Municipal Strategic Statement within Glen Eira Local Planning Policy Framework define it as an 'Urban Village'. This is the second highest level in the City's activity centre hierarchy⁴.

³ As defined by Plan Melbourne 2017-2050 on page 53.

⁴ Second only to the Phoenix Precinct, which relates to The Caulfield Racecourse, Monash University and Caulfield Station which is described as the 'Monash National Employment and Innovation Cluster' in Plan Melbourne.



Municipal Strategic Statement (MSS) Framework Plan (source: Clause 21.03)



Elsternwick Urban Village (Map 3 source: Clause 22.05)

29. The Planning Policy Framework, in particular Clause 11.01-1S, has the following strategies for settlement:

- *Promote and capitalise on opportunities for urban renewal and infill redevelopment.*
- *Develop compact urban areas that are based around existing or planned activity centres to maximise accessibility to facilities and services.*
- *Ensure retail, office-based employment, community facilities and services are concentrated in central locations.*

30. Clause 11.03-1S has the following objective for activity centres:

To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.



31. It includes the following strategies:

- *Build up activity centres as a focus for high-quality development, activity and living by developing a network of activity centres that:*
 - *Comprises a range of centres that differ in size and function.*
 - *Is a focus for business, shopping, working, leisure and community facilities.*
 - *Provides different types of housing, including forms of higher density housing. Is connected by transport.*
 - *Maximises choices in services, employment and social interaction.*

32. It goes onto say, 'Undertake strategic planning for the use and development of land in and around activity centres.' Clause 11.02-2S (Structure planning) has the objective 'To facilitate the orderly development of urban areas.' In this case, the strategic planning has been undertaken. The *Elsternwick Structure Plan, 2018-2031 (February 2018)* (the Structure Plan) was adopted by Council on 27 February 2018. A lengthy process of community engagement and plan preparation informed the Structure Plan before it was adopted. It now forms part of the Glen Eira Planning Scheme.

33. On 6 August 2018, Amendment C157 implemented the Elsternwick Structure Plan (as well as Bentleigh and Carnegie Structure Plans) to deliver the built form outcomes⁵. The amendment applied schedules to the Design and Development Overlay to land within the activity centres. It applied DDO10 to the Elsternwick Activity Centre.

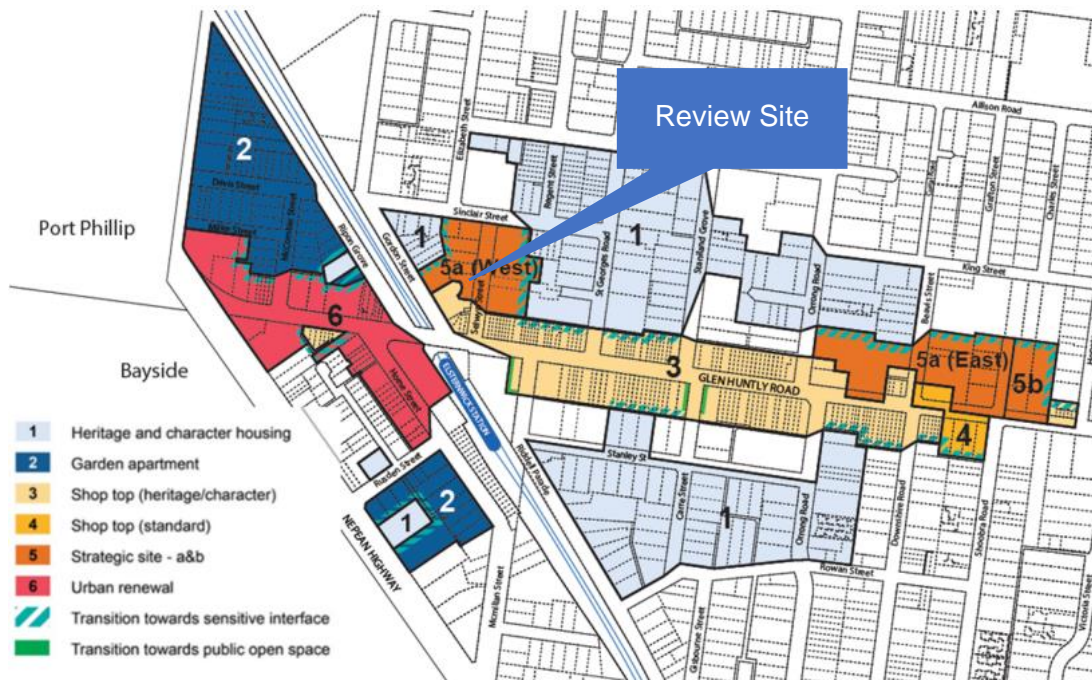
34. The schedule to the DDO contains discretionary controls on building height, setbacks and design requirements. In the case of the review site, the controls are also discretionary⁶. The site is located within Precinct 5a West of DDO10.

⁵ This is implemented on an interim basis by incorporating an expiry date. On 30 June 2020, Amendment C215glen extended the expiry date in Schedule 10 from 30 June 2020 to 30 June 2021.

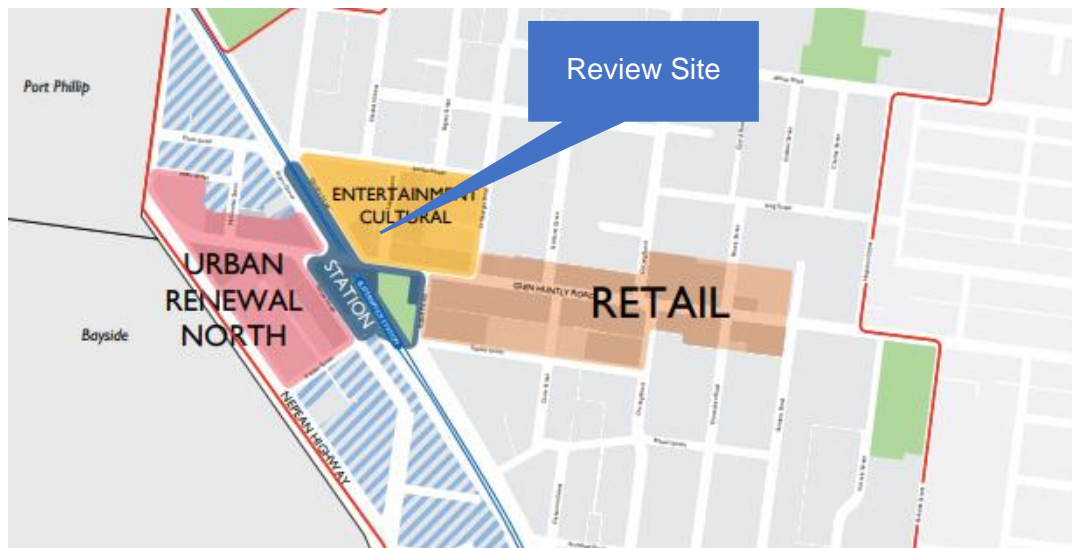
⁶ Council had requested mandatory 8-storey maximum height limit but it was approved as a discretionary maximum building height of 10 storeys for Selwyn Street, Elsternwick (source: <https://www.gleneira.vic.gov.au/our-city/planning-for-the-future/the-future-of-elsternwick/interim-planning-controls-for-elsternwick>).



35. The amendment inserted the *Elsternwick Structure Plan, 2018-2031 (February 2018)* as a reference document to DDO10⁷.




Map 1 – Precinct Plan from Schedule 10 to the DDO



Extract of Land use: Precincts (Figure 1.0 of the Structure Plan)

⁷ Glen Eira City Council Quality Design Guidelines – Commercial and Mixed Use Areas (March 2018) is also a reference document.

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36. The DDO principally provides guidance on built form outcomes (height and setbacks)⁸. The DDO does not control land use. Land use is controlled by the zoning of the land. However, land use is considered as part of the built form outcomes sought to be achieved under the Structure Plan and DDO10.
37. The Structure Plan identifies 'land use precincts'. The review site is within the 'Entertainment and Cultural Precinct'. It is described as:
- *Focus on cafes, night-time activity and community spaces.*
 - *Establish a Jewish cultural precinct (underline added).*
 - *Actively investigate opportunities for the provision of community facilities and services.*
38. The review site is identified as a 'strategic site' on the Building: transitions plan at Figure 3.0 of the Structure Plan and in the DDO10. Strategic sites are described as:
- Commercial or mixed-use building consisting of active commercial uses at ground floor, further commercial (employment) uses above ground floor and residential uses at upper levels. Key focus on delivering housing diversity, employment and a significant community benefit on identified sites.*
39. The review site is referred to as a 'cultural destination' and forms part of a 'new cultural precinct' on the Public spaces: Concept map (refer below).

⁸ The Design and Development Overlay (DDO) is the preferred planning instrument for implementing discretionary and mandatory building heights and setbacks on an interim basis or at neighbourhood centres. (source: Practice Note 60 June 2015 Height and setback controls for activity centres.)

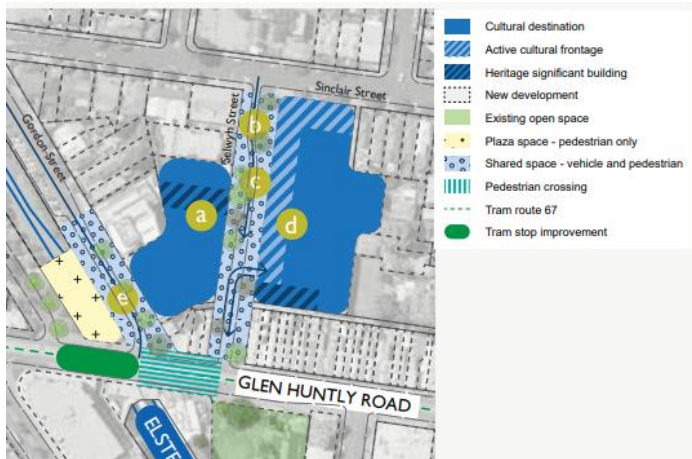


Extract of the Public spaces: Concept map (Figure 5.0 of the Structure Plan)

40. More particularly, the vision for the new cultural precinct centred around Selwyn Street includes:

- Creating a new civic space to establish a Jewish cultural precinct (underline added).
- Making Selwyn Street one-way southbound and remove on-street parking and include a pedestrian plaza area connecting the cultural area, museum and strategic sites⁹ (underline added).
- Including a pedestrian plaza area connecting the community hub, museum and strategic sites (underline added).
- Providing active cultural or community use frontages and limited retail presentation.
- Improving pedestrian amenity on Gordon Street by widening footpaths and improving traffic management and road treatments.

⁹ I note the Structure Plan contemplates creating a pedestrian plaza along Selwyn Street.



Public spaces: New cultural precinct (Figure 6.0) left and Proposed sketch of Selwyn Street right

41. DDO10 has the following Design objectives:

- *To preserve and enhance the heritage character of the Glen Huntly Road shopping strip.*
- *To preserve and enhance the heritage and residential areas in Elsternwick.*
- *To encourage well designed mixed-use development, that supports the housing and economic needs of the Elsternwick activity centre* (underline added).
- *To ensure an appropriate design response to sensitive interfaces, such as heritage or residential sites and open space.*
- *To encourage developments in urban renewal areas and on strategic sites that provide a significant benefit for the Elsternwick community* (underline added).

42. The review site is located within a Mixed Use Zone (MUZ), which includes a Purpose to *provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality* (underline added). The Planning Policy Framework, particularly Clause 17.02-1S supports development that meets the community's needs for a range of purposes, such as retail, entertainment, office and other commercial services.






43. It also encourages the co-location of services or grouping/ clustering of services that complement each other *'Ensure commercial facilities are aggregated and provide net community benefit in relation to their viability, accessibility and efficient use of infrastructure.'* This notion is furthered by the Structure Plan which includes the site in a cultural precinct. It is located immediately to the south of the Holocaust Centre (at 13-15 Selwyn Street) and is near the Sholem Aleichem College located at the northern end of Selwyn Street. It is diagonally opposite an application subject to planning approval at 10-16 Selwyn Street, which includes a Place of assembly (and library and museum), which will be used by the Sholem Aleichem College and the public.
44. The use of the site for performing arts and museum is consistent with Clause 19.02-4S (Social and cultural infrastructure) which has the strategy: *'Encourage the location of social and cultural infrastructure in activity centres'*.
45. The Local Planning Policy Framework says that Glen Eira is ethnically, socially and economically diverse. It contains Melbourne's largest Jewish population, which makes a significant contribution to the municipality's cultural diversity. Glen Eira is also religiously diverse, a feature being the high proportion of residents of the Jewish faith compared to the metropolitan average (15% compared to 1%) with the highest concentration in the north-west corner in suburbs such as Elsternwick, St Kilda East and Caulfield North (35.8% of Glen Eira's total Jewish population)¹⁰. Clause 21.06-2 (Business) has an objective *'To enhance and further develop urban villages and neighbourhood centres as the focus for community life.'*
46. The land is zoned Mixed Use, which has the highest order in the hierarchy of Residential Zones. The role and application of this zone is:

*Applied to areas suitable for a mixed-use function, including a range of residential, commercial, industrial and other uses. Suitable for areas identified for residential development at higher densities including urban renewal and strategic redevelopment sites.*¹¹

¹⁰ Clause 21.01-1 and Clause 21.01-2.

¹¹ Using the residential zones Planning Practice Note 91 December 2019.



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47. Clause 21.08-1 relates to non-residential uses in residential zones. It recognises that some non-residential uses have a place in residential zones but can progressively erode the residential nature.
48. In response to this issue, Council has developed Clause 22.02 (Non residential uses in residential zones). The intent of the Policy is to provide direction for applicants in terms of minimising residential amenity impacts, preferred locations and design of non-residential uses and facilities, such as a medical centre, place of worship, and place of assembly in a residential area. The objective of this clause is: *'To encourage the development or extension of non-residential uses, in suitable locations which comply with orderly and proper planning principles.'*
49. The review site is located in an activity centre and is currently developed by non-residential development. The site and the surrounding area are subject to a Structure Plan, which contemplate exactly the types of uses that are sought. Clause 22.05 includes the site within the Elsternwick Urban Village¹² and in the 'Cultural and Entertainment' precinct. The policy for this precinct includes:
- *Exercise discretion - Where a permit is required for use or development, it is policy that:*
 - *There be a mix of residential and commercial activity in Selwyn Street.*
 - *No retail activities occur along Selwyn Street.*
 - *Development in Selwyn Street be of scale similar to surrounding buildings with buildings greater than two storey being located towards Glen Huntly Road, and buildings to the northern end of the street being sympathetic to the character of the surrounding streets due to its visibility.*
50. There is clear strategic support from the Planning Policy Framework and the Local Planning Policy Framework for the proposal. The proposal is consistent with the outcomes sought by the Mixed Use Zone, the DDO10 and policy directions for a Major Activity Centre. Council

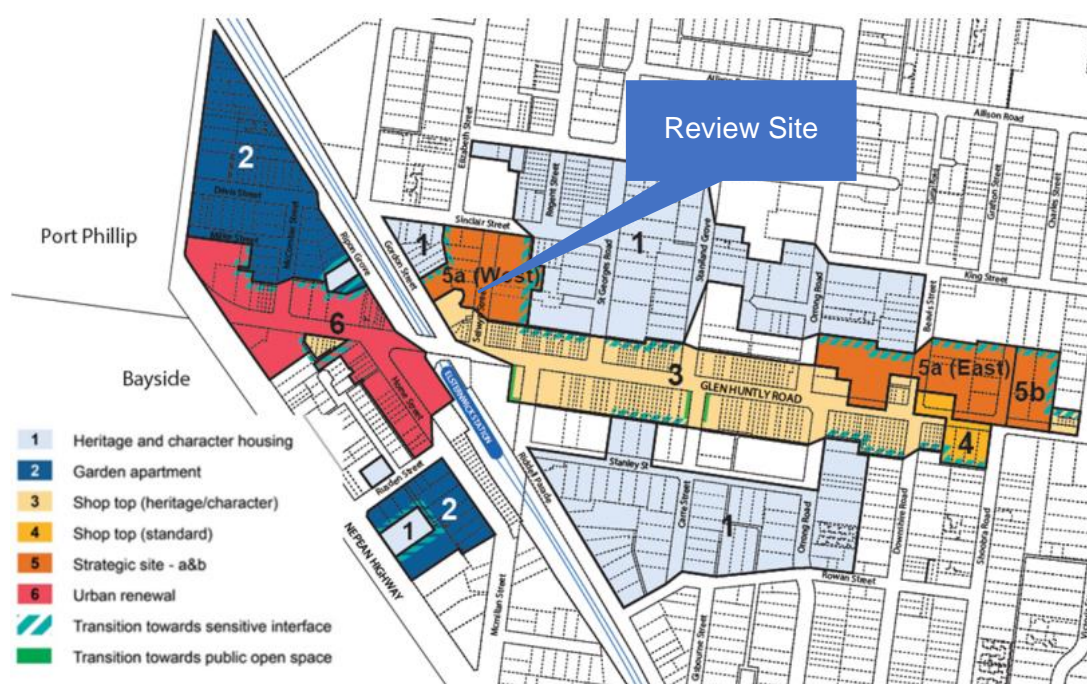
¹² A Major Activity Centre in Plan Melbourne.



has completed a structure plan for this area and I consider the proposal will deliver precisely the outcomes sought for the site.

Does the proposal provide for an appropriate built form response?

51. In relation to urban design, I defer to the expert evidence of Craig Czarny. From a town planning perspective, I make the following observations.
52. The proposed building is significantly taller than the existing two storey building on site and is taller than some of the surrounding buildings (both existing and proposed). This context needs to be considered relative to the built form outcomes sought by the DDO10 and the Structure Plan.



Map 1 – Precinct Plan from Schedule 10 to the DDO

53. A proposed development for 10-16 Selwyn Street (across the road) was considered by Council¹³ and VCAT¹⁴ for a mixed use building comprising a podium and two towers (10 and 11/14 storeys in height) for a supermarket, bottle shop, cafe, kiosk, place of assembly

¹³ Which issued a Notice of Refusal to Grant a Permit. One of the reasons for refusal was that it exceeded the DDO10 discretionary height limits.

¹⁴ Fabcot Pty Ltd v Glen Eira CC [2020] VCAT 957





and apartments above basement parking. It was ultimately refused, however, the Tribunal found:

- *By implication, development encouraged by policy and DDO10 will not replicate the low scale residential and commercial buildings that have existed in the area for many years. Rather, the expectation is that buildings of substantially greater size, height and intensity are envisaged in this location (paragraph 101).*
- *We accept that in totality there is strong strategic planning support for more ambitious new built form on the site. The DDO10 provides a discretionary height limit of up to 10 storeys (37 metres) (paragraph 102).*
- *In summary then, given the above favourable strategic planning and locational attributes, we are satisfied at a 'first principles' level that the review site (with the right design) can reasonably accommodate new built form of at least the DDO10 discretionary height limit of 10 storeys/37 metres (paragraph 110).*

54. A new application has been lodged with Council for 10-16 Selwyn Street (across the road) for a mixed use development comprising a part 9 and part 10 storey building¹⁵.
55. The specific built form outcomes for the review site (and the surrounds) are provided by the DDO10. Notably, these height controls directing building heights, setbacks and design requirements are discretionary rather than mandatory. I address those sections that are relevant under Section 2.0 under the following headings:

¹⁵ At the time of preparing this statement Council was considering this application.



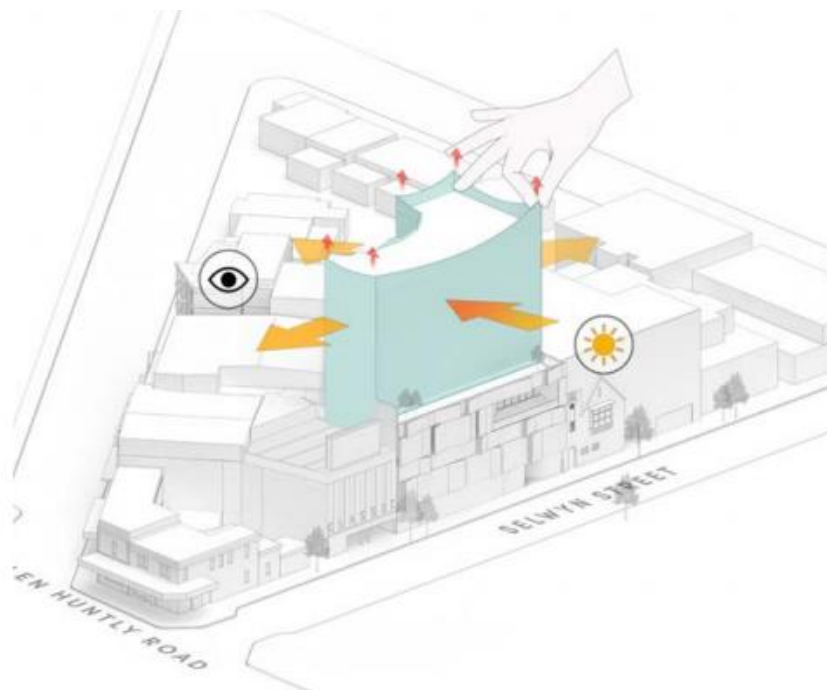
Building Height

56. A building should not exceed the maximum building height and the number of storeys specified in Column 3 of Table 1 to this schedule¹⁶.

Column 1 Precinct Number	Column 2 Precinct Name	Column 3 Maximum building height
4	Shoptop Standard	14m, comprising up to 4 storeys
5a (east)	Strategic Site	30m, comprising up to 8 storeys
5a (west)	Strategic Site	37m, comprising up to 10 storeys
5b	Strategic Site	23m, comprising up to 6 storeys
6	Urban Renewal	43m, comprising up to 12 storeys

Extract of Table 1 – Building height requirements

57. The proposed building is nine storeys high and has a height of 37 metres to the roof of the building. The height and number of storeys meet the DDO10 requirements.



Extract of the Town Planning Report (source: McIlldowie Partners Town Planning Design Report)

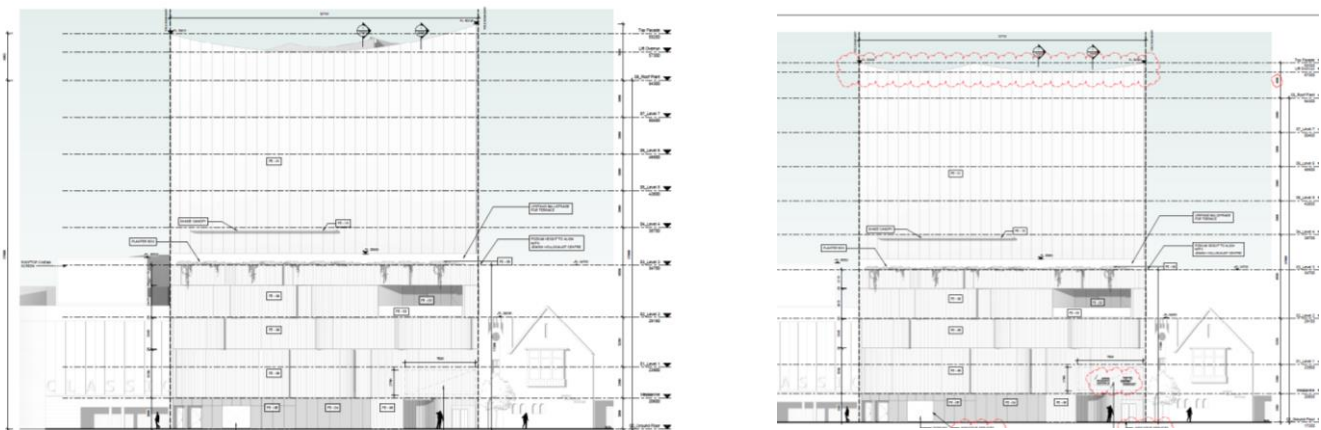
¹⁶ This does not apply to architectural features, masts, building services or enclosed stairwells that do not exceed any required height limit by more than 4 metres. The combined floor areas of these features should not exceed 10 per cent of the gross floor area of the top storey of the building.

58. The proposed architectural feature of the building has an overall height of 42.95 metres measured to the top of the parapet, which will act as a screen to the roof top plant and equipment. I consider this to be an acceptable variation to the allowable '4 metres' extension to the building height limit for architectural features (among other things). The curved parapet contributes to the overall building design, articulation and presentation and represents a minor variation to this height limit. Discretion is appropriate in this instance.

59. The design response description provided for this element is:

The tower has its corners lifted, as if peeled to match the sculptural quality of the podium below, to create a unique silhouette in the skyline. From afar, this distinct outline acts as a beacon for the community. This silhouette also plays a role in screening the roof plant both acoustically and visually.

60. Condition 1a of the NOD requires all architectural features (among other things) to be reduced to be no more than 4 metres above the maximum height of the building of 37 metres. Plans have been prepared to address the Condition 1 requirements. I am comfortable with the minor changes required to achieve compliance with this condition.



Proposed East elevation (considered plans) (left) Condition 1 plans (right)



Setbacks

61. Building setbacks should:


- *Achieve the setback requirements described below; and*
- *Be setback no less than the setbacks in Table 2 and illustrated in Table 3 to this schedule.*

62. I note that the site does not have any sensitive interfaces, as shown on Map 1 (see image extract above). Nor does it abut a laneway or areas of future public open space.

63. Specifically, setbacks for Precincts 5 (and 6) should (as relevant):

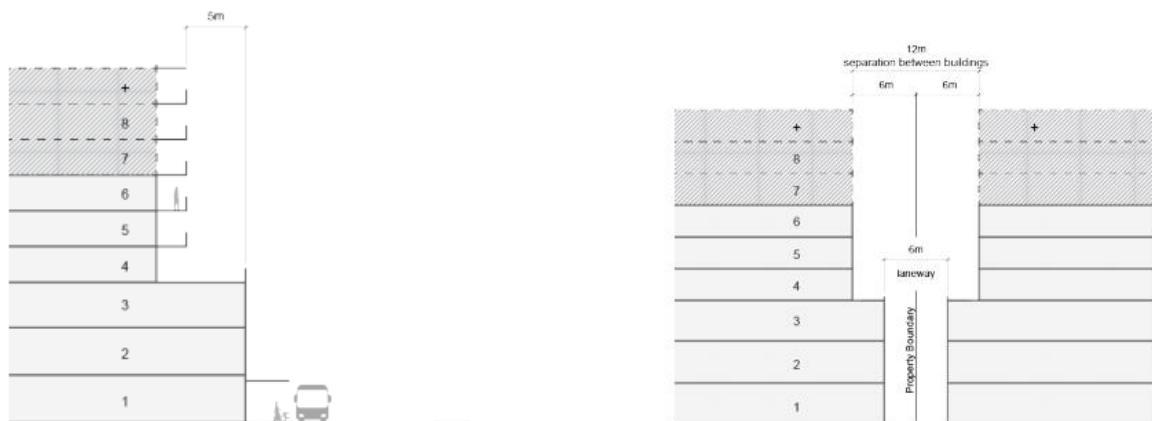
- *Reduce the visual impact of taller buildings by providing a consistent street wall height with upper floors recessed.*
- *Support the function of designated active and service laneways and facilitate new laneways and pedestrian connections between buildings.*
- *Provide adequate separation between towers of buildings to achieve a high level of internal amenity for existing and future occupants of adjacent towers and to avoid the appearance of a continuous built form when viewed from the public realm.*
- *Provide significant separation of tower forms from sensitive interfaces¹⁷.*

¹⁷ Emphasis added.



Column 1 Precinct No.	Column 2 Precinct Name	Column 3 Street setback	Column 4 Side and rear setbacks
		<ul style="list-style-type: none"> Upper level setbacks — 5m <p>Where the secondary frontage is a local street:</p> <ul style="list-style-type: none"> 0m to a height of 2 storeys (9m including parapet/balustrade) Upper level setbacks — 3m <p><i>In precinct 3, upper levels should be set back so as not to be visible when viewed from standing eye level (1.6m) at the street frontage directly across the street.</i></p>	<p>Side Setback where the site abuts a residential site:</p> <ul style="list-style-type: none"> 0m to a height of two storeys (9m) Upper level setback — 3m <p>Rear Setback</p> <p>Where the site directly abuts a residential site:</p> <ul style="list-style-type: none"> 6m setback to a height of two storeys. A further 5m at the third storey. A further 6m at fourth and fifth storeys. <p>Where the site abuts a laneway:</p> <ul style="list-style-type: none"> 3m setback from the laneway to a height of two storeys, to provide an overall accessway at width of 6m. A further 5m at the third storey. A further 6m at fourth and fifth storeys.
5 & 6	Strategic Site	0m to a height of 3 storeys (13m including parapet/balustrade)	Where a site abuts a commercial/mixed use site:
	Urban Renewal	Upper level setbacks — 5m	<ul style="list-style-type: none"> 3m setback to a height of three storeys (13m), to provide a laneway connection between buildings (overall width 6m) Upper level setbacks — 3m <p>Where a site abuts a sensitive interface shown in Map 1:</p> <ul style="list-style-type: none"> 6m setback to a height of two storeys (9m), A further 5m at the third storey A further 3m at fourth storey All subsequent levels set back 20m from the property boundary

Extract of Table 2 - Building Setback Requirements



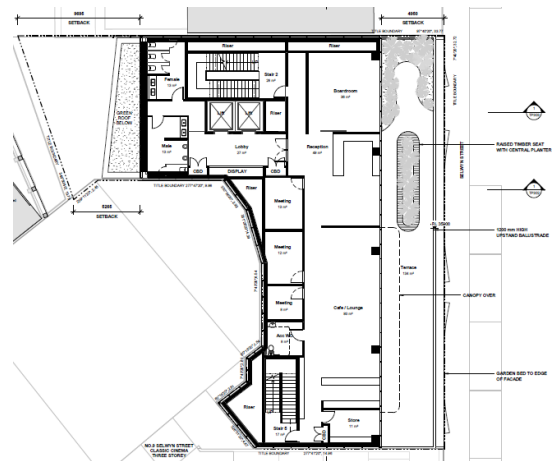
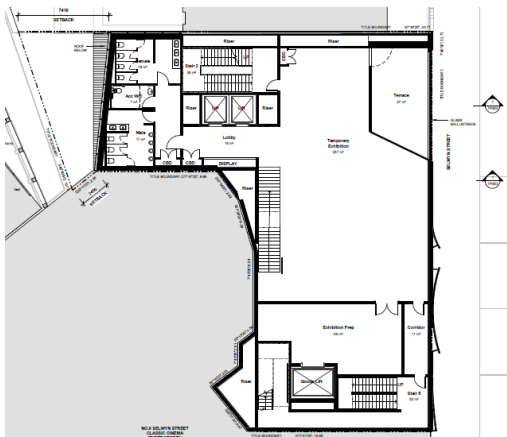
Extract of Table 3 – Setback Diagrams showing Precincts 5 & 6 Setbacks – street setback (left) side and rear setback commercial interface (right)

64. This is a 'strategic site'. It is my view that the street setback is relevant, and the proposal generally complies with this requirement. The podium is built flush to Selwyn Street to create a street wall. The proposed podium height is 17.39 metres which is more than the 13 metres described in the table above. It also contains four storeys within this component as opposed to three. This height is consistent with the height of the adjoining podium level to the north (the Jewish Holocaust Centre under construction at 13-15 Selwyn Street) and is similar to (lower than) the roof top cinema screen to the south (Classic Cinema at 9 Gordon Street) to create a consistent street wall height¹⁸. The upper form is setback 4.95 metres (measured along the northern boundary) to 5 metres (measured along the southern boundary) from the street. Relevantly, the decision guidelines contemplate variations to the maximum height. Refer to my assessment at **Appendix A**.
65. In terms of side and rear setbacks, the site adjoins land within the C1Z to the south and west. Particularly, it adjoins the Classic Cinema, a commercial cinema development and a multi-level residential development to the west (also in the C1Z). It adjoins land zoned MUZ to the north. There is no logic in creating a 3 metre setback from the side and rear boundaries to facilitate a creation of a laneway with the adjoining properties. The review

¹⁸ The balustrade to the podium terrace is setback from the boundary 0.705 metres and will contain a planter.

site and the adjoining properties are too small to justify a laneway and the site is located close to the corner of Glen Huntly Road which provides pedestrian permeability.

66. The ground floor level is built to the boundaries. A stepped setback is provided to the residential interface at 17 Gordon Street. More particularly, the Mezzanine Level is setback 2.8 metres – 2.45 metres; Level 1 is setback 6.145 metres – 2.45 metres; Level 2 is setback 7.41 metres – 2.45 metres and Level 3 is setback 9.695 metres – 5.265 metres. The upper form is setback 9.695 metres – 5.265 metres from 17 Gordon Street. It is otherwise built to the boundaries.



Level 2 Plan upper podium level (left) Level 3 Plan base of tower (right)

67. I consider the minor variations to the setbacks sought by DDO10 to be appropriate in the context of this site. I defer to the expert evidence Mr Czarny in relation to urban design.

Building Design

68. Building design in all areas should achieve the following:

- *Buildings should incorporate high quality materials, textures and colours that respond to the residential or commercial characteristics of the streetscape, as appropriate.*

- *Buildings should be designed to address front, oblique and side views. Where appropriate, buildings should provide wide entries that are clearly visible, legible and welcoming.*
- *Building services including domestic services, utilities and waste management facilities should be well-placed, concealed and integrated into building design.*
- *Buildings should minimise overshadowing impacts on existing and future open spaces, commercial footpath-trading areas and existing residential sites.*

69. In Precincts 3-6 shown on Map 1 to this Schedule, buildings should:

- *Incorporate a podium and tower form with detailing emphasised at ground floor to achieve a human scale with an active street level experience.*
- *Provide separation between a low-scale podium and upper levels to assist in integration with traditional low-scale streetscapes and to assist in mitigating building bulk and overlooking (without reliance on privacy screens).*
- *Provide active edges at ground floor, with weather protection (awnings), openings and architectural detailing providing activity and interest for people.*
- *Create new active frontages to new plazas and active laneways, and conceal services in these locations.*
- *Consolidate upper setbacks to avoid a visible tiered form.*
- *Where the street proportions and character are strongly defined, respond to those key features (such as setbacks, parapets, cornices, awnings or colonnade heights).*
- *Use vertical and horizontal architectural elements and spacings that match the development pattern of the street (for example, match the fine grain character of surrounding buildings by matching vertical alignments in the podium of a building).*



- *Where adjacent to sensitive interfaces, provide a transition in scale from larger buildings to areas of smaller scale.*
- *Ensure that ground floor development fronting Selwyn Street contributes to its role as a cultural precinct.*
- *In Precincts 5 and 6 shown on Map 1 to this Schedule, buildings should support a range of employment, residential and community spaces.*



Design Response Selwyn Street Perspectives (source: McIlldowie Partners Town Planning Design Report)

70. I consider the building design to create a visually interesting form and is appropriate having regard to the outcomes sought by DDO10. However, I defer to the expert evidence of Mr Czarny in relation to urban design.

Outlook, overlooking and passive surveillance

71. Buildings should:
- *Ensure active living areas (balconies, courtyards, terraces, lounges, kitchens, dining, etc.) maximise views, outlook, natural daylight and ventilation while managing overlooking and visual privacy for residents without the need for excessive screening.*
 - *Encourage interaction and passive surveillance of the street and public open space, with windows, balustrades, fencing and landscaping that provide a level of permeability.*

- *Avoid balconies and upper level living areas facing side boundaries.*
- *Developments should not borrow from the separation, outlook and amenity of developable adjoining land.*

72. I consider the design response to overlooking to be appropriate in the context of this site. The interface with 17 Gordon Street has been addressed by locating toilets and services that do not create an overlooking conflict. There is a window behind in the upper form on Levels 4 to 7, but it is setback more than 9 metres from the boundary and does not allow direct views to the apartment building. The proposed development does not rely on adjoining sites to create an outlook. There are opportunities for passive surveillance from the terrace to the street and from the office levels within the upper form.

Access and parking – commercial/mixed use

73. In Precincts 3-6 shown on Map 1, building should:

- *Prioritise high quality streetscapes through considered parking and access design that minimises visual and physical impacts.*
- *Focus on maintaining active land uses at street level by locating parking structures underground in basements or towards the rear of the building if above ground.*
- *Provide vehicle access from side streets or rear laneways if available.*
- *Minimise access and crossover widths as much as practical.*
- *Ensure that bicycle parking is secure, convenient and readily accessible.*
- *Separate resident and visitor entries from commercial entries, service areas, vehicle accessways and loading zones.*

74. I consider the appropriate response to car parking, access and bicycle facilities to be achieved. There are broader outcomes for Selwyn Street in relation to road closures and

the creation of a pedestrianised space for the cultural precinct. In relation to car parking and access I defer to the expert evidence of others.


75. This site is in an area that is identified for change through the strategic planning framework (DDO10) and its location in a Major Activity Centre. The built form outcomes will be different to the single and double storey dwellings in the broader surrounding residential area. The development achieves the preferred design objectives for the site.
76. For the above reasons I am comfortable that the proposal represents an appropriate built form response to the DDO10, the context of the site and has regard to the relevant Planning Policy Framework.

Are the off-site amenity impacts acceptable?

77. A starting point for off-site amenity considerations is that the site and surrounds are within a Major Activity Centre. The adjoining land is zoned Commercial 1 except to the north which is MUZ1 but does not contains residential development.
78. In terms of the seven storey apartment development at 17 Gordon Street, the part that adjoins the western boundary is located on land zoned Commercial 1 and the part to the north-west is on land zoned MUZ1.



Zone and aerial photograph showing the review site (source: Landchecker May 2021)



79. Under the Mixed Use Zone the purpose and decision guidelines do not contain any off-site amenity considerations except relating to overshadowing for rooftop solar energy systems on land in certain residential zones. Clause 65.01 requires the responsible authority to consider, as appropriate, *'the effect on the amenity of the area'*. In my view, this is a consideration about the impact of a proposal on an area level not on an individual site level. Regardless, the weight given to this issue should be tempered by the broader outcomes sought for a Major Activity Centre location. The outcomes listed above this one at Clause 65.01 include (in order):

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*

80. I consider the weight given to these outcomes should be in the ranking order that they are listed. In terms of off-site amenity considerations, I consider these relate to overlooking, overshadowing, visual bulk, equitable development and noise.

Overlooking

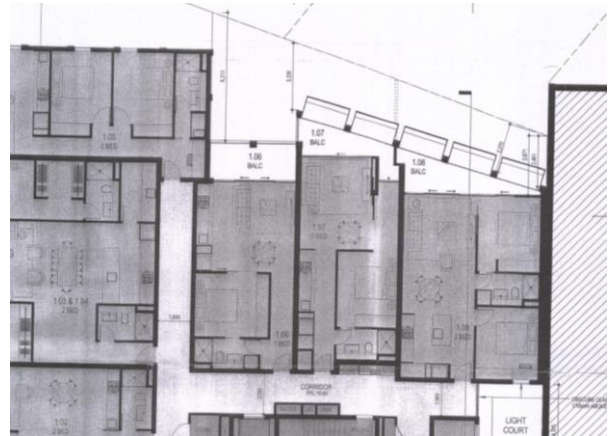
81. I have addressed overlooking in the built form assessment above. I consider the proposal has appropriately addressed the opportunity for overlooking to the adjoining residential development to the west.

Overshadowing

82. I have considered the proposal in terms of the overshadowing impacts on the neighbouring residential apartments. I note that this development comprises two ground level courtyards (with depths/setbacks of 2.65 metres – 5.178 metres – 6.525 metres) and balconies on Levels 1-6 with setbacks of 2.37 metres – 3.25 metres. These POS areas relate to one and two bedroom apartments, except for Apartments 4.05 and 4.06 on level 4 which are three



bedroom apartments and have access to and a primary orientation to a balcony on the western side of the building.



17 Gordon Street Extract of Endorsed Ground Floor Plans (left) and First Floor Plans (right)

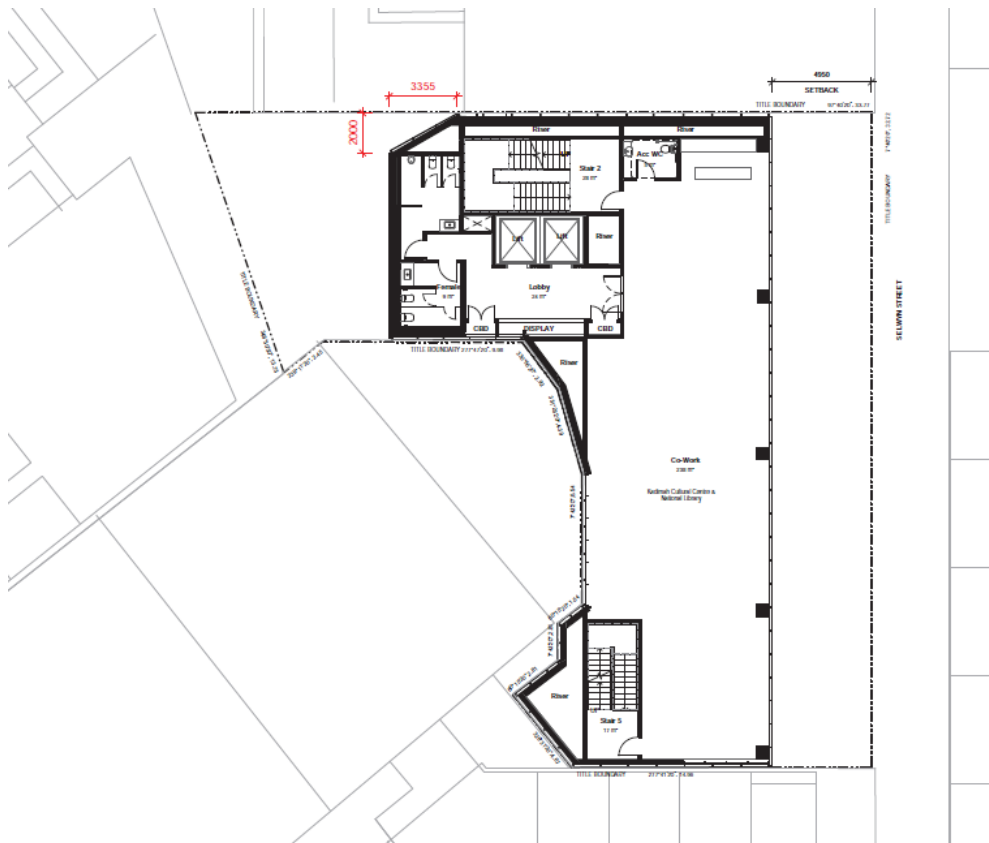


Photograph of apartments interface with review site (left and right).

83. The shadow diagrams show the proposal will cast a shadow on the adjoining apartment development to varying degrees between 9am and 11am. By 12 pm, there will be no shadow impact on the apartments caused by the proposal. I was provided with concept



plans that improved sunlight access to this building. The plan that I prefer shows a 2m chamfer of the north-west corner of the building, which results in improvements to solar access. The chamfer makes this change to the floor plan (see below):



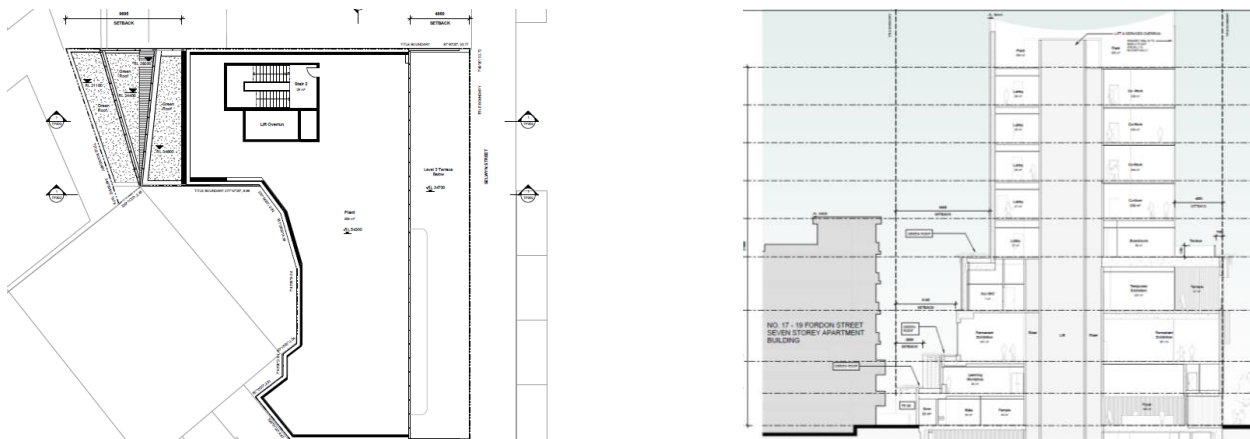
Floor plan showing 2m chamfer to the north western corner of the building

84. The proposal to chamfer the edge of the upper form will have benefits to some apartments during the morning hours on the equinox. The shadow diagrams prepared show that the shadows move across the eastern face of the apartment building during the morning and are essentially gone by 11.30am and totally gone by 12 noon.
85. I consider this minor modification to the proposal will result in an acceptable outcome in terms of access to sunlight to the adjoining apartment building. I form this view on the basis of the zoning of the land and its location in a MAC. I do not consider the same expectations on amenity should be given to dwellings located within an activity centre on commercially zoned land to a residential area. It is also relevant that the apartments have been sited very

close the rear boundary directly opposite an area where higher building forms are encouraged¹⁹.

Visual Bulk

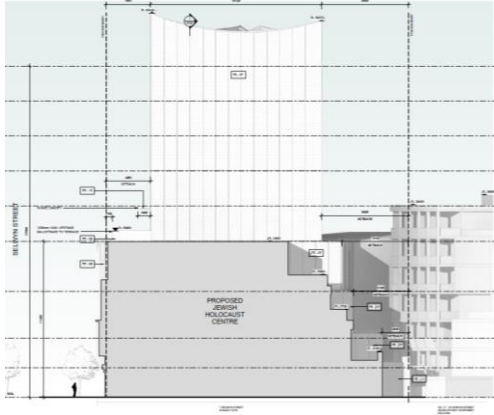
86. Visual bulk impacts need to be considered in the context of the specific built form outcomes contemplated in DDO10 and a Major Activity Centre location. It would be unreasonable to curtail the development potential of this site due to visual bulk concerns from the apartments to the west (which is itself, a large building). The podium has been stepped back at the interface with the apartments and the upper form is also setback. The setback distances to the residential interface are appropriate having regard to the context of the site.



Roof Plan showing section line (left) and Cross Section TP303 (right)

87. Where the proposed building is stepped and setback, the apartments would have an outlook across the site towards the Holocaust Centre to the north of the site, which is under construction for a 4 storey building.

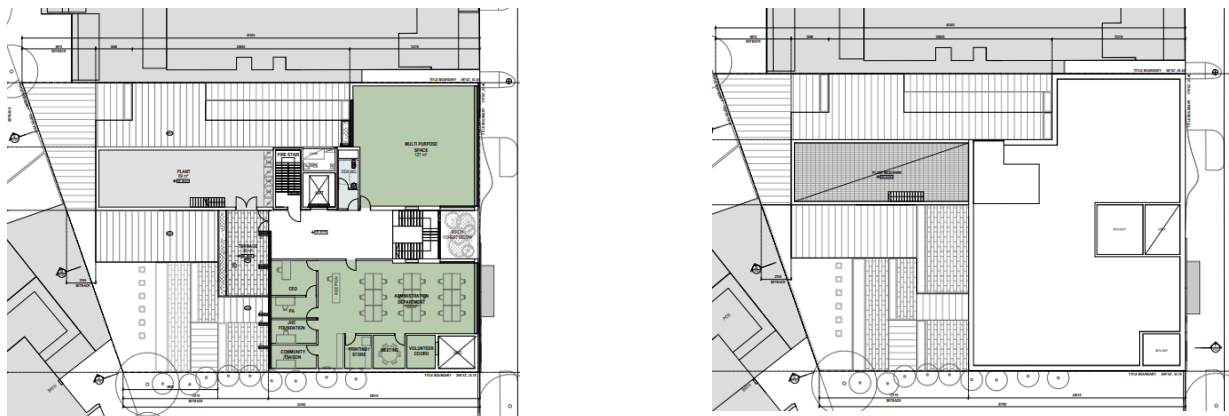
¹⁹ I reiterate that my support for the proposal is not conditional upon the changes to the option plan being made.



North Elevation Plan (left) Aerial photo showing construction on 13 Selwyn Street (right)

Equitable Development

88. Equitable development is a broad concept and can be considered under the notion of 'orderly planning of the area'²⁰. Development equity seeks to ensure that the reasonable development potential of adjoining sites are not unacceptably curtailed as a result of the approval of a nearby building. Any assessment of equitable development outcomes needs to consider the future potential development of adjoining sites, particularly having regard to their physical and planning context.
89. To the north, the land has recently been issued with a permit and endorsed plans for a four storey redevelopment of the Holocaust Centre²¹. In terms of DDO10, it is located in the same precinct as the review site (5a (West)) but has a sensitive interface along its western edge. This site has greater heritage value in terms of the existing building identified as a contributory building²². The facades of the existing building have been retained in the approved development. In my view based on the layout of the approved development, it is unlikely the site will be further developed in the short term.



13-15 Selwyn Street Proposed Level 3 floor plan (left) and Proposed roof plan (right) (source: Council officer's report²³)

²⁰ Clause 65.01.

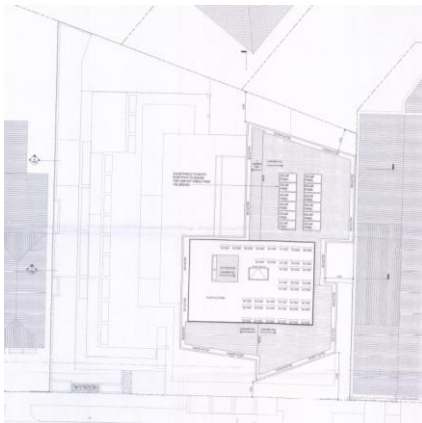
²¹ GE/PP-31460/2017 at 13-15 Selwyn Street, Elsternwick.

²² As identified in the Bryce Raworth letter dated 21 January 2020 and in Clause 22.01.

²³ <https://www.gleneira.vic.gov.au/media/2845/052218-council-meeting-agenda-final-for-website.pdf>



90. To the west, the land sits within the same precinct as the review site (5a (West)) but has a sensitive interface along its northern edge. It is unlikely that this site will be re-developed in the future. The site contains a relatively recently constructed seven storey building and the apartments will likely be in different ownership.



17 Gordon Street Endorsed Roof Plan (left) Aerial Photograph (source: Landchecker) (right)

91. In terms of the commercial building to the south and west (the Classic Cinema), that land is located in Precinct 3 (Shop top (heritage/character)) which has a 14 metre height limit comprising up to 4 storey maximum building height. The setbacks are 2 storeys (9m) podium to the street with 5m setback to upper levels. Where a site abuts a commercial/mixed use interface the setback should be a minimum of 6m for balconies.



Photograph of Classic Cinema on Selwyn Street (left) and Aerial Photograph (source: Landchecker) (right)

92. I have considered the future development potential of the adjoining properties. In my view, the proposal provides for development equity.

Noise

93. I am not an acoustic expert. I note that the application was accompanied by an acoustic Report prepared by Marshall Day Acoustics. This report assessed the potential acoustic impacts from the proposed development.
94. The report provides recommendations for mitigation measures. The Acoustic Report concludes *'The preliminary assessment indicates that all noise impacts associated with the proposed development can be adequately mitigated.'*
95. I note that Council accepted the position of the acoustic report and formed the view that subject to the conditions of permit, there would be no unreasonable noise impact on nearby sensitive uses. Acoustic matters have also been addressed by Conditions 7 – 10 in the NOD.
96. For the above reasons I am comfortable that the proposal will not result in unreasonable off-site amenity impacts.



Are the heritage considerations appropriate?

97. I am not a heritage expert, but I have assessed the heritage considerations under the planning scheme from a town planning perspective. Clause 15.03-1S (Heritage conservation) seeks to *'ensure the conservation of places of heritage significance'*. Strategies to achieve this include:

- *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.*
- *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
- *Encourage appropriate development that respects places with identified heritage values.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements of a heritage place.*

98. Within the Local Planning Policy Framework, Clause 21.10 (Heritage) states *'a number of areas and individual properties comprehensively demonstrate important eras in the growth of Glen Eira and survive in a reasonably intact state. These have been identified in the Glen Eira Heritage Management Plan 1996, the Addendum to the Glen Eira Heritage Management Plan 2017 and the Glen Eira Review of Existing Heritage Precincts 2017. Some have also been recognised by Heritage Victoria and the National Trust'*.

99. Clause 22.01 (Heritage Policy) applies to all land within the Heritage Overlay. An objective under this policy is:

- *To ensure that non-contributory buildings in heritage precincts are developed in a manner that is sympathetic to, and does not detract from, the significance of the heritage precinct.*





100. The application was accompanied by a letter prepared by Bryce Raworth. It provides an assessment of the heritage controls and policies relating to the site and considered the existing building and proposed development.
101. It identifies the existing building as non-contributory to the broader HO72 precinct (Elsternwick and Environs Heritage Precinct). The letter states:

While the building appears to be reasonably intact, and it possesses a level of historical significance (Criteria A) owing to its links with the Jewish community, the building is not of great architectural refinement (Criteria D), and it does not demonstrably meet the required threshold level of local significance that would suggest it should be elevated to a site-specific Heritage Overlay.

102. In terms of those aspects of the building that do have heritage value, the letter provides the following:

The ceramic mural fixed to the front facade of the building – The Great Awakening – is a notable work by the important Polish émigré artist, Karl Duldig. It is classified by the National Trust at the state level (File No. B6319). Duldig also designed the set of eight stained glass windows that are integrated into the building, as well as two bronze plaques. The National Trust statement of significance for the artwork states that:

The ceramic bas-relief on the street facade, stained glass windows and plaques are artistically significant at State level. The artistic decor of the Kadimah provides a rare example of an artist executing both the sculpture elements and stained glass windows in one building; unusual in a suburban environment. The integration of the works with the architecture indicate a harmonious collaboration between the artist and architect. The building was opened in 1972.

It is understood that any future development on the site would salvage the ceramic mural and stained glass windows from the building and incorporate them into any new development. There would be no loss associated with this particular aspect of the building's significance.

Bryce Raworth Letter dated 21 January 2020 Page 3

103. The proposed demolition was considered to be supportable on the basis that the building is non-contributory. In terms of the assessment of the proposed development or replacement building, the Raworth letter identifies Selwyn Street is not a sensitive heritage environment in the context of HO72.
104. I note that the Council's Heritage Advisor supported the application subject to the retention of the Karl Duldig stained windows and Bas Relief, as per the conditions of the NOD.



105. From a town planning perspective, I consider the demolition and proposed development to be appropriate in the context of the Heritage Overlay and the Planning Policy Framework.

Is the proposed signage appropriate?

106. A permit is required for the proposed business identification signage pursuant to Clause 52.05 (signs) and Clause 43.01-1 (Heritage Overlay). The proposed sign identifies the museum / Jewish Cultural Centre and National Library. It is located above the building entry and has been incorporated into the overall urban design and presentation of the building.



Extract of Design Response Selwyn Street Perspective (source: McIldowie Partners Town Planning Design Report)

107. The Mixed Use Zone is a Category 3 for the sign requirements. Pursuant to Clause 52.05-13 Category 3 – High amenity areas (Medium limitation) has the Purpose:
- *To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*
108. There are no conditions specified for a Business identification sign.



109. In terms of heritage considerations, Clause 22.01-3 provides the following policy for commercial heritage areas:

- *Discourage signage above the verandah if it results in visual clutter in the streetscape and obscures views of the subject building and nearby contributory buildings.*
- *Ensure retention of signage deemed to have heritage value.*
- *Discourage sky signs, reflective signs, animated signs and electronic signs within heritage precincts.*

110. In response to the policy setting, I consider the proposed business identification signage to be appropriate. Its location on the building assists with the identification of the building entry and has been incorporated into the architectural presentation. Its simple black lettering will not result in visual clutter along Selwyn Street and is respectful of the adjoining contributory building under construction. Conditions 1(b) and 28 – 30 on the NOD address matters relating to signage including lighting.

Is the liquor licence acceptable?

111. Pursuant to Clause 52.27 a permit is required to use land to sell or consume liquor. The propose of this Clause is:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

112. The proposed liquor licencing is for an 'On-premises licence' for the sale and consumption of liquor on the licenced premises. The plans include a red line plan to show the extent of the area to be licenced. These areas are on the ground floor level associated with the Museum café/ bar and on the basement levels 1-2 associated with the performing arts centre. I note the café on the third floor of the office is also proposed to be licenced but is not shown with a red line.





113. In terms of patron numbers, the NOD allows 300 patrons for the Museum and 300 patrons for the Place of Assembly²⁴. Parts of the building proposed to be used for the sale and consumption of alcohol are as follows:

- Ground floor café/bar: 11am to 5pm²⁵.
- Areas within the Performing Arts Centre: 5pm to 9pm²⁶.
- Third floor café/lounge within the office: 11am to 6pm²⁷.

114. I have included a Cumulative Impact Assessment at **Appendix D** in terms of the proposed liquor licensing. I consider the proposed on-premises licence to be appropriate for the site and the proposed uses. There will be no unreasonable off-site amenity impacts or cumulative impacts associated with the proposal.

²⁴ Cannot be exceed without the written consent of the responsible authority.

²⁵ The Museum is closed on Saturdays.

²⁶ I note that sometimes the Performing Arts Centre will be used in conjunction with the Museum from 8am to 5pm Monday to Friday.

²⁷ I note that the plans do not show a red line around this area.






3. CONCLUSION

116. My conclusions are summarised below:

- The Planning Policy Framework and Local Planning Policy Framework provide clear strategic support for the proposal.
- The proposed use and development are consistent with the purpose and outcomes sought by the Mixed Use Zone - Schedule 1 and the Design and Development Overlay – Schedule 10.
- The proposal is appropriate for the Elsternwick Major Activity Centre.
- The use and development have considered off-site amenity impacts and will not result in any unreasonable impacts on the adjoining apartments at 17 Gordon Street or nearby sensitive uses.
- The proposed business identification signage is appropriate and has been incorporated into the overall design and presentation of the building.
- The proposed sale of liquor for the consumption on the premises is acceptable.
- The proposed demolition of the existing non-contributory building is appropriate having regard to heritage considerations. The proposal has had proper regard to the heritage context.

117. I recommend that the following conditions be included on any planning permit granted:

- A condition to be included modify the proposal as per the plans prepared by McIldowie Partners included at **Appendix E**.
- A condition to require the approval of a landscape plan and a landscape management plan in relation to maintenance and watering.
- The Sustainable Management Plan to be included as document to be endorsed under 'Management plans'.

- 
118. For the reasons advanced in this statement, I conclude that the Application for Review should be dismissed and a planning permit granted.
119. I have made all inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Tribunal.



John Glossop FPIA
Director, Glossop Town Planning Pty Ltd
8 June 2021



4. REQUIREMENTS UNDER PRACTICE DIRECTION NO. 2: EXPERT EVIDENCE

120. This statement is prepared by John Glossop, Glossop Town Planning Pty Ltd, Level 5, 111 Cecil Street, South Melbourne VIC 3205. I am a Director of the firm. The firm has been in business since 1997.

121. I have a Bachelor of Arts (Urban Studies) Hons. I have been engaged in the following positions and roles in my career as a planner including:

- Former planner with the Shire of Newham and Woodend (prior to its amalgamation with the Macedon Ranges Shire).
- Strategic and Social Planning Manager, Shire of Melton until 1997.
- Sessional member, Planning Panels Victoria between 1997-2012.

122. I have sat as a Chairman or member on several planning scheme amendments, dealing with a broad range of issues from high-rise housing in Williamstown, the redevelopment of Pentridge Prison and the application of flooding overlays in the Mornington Peninsula Shire.

123. Sessional lecturer and tutor in strategic, statutory planning and urban studies at Victoria University of Technology (1996-99) and lecturer in statutory planning Latrobe University Bendigo (2000- 02).

- Member of the ResCode Advisory Committee 2000.
- I have considerable experience in statutory and strategic planning and new format planning schemes.

124. My expertise to make this statement is based on a combination of my experience working in metropolitan Melbourne and regional Victoria, an understanding of the site and my experience as a planner in both the private and public sectors.

125. I have been instructed by HWL Ebsworth Lawyers to provide an opinion on the planning merits of this application and to provide town planning evidence at VCAT.





126. My office was not involved in the planning permit application.

127. I have relied on the documents referred to in the introduction section of my statement.

128. There were no tests undertaken in the preparation of this statement.

129. I was assisted in this statement by Claudia Tonelli of my office.



APPENDIX A: OBJECTIVES AND DECISION GUIDELINES OF DDO10

Policy	Assessment
DDO10 Design Objectives	
To preserve and enhance the heritage character of the Glen Huntly Road shopping strip.	The site is not located on Glen Huntly Road and does not form part of the row of two storey terraces that line Glen Huntly Road.
To preserve and enhance the heritage and residential areas in Elsternwick.	The site is not located in a residential area of Elsternwick. In terms of the heritage precinct (HO72) it is a non-contributory building. The proposed demolition and redevelopment are justified in the context of the site.
To encourage well designed mixed-use development, that supports the housing and economic needs of the Elsternwick activity centre.	I am not an economist but from a town planning perspective it is expected that the proposed mixed use development, comprising Performing Arts and Office will contribute to the economic needs of the Elsternwick Activity Centre.
To ensure an appropriate design response to sensitive interfaces, such as heritage or residential sites and open space.	The site is not identified as having any sensitive interfaces on the DDO10 Map 1.
To encourage developments in urban renewal areas and on strategic sites that provide a significant benefit for	I am not an economist but from a town planning perspective I consider the proposal will deliver a community benefit in a site that is considered to be an urban renewal site under the planning policy context.





the Elsternwick community	
Decision guidelines (Clause 5.0)	
Whether development responds to the design objectives set out in Clause 1.0 to this schedule.	Refer above.
The extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the pedestrian network.	Particularly from the pedestrian network, the proposed building respects the preferred scale and form of development under the DDO10.
Whether the design and form of buildings supports the housing and economic needs of the Elsternwick Activity Centre.	I am not an economist. From a town planning perspective, the proposal supports economic needs of the Elsternwick Activity Centre as envisaged by the DDO10.
Whether proposed buildings on sites that are in the vicinity of a heritage place are respectful of that heritage place.	The review site is located in the Heritage precinct HO72. This precinct contains two contributory buildings, one to the north (the Jewish Holocaust Centre at 13 Selwyn Street) and one to the south-east (the Former Elsternwick Fire Station at 2-4 Selwyn Street). I am not a heritage expert but from a town planning perspective, the proposal is respectful of the nearby contributory buildings and the broader heritage place.
Whether proposed buildings are sensitively designed to avoid views into secluded private open	I am comfortable that the proposal has responded to overlooking appropriately.





spaces and habitable room windows of dwellings on adjacent land.	
The impact of overshadowing to the public realm.	The impact of overshadowing to the public realm must be balanced with the built form outcomes of the DDO10. In terms of the Selwyn Street interface, the proposal has responded appropriately.
Whether development in Precinct 5 or 6 demonstrates a high level of architectural quality and makes a positive contribution to the public realm.	I am not an urban designer. From a town planning perspective, the proposal demonstrates a high level of architectural quality and makes a positive contribution to the public realm.
<p>Whether any building in Precinct 5 or 6 that exceeds the maximum preferred building height</p> <ul style="list-style-type: none">– Demonstrates that the development includes the provision of significant community benefit; and– Does not create unreasonable impacts on the amenity of sensitive interfaces as a result of additional height; and– Demonstrates architectural design excellence.	The proposal seeks minor increase in height to the podium level. A condition of the NOD requires a reduction of the architectural features to comply with the DDO10 discretionary maximum height. It is considered in this instance that the proposal meets the decision criteria on height variation.





Decision guidelines (Clause 43.02-6)	
The Municipal Planning Strategy and the Planning Policy Framework.	Refer to the body of this statement.
The design objectives of the relevant schedule to this overlay.	Refer above.
The provisions of any relevant policies and urban design guidelines.	Refer to the body of this statement.
Whether the bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.	Refer to the body of this statement.
Whether the design, form, layout, proportion and scale of any proposed buildings and works is compatible with the period, style, form, proportion, and scale of any identified	I address heritage considerations in the body of this statement.





heritage places surrounding the site.	
Whether any proposed landscaping or removal of vegetation will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.	<p>I am not a landscape expert. When I inspected the site there were no trees. I note that the survey plans show trees on site.</p> <p>The review site forms part of the Elsternwick Major Activity Centre and landscaping in the private realm does not form a significant contribution to the character and appearance of the streetscape.</p> <p>The proposed landscaping in planters and on roofs can be appropriately addressed by a condition of permit. I recommend a condition is included on any permit granted in my conclusion.</p>
The layout and appearance of areas set aside for car parking, access and egress, loading and unloading and the location of any proposed off street car parking	<p>I defer to the evidence of others in relation car parking and vehicle access.</p>
Whether subdivision will result in development which is not in keeping with the character and appearance of adjacent buildings, the streetscape or the area.	<p>N/A</p>
Any other matters specified in a schedule to this overlay.	<p>Refer above.</p>



APPENDIX B: SITE INSPECTION RECORD

130. I inspected the site on 29 April 2021 and on 27 May 2021.

131. I have documented what I observed on the site and the surrounding area and have taken photographs.

132. During my inspections, I walked around the site and the surrounding area.

The Review Site

133. The review site is located at 7 Selwyn Street, Elsternwick. The review site is irregular in shape, with a frontage of 32.7 metres to Selwyn Street, a depth of 34.1 metres (along the northern boundary) and a depth of 15 metres (along the southern boundary). The overall area is 696 square metres.



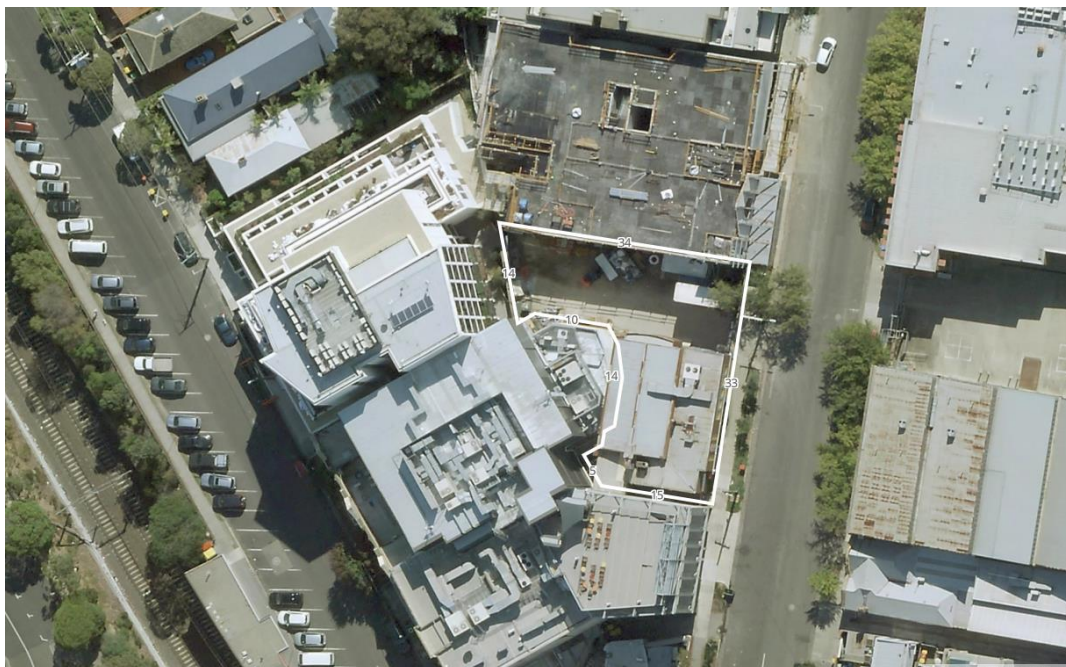
Cadastral map of the review site (source: mapshare.vic.gov.au)

134. The review site is described on title as Lot 1 on PS 544480X (Vol. 11005 Fol. 021). No easements affect the land. There is a Section 173 Agreement registered on title (X912655U) which relates to the use of the land at 1 Sinclair Street for 20 car parking



spaces between 10am and 5pm Monday to Friday for the site of the Classic Cinema/ Restaurant Complex staff and patrons. This site is used and developed for a school associated with the Sholem Aleichem College.

135. The review site currently contains a two storey brick building and an at grade car park. It is occupied by the Kadimah Cultural Centre (Jewish Cultural Centre and National Library). It is currently being used as part of the construction site for the development underway on the adjoining property to the north (13-15 Selwyn Street).
136. The site is clear of vegetation²⁸. There are street trees and power poles in the road reserve adjacent to the review site. A crossover is located towards the northern boundary on Selwyn Street. The land is generally flat.
137. The review site is in an area of Aboriginal Cultural Heritage Sensitivity²⁹. It is also located within the PPTN³⁰.



Aerial overview of the review site (source: Landchecker, 13 May 2021)

²⁸ I note the survey plan shows the site contained trees in the north-west corner of the site.

²⁹ In accordance with the planning property report.

³⁰ In accordance with mapshare.vic.gov.au.



Photographs of the review site from Selwyn Street

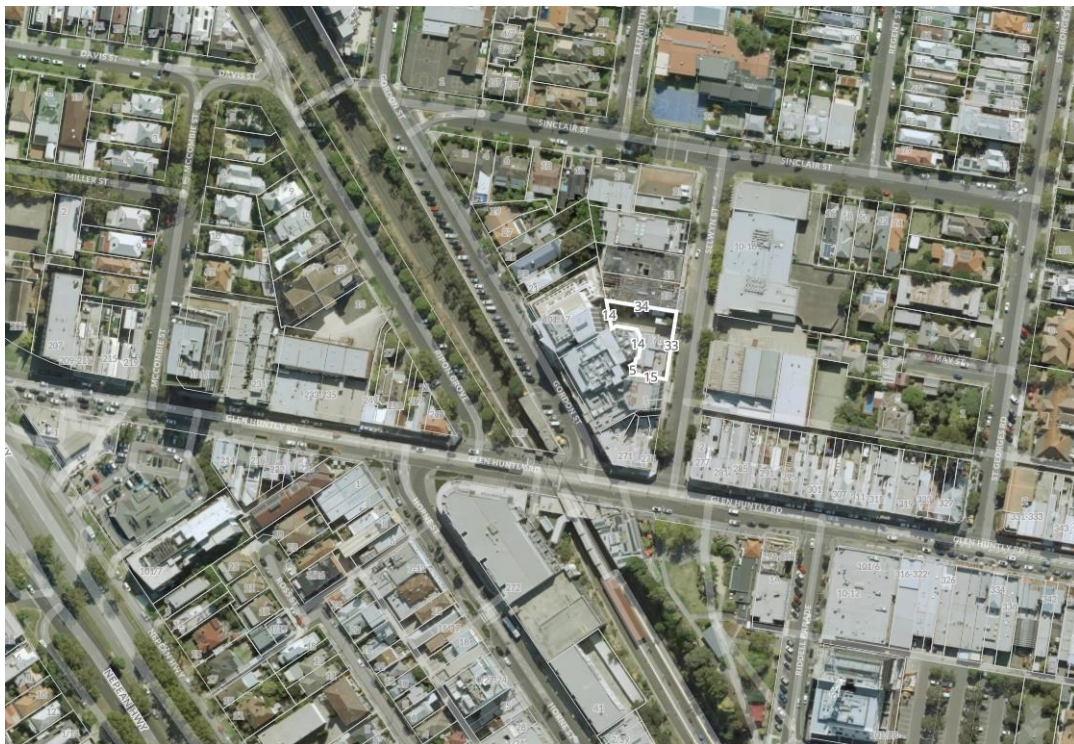
The Surrounding Area

138. The review site is located within an established mixed use area of Elsternwick that is undergoing development change. The site forms part of the Elsternwick Major Activity Centre³¹. The immediately surrounding area consists of a variety of buildings and heights that range from two storeys to seven storeys. The surrounding uses include a three storey cinema with a roof top cinema and screen (up to four storeys) to the west and south, a seven storey apartment building to the west and north-west, a four storey Jewish Holocaust

³¹ As defined by Plan Melbourne 2017-2050 on page 53.



Centre and associated facilities under construction to the north. There is a four storey apartment building further north. A two and three storey building to the north-east is subject to a planning application for a proposed nine and ten storey mixed use development. Two storey attached terraces run along Glen Huntly Road.



Aerial view of the review site and surrounds (source Landchecker, 15 May 2021)

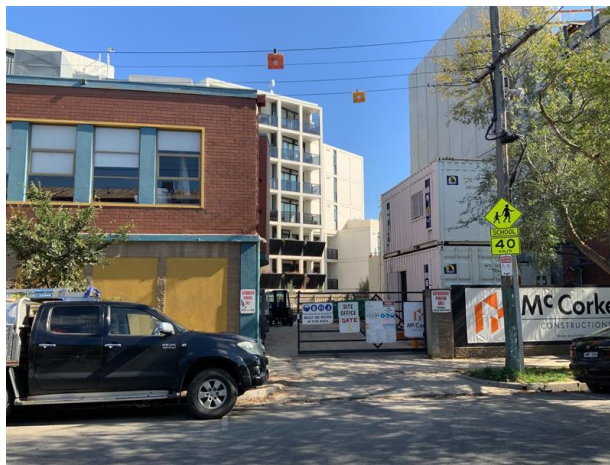
139. In terms of immediately surrounding properties:

- 13-15 Selwyn Street to the north is currently under construction for a four storey building for use as a place of assembly (Jewish Holocaust Centre).



- 17 Gordon Street to the north-west contains a seven storey apartment building with ground floor retail. The review site has an interface with a courtyard (containing vegetation) and apartments face the site (see below).

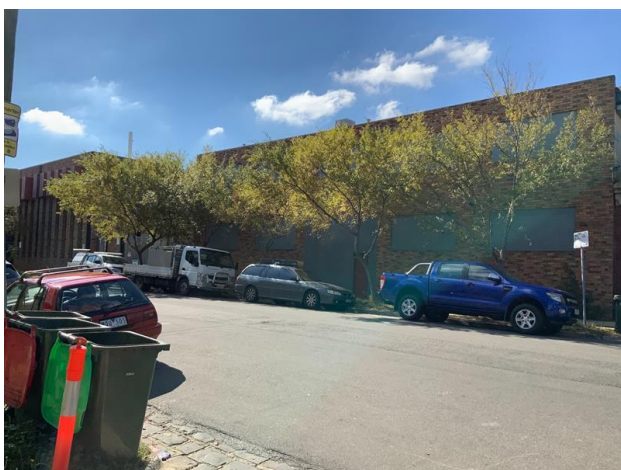




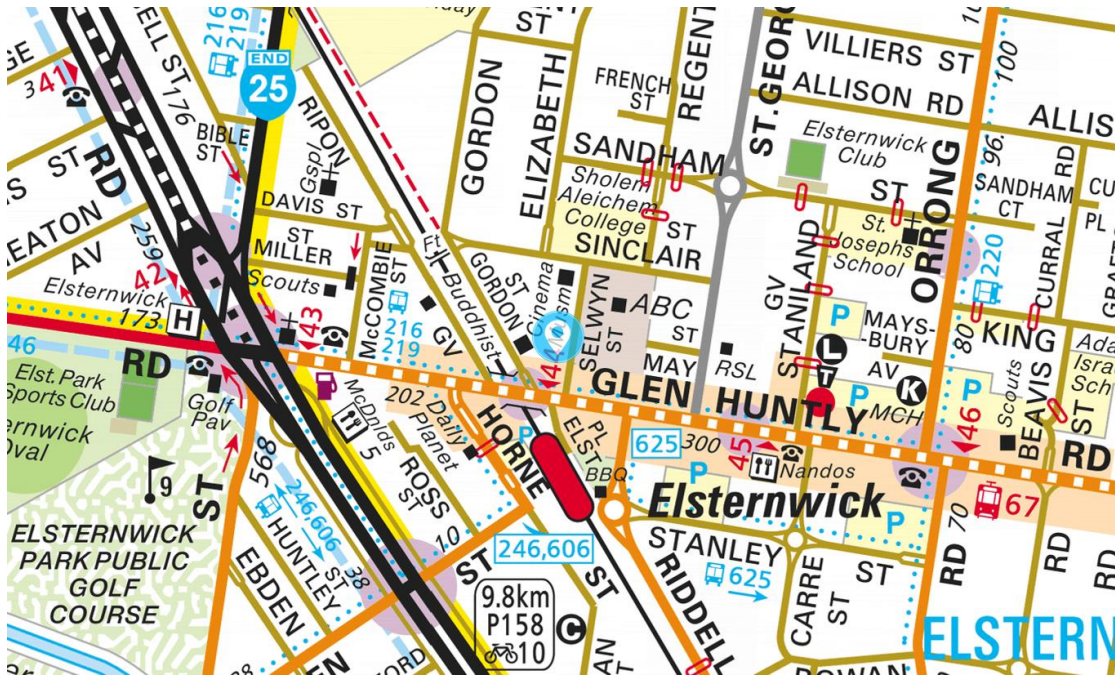
- 9 Gordon Street to the west and south contains a cinema complex (including roof top cinema) within a three storey building (see below).



- To the east, on the opposite side of the street is 10-16 Selwyn Street (extending to Sinclair Street to the north and a laneway to the south). It is occupied by two two-storey brick buildings (former ABC studios) and the former Elsternwick fire station. This site subject to an application for a mixed-used development comprising a supermarket, cafe, place of assembly, retail kiosks, signage and apartments in two buildings up to nine and ten storeys high.



140. The review site is well located to a range of services and infrastructure, including shops and restaurants, public transport, sporting and recreational facilities, public open space, schools and community facilities.



Melways overview of the wider area (source: Melways Online)



City of Glen Eira Local Area Map extract (source: Public Transport Victoria)






APPENDIX C: GLEN EIRA PLANNING SCHEME

Planning Policy Framework

141. Within the Planning Policy Framework, I consider the following policies relevant to this matter:

- Clause 11 'Settlement', and in particular:
 - Clause 11.01-1S 'Settlement';
 - Clause 11.01-1R 'Settlement – Metropolitan Melbourne';
 - Clause 11.02-1S 'Supply of urban land';
 - Clause 11.02-2S 'Structure planning';
 - Clause 11.03-1S 'Activity centres'; and
 - Clause 11.03-1R 'Activity centres - Metropolitan Melbourne'.
- Clause 15 'Built Environment and Heritage', and in particular:
 - Clause 15.01-1S 'Urban design';
 - Clause 15.01-1R 'Urban design – Metropolitan Melbourne';
 - Clause 15.01-2S 'Building design';
 - Clause 15.01-4R 'Healthy neighbourhoods – Metropolitan Melbourne';
 - Clause 15.01-5S 'Neighbourhood Character';
 - Clause 15.02-1S 'Energy and resource efficiency';
 - Clause 15.03-1S 'Heritage conservation'; and
 - Clause 15.03-2S 'Aboriginal cultural heritage'.
- Clause 17 'Economic Development', and in particular:

- 
- Clause 17.02-1S ‘Business’.
 - Clause 18 ‘Transport’, and in particular:
 - Clause 18.02-1S ‘Sustainable personal transport’; and
 - Clause 18.02-4S ‘Car parking’.
 - Clause 19 ‘Infrastructure’, and in particular:
 - Clause 19.02-3S ‘Cultural facilities’;
 - Clause 19.02-3R ‘Cultural facilities - Metropolitan Melbourne’; and
 - Clause 19.02-4S ‘Social and cultural infrastructure’.

Local Planning Policy Framework

142. Within the Local Planning Policy Framework, I consider the following policies particularly relevant to this matter:

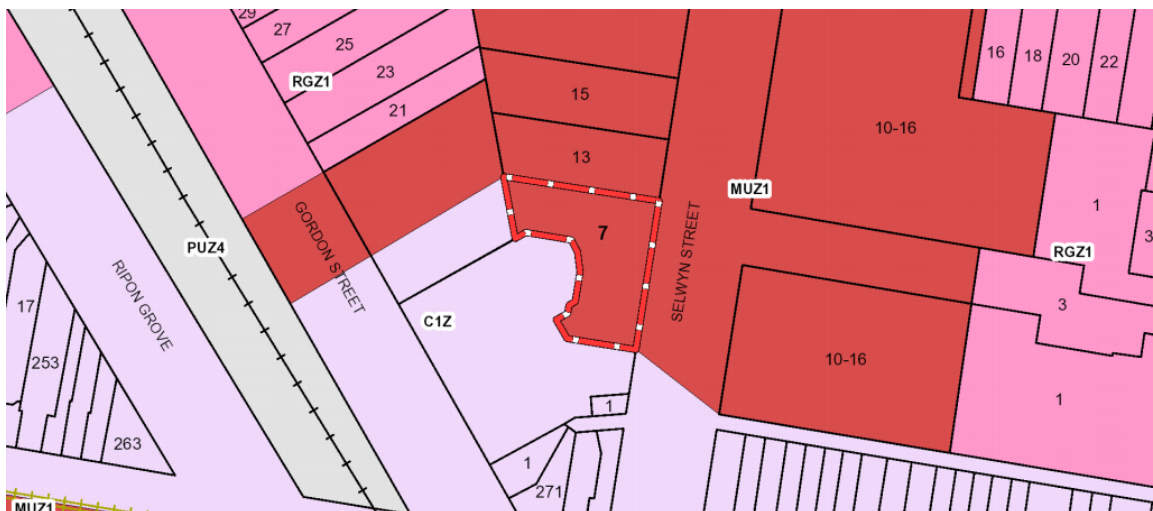
- Clause 21.01 ‘Municipal Profile’;
- Clause 21.02 ‘Key Influences’;
- Clause 21.03 ‘Vision – Strategic Framework’;
- Clause 21.06 ‘Business’;
- Clause 21.08 ‘Institutional and Non Residential Uses in Residential Areas’;
- Clause 21.10 ‘Heritage’;
- Clause 21.12 ‘Transport’;
- Clause 22.01 ‘Heritage Policy’;
- Clause 22.02 ‘Non Residential Uses in Residential Zones Policy’; and
- Clause 22.05 ‘Urban Villages Policy’.

Zone

Mixed Use Zone – Schedule 1

143. The review site is zoned Mixed Use Zone – Schedule 1 (Glen Eira Mixed Use Areas) (MUZ1). The Purpose of the MUZ1 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.*
- *To provide for housing at higher densities.*
- *To encourage development that responds to the existing or preferred neighbourhood character of the area.*
- *To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.*



Zoning Map (source: Planning Property Reports)

144. Schedule 1 to the Mixed Use Zone contains no objectives and does not include any additional decision guidelines. It does not contain a maximum building height requirement.



145. Pursuant to Clause 32.04-2 a permit is required to use the land for a Place of assembly and Office³² (Section 2 uses).
146. Pursuant to Clause 32.04-9 a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.04-2.
147. Pursuant to Clause 32.04-11 a building must not be constructed that exceeds the maximum building height specified in a schedule to this zone. There is no maximum height specified in the schedule 1.
148. The general decision guidelines Clause 32.04-14 are relevant.
149. Pursuant to Clause 32.01-15, this zone is in Category 3 for signage.

Overlays

Design and Development Overlay – Schedule 10

150. The review site is affected by the Design and Development Overlay – Schedule 10 (Elsternwick Activity Centre) (DDO10). The Purpose of the DDO10 is:
- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - *To identify areas which are affected by specific requirements relating to the design and built form of new development*

³² The leasable floor area exceeds 250 square metres.



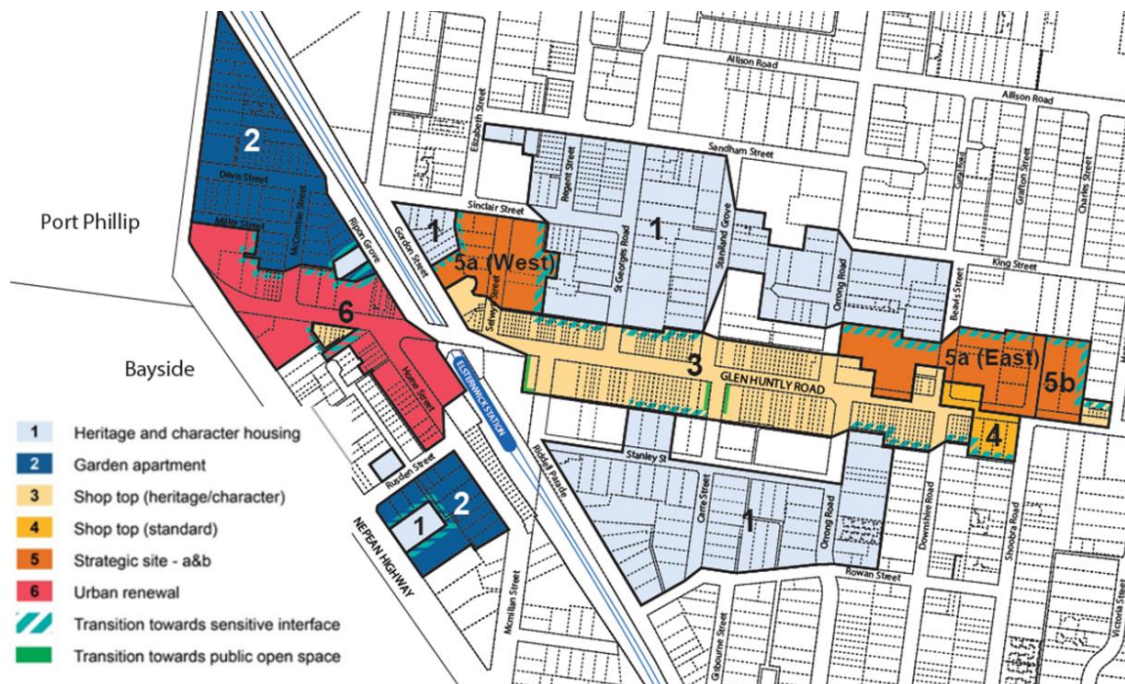


Design and Development Overlay Map (source: Planning Property Reports)

151. Schedule 10 (Elsternwick Activity Centre) to the DDO has the following design objectives:

- *To preserve and enhance the heritage character of the Glen Huntly Road shopping strip.*
- *To preserve and enhance the heritage and residential areas in Elsternwick.*
- *To encourage well designed mixed-use development, that supports the housing and economic needs of the Elsternwick activity centre.*
- *To ensure an appropriate design response to sensitive interfaces, such as heritage or residential sites and open space.*
- *To encourage developments in urban renewal areas and on strategic sites that provide a significant benefit for the Elsternwick community.*

152. The review site is included in Precinct 5a (West) titled 'Strategic site a & b'.



Map 1 – Precinct Plan (DDO10) (source: Planning Property Reports)

153. Pursuant to Clause 2.0, a building should not exceed the maximum building height and the number of storeys specified in Column 3 of Table 1 to this schedule³³.

Column 1 Precinct Number	Column 2 Precinct Name	Column 3 Maximum building height
4	Shoptop Standard	14m, comprising up to 4 storeys
5a (east)	Strategic Site	30m, comprising up to 8 storeys
5a (west)	Strategic Site	37m, comprising up to 10 storeys
5b	Strategic Site	23m, comprising up to 6 storeys
6	Urban Renewal	43m, comprising up to 12 storeys

Extract of Table 1 – Building height requirements (DDO10) (source: Planning Property Reports)³⁴

³³ This does not apply to architectural features, masts, building services or enclosed stairwells that do not exceed any required height limit by more than 4 metres. The combined floor areas of these features should not exceed 10 per cent of the gross floor area of the top storey of the building.

³⁴ In Table 1, references to storeys do not include a basement.






154. Pursuant to Clause 2.0, buildings and works including lift overruns should:

- *Achieve the setback requirements described below; and*
- *Be setback no less than the setbacks in Table 2 and illustrated in Table 3 to this schedule.*

155. The review site does not have a sensitive interface as shown on Map 1.

156. In Precinct 5 (and 6), building setbacks should:

- *Reduce the visual impact of taller buildings by providing a consistent street wall height with upper floors recessed.*
- *Not prejudice the delivery of future public open space in designated locations.*
- *Support the function of designated active and service laneways and facilitate new laneways and pedestrian connections between buildings.*
- *Provide adequate separation between towers of buildings to achieve a high level of internal amenity for existing and future occupants of adjacent towers and to avoid the appearance of a continuous built form when viewed from the public realm.*
- *Provide significant separation of tower forms from sensitive interfaces.*



Column 1	Column 2	Column 3	Column 4
Precinct No.	Precinct Name	Street setback	Side and rear setbacks
		<ul style="list-style-type: none"> Upper level setbacks — 5m <p>Where the secondary frontage is a local street:</p> <ul style="list-style-type: none"> 0m to a height of 2 storeys (9m including parapet/balustrade) Upper level setbacks — 3m <p><i>In precinct 3, upper levels should be set back so as not to be visible when viewed from standing eye level (1.6m) at the street frontage directly across the street.</i></p>	<p>Side Setback where the site abuts a residential site:</p> <ul style="list-style-type: none"> 0m to a height of two storeys (9m) Upper level setback — 3m <p>Rear Setback</p> <p>Where the site directly abuts a residential site:</p> <ul style="list-style-type: none"> 6m setback to a height of two storeys. A further 5m at the third storey. A further 6m at fourth and fifth storeys. <p>Where the site abuts a laneway:</p> <ul style="list-style-type: none"> 3m setback from the laneway to a height of two storeys, to provide an overall accessway at width of 6m. A further 5m at the third storey. A further 6m at fourth and fifth storeys.
5 & 6	Strategic Site	0m to a height of 3 storeys (13m including parapet/balustrade)	Where a site abuts a commercial/mixed use site:
	Urban Renewal	Upper level setbacks — 5m	<ul style="list-style-type: none"> 3m setback to a height of three storeys (13m), to provide a laneway connection between buildings (overall width 6m) Upper level setbacks — 3m <p>Where a site abuts a sensitive interface shown in Map 1:</p> <ul style="list-style-type: none"> 6m setback to a height of two storeys (9m), A further 5m at the third storey A further 3m at fourth storey All subsequent levels set back 20m from the property boundary

Extract of Table 2 – Building setback requirements (DDO10) (source: Planning Property Reports)

157. Pursuant to Clause 2.0, the following building design requirements apply to all areas:

- Buildings should incorporate high quality materials, textures and colours that respond to the residential or commercial characteristics of the streetscape, as appropriate.*
- Buildings should be designed to address front, oblique and side views.*
- Where appropriate, buildings should provide wide entries that are clearly visible, legible and welcoming.*

- *Building services including domestic services, utilities and waste management facilities should be well-placed, concealed and integrated into building design.*
- *Buildings should minimise overshadowing impacts on existing and future open spaces, commercial footpath-trading areas and existing residential sites.*

158. In precincts 3-6, buildings should:

- *Incorporate a podium and tower form with detailing emphasised at ground floor to achieve a human scale with an active street level experience.*
- *Provide separation between a low-scale podium and upper levels to assist in integration with traditional low-scale streetscapes and to assist in mitigating building bulk and overlooking (without reliance on privacy screens).*
- *Provide active edges at ground floor, with weather protection (awnings), openings and architectural detailing providing activity and interest for people.*
- *Create new active frontages to new plazas and active laneways, and conceal services in these locations.*
- *Consolidate upper setbacks to avoid a visible tiered form.*
- *Where the street proportions and character are strongly defined, respond to those key features (such as setbacks, parapets, cornices, awnings or colonnade heights).*
- *Use vertical and horizontal architectural elements and spacings that match the development pattern of the street (for example, match the finegrain character of surrounding buildings by matching vertical alignments in the podium of a building).*
- *Where adjacent to sensitive interfaces, provide a transition in scale from larger buildings to areas of smaller scale.*
- *Ensure that ground floor development fronting Selwyn Street contributes to its role as a cultural precinct.*

- *In Precinct 3, prioritise the retention of existing street frontages, including restoration or reconstruction of original heritage features.*
- *In Precincts 5 and 6 shown on Map 1 to this Schedule, buildings should support a range of employment, residential and community spaces.*

159. In terms of outlook, overlooking and passive surveillance, buildings should:

- *Ensure active living areas (balconies, courtyards, terraces, lounges, kitchens, dining, etc.) maximise views, outlook, natural daylight and ventilation while managing overlooking and visual privacy for residents without the need for excessive screening.*
- *Encourage interaction and passive surveillance of the street and public open space, with windows, balustrades, fencing and landscaping that provide a level of permeability.*
- *Avoid balconies and upper level living areas facing side boundaries.*
- *Developments should not borrow from the separation, outlook and amenity of developable adjoining land.*

160. Access and parking is relevant. I defer to the evidence of others in relation to traffic and car parking.

161. The Decision guidelines at Clause 5.0 are relevant.

162. The requirements of this Overlay cease to have effect after 30 June 2021.

163. Pursuant to Clause 43.02-2, a permit is required to constrict a building or construct or carry out works. Buildings and works must be constructed in accordance with any requirements in a schedule to this overlay. A permit may be granted to construct a building or construct or carry out works which are not in accordance with any requirement in a schedule to this overlay³⁵.

³⁵ The overlay does not specify a permit cannot be granted to vary the requirements.

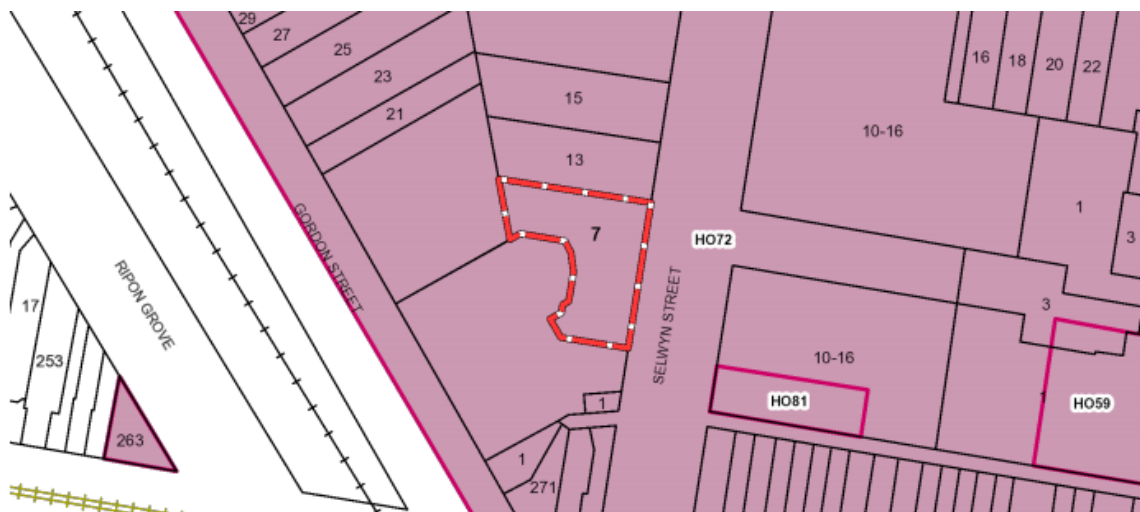


164. The Decision guidelines at Clause 43.02-6 are relevant.

Heritage Overlay

165. The review site is affected by the Heritage Overlay – Schedule 72 (Elsternwick Estate and environs) (HO72). The Purpose of the HO72 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*



Heritage Overlay Map (source: Planning Property Reports)

166. No controls or requirements apply to HO72.

167. Pursuant to Clause 43.01-1 a permit is required to:

- Demolish or remove a building.
- Construct a building or construct and carry out works.
- Construct or display a sign.

168. The Decision guidelines at Clause 43.01-8 are relevant.


Parking Overlay

169. The review site is affected by the Parking Overlay – Precinct 2-3 Schedule (PO2-3) (Student housing in specific areas) (PO2). The Purpose of the PO2 is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To facilitate an appropriate provision of car parking spaces in an area.*
- *To identify areas and uses where local car parking rates apply.*
- *To identify areas where financial contributions are to be made for the provision of shared car parking.*



Parking Overlay Map (source: Planning Property Reports)



170. Pursuant to clause 2.0, it provides car parking rates for student housing. As the proposal does not include student housing, the requirements of this Overlay does not apply.

Particular Provisions

Clause 52.05 Signs

171. The Purpose of this clause is:

- *To regulate the development of land for signs and associated structures.*
- *To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

172. Pursuant to Clause 52.05-13 Category 3 – High amenity areas (Medium limitation) has the Purpose:

- *To ensure that signs in high-amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*

173. A permit is required for a Business identification sign (no condition specified).

174. The Decision guidelines at Clause 52.05-8 are relevant.

Clause 52.06 Car Parking

175. The Purpose of this clause is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*

- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

176. Pursuant to Table 1 of Clause 52.06-5, Office required 3 car parking spaces for each 100 sqm of net floor area and a Place of assembly requires 0.3 car parking spaces to each patron permitted³⁶.

177. 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.

178. In relation to car parking, I defer to the expert evidence of others.

Clause 52.27 Licensed Premises

179. The Purpose of this clause is:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

180. A permit is required to use land to sell or consume liquor if any of the following apply:

³⁶ Column B rates apply as the review site is within the PPTN.



- A licence is required under the *Liquor Control Reform Act 1998*.

181. The Decision guidelines are relevant.

Clause 52.34 Bicycle facilities

182. The Purpose of this clause is:

- *To encourage cycling as a mode of transport.*
- *To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.*

183. Pursuant to Table 1 to Clause 52.034-5, the following rates apply to employee and visitors:

Office other than specified in this table	1 to each 300 sq m of net floor area if the net floor area exceeds 1000 sq m	1 to each 1000 sq m of net floor area if the net floor area exceeds 1000 sq m
Place of assembly other than specified in this table	1 to each 1500 sq m of net floor area	2 plus 1 to each 1500 sq m of net floor area

184. 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.

185. In relation to bicycle parking requirements, I defer to the evidence of others.

Clause 53.18 Stormwater Management in Urban Development

186. The Purpose of this clause is:

- *To ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property and public safety, and to provide cooling, local habitat and amenity benefits.*

187. Pursuant to Clause 53.18-3 an application to construct a building or construct or carry out works:

- Must meet all of the objectives of Clauses 53.18-5 and 53.18-6.



- Should meet all of the standards of Clauses 53.18-5 and 53.18-6.

188. An application must be accompanied by details of the proposed stormwater management system, including drainage works and retention, detention and discharges of stormwater to the drainage system.

189. I am not an expert in stormwater management. The matters have been included in the Sustainability Management Plan report prepared by SBE. I recommend this report be endorsed as part of the permit.

General Provisions

Clause 65 Decision Guidelines

190. I have considered Clause 65.01 'Approval of an Application or Plan' in the preparation of my evidence statement.

191. Clause 65.01 outlines matters that must be considered before deciding on an application, which include:

- *The matters set out in section 60 of the Act.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*





Operational Provisions

Clause 71 Operation of this Planning Scheme

192. This clause sets out how the various aspects of the planning scheme operate. Notably in relation to the operation of the Planning Policy Framework, Clause 71.02-3 (Integrated decision making) states:

Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

Other relevant considerations

Elsternwick Structure Plan 2018-2031 (Feb 2018)

193. The Elsternwick Structure Plan is a reference document at DDO10. It was adopted by Council on 27 February 2018³⁷.


194. The Vision for Elsternwick 2031 is:

Elsternwick will be a safe, accessible and liveable centre that embraces its historic character and strong cultural and village feel.

The centre will be a destination for its longstanding cultural and entertainment offerings, business and employment opportunities, and a range of quality local retail outlets and community spaces.

195. In addition to the Elsternwick Structure Plan, I have considered the following referenced or policy documents in preparing this statement:

³⁷ Following more than 12 months of planning, in accordance with <https://www.gleneira.vic.gov.au/our-city/planning-for-the-future/the-future-of-elsternwick/elsternwick-structure-plan>

- 
- Plan Melbourne 2017-2050: Metropolitan Planning Strategy (Department of Environment, Land, Water and Planning, 2017).
 - Plan Melbourne 2017-2050: Addendum 2019 (Department of Environment, Land, Water and Planning, 2019).
 - Urban Village Structure Plan, June 1999.

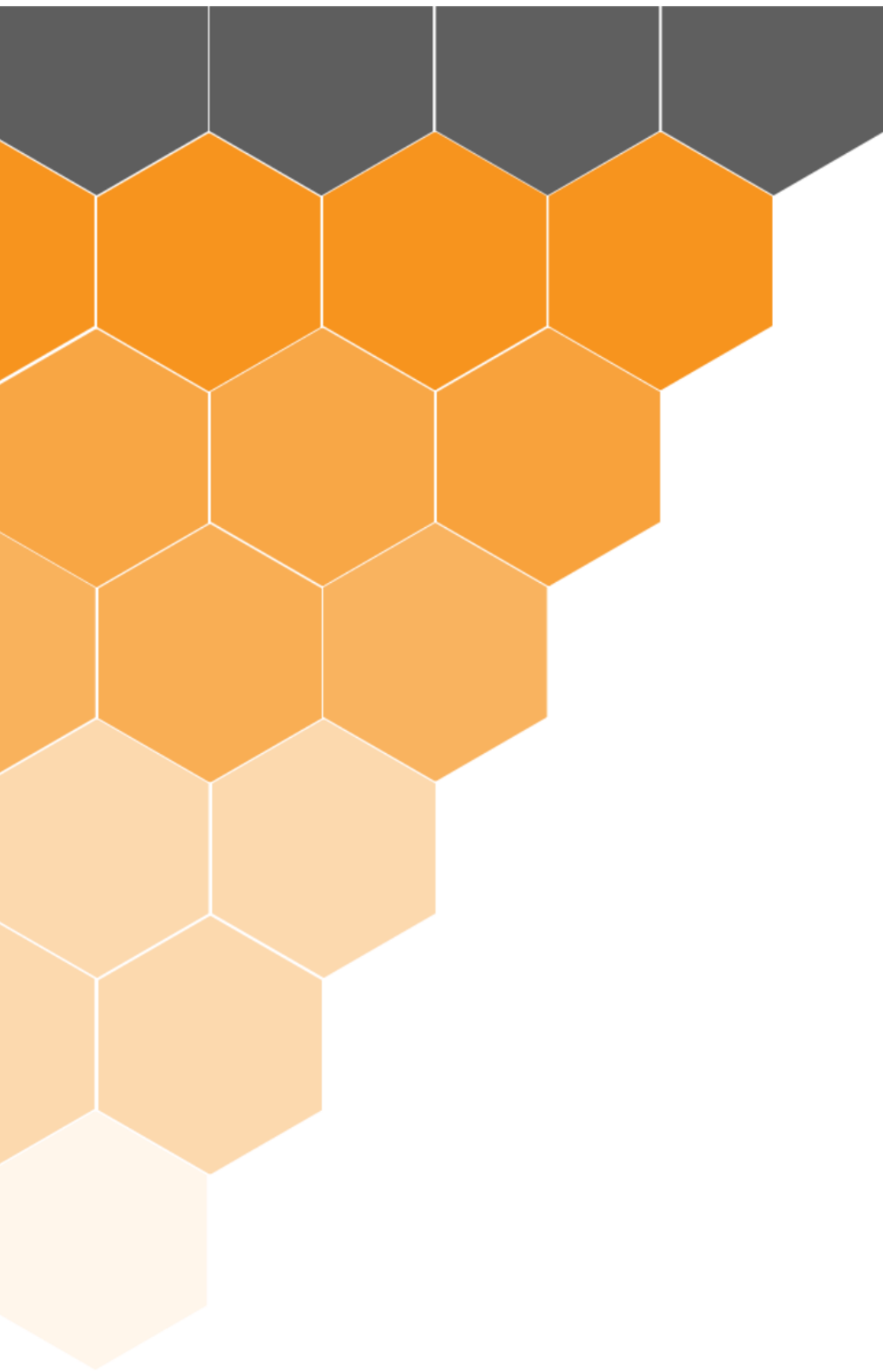
196. I have considered the following municipal document in preparing this statement:

- Elsternwick Cultural Precinct, City Futures – City of Glen Eira 2018, endorsed by Council in November 2018.



APPENDIX D: CUMULATIVE IMPACT ASSESSMENT





Cumulative Impact Assessment

7 Selwyn Street, Elsternwick

Glossop Quality System			
Author	CT/ CS	Checked By	JG
Date Issue	June 2021	Revision Number	-

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1. Introduction

This Cumulative Impact Assessment ('assessment') has been prepared on behalf of the permit applicant in respect of land at 7 Selwyn Street, Elsternwick (the 'subject site').

The assessment is provided to assess whether there are cumulative impacts caused by the application to use land to sell or consume liquor as part of an application to redevelop the site with a multi-level building comprising a museum, office and place of assembly.

Trading hours associated with the proposal are:

Trading Hours	
Museum (Including Café and Retail)	8am – 5pm – Closed on Saturdays
Place of Assembly (Performing Arts Centre)	5pm to 10pm (Monday to Friday) 1pm to 10pm (Saturday and Sunday) 8am to 5pm (Monday to Friday in association with the museum)
Coworking spaces/Offices	8am – 6pm (Monday to Sunday)

This assessment is based on Practice Note 61 'Licensed premises: Assessing Cumulative Impact (Department of Planning and Community Development, June 2015 ('PPN61')).

2. Executive Summary

The proposal is acceptable for the following reasons:

- There is a total of forty six (46)¹ licensed venues within a 500m radius of the subject site (the 'study area'), which includes ten (10) licensed venues within a 100m radius². Of the forty six (46) licensed venues, twenty-three (23) within the study area have a restaurant and café liquor license, which have high seating to standing ratios and offer the serving of meals. The area is not characterised by late-night licenses. Within a 500m radius, two (2) venues have an on-premises (late night) licence³.
- The proposal for an 'On-premises licence' directly related to the use of the land for a Performing Arts Centre, Museum and Office. It represents a low-impact, supervised and contained service of alcohol to patrons. The site's location is in close proximity to Elsternwick Station and 67 tram line. There are public transport options available after 11pm⁴.
- The proposal is not considered to pose additional risks to amenity or generate unreasonable cumulative impacts associated with the sale and consumption of liquor.
- Patrons will only be able to enter and exit the venue via Selwyn Street. This will direct patrons onto land zoned Mixed Use. The site is located in a Major Activity Centre.
- The proposal will assist in activating Selwyn Street, consistent with the Council's 'Cultural and Entertainment' outcomes sought for this location.

¹ Excluding the proposal. Six of these venues hold two licenses. There is a total of 52 licenses within a 500m radius and one BYO license.

² Two of these venues hold two licenses and there is one premises with a BYO license. There is a total of 113 licenses within a 100m radius and one BYO license.

³ These licenses relate to a bar and a restaurant. This information. This is based on a search of each individual liquor license Late night defined as closing after 1am.

⁴ Based on Public Transport Victoria website.

3. The Proposal

A summary of the most relevant parts of the proposal is provided below:

Staff and Patron Numbers

- A maximum of 300 patrons will be allowed within the museum, however, the red line plan only relates to the ground floor foyer area (including Café/bar and museum shop) but should apply to the Performing Arts Centre levels and the third floor café/lounge.
- A maximum of 300 patrons are allowed within the Place of Assembly.
- The Performing Arts Centre may be used in conjunction with the Museum (from 8am to 5pm Monday to Friday).
- A maximum of 20 staff will be required on site at any one time, including a manager.
- A maximum of 620 persons, staff and patrons will on site at any time⁵.

Location and Hours of the Service of Alcohol

The proposal is for a nine-storey building with three basement levels. Details on the location of the service of alcohol are as follows:

- Ground floor café/bar: 11am to 5pm.
- Areas within the Performing Arts Centre: 5pm to 9pm (including the foyer on ground floor level and basement levels 1-2).
- Third floor café/lounge: 11am to 6pm.

⁵ Not including the office use.

4. Site Context

The subject site is located at 7 Selwyn Street, Elsternwick. The land is formally known as Lot 1 on Plan of Subdivision 544480X.

The site is located within the Elsternwick Major Activity Centre. The subject site is located within the Mixed Use Zone – Schedule 1 and surrounding land is located within the Commercial 1 Zone or Mixed Use Zone – Schedule 1.

The area is characterised by a mix of uses including entertainment (cinema), retail, office, residential, food and drink and licensed premises. Glen Huntly Road, to the south of the site, functions as a single, highly accessible network of retail premises. Selwyn Street is identified as a cultural precinct.

Buildings in the area comprise a variety of forms and layouts and is undergoing a level of change/renewal given the age of the buildings and its proximity to Glen Huntly Road and Elsternwick Station (in a MAC). The site is affected by the Design and Development Overlay – Schedule 10, Heritage Overlay – Schedule 72 and Parking Overlay – Precinct 2-3 Schedule PO2-3.

The Study Area

The study area has been identified, consistent with the methodology in PPN61, which states:

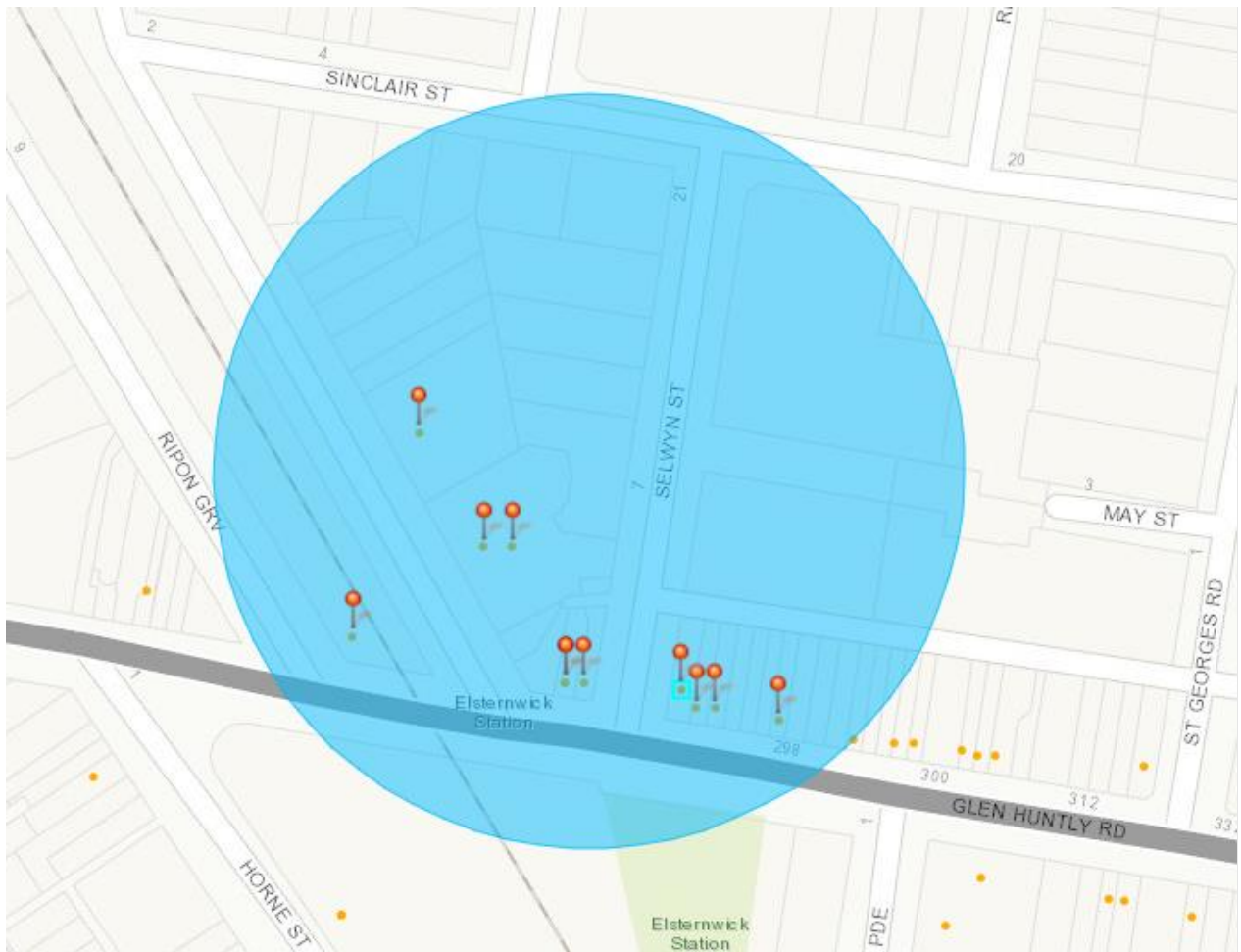
Determining whether a cluster of licensed premises exists is a matter of common sense that should take into account the number and type of licensed premises in an area, their distance from the subject land, and whether they can be easily accessed from the subject land. As a general guide, a cluster would occur where there are:

- *Three or more licensed premises (including the proposed premises) within a radius of 100 metres from the subject land; or*
- *15 or more licensed premises (including the proposed premises) within a radius of 500 metres from the subject land.*

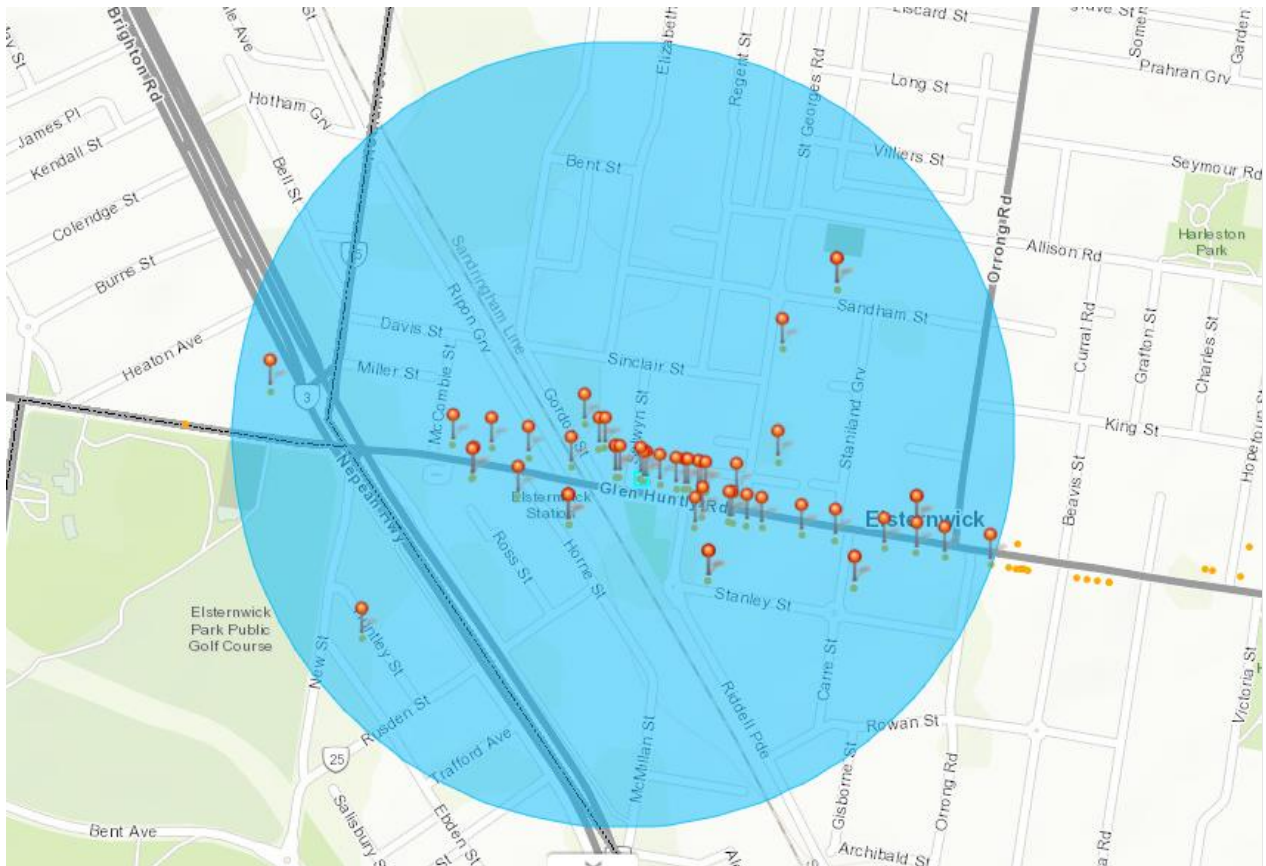
There are forty six (46) licensed premises within a radius of 500m of the subject site (the 'study area'), of which, ten (10) licensed venues are located within a 100m radius⁶.

The subject site is located within a cluster of licensed premises.

⁶ This calculation excludes the proposal.



Licensed Venues within a 100m radius from the subject site (Source: VCGLR Geomaps)



Licensed Venues within a 500m radius from the subject site (Source: VCGLR Geomaps)

5. Assessment

PPN61 requires the following matters to be considered when assessing the cumulative impact of licensed premises:

- Planning policy and context;
- Surrounding land use and amenity;
- The mix of licensed premises;
- Transport and dispersal; and
- Impact mitigation.

An assessment against the above matters is provided below.

Planning Policy Context

The statutory planning controls relevant to the consideration of this assessment are provided in the following table⁷:

PPN61 Requirements	Response
Existing Controls	
What is the existing policy, zoning and other planning controls that are relevant to the area?	<p>The site is within the Mixed Use Zone and is affected by the Design and Development Overlay – Schedule 10 (DDO10), Heritage Overlay – Schedule 72 (HO72) and Parking Overlay – Precinct 2-3 Schedule PO203.</p> <p>Pursuant to Clause 32.04-2 (Mixed Use Zone – Schedule 1), use of the land for a museum is a Section 1 use, permit not required. Use of the land for office (because the leasable floor area exceeds 250sqm) is a Section 2 use, permit required. The use of land for a Place of Assembly (other than Art gallery, Carnival, Circus, Museum and Place of worship) is a Section 2 permit required use.</p> <p>Pursuant to Clause 32.04-2 (Mixed Use Zone – Schedule 1), a permit is required to construct a building or carry out works for a Section 2 use.</p> <p>Pursuant to Clause 43.01 (Heritage Overlay) a permit is required to demolish a building, construct a building or construct or carry out works.</p> <p>Pursuant to Clause 43.02-2 (Design and Development Overlay) – a permit is required to construct a building or carry out works.</p> <p>The following Particular Provisions are relevant to this assessment:</p> <ul style="list-style-type: none">■ Clause 52.05-13 Signs – a permit is required to display a business identification sign.

⁷ Note: Other permit requirements apply to the proposal and have not been considered relevant to this assessment.

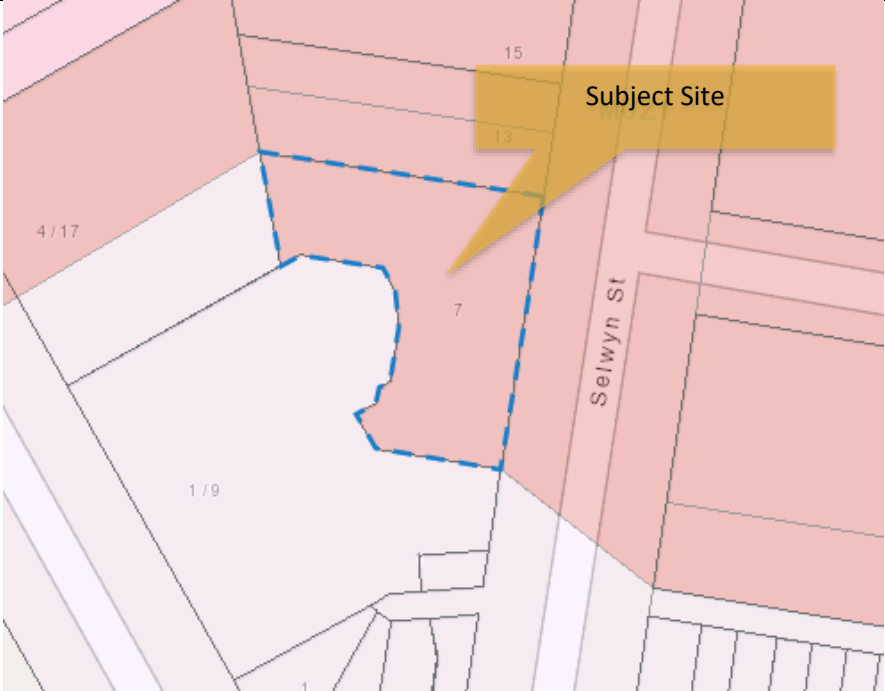
	<ul style="list-style-type: none"> ■ 52.06-3 Car parking – a permit is required to reduce (including to zero) the number of car parking spaces required under Clause 52.06-5. ■ Clause 52.27 Licensed Premises – a planning permit is required to use land to sell or consume liquor. <p>The following planning policies are relevant to this assessment:</p> <ul style="list-style-type: none"> ■ Clause 11 'Settlement' ■ Clause 13 'Environmental Risks and Amenity' ■ Clause 15 'Built Environment and Heritage' ■ Clause 17 'Economic Development' ■ Clause 18 'Transport' ■ Clause 19 'Infrastructure' ■ Clause 21.06 'Business' ■ Clause 21.10 'Heritage' ■ Clause 22.01 'Heritage Policy' ■ Clause 22.02 'Non Residential Uses in Residential Zones Policy' ■ Clause 22.05 'Urban Villages' <p>The Decision Guidelines at Clause 65 are relevant to this proposal.</p>
What amenity, land use and other outcomes do these controls encourage?	<p>Planning policies and controls encourage the following:</p> <ul style="list-style-type: none"> ■ <i>Vibrant, mixed use commercial centres.</i> ■ <i>To protect and enhance heritage places.</i> ■ <i>Encourage a mix of land uses on Selwyn Street and create a 'Cultural and Entertainment' precinct.</i> ■ <i>Enhance and further develop urban villages as the focus for community life.</i> ■ <i>To encourage more local employment and attract more local spending in partnership with business.</i> ■ <i>Consolidate and enhance established urban villages.</i>
Assessment	
Is the proposal consistent with the planning outcomes encouraged in the policy, zoning and other planning controls in the area?	<p>The proposal is consistent with the Glen Eira Planning Scheme for the following reasons:</p> <ul style="list-style-type: none"> ■ The proposal will make a positive contribution to the vibrancy and level of activity occurring in the area. ■ The venue will provide entertainment, education and employment opportunities and contribute to the local economy.

	<ul style="list-style-type: none"> ■ The subject site is located within the PPTN and is well serviced by public transport. ■ The venue will adopt necessary operational measures to minimise amenity impacts on nearby residential development. ■ The proposal will enhance, consolidate and activate the Selwyn Street's cultural characteristics. <p>It is considered that the proposal is in accordance with the goals and objectives of the Glen Eira Planning Scheme.</p>
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Surrounding Land Use Mix and Amenity

A response to the PPN61 requirements surrounding land use mix and amenity is provided in the table below:

PPN61 Requirements	Response
Existing Conditions	
Does the subject land adjoin sensitive uses?	The subject site is predominantly surrounded by land zoned Commercial 1 Zone (south and west) and Mixed Use Zone (north) which will be used for a range of purposes. The site is not identified as having any sensitive interfaces under the DDO10.
What is the relationship between licensed premises and other uses in the area?	Licensed premises complement the broader mix of uses within the surrounding area which predominantly include a range of hospitality, retail and office uses. The residential development (to the west on Gordon Street) is away from the licenced areas within the building.
What are the local crime statistics related to licensed premises?	Local crime statistics which relate specifically to the subject area are unavailable to the public.
Are there other premises open after 11pm?	Within the study area there are fourteen (14) venues which are licensed to operate after 11pm. Relevantly, four (4) of those are within a 100m radius of the subject site.
What is the existing amenity in the area?	<p>The subject site and adjoining land to the north is within the Mixed Use Zone.</p> <p>Land to the south and west is within the Commercial 1 Zone. Areas further to the north-west and south of the subject site are within Residential Growth Zone.</p> <p>The amenity of the immediate area is consistent with a Major Activity Centre.</p>

	 <p>Cadastral Plan (Source: mapshare.vic.gov.au)</p> <p>Clause 22.05-4 'Precinct 9' locates the site within a Cultural and Entertainment precinct. At a local level, the amenity of the area is informed by a mixture of land uses such as commercial, entertainment, education, retail and hospitality.</p> <p>The surrounding area is well connected by public transport and is supported by on-street car parking in the immediately surrounding area during business hours. Moderate levels of pedestrian activity is experienced within the area.</p> <p>The level of amenity in this context would have a different expectation to those in a residential area. Similarly, residents of apartments in the Mixed Use Zone further north of the site would anticipate the surrounding uses to include those that are appropriate for a MAC.</p> <p>It is not anticipated that the proposal would detract from the existing level of amenity.</p>
<p>What are the reasonable amenity expectations in the area?</p>	<p>Residential amenity expectations within a Mixed Use Zone or Commercial 1 Zone within a Major Activity Centre cannot be the same as those within a typical residential area (such as the General Residential Zone).</p> <p>There are 10 licensed premises within 100m of the site, of which 4 are licensed to operate after 11pm.</p> <p>Commercial properties and entertainment venues must carefully manage its operations to minimise impacts to nearby residential properties.</p>

Assessment	
Will the proposal significantly increase the number of patrons near sensitive uses at any time?	<p>Patrons can only enter and exit the premises from Selwyn Street. Patrons exiting the premises and walking to another location would mostly head south towards the Glen Huntly Road.</p> <p>The maximum number of patrons on site at any time is 600.</p>
Given the location and planning policy context, will the proposal generate amenity impacts beyond what is reasonable?	<p>The proposal will not result in any unreasonable amenity impacts.</p> <p>The proposed hours of operation are consistent with licensed venues in the immediately surrounding area.</p> <p>There is no expected noise related amenity impact associated with the proposal.</p>

The Mix of Licensed Premises

A response to the PPN61 requirements surrounding the mix of licensed premises is provided in the table below:

PPN61 Requirements	Response
Existing Conditions	
What is the mix of licensed premises in the area?	<p>The mix of licensed premises within the study area includes:</p> <ul style="list-style-type: none"> ■ 1 x BYO permit ■ 2 x Full Club Licenses ■ 4 x General Licenses ■ 2 x Late Night (on premises) Licenses ■ 8 x Limited licenses ■ 7 x On-Premises Licenses ■ 4 x Packaged Liquor Licenses ■ 24 x Restaurant and café Licenses
Do any licensed premises cater for more than 200 patrons?	<p>Three venues within the study area cater for more than 200 patrons. These are:</p> <ul style="list-style-type: none"> ■ Elsternwick Hotel (680 patrons) ■ Classic Cinema (1,698 patrons) ■ Bang Bang at the Rifle Club (280) <p>Relevantly, only 1 of these venues is within 100 metres of the subject site.</p>

<p>How many and what type of licensed premises (especially high capacity venues and packaged liquor outlets) operate after 11pm?</p>	<p>Fourteen (14) premises are licensed to operate after 11pm. The type of licensed premises that operate after 11pm within the study area include:</p> <ul style="list-style-type: none"> ■ 2 x Full Club Licenses ■ 1 x General Licenses ■ 2x Late Night (on premises) Licenses ■ 2 x Limited Licenses ■ 2 x On-Premises Licenses ■ 5 x Restaurant and Café Licenses <p>None of the 4 packaged license premises is licensed to operate after 11pm.</p>
<p>Do licensed premises commonly operate at capacity and is queuing outside common?</p>	<p>The venues in the area predominantly hold restaurant and café licenses. As such, it is not expected that queuing would be common.</p> <p>Further, the subject site is away from Glen Huntly Road, where many of these venues operate.</p>
<p>Do many licensed premises in the area show a high ratio of standing to seating?</p>	<p>Within the study area, a breakdown on the seating to standing ratios is provided below:</p> <ul style="list-style-type: none"> ■ Twenty-three (23) venues have a restaurant and café licence where tables and chairs must be available for at least 75 per cent of patrons attending the premises at any one time. ■ Seven (7) venues have On Premises, four (4) have General, and Two (2) have Late Night licenses, which have no restrictions on seating to standing ratios. ■ Four (4) venues have packaged liquor licenses which have restrictions for the consumption of liquor on site.
<p>Are there any local laws regulating consumption of liquor in public spaces?</p>	<p>Glen Eira City Council's Local Law relating to the public consumption of alcohol is as follows:</p> <p><i>Caulfield Alcohol Free Zone 422. Except where premises are licensed under the Liquor Control Reform Act 1998, a person must not: (a) take any Liquor; (b) consume any Liquor; or (c) possess any Liquor in an unsealed container; at any Public Place in the Caulfield Alcohol Free Zone on Race Meeting Days.</i></p> <p>It is noted that this does not impact the proposal.</p>

Is there any evidence of problems apparent in the area, such as property damage or littering that may be attributed to alcohol related incidences?	Glen Eira City Council provides no statistics or evidence for property damage or littering resulting from alcohol consumption. Further, there is no strategic policy outlining the management of 'night time economies' and their potential impacts and existing impacts.
Are complaints (for example, to council or Victoria Police) about licensed premises already being generated in the area?	This information is not readily available to the public.
Are there any known enforcement proceedings against licensed premises in the surrounding area?	As confirmed on the VCGLR demerits register 26 May 2021, no premises within the study area have any demerit points. Further information is not readily available to the public.
Assessment	
Does the proposal contribute to the diversity of activities and vibrancy in the area?	The proposal contributes and strengthens the existing land uses and purposes served on Selwyn Street in accordance with Clause 22.05-4.
Will the proposal reinforce any existing or create any new impacts arising from the mix of uses in the area?	It is not envisaged that the granting of a liquor license will result in new impacts to the area. The nature of the proposal requires that patrons will likely be contained within the premises. Further, the proposed hours of operations are largely in keeping with existing venues in the area. Noise attenuation will be provided to ensure there is no off-site amenity impacts to residents.

Transport and Dispersal

A response to the PPN61 requirements surrounding transport and dispersal is provided in the table below:

PPN61 Requirements	Response
Existing Conditions	
Do closing hours between venues coincide closely or is there a spread of closing hours?	The closing hours of the venue are unlikely to coincide with other venues. Further, the location of the proposal allows for the safe dispersal of patrons. Venues typically have varied opening hours for public holidays and the opening hours differ based on the day of the week.
Is there a high number of patrons on the streets after 11pm?	We are not aware of late night patron traffic on local streets after 11pm.
What public transport is available to patrons leaving the licensed	The subject site is located well serviced by public transport. The following existing public transport facilities are within proximity to the subject site and available at 1am.

premises at closing time?	<ul style="list-style-type: none"> ■ Tram route 67, which runs along Glen Huntly Road with stops located approximately 120m to south of the subject site. ■ Elsternwick Train Station located 140m from the subject site.
Are taxi ranks conveniently available to patrons leaving the licensed premises at closing time?	Ride share services, such as Uber are most commonly used. These services are available for patrons at their chosen location. No car parking is provided on site, accordingly and it is not anticipated that the proposed use will result in any unreasonable amenity impacts associated with vehicle traffic.
Is there car parking available and where is it located?	On-street car parking is available in close vicinity to the site.
How do people disperse from the area after leaving a licensed premises?	<p>The most common methods of departure from a licensed venue are by public transport and rideshare (e.g. Uber).</p> <p>If patrons intend to walk to another venue, it is reasonable to expect they would walk south towards Glen Huntly Road and associated public transit connections.</p>
Is the movement of patrons through the area known to be an existing problem?	We are not aware of any patron movement problems.
Are there any identified issues with accessing public transport such as frequency or capacity of services?	We are not aware of any issues with accessing public transport or capacity of services.
Assessment	
Is the proposed licensed premises' location or characteristics such as operating hours likely to contribute to any problems for patron dispersal?	<p>Patrons will enter and exit the venue via the front of the premises on Selwyn Street.</p> <p>Patrons exiting the premises and walking to another location would mostly head south towards the Glen Huntly Road.</p> <p>Access to public transport after the venue closes is via Elsternwick Station and Glen Huntly Road.</p> <p>It is not expected that the venue will contribute to any problems for patron dispersal.</p>
Will the proposal reinforce any existing or create any new impacts arising from licensed premises closing times and patron dispersal within the area?	<p>The site's location will not enforce any existing impacts associated with licensed premises or patron dispersal.</p> <p>The licenses in the vicinity are predominantly café / restaurants, which do not typically generate anti-social behaviour.</p>

Impact Mitigation

A response to the PPN61 requirements surrounding impact mitigation is provided in the table below:

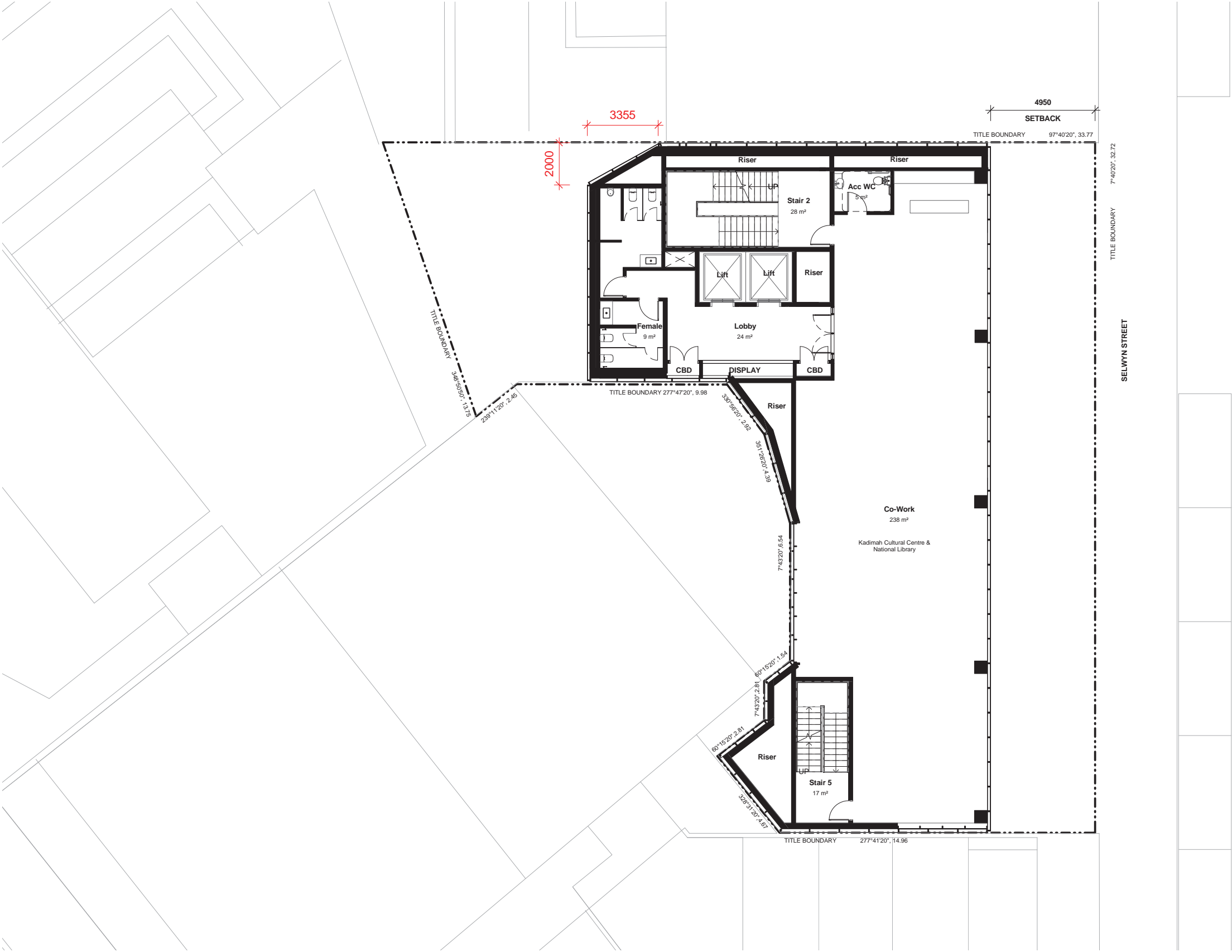
PPN61 Requirements	Response
Existing Conditions	
Are there sufficient public amenities available for patron use, including toilets and rubbish disposal?	<p>According to the National Public Toilet Map website, there are public toilets located in close proximity of the subject site. This includes:</p> <ul style="list-style-type: none"> ■ Elsternwick Station – Open Mon-Sat 5:30am – 12am and Sunday 8:30am-12am (240m away) ■ Elsternwick Shopping Centre – Open daylight hours (400m away) <p>There are public rubbish bins located throughout the Study Area.</p>
Are there any relevant public safety or enforcement initiatives in the area?	There are no known public safety or enforcement initiatives in the area.
Has the area been developed according to principles of good urban design and safe design?	<p>Street lighting is provided along Selwyn Street and Glen Huntly Road. Given the existing uses within the area, Selwyn Street is unlikely to have a lot of passive surveillance during the evening.</p> <p>The proposal would aide in activating Selwyn Street and provide additional passive surveillance.</p>
Assessment	
Will the proposal provide mitigation measures to address any negative cumulative impacts?	<p>Appropriate venue management practices will ensure that any music or patrons noise associated with leaving the venue does not cause amenity impacts.</p> <p>The venue operators must ensure that operations are conducted in a responsible manner.</p>
Can any identified negative cumulative impact be satisfactorily reduced by changes to the proposal?	All potential cumulative impacts have been identified and can be appropriately managed and no further changes to the proposal are required.



**APPENDIX E: AMENDED DEVELOPMENT PLANS TO INCLUDE CHAMFER IN
NORTH-WEST CORNER TO IMPROVE SOLAR ACCESS TO 17 GORDON STREET**

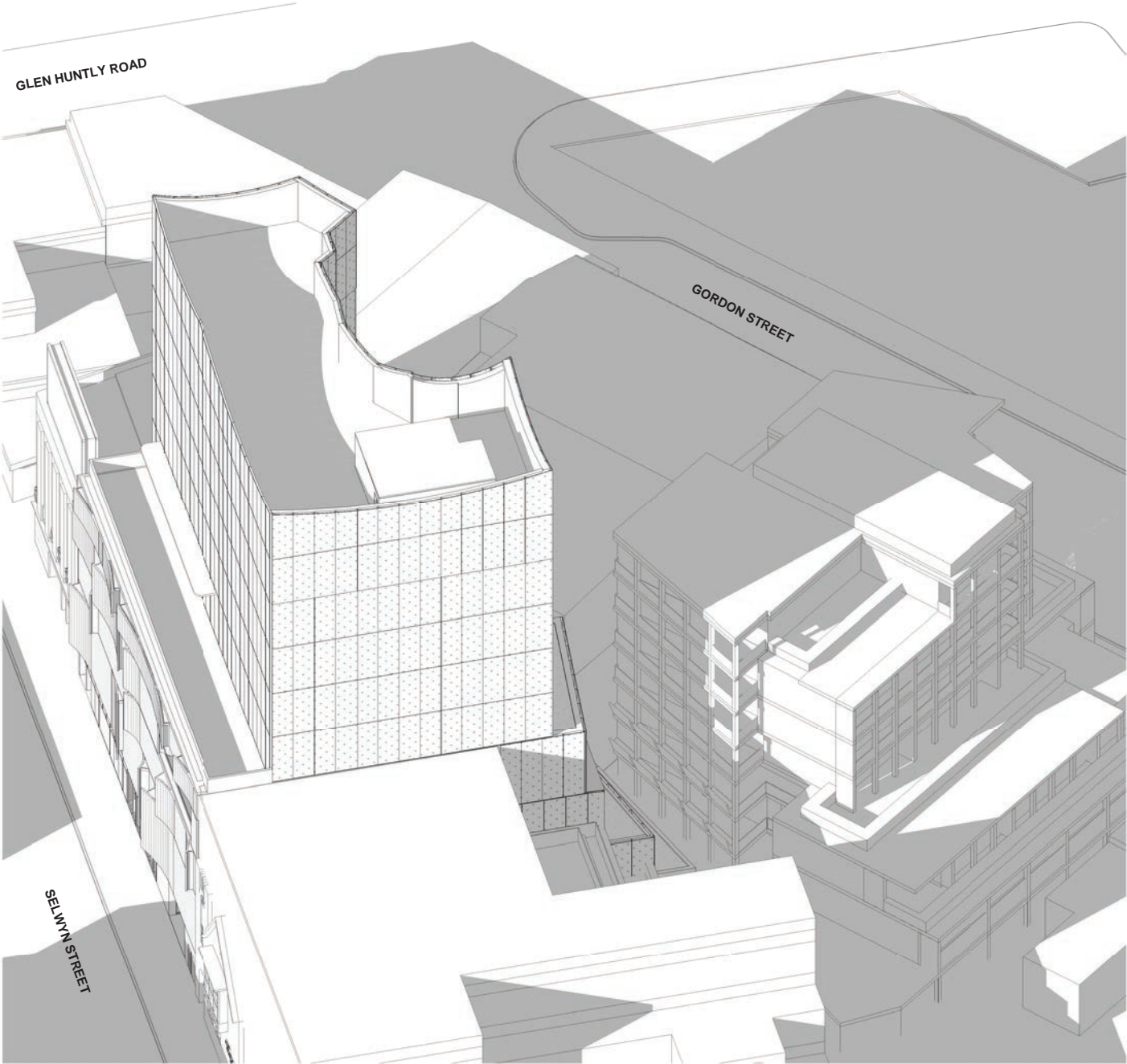


Design Option 2m Splay

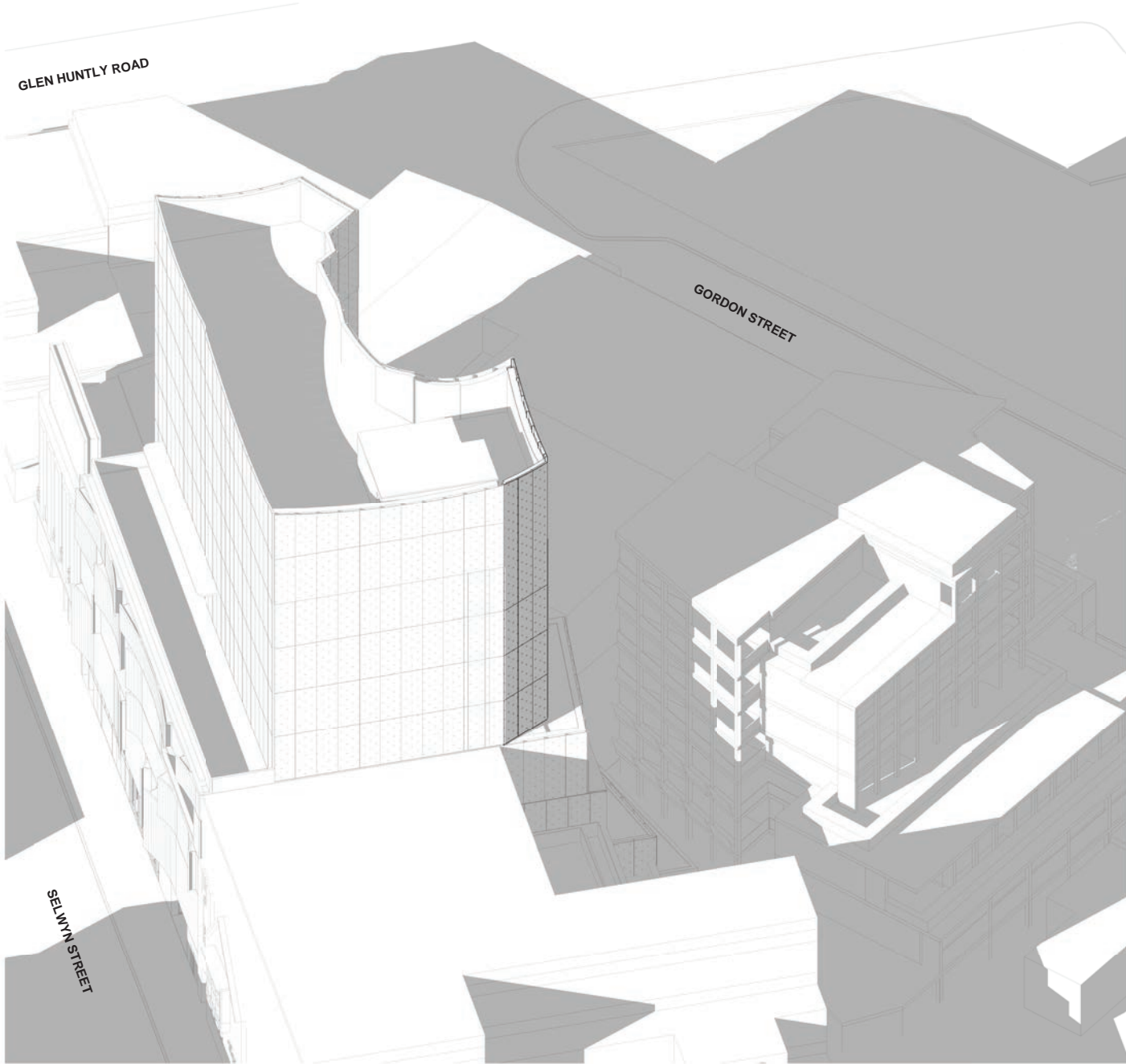


Design Option 2m Splay

Shadow Diagram 9am



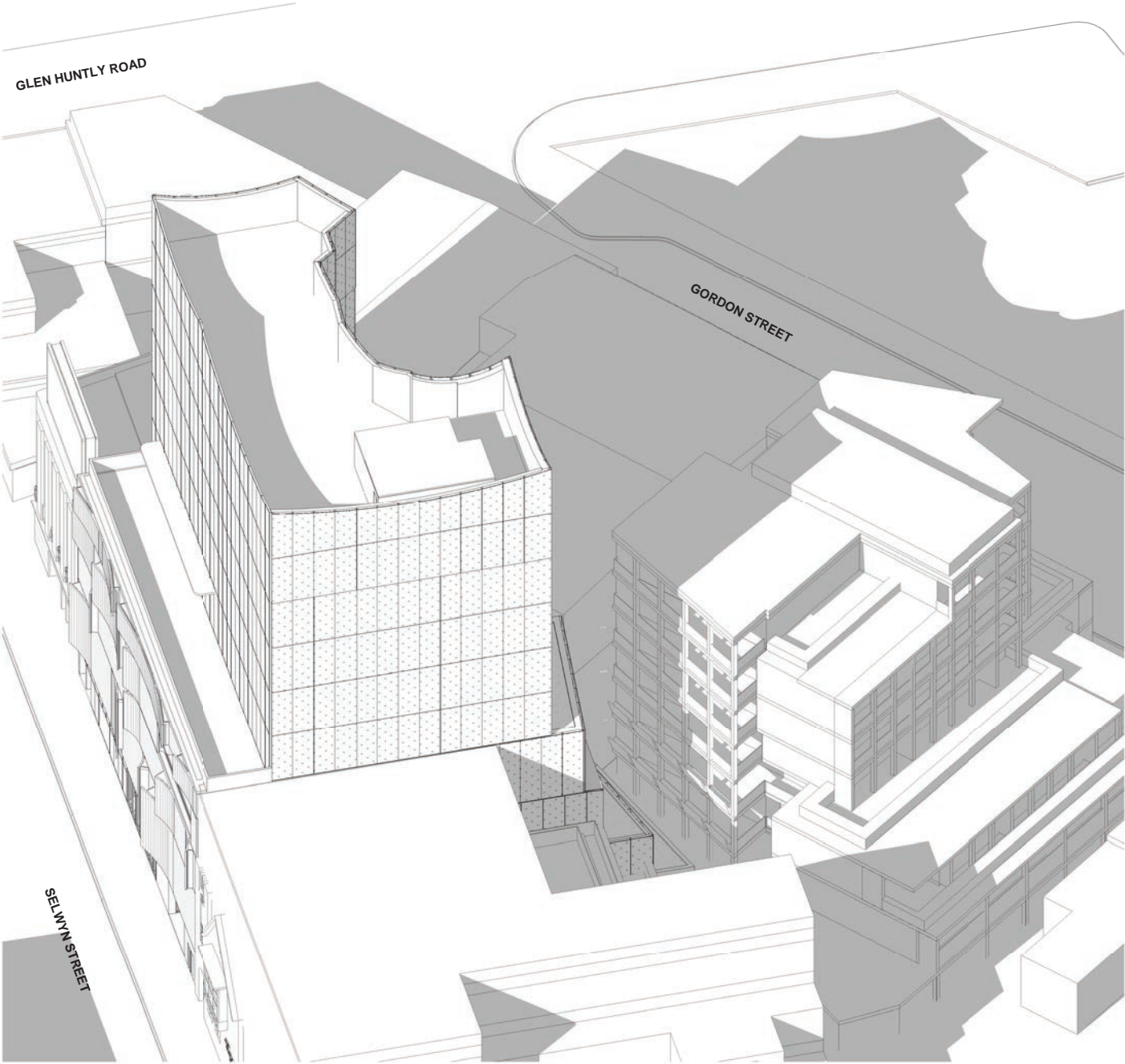
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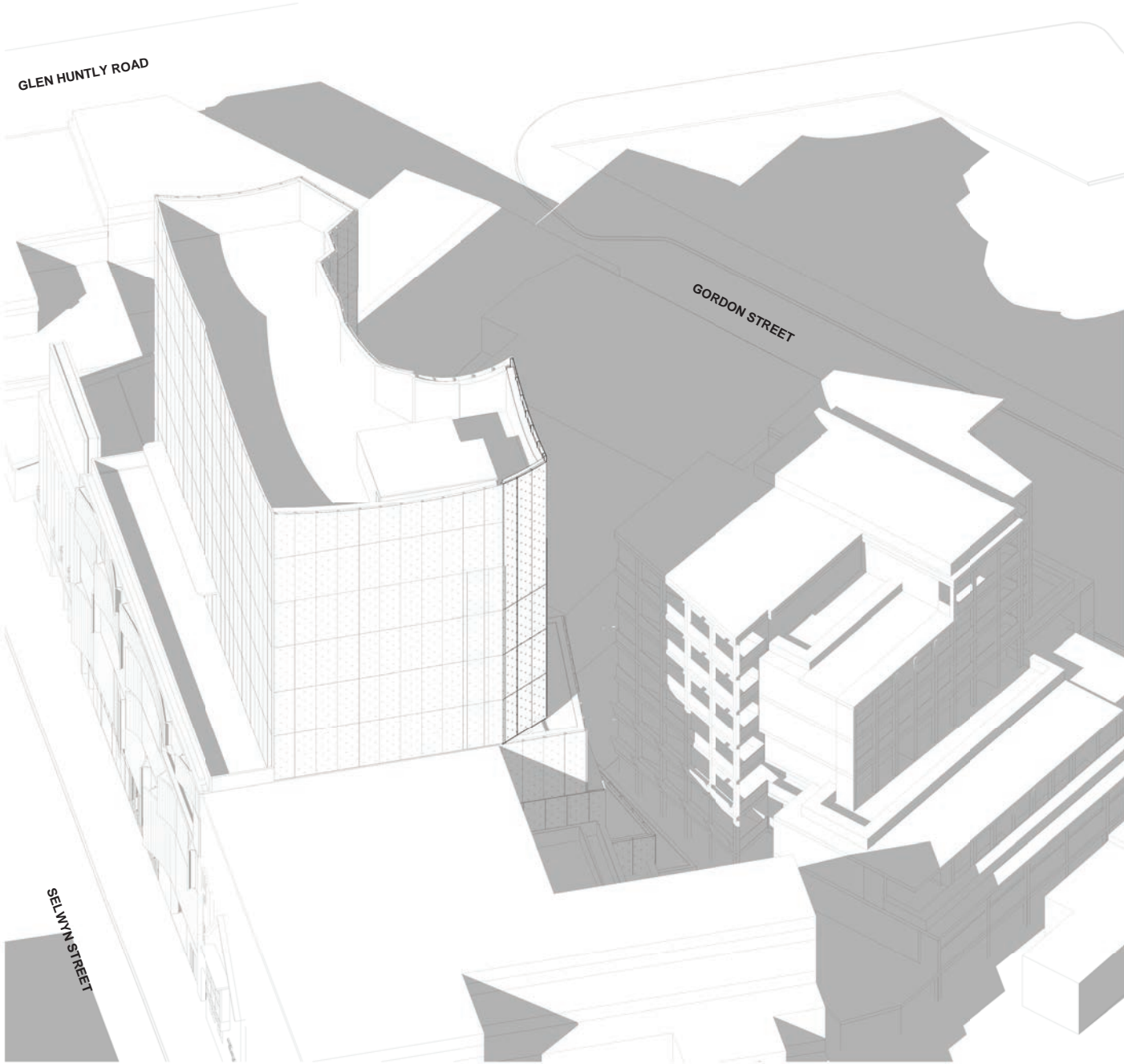
Proposed 2m Splay

Design Option 2m Splay

Shadow Diagram 10am



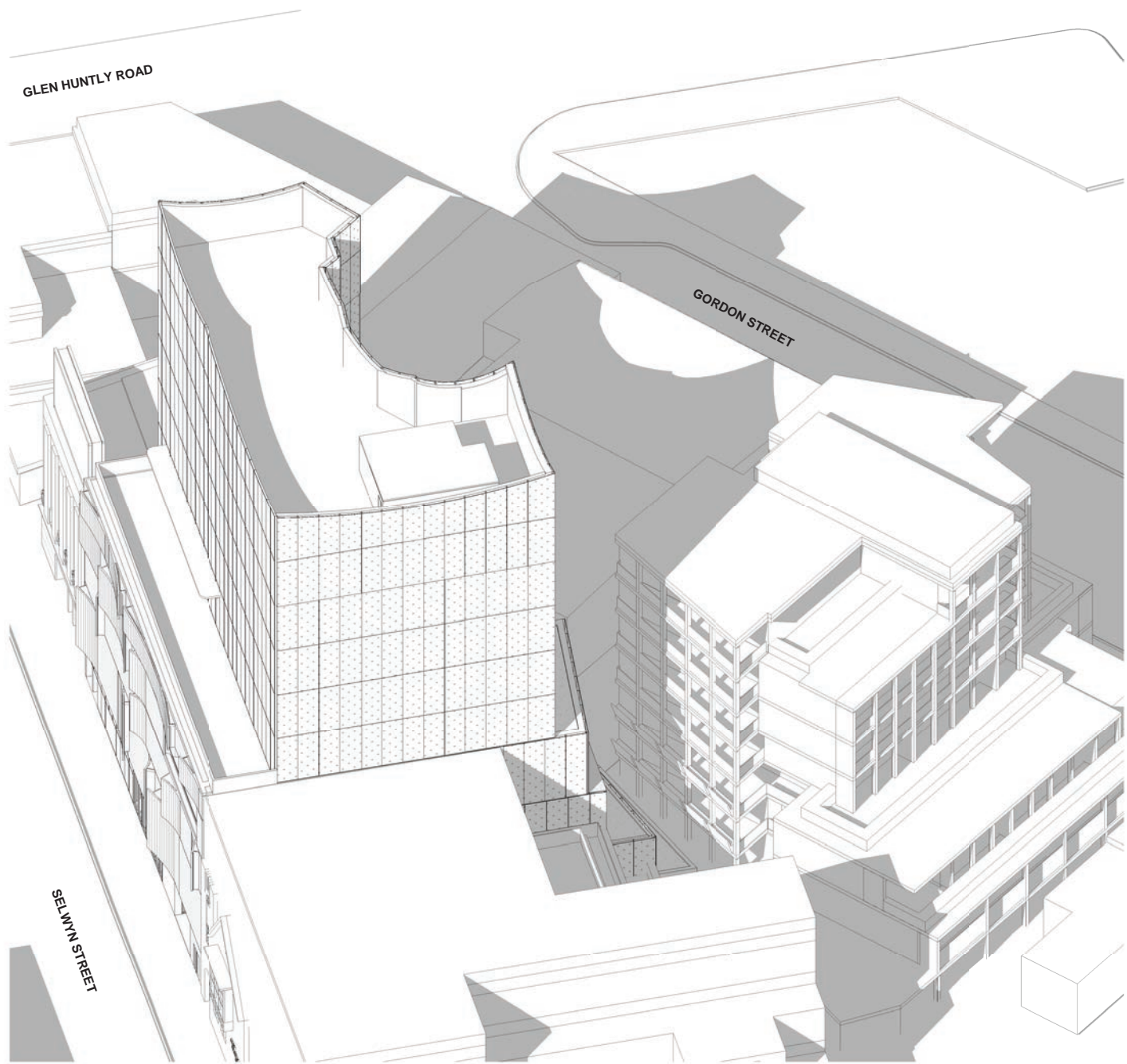
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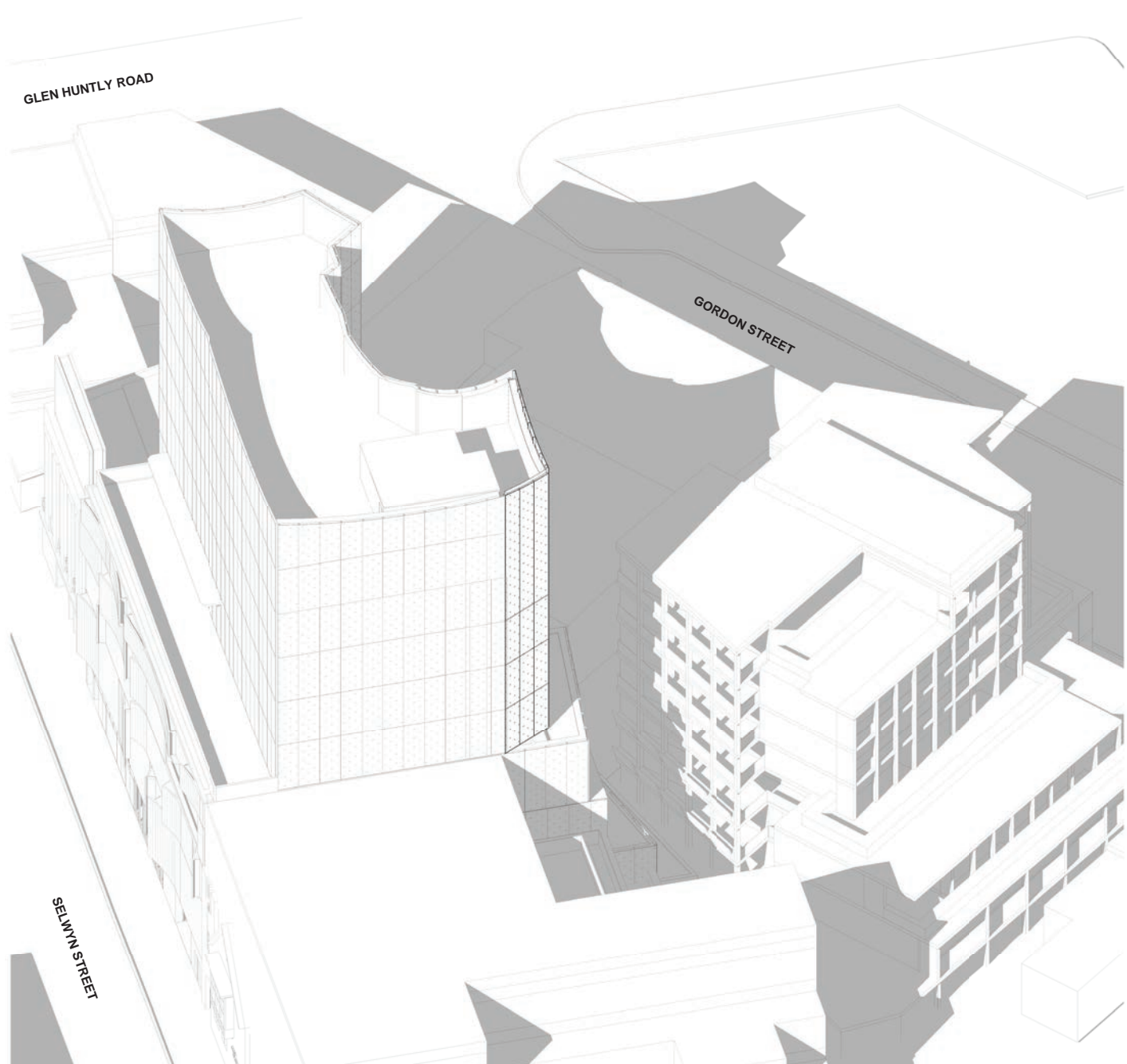
Proposed 2m Splay

Design Option 2m Splay

Shadow Diagram 1030am



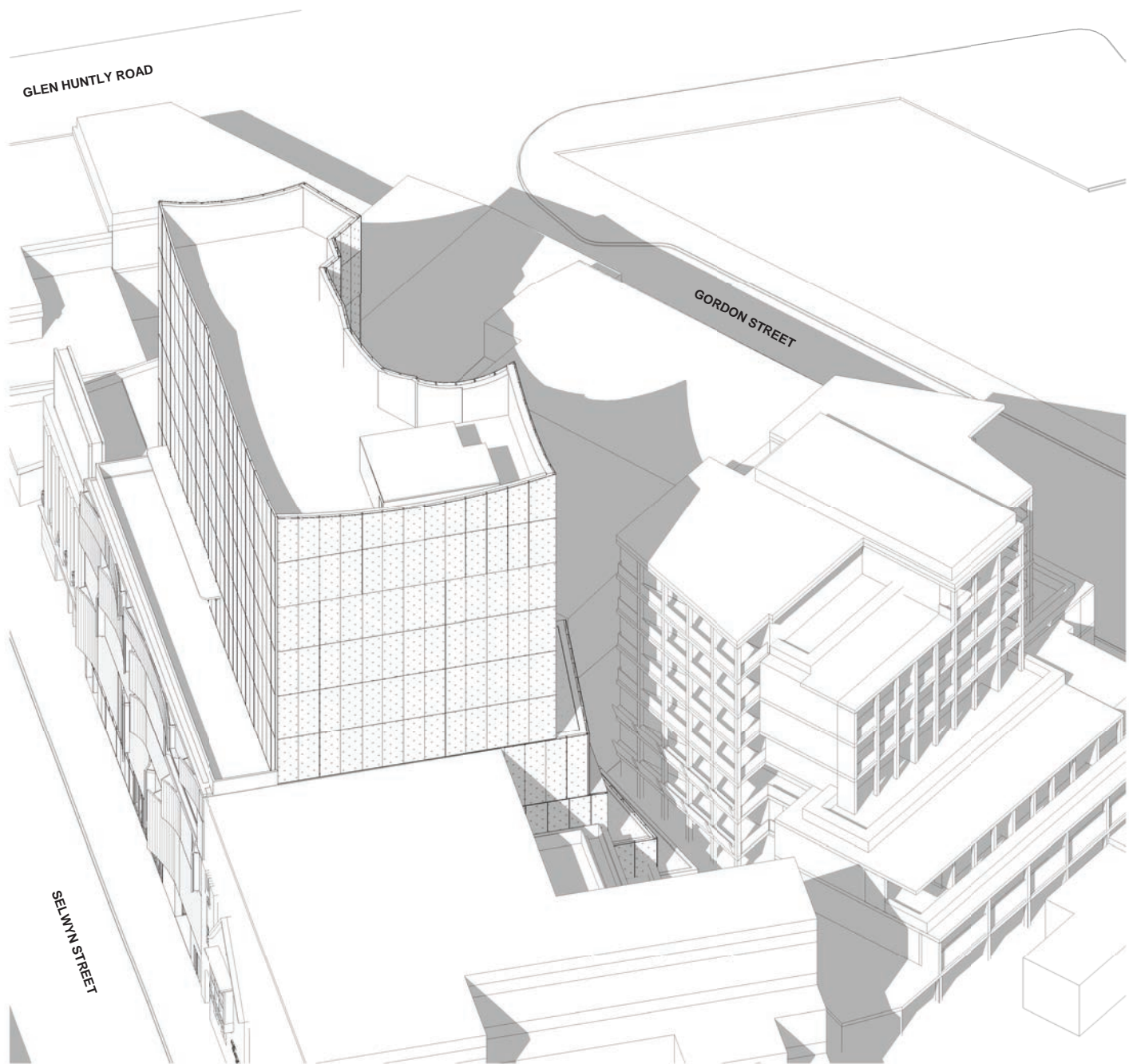
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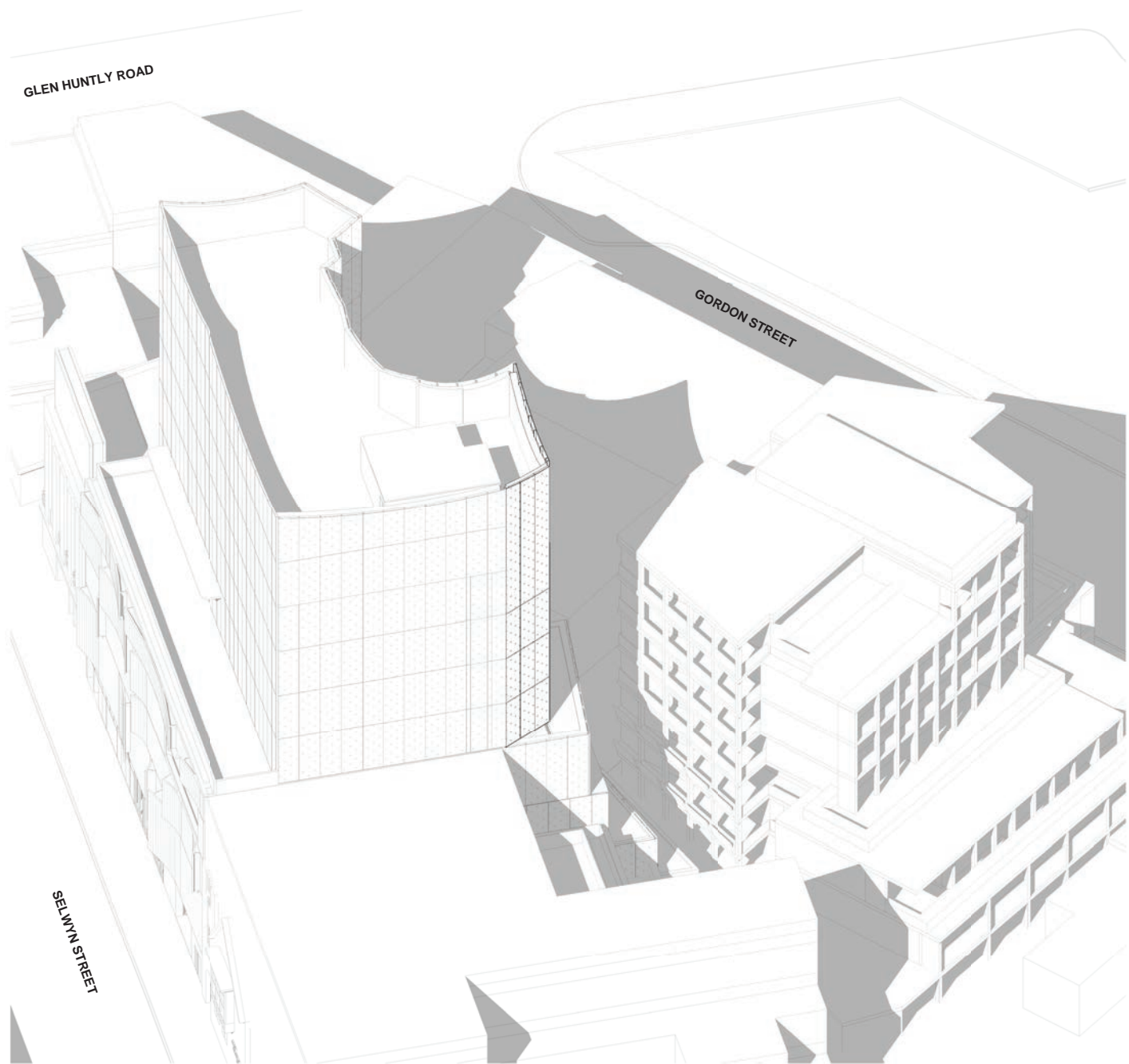
Proposed 2m Splay

Design Option 2m Splay

Shadow Diagram 11am



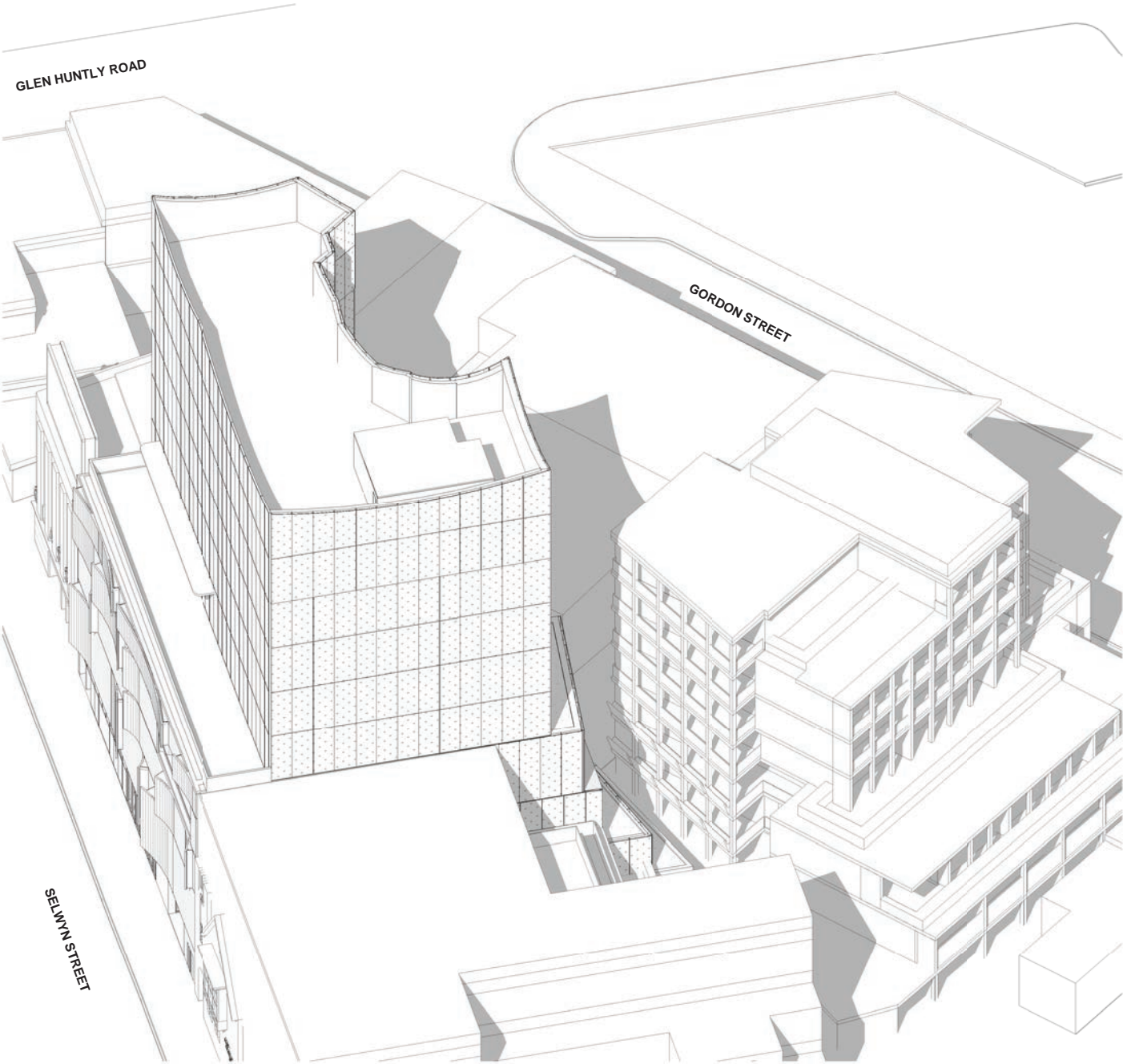
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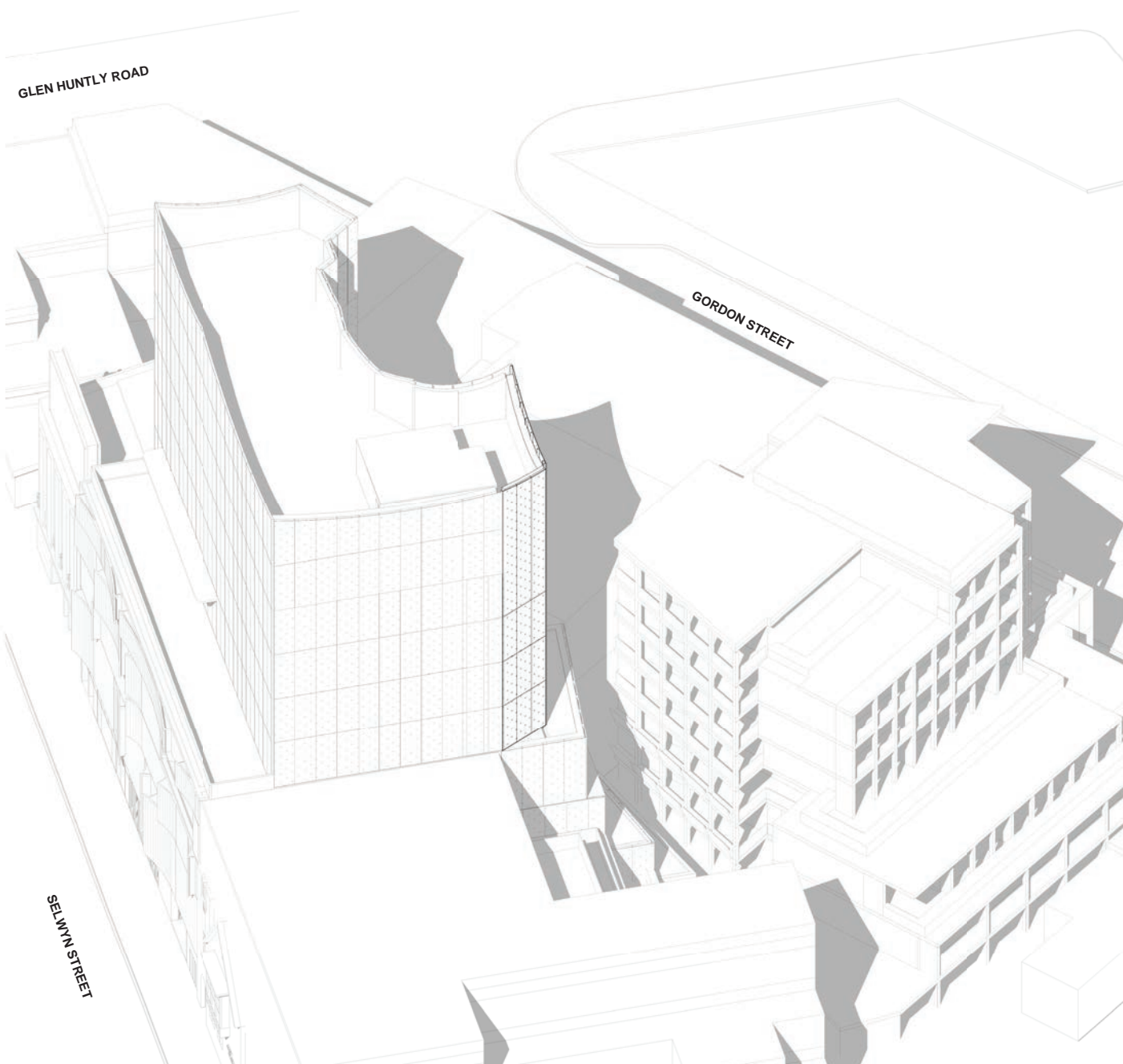
Proposed 2m Splay

Design Option 2m Splay

Shadow Diagram 1130am



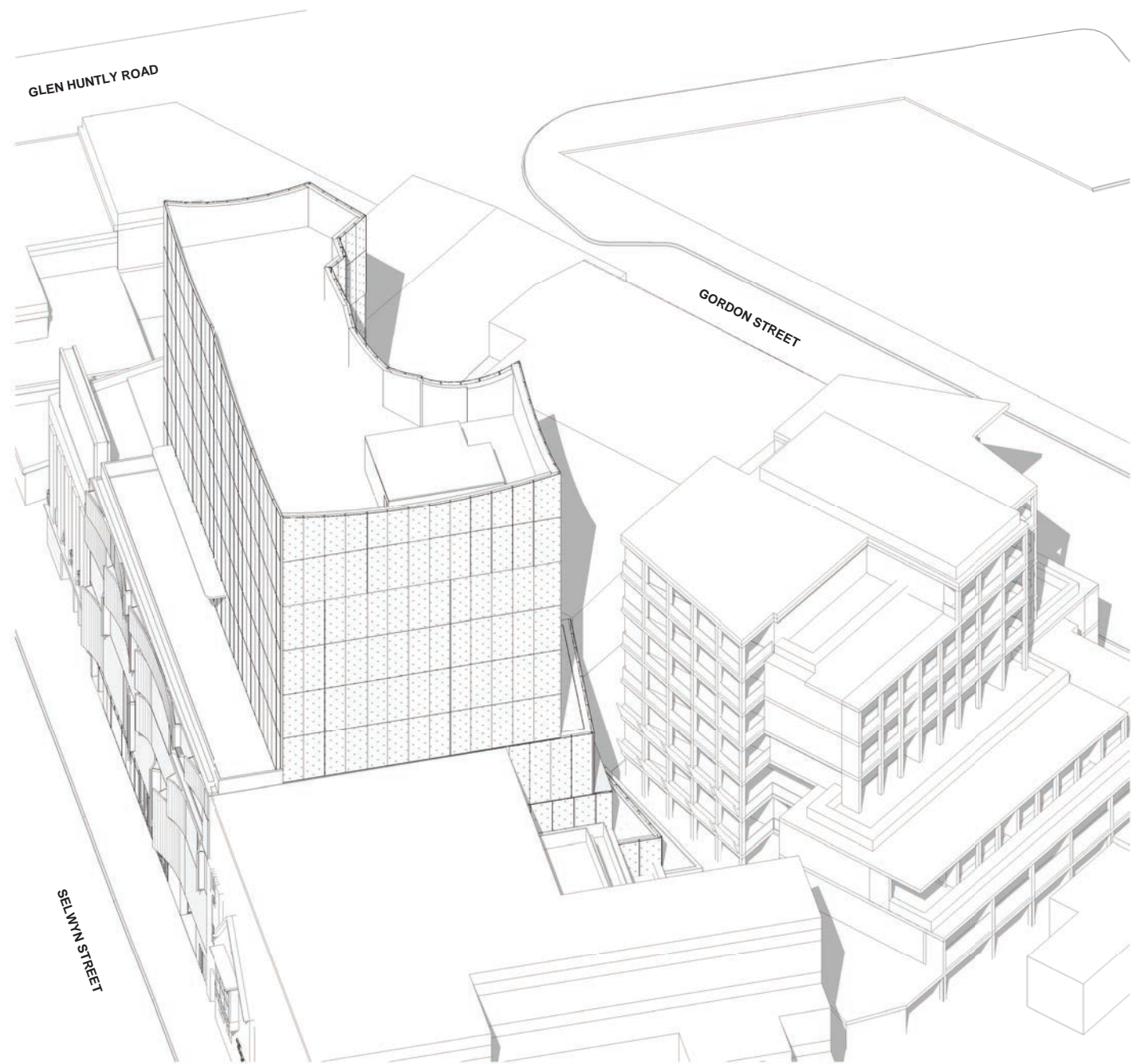
Current TP set



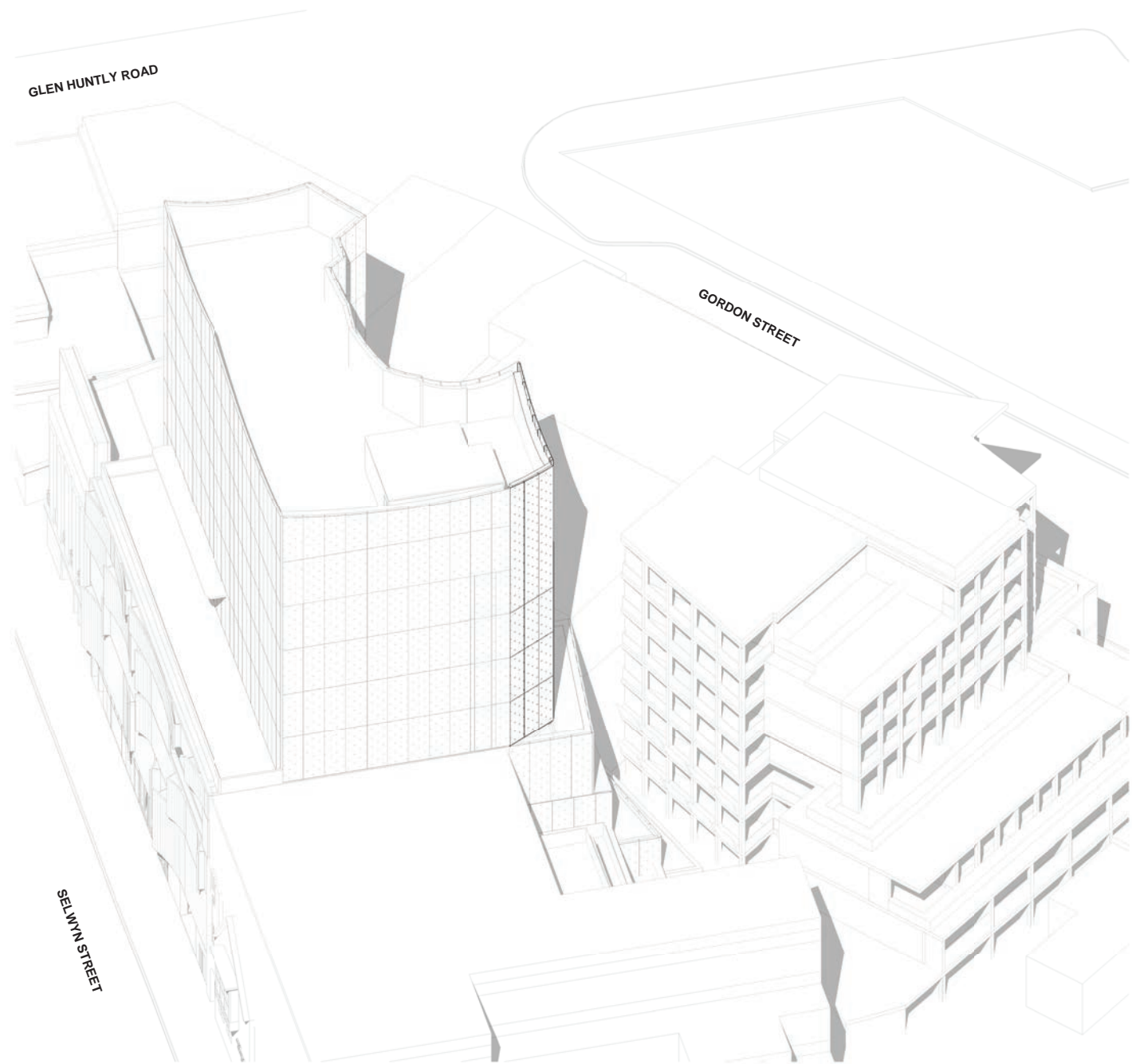
Proposed 2m Splay

Design Option 2m Splay

Shadow Diagram 12pm



Current TP set



Proposed 2m Splay