

**Glen Eira Permit Application GE/DP-33539/2020
Jewish Arts Quarter development**

Priority Projects Standing Advisory Committee

Referral 13 Report

Planning and Environment Act 1987

23 July 2021

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Referral 13 Report pursuant to s151 of the Act
Jewish Arts Quarter

23 July 2021

Members of the Priority Projects Standing Advisory Committee who considered this referral:



Sarah Carlisle
Chair



Geoffrey Carruthers
Member



Jonathan Halaliku
Member

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Glossary and abbreviations

Committee	Priority Projects Standing Advisory Committee
Council	Glen Eira City Council
Cultural Precinct Plan	<i>Elsternwick Cultural Precinct Plan 2018</i>
DDO10	Design and Development Overlay Schedule 10
Deacon Group	group of objectors joined with Kathleen Deacon (see Appendix C) and represented by Mr Townsend and Mr Thompson
DELWP	Department of Environment, Land, Water and Planning
EP Act	<i>Environment Protection Act 2017</i>
Fabcot	<i>Fabcot Pty Ltd v Glen Eira CC [2020] VCAT 957</i>
Historical Society	Glen Eira Historical Society
HO	Heritage Overlay
Integrated Transport Strategy	Council's <i>Integrated Transport Strategy 2018-2031</i>
ITAP	Integrated Transport and Access Plan
MAC	Major Activity Centre
MUZ1	Mixed Use Zone Schedule 1
NOD	Notice of Decision to grant a planning permit
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Glen Eira Planning Scheme
Rader Group	group of objectors joined with Dana Rader (see Appendix C) and represented by her, including Mr Gottschalk
Structure Plan	<i>Elsternwick Structure Plan 2018-2031</i>
TfV	Head, Transport for Victoria
VCAT	Victorian Civil and Administrative Tribunal

1 Overview

1.1 Referral summary

Referral summary	
Date of referral	14 March 2021
Members	Sarah Carlisle (Chair), Geoffrey Carruthers, Jonathan Halaliku
Description of referral	<p>Call-in of four VCAT proceedings, all objector appeals against Council's Notice of Decision to grant a planning permit (NOD):</p> <ul style="list-style-type: none"> - VCAT P1539/2020 – Tamir v Glen Eira City Council - VCAT P1644/2020 – Rader and Ors v Glen Eira City Council - VCAT P1631/2020 – Deacon and Ors v Glen Eira City Council - VCAT P1637/2020 – Gottschalk v Glen Eira City Council
Permit application	GE/DP-33539/2020
Common name	Referral 13 – Jewish Arts Quarter
Applicant	Ratio Consultants for the Jewish Cultural Centre / National Library Kadimah
Responsible Authority	Glen Eira City Council
Subject land	7 Selwyn Street, Elsternwick
Site inspection	21 June 2021, unaccompanied
Consultation	Roundtable conference on 16, 17, 18, 24 and 25 June 2021
Parties	<p>Applicant represented by David Vorchheimer of HWL Ebsworth</p> <p>Council represented by Mimi Marcus of Marcus Lane Group</p> <p>Deacon Group of objectors (see Appendix C) represented by Matthew Townsend of Counsel and Michael Thompson (group member)</p> <p>Rader Group of objectors (see Appendix C) represented by Dana Rader</p> <p>Mr Gottschalk joined the Rader Group (advised by Ms Rader on Day 1 of the roundtable conference)</p> <p>Mr Tamir withdrew from the roundtable process on 25 May 2021 (Document 27)</p>
Submissions	<p>Written and oral submissions from the parties to the roundtable conference</p> <p>Written submission from the Head, Transport for Victoria (at the Committee's invitation)</p>
Information relied upon	See Appendix D
Date of this report	23 July 2021
Citation	Priority Projects SAC Referral 13 – Jewish Arts Quarter [2021] PPV

1.2 The issues

Issue	Chapter
Issues on which the Minister requested specific advice (Appendix B)	
Building height	6.2
Setbacks	6.3
Design quality	6.4
Overshadowing	6.5
Whether no on-site car parking is appropriate	7.1
Additional issues raised by objectors	
Community benefit	5.1(i) and 10
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1.3 Findings

The Committee finds that overall, the proposed development aligns with planning policy relating to settlement, amenity, the built environment and heritage, economic development (including activity centre planning), transport and social and cultural infrastructure. The proposal will deliver net community benefit and should be supported.

(i) Matters on which the Minister has requested specific advice

On building height:

- The proposed building height is appropriate within the existing and emerging built form context.
- There is no need to reduce the parapet height to a maximum of 4 metres as proposed in condition 1(a) of the NOD.
- The street wall height is appropriate having regard for the existing and emerging street wall heights envisaged for Selwyn Street.

On setbacks:

- The proposed setbacks achieve the podium and tower form envisaged within the DDO10, provide for appropriate levels of development equity to neighbouring sites, and respond appropriately to the interface with the Gordon Street apartments including in relation to outlook.

On design quality:

- The proposed development is of exemplar design quality.

On overshadowing:

- The proposal will not result in unreasonable off-site amenity impacts by way of overshadowing to the public or private realm.

On car parking:

- It is appropriate to fully waive the 231 car parking spaces required by Clause 52.06.
- The permit should include a condition limiting the total number of persons on-site at any one time to 450 unless otherwise approved by Council, until such time as the Green Travel Plan has been demonstrated to be effective in reducing private car based trips to the site (see Appendix E).
- In considering whether to lift or remove the 450 person cap, Council should consider the implementation and annual reviews of the Green Travel Plan, implementation of the Venue Management Plan, and any other developments that impact on parking in the area.

(ii) Other matters raised by objectors

On heritage and neighbourhood character:

- The heritage impacts of the loss of the existing building are acceptable, and ameliorated by the salvage and retention of the Karl Duldig artworks.
- The proposal will not adversely impact the Elsternwick Estate and Environs heritage precinct.
- The proposal will positively contribute to the preferred neighbourhood character of the Selwyn Street streetscape, the Cultural and Entertainment Precinct and the Elsternwick Major Activity Centre more broadly.

On traffic:

- The impacts of the proposed development on the local traffic network are acceptable.
- The cumulative impacts of surrounding uses and developments can be managed by Council through the Selwyn Street upgrades (including their timing), the conditions on the NOD (for the proposed development) and appropriate permit conditions on permits for any other redevelopment proposals in the vicinity of the site.

On amenity:

- The overlooking impacts of the proposed development are acceptable.
- The noise impacts of the proposed development can be controlled through permit conditions and are acceptable.
- The amenity impacts associated with serving alcohol in the proposed development are acceptable.
- The proposed development would provide an appropriate waste management outcome for the site.

1.4 Recommendation

The Priority Projects Standing Advisory Committee recommends that:

- 1. The Minister for Planning support the proposed development and recommend to the Governor in Council that Glen Eira Permit Application GE/DP-33539/2020 be issued, subject to the conditions in Appendix E.**

2 Introduction

2.1 The Committee

(i) Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the Minister for Planning on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference (Appendix A) to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

... consider how the proposed development aligns with planning policy relating to settlement, amenity, the built environment and heritage, economic development, transport, and social and cultural infrastructure.

The Committee was provided with a letter of referral from the Minister for Planning dated 14 March 2021 (Appendix B) that tasked it to provide:

... advice and recommendations on whether a planning permit should be issued and, if so, the appropriate conditions that should be applied.

Additionally, the Minister is seeking specific advice about how the proposal aligns with planning policy and certain aspects of the proposed development:

- the suitability of the building height, setbacks and design quality
- the acceptability of any overshadowing impacts
- whether no on-site car parking is appropriate.

This is Referral 13 to the Committee.

(ii) Membership

The members of the Committee dealing with Referral 13 are:

- Sarah Carlisle, Chair
- Geoffrey Carruthers, Member
- Jonathan Halaliku, Member

The Committee was assisted by Georgia Thomas, Project Officer of Planning Panels Victoria.

2.2 Background

The site is currently occupied by a two storey brick building housing the Kadimah National Library and a small carparking area. The library has outgrown the existing building, and in May 2020, Ratio Consultants on behalf of the Jewish Cultural Centre / National Library Kadimah (the Applicant) applied for a permit to demolish the existing building and construct a new building to house the library, the Jewish Museum of Australia, a performing arts centre and associated office, cafe and bar facilities.

On 4 September 2020 Council issued a Notice of Decision to grant a planning permit (NOD) for the demolition of an existing building and construction of an up to nine storey building, use of land for

offices, a place of assembly, sale and consumption of liquor, and reduction in car parking for a Jewish Cultural Centre.

Following the NOD, four separate objector proceedings were lodged with the Victorian Civil and Administrative Tribunal (VCAT). On 14 March 2021 the Minister for Planning called the proceedings in from VCAT and referred them to the Committee for advice and recommendations about whether a planning permit should be issued, and if so, the appropriate conditions that should be included.

2.3 Process

The Committee wrote to parties to the VCAT proceedings on 30 March 2021 advising that the proposal had been referred to the Committee. It indicated that a Directions Hearing would take place and that a roundtable discussion would be convened. Parties were invited to raise procedural issues. None were raised.

Due to the large number of objectors to each VCAT proceeding (see Appendix C), one member for each objector group agreed to act as a representative for that group.

2.4 Procedural issues

(i) Format for the Committee's consultation

The Committee's Terms of Reference state:

16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
 - a. assess any matter 'on the papers'
 - b. conduct discussions, forums, or video conferences ...

After taking submissions from the parties at the Directions Hearing, the Committee determined to conduct its consultation for Referral 13 by way of a roundtable discussion over five days. The roundtable was based around four key themes, informed by the matters on which the Minister has asked for specific advice, and the issues raised by the objectors in their Statements of Grounds to VCAT:

- Theme 1 – built form and urban design
- Theme 2 – planning, heritage and neighbourhood character
- Theme 3 – amenity impacts including noise
- Theme 4 – traffic and parking.

The fifth day of the roundtable involved a general discussion where the parties were afforded the opportunity to raise any other matter they were concerned about that had not already been covered in the four themes.

The Committee is satisfied that the roundtable structure and the five days allocated to the roundtable provided an adequate opportunity for the Committee to fully explore the issues on which the Minister has requested specific advice, as well as affording the parties an opportunity to make detailed submissions in relation to other issues of concern.

(ii) Additional shadow diagrams

Shadow impacts were discussed extensively at the roundtable, including shadow cast on both the public realm (Selwyn Street) and private development (the Gordon Street apartments).

The shadow diagrams included in the application plans (TP501 to TP515) depict shadows at the September equinox (22 September) from 9am to 12pm. They show shadows cast on:

- the Gordon Street apartments from 9am to 12pm
- Selwyn Street from 2pm.

On Day 3 of the roundtable (18 June 2021), the project architect (Mr Brown of McIldowie Partners) explained that the application shadow diagrams were prepared with the daylight savings time setting switched on, even though daylight savings does not commence until the first Saturday in October (a week or two after the September equinox). The Applicant tabled updated shadow diagrams with the daylight savings setting switched off (Document 103). It also tabled shadow diagrams for 19 June (Document 104) at the request of Ms Rader (the Rader Group of objectors all live in the Gordon Street apartments).

The updated shadow diagrams in Document 103 show that when eastern standard time is applied rather than daylight savings time, at the September equinox the proposed development will stop casting shadow over the Gordon Street apartments by 11am, an hour earlier than the application shadow diagrams show. Equally, it will start overshadowing Selwyn Street by 1pm, not 2pm as shown on the application diagrams.

On the morning of 25 June 2021 (Day 5, the 'other matters' theme day and the final day of the roundtable), Mr Townsend for the Deacon Group indicated that he wished to make oral and written submissions about the shadow diagrams. The Committee raised concerns:

- When Mr Townsend commenced his submissions it became clear that the further submissions related largely to the application shadow diagrams, rather than the updated shadow diagrams.
- The application material had been available to the Deacon Group for several months, since the application was advertised. No satisfactory explanation was provided as to why the issues sought to be raised in the further submissions had not been addressed in the Deacon Group's main submission which the Committee's directions required be filed and served the Friday before the roundtable commenced.
- The Applicant and Council may be prejudiced if the Committee were to accept the further written submissions. The material had not been put to the witnesses called by the Applicant and Council. Nor would the Applicant and Council have sufficient opportunity to properly respond to the material in their closing submissions (which were to be presented later that day).

After taking submissions from the parties (including the Deacon Group) on whether the further submissions should be accepted, the Committee determined not to accept the written submissions. It provided Mr Townsend with an opportunity to address the Committee orally on Documents 103 and 104, which he did.

(iii) Submissions from the Glen Eira Historical Society

The Glen Eira Historical Society (Historical Society) was an objector to the permit application, but was not a party to any of the VCAT proceedings. The Historical Society attended the Directions Hearing and requested to be heard by the Committee at the roundtable. The Committee agreed

to accept a written submission from the Historical Society, but did not agree to it joining as a party to the VCAT proceeding (noting that it had made no such request to VCAT). A representative from the Historical Society attended the roundtable discussion as an observer, and the Committee agreed to it asking questions of Ms Brady, Council's heritage expert witness.

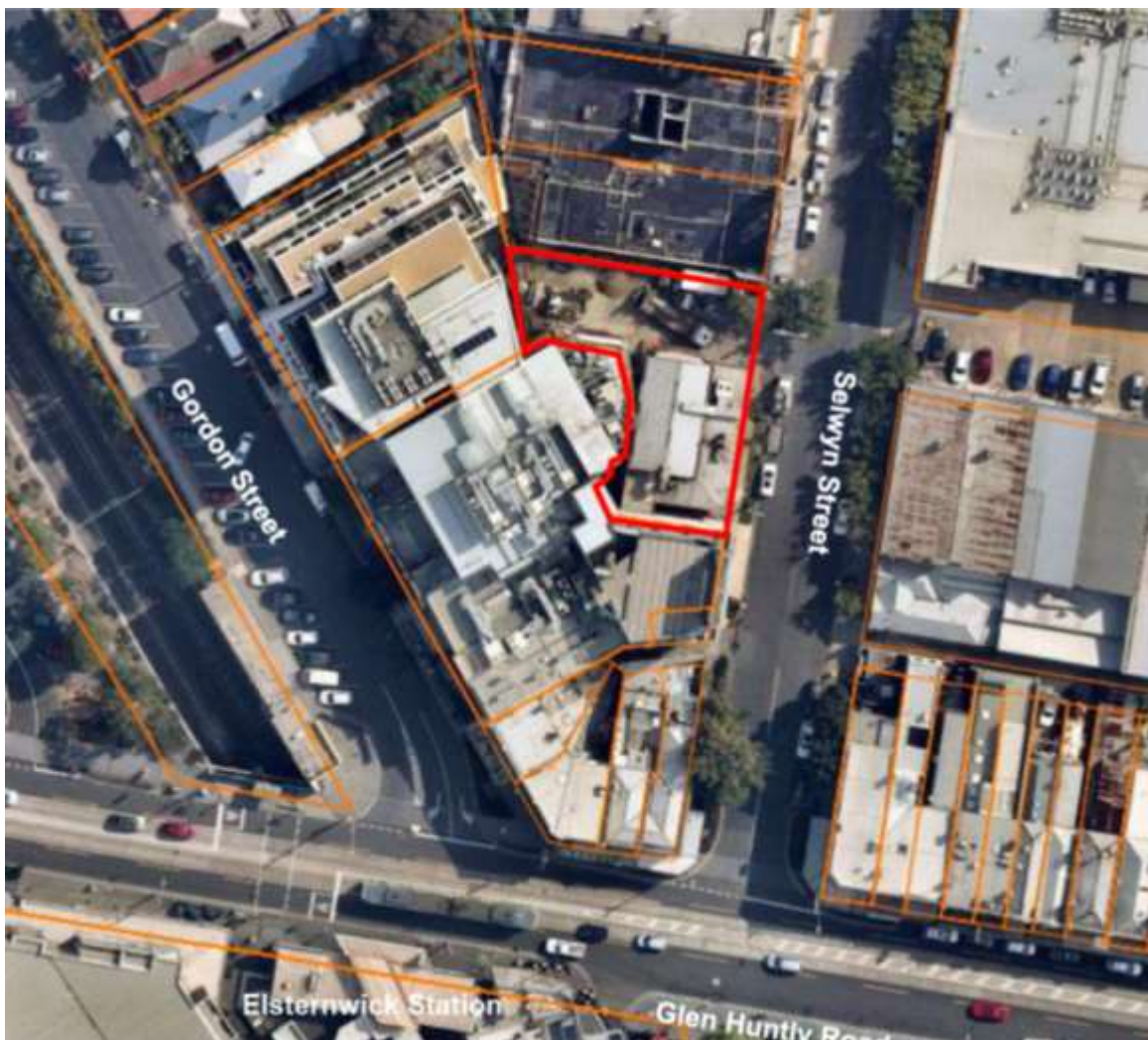
3 The proposed development

3.1 The site and surrounds

The site is:

- on the western side of Selwyn Street, with a frontage of just under 33 metres to Selwyn Street
- 696 square metres
- within the Elsternwick Major Activity Centre (MAC) and the Elsternwick Urban Village
- presently developed with a two storey commercial building occupied by the Kadimah Cultural Centre (Jewish Cultural Centre and National Library) and a small carparking area.

Figure 1 **The site**



Source: S McGurn's witness statement (Document 50)

The site directly abuts:

- the Jewish Holocaust Centre (currently under construction) to the north
- the Classic Cinema to the south and south-west
- an apartment development at 17-19 Gordon Street to the west
- Selwyn Street to the east.

The surrounding area includes:

- the former ABC Studios site at 10-16 Selwyn Street to the east
- Glen Huntly Road around 50 metres to the south
- Elsternwick Plaza, a local park around 75 metres to the south
- Elsternwick Station around 80 to 100 metres to the south-west
- Sholem Aleichem College around 100 metres to the north.

Glen Eira is home to Victoria's largest Jewish community, which is a significant contributor to the culture, economy and character of the municipality.

3.2 The proposal

The Applicant proposes to demolish the existing building and construct a new nine storey building to house a new Jewish Museum of Australia, performing arts centre, the Kadimah National Library and co-working space. The new building would include:

- three basement levels accommodating a performing arts centre (place of assembly), including a small foyer area, rehearsal space and learning workshop space
- an entrance foyer, gift shop and cafe at ground level fronting Selwyn Street
- a learning workshop and bicycle parking and end of trip facilities in a mezzanine
- museum exhibition spaces at levels 1 and 2, with a liquor licenced bar
- a cafe and outdoor terrace at level 3
- four levels of co-working office space (administration for the Jewish Museum of Australia at level 4, the Kadimah Cultural Centre and National Library at level 5, and general co-working spaces at levels 6 and 7).

Key features of the building design include:

- podium
 - four storeys (17.39 metres) to the Selwyn Street frontage
 - substantially glazed ground level with an inset entry
 - sculptural precast concrete facade above the ground level
 - small inset terrace at level 3 overlooking Selwyn Street
- tower
 - five storeys plus a parapet concealing rooftop plant and equipment
 - fully glazed curtain walling to the Selwyn Street elevation
 - side and rear facades of precast concrete with expanded mesh cladding
- total height of 42.95 metres
 - 37 metres to roof level, plus a parapet of varying height
- setbacks
 - no podium level setback to the Selwyn Street frontage
 - a 4.95 metre setback of the tower from the Selwyn Street frontage
 - no setbacks to the Classic Cinema site
 - a tapering setback to the interface with the Gordon Street apartments:
 - no setback at ground level
 - 2.45 metres (southern end) to 2.8 metres (northern end) at mezzanine level
 - 2.45 metres (southern end) to 6.145 metres (northern end) at Level 1
 - 2.45 metres (southern end) to 7.410 metres (northern end) at Level 2
 - 5.265 metres (southern end) to 9.695 metres (northern end) at Level 3 and above.

Figure 2 **The proposed development (Selwyn Street facade)**



Source: Town Planning Design Report, McIldowie Partners Architects, part of the Application Material

4 Planning context

4.1 State policy

A range of State policies are relevant to the application:

- Clause 11 (Settlement) directs development to areas with good access to services and facilities, and specifically directs entertainment and cultural uses into activity centres.
- Clause 15.01-15 (Urban design) encourages outcomes that contribute positively to local character, community and cultural life, enhance the public realm, and minimise detrimental impacts on neighbouring properties.
- Clause 15.01-25 (Building design) encourages building design that contributes to the local context including through height, scale and massing.
- Clause 15.03-15 (Heritage Conservation) encourages appropriate development that respects places with identified heritage values.
- Clause 17.02-15 (Business) encourages complementary uses to co-locate to improve accessibility and efficient use of existing infrastructure.
- Clause 19.02-45 (Social and cultural infrastructure) encourages the location of social and cultural infrastructure in activity centres.
- Clause 18.02-45 (Car Parking) seeks to ensure an adequate supply of car parking having regard to existing and potential modes of access including public transport, the demand for off street car parking, road capacity and the potential for demand management of car parking.

4.2 Local policy

The Municipal Strategic Statement includes:

- Clause 21.06 (Business) which:
 - seeks to enhance and further develop urban villages as the focus for community life
 - seeks to ensure that commercial centres have a high standard of urban design and are attractive and appealing to potential customers, traders and investors
 - notes offices within existing activity centres are secondary and complementary to the retail function of centres
 - notes Elsternwick Urban Village has excellent access to public transport.
- Clause 21.09 (Public Uses/Community Facilities) which:
 - seeks to create a civic presence through co-location of related community facilities in centres, including co-location of facilities with a 'synergistic relationship'
 - notes that facilities in Elsternwick will have a wide and diverse catchment covering most of the municipality.
- Clause 21.12 (Transport) which encourages increased access and use of public transport and to ensure the adequate provision of car parking.

Relevant local policies include:

- Clause 22.01 (Heritage) seeks to retain and promote places with cultural or historic significance and to ensure the design of new development respects, complements and responds to the heritage significance of a precinct. The policy notes that Elsternwick's significance includes *"the continuing economic strengths of the Elsternwick Shopping*

Centre during the Interwar period, and the development of religious, recreational and social institutions throughout the history of the area”.

- Clause 22.02 (Non-residential uses in residential zones) provides direction in terms of minimising residential amenity impacts, and identifies preferred locations and design of non-residential uses and facilities in a residential area.
- Clause 22.05 (Urban villages) states that it is policy that:
 - urban villages be enhanced and further developed as the focus of community life
 - community uses are improved in a manner that respects proximity to the retail hub and the surrounding nature of development
 - development respects the amenity of the surrounding area and provides a transition to surrounding residential uses
 - heritage, streetscape and the pedestrian environment are protected
 - development is appropriate to the constraints of infrastructure and traffic movement (including parking).

Clause 22.05 identifies a Cultural and Entertainment Precinct in Selwyn Street, and provides the following directions for its development:

- there should be a mix of residential and commercial activity in Selwyn Street
- there should be no retail activities along Selwyn Street
- development in Selwyn Street should be of scale similar to surrounding buildings, with taller buildings located towards Glen Huntly Road.

4.3 Planning scheme provisions

(i) Zones and overlays

The site is in the:

- Mixed Use Zone Schedule 1 (MUZ1)
- Design and Development Overlay Schedule 10 - Elsternwick Activity Centre (DDO10), within Precinct 5a West
- Heritage Overlay Schedule 72 - Elsternwick and Environs Heritage Precinct (HO72).

Office and place of assembly require a use permit under the MUZ. Museum is as of right. The demolition of the existing building requires a permit under the HO72, and the construction of the new building requires a permit under the DDO10 and the HO72.¹

The DDO10 contains discretionary building heights, setbacks and design requirements. In the case of the review site, the controls are also discretionary. It is an interim control that is scheduled to expire on 30 June 2021. Council advised at the roundtable that the Minister (under delegation) had approved a three month extension to the DDO10.

A common purpose of all zones and overlays is to implement the Municipal Strategic Statement and the Planning Policy Framework. Other relevant purposes are set out in Table 1 on the following page.

¹ Other permit triggers also apply under particular provisions for signage and for the sale and consumption of liquor.

Table 1 **Zone and overlay purposes and objectives**

Control	Purposes/objectives
MUZ1	<p>Purposes:</p> <ul style="list-style-type: none"> - To provide for a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality. - To encourage development that responds to the existing or preferred neighbourhood character of the area.
DDO10	<p>Design objectives (general):</p> <ul style="list-style-type: none"> - 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. <p>Decision guidelines:</p> <ul style="list-style-type: none"> - Whether development responds to the design objectives set out in Clause 1.0 to this schedule. - The extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the pedestrian network. - Whether the design and form of buildings supports the housing and economic needs of the Elsternwick Activity Centre. - Whether proposed buildings on sites that are in the vicinity of a heritage place are respectful of that heritage place. - Whether proposed buildings are sensitively designed to avoid views into secluded private open spaces and habitable room windows of dwellings on adjacent land. - The impact of overshadowing to the public realm. - Whether development in Precinct 5 or 6 demonstrates a high level of architectural quality and makes a positive contribution to the public realm. - Whether any building in Precinct 5 or 6 that exceeds the maximum preferred building height: <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.

Control	Purposes/objectives
HO72	<p>Purposes:</p> <ul style="list-style-type: none"> - 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.

(ii) Particular provisions

Relevant particular provisions include:

- Clause 52.06 (Car Parking)
- Clause 52.34 (Bicycle Facilities).

(iii) General and operational provisions

Clause 65.01 includes Decision Guidelines for approval of a permit application. Relevant matters to be considered include:

- the Municipal Strategic Statement 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
- the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Clause 66 details relevant referral authorities for permit applications. The Head, Transport for Victoria (TfV) was a referral authority for this application.

Clause 71.02-3 relates to Integrated Decision Making and identifies that society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure, and that planning aims to meet these needs and expectations.

The clause highlights the need for responsible authorities to 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”*.

This is a key clause in the consideration of the permit application.

4.4 Other relevant planning policies

(i) Plan Melbourne

Plan Melbourne 2017-2050 sets out strategic directions to guide Melbourne’s development to 2050, to ensure it becomes more sustainable, productive and liveable as its population approaches

8 million. It is accompanied by a separate implementation plan that is regularly updated and refreshed every five years.

Plan Melbourne is structured around seven Outcomes, which set out the aims of the plan. The Outcomes are supported by Directions and Policies, which outline how the Outcomes will be achieved. Outcomes that are particularly relevant to the Amendment are set out in Table 2.

Table 2 Relevant parts of Plan Melbourne

Directions	Policies
Outcome 3 – Melbourne has an integrated transport system that connects people to jobs and services and goods to market	
3.1 Transform Melbourne’s transport system to support a productive city	- Provide high quality public transport access to job-rich areas
3.3 Improve local travel options to support 20-minute neighbourhoods	- Create pedestrian-friendly neighbourhoods - Create a network of cycling links for local trips - Improve local transport choices
Outcome 4 – Melbourne is a distinctive and liveable city with quality design and amenity	
4.1 Create more great public places across Melbourne	- Integrate place-making practices into road-space management
4.2 Build on Melbourne’s cultural leadership and sporting legacy	- Strengthen Melbourne’s civic legacy of great places - Support the growth and development of Melbourne’s cultural precincts and creative industries - Plan and facilitate private-sector tourism investment opportunities
4.3 Achieve and promote design excellence	- Promote urban design excellence in every aspect of the built environment
4.4 Respect Melbourne’s heritage as we build for the future	- Recognise the value of heritage when managing growth and change
Outcome 5 – Melbourne is a city of inclusive, vibrant and healthy neighbourhoods	
5.1 Create a city of 20-minute neighbourhoods	- Create mixed use neighbourhoods at varying densities - Support a network of vibrant neighbourhood activity centres
5.2 Create neighbourhoods that support safe communities and healthy lifestyles	- Improve neighbourhoods to enable walking and cycling as a part of daily life

(ii) The Elsternwick Structure Plan

Council adopted the *Elsternwick Structure Plan 2018-2031* (the Structure Plan) in February 2018. It is a reference document in the DDO10.

The Structure Plan identifies the site as part of an Entertainment and Cultural Precinct where community and cultural uses are encouraged with a focus on cafes, night time activity and community spaces. The Structure Plan specifically encourages establishment of a Jewish Cultural

Precinct in and around Selwyn Street, and provides for the creation of a pedestrian plaza in Selwyn Street.

The Structure Plan and the DDO10 identify the site as a 'strategic site'² which is 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.

(iii) Other Council policies and strategies

Other relevant Council policies and strategies are summarised in Table 3.

Table 3 Other relevant policies and strategies

Policy/Strategy and status	High level overview
<i>Elsternwick Cultural Precinct Plan, City Futures, 2018</i> Endorsed by Council in November 2018 Not referenced or incorporated in the Planning Scheme	<ul style="list-style-type: none"> - Sets out the vision for the Selwyn Street Cultural Precinct: A contemporary celebration of a Jewish quarter, with a strong focus on youth and street life - Sets out a series of 'key moves' for developing and enhancing the public realm, including establishing Selwyn Street as the precinct heart - Identifies the site and the adjacent Holocaust Centre site as Precinct 2a Jewish Cultural Hub, and sets out the following objectives <ul style="list-style-type: none"> - Provide opportunity for a curated space for mindful reflection of Jewish histories and futures - Incorporate a safe gateway entrance to significant cultural institutions and buildings - Consolidate significant cultural institutions to reinforce the Jewish cultural identity - Identifies the southern end of Selwyn Street on the east side as Precinct 3a Street food – cultural street frontages
<i>Quality Design Guidelines – Commercial and Mixed Use Areas, March 2018</i> Reference document in the DDO10	<ul style="list-style-type: none"> - Sets out eight Quality Design Principles to provide the strategic context for design guidance in the document - Proposes a range of building types that are preferred in neighbourhoods with an overview of each building type, where they should be located, and how best to design them - Sets out detailed design elements that contribute to quality and functional buildings - Addresses other matters such as land use and commercial mix, dwelling diversity and delivering a community benefit
<i>Integrated Transport Strategy 2018-31, June 2018</i> Adopted by Council in July 2018	<ul style="list-style-type: none"> - Seeks to increase walking, bicycling, and public transport trips and increase efficiency on key driving routes - Strives for a 50:50 mode share of car and non-car trips by 2031

² Refer to Building: transitions plan at Figure 3.0 of the Structure Plan.

Policy/Strategy and status	High level overview
Not referenced or incorporated in the Planning Scheme	<ul style="list-style-type: none"> - Identifies the site as within a train and tram precinct with excellent access to train, tram and bus services. Train and tram precincts generate lower car usage rates (56 percent of trips, compared with 66 percent across the municipality) - Identifies safe cycling streets on Riddell Parade, Orrong Road and Nepean Highway and outlines potential improvements to encourage cycling - Identifies a 'great walking area' in and around Glen Huntly Road and Elsternwick Station and outlines potential improvements to encourage pedestrian trips - Identifies a range of policy initiatives to encourage the use of more sustainable modes of transport: <ul style="list-style-type: none"> - Focus employment and office development within major activity centres and strategic sites - Develop a municipal Parking Policy and parking overlays that emphasises equitable access to public parking, particularly within activity centres - Incentivise and encourage office and employment development in major activity centres by exploring the review of statutory parking requirements

5 Overarching issues

5.1 The issues

Submissions to the Committee raised three overarching issues:

- whether the proposed development should be assessed on the basis of net community benefit under Clause 72.02-3, or a different measure of significant community benefit under the DDO10
- whether the office component should be separated out and rejected
- the relevance of VCAT's decision in *Fabcot Pty Ltd v Glen Eira CC* [2020] VCAT 957 (Fabcot).

(i) Net community benefit versus significant community benefit

The DDO10 includes:

- a design objective to encourage developments on strategic sites that provide a 'significant benefit' for the Elsternwick community
- a decision guideline to consider whether buildings in Precinct 5 that exceed the maximum preferred building height demonstrate 'significant community benefit'.

The Structure Plan refers to delivering significant community development on strategic sites.

The subject site is a strategic site. Accordingly there is some ambiguity as to whether the proposed development should deliver 'significant community benefit', or whether it should be assessed against the ordinary 'net community benefit' test in Clause 71.02-3. Further, 'significant community benefit' is not defined in either the DDO10 or the Structure Plan, and there is some ambiguity as to what, if anything, 'significant community benefit' requires over and above net community benefit.

In the Committee's view, the appropriate basis on which to assess this application is net community benefit. This is because the proposed development does not seek to exceed the preferred building height, and the decision guideline in the DDO10 referred to above is therefore not engaged.

(ii) The office component

The Deacon Group argued that the office component of the proposed development is not functionally linked to the cultural uses (museum and performing arts centre), provides little by way of community benefit and should be rejected. They argued that there was no evidence of the need for further office space, and if further office space is needed it can be provided in other locations within the Elsternwick MAC. This would enable the top four levels of the building to be removed, reducing its height, amenity impact (including overshadowing) and impacts on traffic and parking. The Deacon Group submitted that this would reflect a more appropriate and balanced outcome in terms of community benefit.

The Applicant explained that the office component is functionally integrated with the cultural components. Two of the four office levels provide office space for the Jewish Museum of Australia and the Kadimah Cultural Centre and Library, while the other two provide co-working spaces that can be used for collaboration with other Jewish arts and cultural organisations.

The Committee's task is to assess the acceptability of the proposal before it, not some alternative proposal that has no office component, or that removes the top four levels. The Committee must assess whether the use (including the office component) is consistent with the policy framework and zoning controls, whether the built form is acceptable with regard to the DDO10 and the HO, and whether the proposed use and development as a whole delivers net community benefit. There is no need for the Applicant to establish that there is a specific need for office space in this location, or that the office component (in isolation) would deliver net community benefit.

(iii) Relevance of the Fabcot decision

Fabcot is a recent decision of VCAT which upheld Council's refusal of a mixed use development on 10-16 Selwyn Street, opposite the subject site. That proposal included:

- a mixed use building comprising a podium and two towers (a northern tower of 10 storeys and a southern tower of 11 to 14 storeys)
- apartments, a supermarket (Woolworths), kiosk, cafe, place of assembly and the sale of packaged liquor
- associated carparking.

VCAT found that the Fabcot site had a range of favourable physical and high level strategic planning attributes, and could (with an appropriate design response) be capable of accommodating 10 storeys of built form. However, the proposal was found to be unacceptable, primarily on the following grounds:

- The bulk and height of the proposed southern tower (11 to 14 storeys) was found to be excessive assessed against the DDO10 preferred maximum heights (10 storeys) and setbacks and the heritage context.
- The impacts of the southern tower on the heritage shops in Glen Huntly Road would be unacceptable due to its height, bulk and proximity to the rear of those shops. Impacts on the heritage listed fire station on the Fabcot site and impacts on the heritage listed Glenmore Property next door were borderline but acceptable.
- Amenity impacts on the private open space at the rear of the abutting Glenmoore property were found to be unreasonable due to the bulk and scale of the development. The proposed development did not provide a suitably contextual response to this sensitive interface.

The objectors urged the Committee to recommend refusal of this application on the basis that this application shared most of the fatal flaws identified by VCAT with the Fabcot proposal.

The Committee observes that the Jewish Arts Quarter proposal has several notable differences to the Fabcot proposal, including the proposed use, the size of the site, the proposed height, width, orientation and materiality of the tower form, the site's direct abutments and the site's interface and interaction with the heritage precinct including the Glen Huntly Road shops.

The Committee's task is to assess this proposal on its own merits, not to compare it with another development. The Committee has assessed this proposal against the policy framework, the zone, and the requirements of the DDO10 and HO. It has assessed whether the development provides a contextual response that is appropriate to the subject site, its immediate interfaces and its interaction with the broader neighbourhood. While it has had regard to the Fabcot decision, that decision is not (and should not be) determinative in the Committee's consideration of this proposal.

5.2 Findings

In relation to the overarching issues, the Committee finds:

- Net community benefit is the appropriate test against which the application should be measured, rather than significant community benefit.
- The office component is an appropriate use on the site, and it would not be appropriate for the Committee to recommend the removal of the four levels of office space.
- While the Committee has had regard to the Fabcot decision which refused a 10 to 17 storey development at 10-16 Selwyn Street, that decision is not (and should not be) determinative in the Committee's consideration of this proposal.

6 Built form

6.1 Relevant considerations

(i) Design and Development Overlay Schedule 10

The site sits within Precinct 5a West in the DDO10. The DDO10 contains the following design objectives:

- 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.

The DDO10 includes the following key built form requirements:

- height – preferred maximum of 37 metres (10 storeys) excluding architectural features
- street wall height – preferred maximum of 13 metres (3 storeys) including parapet and balustrades
- setbacks – summarised in Table 4
- overshadowing – buildings should minimise overshadowing impacts on existing and future open spaces, commercial footpath-trading areas and existing residential sites.

Table 4 Preferred setbacks in DDO10

Building element	Preferred outcome
Street wall	<p>0 metres to a height of up to 3 storeys (13 metres including parapet and balustrade)</p> <p>Where a site abuts a commercial/mixed use site, a 3 metre setback to a height of three storeys (13 metres), to provide a laneway connection between buildings (overall width of 6 metres)</p> <p>Where a site abuts a sensitive interface shown in Map 1:</p> <ul style="list-style-type: none"> - 6 metre setback to a height of two storeys (9 metres) - a further 5 metres at the third storey - a further 3 metres at fourth storey - all subsequent levels set back 20 metres from the property boundary
Above the street wall	5 metres

Precinct 5 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 to achieve a high level of internal amenity and to avoid the appearance of a continuous built form when viewed from the public realm.

General building design requirements include:

- 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
 - be designed to address front, oblique and side views
 - 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
- buildings should provide:
 - significant separation of tower forms from sensitive interfaces
 - 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)
- building and works, including lift overruns are to provide an appropriate response to sensitive interfaces³
- services including waste management facilities should be well-placed, concealed and integrated into building design.

The design of buildings should:

- incorporate high quality materials, textures and colours that respond to the residential or commercial characteristics of the streetscape
- provide wide entries that are clearly visible, legible and welcoming
- where the street proportions and character are strongly defined, respond to those key features (such as setbacks, parapets, cornices, awnings or colonnade heights)
- provide activation at ground floor, with weather protection (awnings), openings and architectural detailing providing activity and interest for people
- ensure that ground floor development fronting Selwyn Street contributes to its role as a cultural precinct.

(ii) Other Planning Scheme requirements

Clause 11.03-1S (Activity Centres) sets out a range of strategies to encourage high quality development within activity centres.

Clause 15.01-2S (Building Design) provides strategies to achieve building design outcomes that contribute positively to the local context and enhance the public realm, including ensuring that:

- development responds and contributes to the strategic and cultural context of its location
- detrimental impact of development on neighbouring properties, the public realm and the natural environment is minimised
- the form, scale, and appearance of development enhances the function and amenity of the public realm
- buildings and their interface with the public realm support personal safety, perceptions of safety and property security.

³ Sensitive interfaces are identified on Map 1 of DDO10. The site does not have any sensitive interfaces.

The site is located within the Elsternwick Urban Village. Relevant objectives under Clause 22.05-2 (Urban villages) include:

- ensure development respects the amenity of the surrounding area and provides a transition to surrounding residential uses
- protect and enhance the heritage, streetscape and pedestrian environment.

The site sits within the Cultural and Entertainment Precinct (Precinct 9) where it is policy that:

... Development in Selwyn Street be of scale similar to surrounding buildings with buildings greater than two storeys 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.

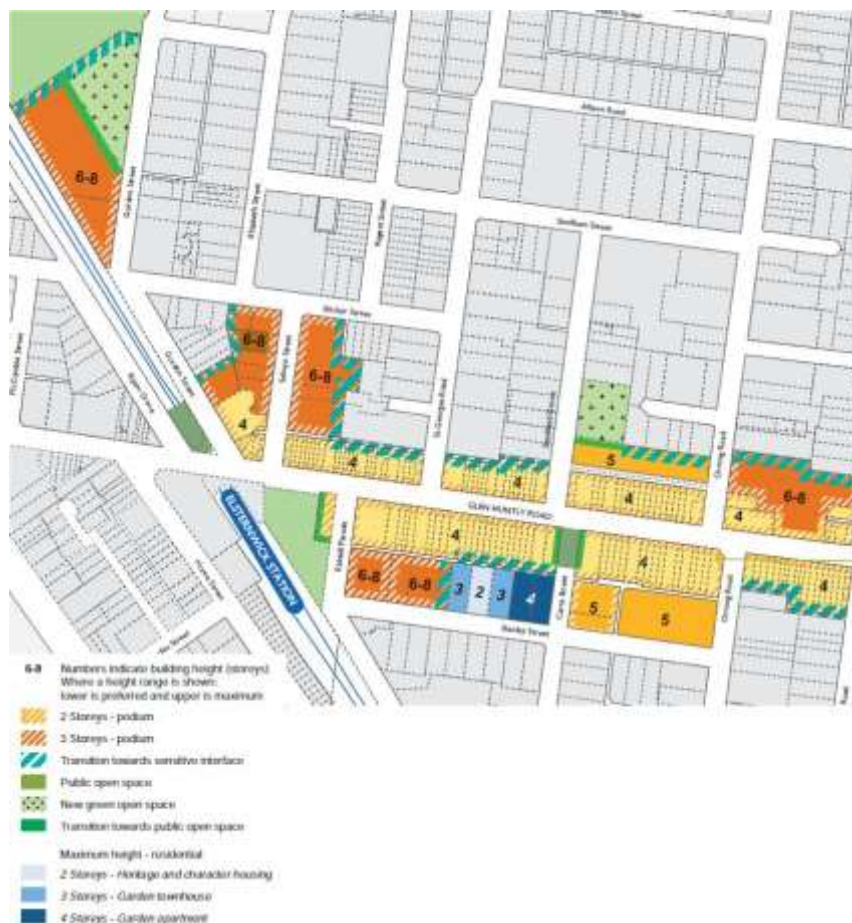
Other relevant State and local policies relating to built form are summarised in Chapter 4.

The MUZ1 does not specify a maximum building height.

(iii) The Elsternwick Structure Plan

The Structure Plan identifies the site as a strategic site, on which podium and tower built form is encouraged with preferred maximum building heights of 6 to 8 storeys, and podium heights of 3 storeys.

Figure 3 Preferred heights and setbacks in the Structure Plan



Source: Elsternwick Structure Plan map 4 – Buildings: Preferred setback and height of commercial area on page 20.

(iv) Urban Design Guidelines of Victoria

The Urban Design Guidelines for Victoria are called up under Clause 15 of the Planning Scheme. They include the following objectives for buildings in activity centres:

- shape the building scale and form to support the existing character or the preferred future character of the area
- set back upper levels of tall buildings or use a podium and tower form to create a pedestrian scale at street level
- ensure the activity centre provides a graduated transition between different building scales and uses
- provide a transition in scale from larger buildings to adjacent areas of smaller scale-built form
- ensure the building facade detail supports the context or preferred future character of the activity centre.

6.2 Building height and street wall height

(i) The issues

The issues are whether the:

- proposed building height is appropriate
- street wall is appropriate.

(ii) What is proposed?

The development proposes:

- an overall building height of 37 metres to roof level, and up to 42.95 metres to the top of the parapet architectural feature
- a podium (street wall) height of 17.39 metres (4 storeys).

(iii) Submissions and evidence

The Applicant called urban design evidence from Craig Czarny, who considered that the building's height should be assessed in the context of the emerging Elsternwick MAC skyline. In his opinion, the tower element would be read among and against a range of forms and foregrounds around the MAC, and would not be foreign or overwhelming. Mr Czarny supported the projection of the building height into the skyline due to:

... a simple calm profile (largely glazed) which contrasts with the more robust wall below. The proportional relationship between the street wall and the rising form above is also in my view complementary when viewed obliquely from the Glen Huntly Road streetscape and other public vantage points (ie Elsternwick Station Reserve) to the south.

Further:

The resulting 3-dimensional composition strongly serves the Selwyn Street profile and sensibly wraps around (the varied alignment of) common boundaries, presenting a strong vertically oriented composition in the panorama. In these aspects, lower foreground forms serve as a podium base (connected with the site), above which rises the simple setback projection into the skyline.

Under questioning Mr Czarny stated that the evolution of built form taking place within the MAC underpinned the opportunity behind the Glen Huntly Road spine to deliver growth by way of taller buildings.

In relation to the street wall, Mr Czarny considered the design to be appropriately compatible with the ambition in the DDO10 for a connected street wall based approach extending south to meet with the established 2 to 3 storey heritage stock on Glen Huntly Road. He considered the podium height, set marginally higher than the 13 metres envisaged within the DDO10, will match the parapet of the Jewish Holocaust Centre, will be in line with the varied profile of the Classic Cinema and will set a complementary horizontal profile to Selwyn Street. He considered that a 4 storey street wall was appropriate having regard for the 20 metre width of the Selwyn Street road reserve.

Mr Glossop (who gave planning evidence for the Applicant) agreed with Mr Czarny that the height of the podium is consistent with the adjoining development to the north (the Holocaust Centre) and south (the Classic Cinema) and results in a consistent street wall height along Selwyn Street.

Council was generally supportive of the building height, but included condition 1(a) on the NOD which states:

- (a) The building reduced in height to a maximum of 37m, except for any architectural features, masts, building services or enclosed stairwells that may exceed this height by no more than 4m.

Council confirmed its commitment to the preferred heights in the DDO10 (rather than the Structure Plan) as being the appropriate tool to guide built form and height.⁴ It submitted that the height within the DDO10 is discretionary, and that *“discretion ought to be exercised and is not a tick box approach”*. In response to the Deacon Group’s argument that the office component of the development should be removed and the height reduced accordingly, Council submitted that height *“ought not be reduced based on land use”*.

Mr McGurn’s planning evidence for Council noted that the main building meets the preferred maximum height in the DDO10. While the continuation of the facade as a *“sculptural component”* was greater than 4 metres in some places:

The higher element of the facade to 42.95 metres will screen the plant equipment and is integrated within the building design. The impact of the additional height on the surrounding area is limited and is an appropriate architectural response to minimise the appearance of building services when viewed from surrounding streets. Having regard to this I consider the overall height and architectural presentation is appropriate under DDO10 particularly given the strategic site designation, the community purpose of the building and the quality of the architectural response.

On the street wall height, Council endorsed the evidence of Mr Czarny and reiterated that the planning and design experts (separately and independently briefed) agreed the street wall height is acceptable given its consistency with the Holocaust Centre to the north and the Classic Cinema immediately to the south. Mr McGurn’s evidence on the street wall was:

The street wall is proposed to be 17.39 metres (and four storeys) high which varies from the preferred street wall height envisioned by DDO10. However, the proposed street wall is consistent with the height of the Holocaust Centre building (under

⁴ Council confirmed during the roundtable that the Minister had extended the DDO10 for 3 months at Council’s request and that Council remained committed to seeing development proposed in line with the DDO10 until further notice.

construction), as well as the 'rooftop' cinema immediately to the south and to that extent is an appropriate approach.

The Deacon Group summarised their concerns in relation to heights:

- the increase in street wall height increases the disparity of the surrounding heritage values
- the increase in the overall building height and street wall height increase the overshadowing to Selwyn Street
- the implication of a higher than recommended podium height creates an inner-city feel rather than the inner suburban setting that it is.

The Deacon Group submitted that the height of the proposal will dominate and overwhelm the heritage precinct and Glen Huntly Road. They submitted that the height of the building is based on the office use component that has little to no nexus to the Kadimah Centre or the Arts and Entertainment Precinct. They submitted that unreasonable off-site amenity impacts by way of overshadowing to the private and public realms would emerge as a result of the height of the building, and the height should be reduced by removing all levels of office.

The Rader Group submitted that *"just because a particular height is referred to (under the DDO10) it does not mean that the height is appropriate in its context"*. They urged a more nuanced approach that has regard for the sensitivity of the residential interface with the Gordon Street apartments. Their opposition to the proposed height stemmed from a perceived failure to respond to the amenity of the surrounding area (calling up Clause 22.05-2) and the design objective of DDO10 that requires an *"appropriate design response to identified sensitive interfaces ..."*

(iv) Discussion

The Committee appreciates the concerns of the objectors in relation to the height of the proposed development. It is clear that the Elsternwick MAC has, and continues to undergo substantial change. The introduction of taller buildings along the east-west spine of Glen Huntly Road, around the train station, east of Nepean Highway, and behind the Glen Huntly Road spine represents a relatively high degree of change to the built form context of the area.

Elsternwick is identified as a MAC in Plan Melbourne and the Planning Scheme. Plan Melbourne sets development intensity expectations which are reflected in Clause 11.03-1R (Activity Centres) of the Planning Scheme and cascade throughout the Municipal Strategic Statement and Planning Policy Framework. These expectations are ultimately grounded in the DDO10 and framed by the Structure Plan.

From a policy perspective, this site – and others within the MAC that share strategic development site status and benefit from proximity to transport infrastructure and established amenities – are envisaged to undergo extensive change. An intended consequence is that taller buildings will emerge, and in fact are encouraged.

Council provided the Committee with a development analysis (Document 72) that documents 12 examples of existing, approved or constructed buildings within the MAC that range from 22.1 metres (7 storeys) to 38.85 metres (12 storeys). The Committee gives this analysis significant weight in demonstrating the expectations and location of height within the MAC, together with the Committee's observations on its site inspection.

The Committee acknowledges that there is a discrepancy between the heights in the DDO10 and those contemplated in the Structure Plan. The Structure Plan is a background document referenced in the DDO10 and does not have the status of an incorporated document (or development controls within the Planning Scheme) or carry the same weight in guiding planning decisions.⁵ The DDO10 is the prevailing tool of assessment for this proposal.

The DDO10 sets a discretionary maximum building height for the site of 37 metres (excluding architectural or building services below 4 metres). The proposed building height is 37 metres plus an additional 4.962 metres for the parapet. The decision guidelines within the DDO10 require the Committee to consider:

- the extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the pedestrian network
- whether proposed buildings in the vicinity of a heritage place are respectful of that heritage place
- the impact of overshadowing to the public realm
- whether any building in Precinct 5 or 6 that exceeds the maximum preferred building height:
 - demonstrates 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 Committee agrees with the planning and urban design evidence that the height of the podium and tower (read separately and together) are an appropriate response to the immediate and broader site context having regard to the directives of the Planning Scheme and the outcomes sought to be delivered within the MAC.

The Committee supports the height of the tower and overall built form having regard to:

- the discretionary heights within the DDO10
- consistency with the higher order policy imperatives for the MAC and the reasonable expectation for taller built form to respect and be secondary to the more sensitive Glen Huntly Road shopping strip
- the topography of the surrounds offsetting the prominence of the built form, particularly when viewed from the east
- the architectural quality of the built form (considered in more detail in Chapter 6.4)
- the framing of the built form from vantage points in and around the MAC.

The Committee does not consider that the parapet height should be reduced to a maximum of 4 metres as proposed condition 1(a) of the NOD. This would necessitate the parapet being broken into two curved sections, compromising the sweeping single curve proposed. The additional 1 to 2 metres would make little if any difference to the way in which the building height reads from the pedestrian realm.

The Committee accepts that the street wall height:

- provides a contiguous street wall that is complementary to the neighbouring Holocaust Centre and Classic Cinema

⁵ Planning Practice Note 13: Incorporated and background documents

- achieves a human scale that is proportionate to the width of Selwyn Street and respectful of the public realm expectations of Selwyn Street being the heart of the Elsternwick Cultural Precinct
- will not detract from the broader heritage precinct objectives or the intactness of the Glen Huntly Road shopping strip.

(v) Findings

The Committee finds:

- The proposed building height is appropriate within the existing and emerging built form context.
- There is no need to reduce the parapet height to a maximum of 4 metres as proposed in condition 1(a) of the NOD.
- The street wall height is appropriate having regard for the existing and emerging street wall heights envisaged for Selwyn Street.

6.3 Setbacks

(i) The issues

The issues are whether the setbacks are appropriate in terms of:

- building mass
- equitable development for neighbouring sites.

(ii) What is proposed?

The setbacks are described in Chapter 3.2.

(iii) Submissions and evidence

The Applicant submitted that, save for a minor variation of the Selwyn Street setback above the podium (4.95 metres in place of 5 metres), the upper level setbacks either comply with, or exceed, the preferred setback requirements of the DDO10. It submitted that the consistency with the discretionary outcomes in the DDO10 is the manifestation of a design that is responsive to its policy and built form context.

Both Mr Czarny and Mr Brown (the project architect) spoke to the appropriateness of the setbacks in relation to development opportunities, the immediate site interfaces and the broader urban context. Council supported the proposed setbacks including the zero street wall setback to Selwyn Street and the setback to the tower above (slightly reduced from the DDO10's preferred outcome of 5 metres).

The most controversial aspect of the proposed setbacks was the treatment of the interface with the Gordon Street apartments. Mr Czarny described the DDO10 as *"indicating a rather simplistic 6 metre setback to be applied to adjoining sites in the MUZ"*, and noted that at this interface the upper levels have been set back almost 10 metres and are aligned so as to ensure that balconies on the Gordon Street apartments retain a *"relatively open aspect"*.

The Rader Group vehemently opposed the setbacks at the interface with the Gordon Street apartments. Ms Rader provided detailed submissions on the perceived impacts of the proposal on the amenity of the apartments including overshadowing and compromising of outlook. She

submitted that several of the east facing apartments currently have a clear view through the site which will be blocked by a very large building built very close to the boundary. Ms Rader submitted that irrespective of the Commercial 1 zoning of that part of the apartment site, or the existing minimal setbacks of the apartments, the proposal should respect the amenity of apartment residents by adopting increased setbacks at this interface.

Relying on the evidence of Mr McGurn, Council submitted that the interface with the Gordon Street apartments was appropriate. Mr McGurn's evidence was that, notwithstanding that the Gordon Street apartments are not designated as a sensitive interface by the DDO10, the tapered setback to the apartments largely meets and exceeds the DDO10 setback requirements. His evidence was that:

The outcome of this splayed setback is in my view an improved outcome, relative to the setbacks sought by DDO10 as it will provide better opportunities for outlook and reduced overshadowing of the apartments.

The Deacon Group invited Mr McGurn and Mr Glossop to consider the appropriateness of including a 6 metre setback along the northern boundary of the site (in line with the DDO10 preferred outcomes) to provide for laneway and pedestrian link through the site. The Deacon Group submitted that this would result in a more appropriate amenity outcome for the Gordon Street apartments.

All the experts who considered the matter agreed that the inclusion of a laneway along the northern boundary would not be appropriate. It would not connect or link to a destination, would be counter-intuitive and would contradict to the broader objectives for the cultural and arts precinct and urban design objectives to provide a continuous human scale street wall and upgrades to Selwyn Street to create a pedestrian realm. Mr Glossop's evidence (for Council) on this point concluded:

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 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.

(iv) Discussion

The decision guidelines of the DDO10 require consideration of:

- whether development responds to the design objectives of the DDO10
- the extent to which proposed buildings respect the preferred scale and form of development, particularly when viewed from the pedestrian network
- whether proposed buildings are sensitively designed to avoid views into secluded private open spaces and habitable room windows of dwellings on adjacent land.

The zero-lot line setback of the street wall for the length of the Selwyn Street frontage complies with the preferred setbacks in the DDO10. The Committee considers that the zero-lot line setback will reduce the visual impact of the building's height by providing a consistent street wall along Selwyn Street. The zero setback is compatible with the buildings to the north and south and has regard to the Cultural Precinct aspirations for activation and public realm engagement.

The setback above the podium is consistent with the intent of the DDO10's preferred 5 metre upper level setback. The minor variation (0.05 metres) is inconsequential to how the building will be read and will not detract from the podium and tower form that is encouraged within the

DDO10, the Structure Plan and Council's Quality Design Guidelines for Commercial and Mixed Use Areas.

Much discussion centred around the proposal's response to the Gordon Street apartments. The Committee is acutely aware of the concerns of the residents of the east facing apartments in relation to not only the proposed development, but the cumulative impact of the Holocaust Centre redevelopment. Both developments will impact significantly on their outlook. Ms Rader's photographs of the Holocaust Centre under construction, taken from her balcony, were particularly informative in this regard.

Ultimately the Committee agrees with the submissions put forward by the Applicant and Council, endorsed by each of the planning experts, that the policy settings for the Elsternwick MAC at a State and local level, the DDO10, the Structure Plan and other relevant strategic documents, set the scene for substantial change in and around Gordon Street. Those who reside among and within proximity to the MAC should reasonably expect substantial change.

The DDO10 is specific and purposeful in not identifying the interface between the subject site and the Gordon Street apartments as a 'sensitive interface'. No doubt there are sensitivities that need to be protected, however this interface is not required to adopt the sensitive interface setbacks specified in the DDO10. In this instance the imperatives of the higher order policy context prevail, and the built form and side and rear setbacks need to respond to this interface in a site-specific manner that adopts a contextual response rather than meeting specified metrics.

The setbacks at the interface with the Gordon Street apartments are fairly described as 'sliding away' as the building rises. Setbacks range from 2.8 metres at the mezzanine level, increasing to 9.695 metres at the upper levels. This is to be read in conjunction with the north-western alignment of the shared boundary and the orientation of the Gordon Street apartments. When read in totality, the orientation of the buildings accentuates the separation provided by the setbacks, particularly at the upper level apartments. That said, the Committee acknowledges that the current outlook from the east facing apartments will be dramatically different once the proposed development (and the adjacent Holocaust centre) are completed.

The appropriate test for setbacks at this interface is ultimately one of reasonable expectations. What is reasonable depends on the site's context and the prevailing planning controls on the site and in the area. The Committee does not consider that the reasonable amenity expectations of the Gordon Street apartment residents is in jeopardy. While the outlook currently available to the east facing apartments will change dramatically, this is not regarded as unreasonable given the activity centre context.

(v) Findings

The Committee finds:

- The proposed setbacks achieve the podium and tower form envisaged within the DDO10, provide for appropriate levels of development equity to neighbouring sites, and respond appropriately to the interface with the Gordon Street apartments including in relation to outlook.

6.4 Design quality

(i) The issue

The issue is:

- whether the proposed development is of appropriate design quality.

(ii) Submissions and evidence

Mr Brown provided an overview of the design narrative noting that the proposal sought to become the cultural heart of the region, and one that incorporates symbols of the Jewish faith into the fabric of the building. He spoke of the significance of the building shape and lot orientation and the cues it has taken from the proposed Selwyn Street pedestrian precinct, including the consideration of footpath expansion and wayfinding improvements. He articulated the intent of the arrival experience at street level, as well as the configuration of the floorplates that seek to engage with visitors and provide dynamic exhibition experiences.

Mr Czarny's urban design evidence stated:

The proposal is particularly well framed with respect to its ground-level, with a clearly defined street address, foyer and cafe with well concealed service openings presented as glazed (tilt up) walls to the street. The configuration of the proposed exhibition space is of a generous proportion, suitably flexible and enclosed (as required) with co-working space above (levels 5-9) of an open flexible profile, with substantial open glazed outlook and opportunity for daylight penetration from three sides and cross ventilation. The overall configuration of the proposed building is strongly oriented towards the Selwyn Street – which will in due course serve as a critical public realm and pedestrian space as designated by Council.

Mr Czarny's evidence commended the textured precast podium as *"floating above the visually transparent ground plane"*, with *"its solidity tempered through horizontal and vertical variation, judicious terrace perforations and dynamism through interplay of texture, light and shadow"*.

Mr Glossop deferred to Mr Czarny on urban design, but observed that in response to the design objective of the DDO10, the proposal demonstrates a high level of architectural quality and makes a positive contribution to the public realm.

Mr McGurn's evidence notes:

This type of contemporary architectural response, of scale and 'robust' detail complements the nature and purpose of the community building and its commercial setting.

(iii) Discussion

To the credit of the project architect and his team, most parties and all experts unanimously agreed that the presentation, function and form of the proposal demonstrates architectural excellence.

The building adopts the preferred podium and tower typology promoted by the DDO10 and the Structure Plan. The street wall is distinctive and visually stimulating. The ground level provides visual permeability through to the foyer, promoting active engagement with the public realm, and the inset entry provides visual cues for wayfinding as well transition and shielding into the building. The horizontal and vertical elements, spacing and curvature of the parapet present nuanced fabric

that, in the view of the Committee, interprets the rich Jewish history of calligraphy and literature in a highly successful way.

The Applicant described the tower component as a 'beacon' for the Jewish community. The Committee agrees. The tower will rise above the surrounding built form (which itself varies in height), presenting a strong but calm visual presence in the skyline of the MAC. It concurs with Mr Czarny's opinion that the proposal adopts tactile and visually interesting materiality and expression at the street interface, with the tower presenting a more simplistic calm appearance in the skyline above. The Committee supports the clear distinction employed in the choice of materials at the street and upper levels, noting the street form accords with the scale of the adjoining Jewish Holocaust Centre, and usefully contrasts with intricate heritage facades of the former Fire Station on Selwyn Street and the Glen Huntly Road shops.

The Committee agrees that the built form, either at street level, when broadly visible within the MAC context, or in totality, is an exemplar of architectural quality that will make a positive contribution to the public realm.

(iv) Findings

The Committee finds:

- The proposed development is of exemplar design quality.

6.5 Overshadowing impacts

(i) The issue

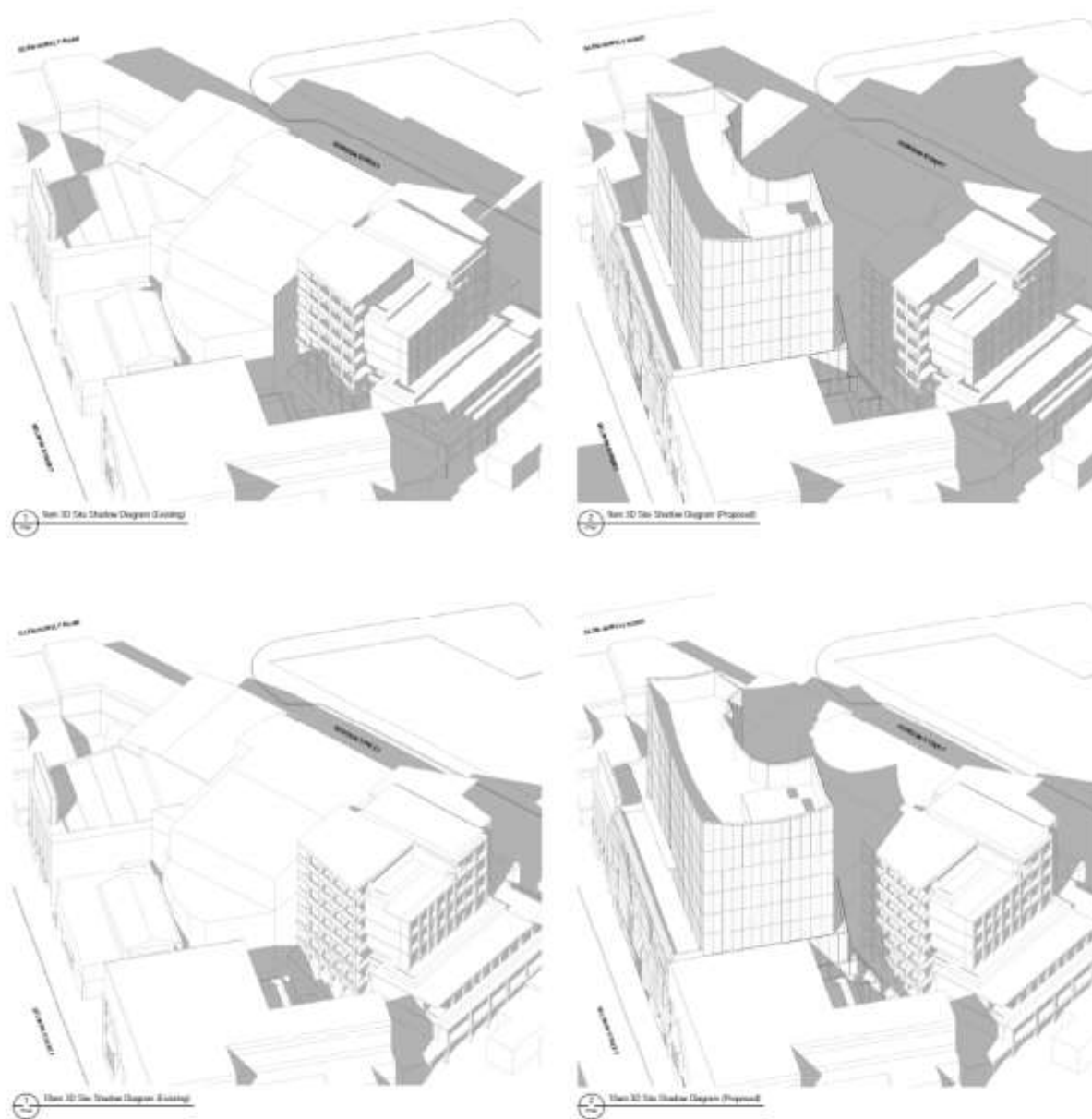
The issue is:

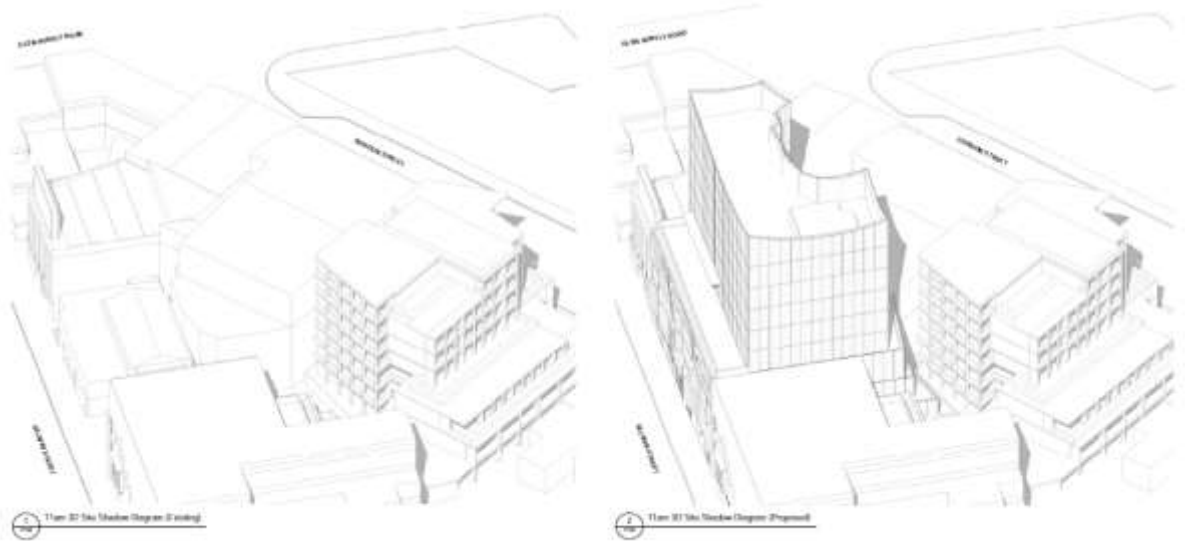
- whether the overshadowing impacts of the proposed development are acceptable.

(ii) What is proposed?

The proposed built form will increase overshadowing to the public and private realm, principally Selwyn Street and the Gordon Street apartments. Impacts on the Gordon Street apartments are demonstrated in the shadow diagrams extracted in Figure 4 below.

Figure 4 Shadow diagrams showing overshadowing of the Gordon Street apartments





Source: Document 103

(iii) Submission and evidence

The Applicant submitted that the overshadowing impacts to the public and private realm are commensurate with the reasonable expectations of a MAC, and are not unreasonable having regard for the inherent shadowing that will occur from the north-south orientation of Selwyn Street. The Applicant submitted that the shadowing impacts are proportionate when contemplating the community benefit and contribution of the proposal to the arts and cultural precinct.

The Applicant acknowledged the sensitivity of the residential interface (albeit noting that the Gordon Street apartments are in the Commercial 1 Zone). During the overview of the design presented on Day 1 of the roundtable, Mr Brown explained that the interface with the Gordon Street apartments was a ‘foundational’ design parameter within the architectural brief, which sought a balanced, reasonable response by way of setbacks and height, while maintaining the integrity of the building.

Mr Czarny addressed overshadowing to the public realm, noting that the positioning of the built form and its height retains solar access to the east side of Selwyn Street in the afternoon (up to 3pm at the equinox), which he considered appropriate to ensure the retention of effective public amenity.

Council submitted that overshadowing to Selwyn Street would largely not occur until after 2pm, and that the overshadowing to the public realm is consistent with the design objectives in the DDO10. In relation to overshadowing of the private realm, Council relied on Mr McGurn’s detailed analysis of the shadow impacts on the 14 east facing Gordon Street apartments, observing:

- the key impacts will occur at the Ground Level to Level 6 at 9am and 10am
- at 11am, one ground level apartment remains in full shade with the remaining apartments experiencing either no or partial shadowing from the proposed development
- there is no impact from the proposal from 12pm onwards.

Mr McGurn’s evidence further articulated the context in which the Committee may consider the expectations of the Gordon Street apartments:

The [apartment] building has been developed with relatively limited setbacks and faces the subject site, rather than an aspect over a street. Given the Activity Centre location and Commercial 1 Zone as well as DDO10 it is anticipated that larger buildings will co-exist. As such I consider that there is a legitimate expectation for shadow impacts of this nature, and I consider that the impact is acceptable having regard to the Activity Centre context and policy setting.

Council submitted the overshadowing of the apartments is an acceptable outcome having regard to:

- the Commercial 1 zoning of the most impacted eastern part of the apartment land
- the location of the apartments in the MAC where high-density residential uses and commercial uses are encouraged to co-exist
- the absence of specific overshadowing considerations for residential properties identified in the MUZ1 or the Commercial 1 Zone or other applicable policy
- the proposed setbacks from the western boundary largely exceed those sought by the DDO10.

The Rader Group submitted that the residents purchased their apartments ‘off the plan’ and with an understanding and legitimate expectation that the amenity sold to them would be protected. They submitted that the shadowing to the east facing apartments is a marked interference with their residential amenity and the treatment of the apartments as a non-sensitive interface is an unduly harsh and unjust approach that fails to consider residential amenity as outlined within policy.

The Deacon Group endorsed the Rader Group’s submissions, adding that the building will cause unreasonable overshadowing and will result in the loss of daylight to the apartments. They suggested that the impact on overshadowing and loss of daylight is significant, noting that many of the apartments already do not receive five hours of sunlight between 9am to 5pm because of the orientation of the apartment building. They submitted that the proposal compounds this problem due to its height, bulk and inadequate setbacks and does not afford equitable development of adjoining properties.

The Deacon Group submitted that the DDO10 sensitive interface setbacks should be applied despite the shared boundary not carrying a ‘sensitive interface’ status under the DDO10. They questioned why, from a practical and fairness perspective, the interfaces are not treated as sensitive by the DDO10, and submitted that the sensitive interface setbacks, if applied, would reduce overshadowing and off-site amenity impacts.

The Deacon Group submitted that the proposal would overshadow the future footpath trading area in Selwyn Street and thus negatively impact the experience of outdoor dining in this entertainment precinct. They submitted that the amended shadow diagrams presented by the Applicant during the roundtable process (Documents 103 and 104, discussed in more detail in Chapter 2.4(ii)) demonstrated that the shadowing impacts on Selwyn Street were worse than the application material suggested, in that shadow impacts would begin an hour earlier than the application diagrams showed.

(iv) Discussion

Overshadowing to the public and private realms drew much examination throughout the roundtable discussion. The Committee acknowledges the objectors’ concerns, and considers that the Applicant was forthcoming in providing additional shadow diagrams in Documents 103 and 104 to assist the roundtable discussions and the Committee’s deliberations.

There is limited consideration of overshadowing for residential properties in the MUZ1 or the Commercial 1 Zone. Similarly, there is limited site-specific policy considerations within the Planning Scheme that seek to control overshadowing within the MAC context. The DDO10 seeks that buildings should minimise overshadowing impacts on existing and future open spaces, commercial footpath-trading areas and existing residential sites. There are no metrics to test the overshadowing impacts within the DDO10, with the decision guideline requiring the broad consideration of 'the impact of overshadowing to the public realm'.

Fundamentally the Committee adopts the guidance set out within the DDO10 that seeks to 'minimise' as opposed to 'prohibit' overshadowing. The Committee agrees with Mr McGurn that buildings within activity centres must co-exist and consequently, reasonable expectations in relation to amenity and change are different in an activity centre context to those that would apply in a residential context.

The updated shadow diagrams in Document 103, with daylight-saving switched off, revealed a significantly better shadowing outcome for the east facing Gordon Street apartments. These updated diagrams demonstrate that the majority of east facing apartments would be unaffected by shadow cast from the proposal from 10am onwards. The Committee is comfortable that the overshadowing to the west has been minimised, and is an appropriate outcome given the zone and policy context of the Elsternwick MAC.

There was some discussion at the roundtable of the possibility of creating a chamfer of the north-western corner of the tower, as shadow modelling revealed that this section of the building contributed the most to the overshadowing to the apartments to the west. On balance, the Committee finds that the overshadowing to the west is within a reasonable range that can be expected within the activity centre context, and therefore does not consider that the chamfer is necessary. Further, the chamfer could detract from the design's integrity without returning proportionate benefits in terms of a reduction of shadows.

The Committee is cognisant of the north-south orientation of Selwyn Street and the implied expectation that built form envisaged under the DDO10 in the range of 9-10 storeys will result in overshadowing to the public realm. Further, the Committee accepts that unlike other activity centres within Glen Eira that exhibit an east-west orientation (and therefore contain heightened shadowing performance standards to protect the southern sides of the main spine streets), the DDO10 deliberately excludes restrictive overshadowing tests. The Committee is comfortable that the level of overshadowing to Selwyn Street, including that shown in Document 103 with daylight savings switched off, is appropriate given the context.

(v) Findings

The Committee finds:

- The proposal will not result in unreasonable off-site amenity impacts by way of overshadowing to the public or private realm.

7 Traffic and parking

7.1 What is proposed?

(i) The application

The application proposes:

- a waiver of the statutory requirement to provide 231 car parking spaces
- a 41 square metre loading bay inside the proposed building, accessed from Selwyn Street in a new location to the south of the existing crossover.
- 40 on-site bicycle parking spaces within the mezzanine level, with power points adjacent to some spaces to charge electric bicycles
- six shower and change rooms, and lockers for bicycle riders.

Ten bicycle parking spaces are also proposed within sections of the widened footpath at the northern and southern ends of Selwyn Street.

The application material included a Traffic Impact Assessment and an Integrated Transport and Access Plan (ITAP), both prepared by Ratio Consultants. The Traffic Impact Assessment described the precinct street network in detail. The ITAP includes a Green Travel Plan in section 6 that aims to reduce the frequency of single-occupancy trips, and includes strategies, targets and actions designed to encourage walking, cycling and public transport trips to the site in preference to private vehicle trips. The Green Travel Plan is the principle ground for seeking a waiver of the statutory car parking requirement.

(ii) The Notice of Decision to Grant

The NOD includes conditions that:

- require an updated ITAP including a Green Travel Plan to be approved before development commences
- limit the patron numbers at the museum and performing arts centre to 300 respectively
- limit the hours of operation of the museum and performing arts centre – the only time they can operate concurrently is 1pm to 5pm Sunday.

(iii) The Selwyn Street upgrades

Council proposes upgrades to Selwyn Street, described in the Elsternwick Cultural Precinct Plan as a reallocation of space to create *“a public realm not trafficable by vehicles, using wider footpaths and appropriate urban design treatments”*.

Council’s final adopted concept design for the Selwyn Street upgrades is shown in Figure 5 on the following page. The upgrades essentially propose to restrict through traffic in Selwyn Street between Glen Huntly Road and Sinclair Street (not a complete closure), allowing only short term set down and pick-up parking. The site will only be able to be accessed from the south (Glen Huntly Road). Vehicles leaving the site will be able to exit northward to Sinclair Street.

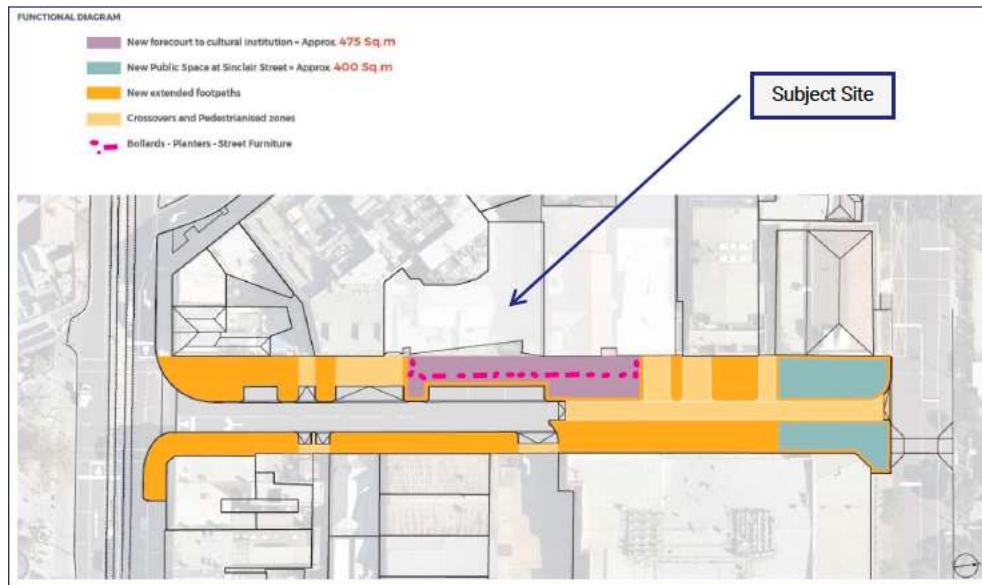
Other key traffic features of the Selwyn Street upgrades include:

- removal of most on-street car parking in Selwyn Street
- the creation of a dual length bus bay on the south side of Sinclair Street, immediately west of Selwyn Street, to accommodate up to two buses

- the retention of the existing Disabled (Accessible) Parking space on the west side of Selwyn Street
- the retention of the existing '1/4P' parking space on the west side of Selwyn Street to accommodate a minimum of two vehicles for taxis, ride share and set down/pick-up
- the creation of a 'Car Share' space on the west side of Selwyn Street, to the north of Glen Huntly Road, for the general community including staff of the proposed development.

The application plans were prepared with regard to the Selwyn Street upgrades.

Figure 5 Council proposal for Selwyn Street upgrades



Source: Ms Dunstan's traffic evidence (Document 49)

7.2 Car parking

(i) The issues

The issues are whether:

- a full waiver of the statutory parking requirement is appropriate
- the proposed on-street parking outcome is appropriate.

(ii) Relevant considerations

The statutory carparking requirement under Clause 52.06 of the Scheme for the proposed development is 231 carparking spaces. No parking is proposed on or off-site, and the Applicant seeks a full waiver of the statutory requirements.

Clause 52.06-7 indicates that an application to reduce the requirement for car spaces must be accompanied by a Car Parking Demand Assessment.

Council adopted its Integrated Transport Strategy in 2019 to provide strategic direction for future structure plans and policies. Key features of the Integrated Transport Strategy are summarised in Table 3 on page 18.

(iii) Submissions and evidence

Parking demand generated by the development would primarily be short-stay parking associated with visitors to the museum and performing arts centre. Long-stay parking demands could also be generated by employees and users of the co-working office spaces. The Ratio Traffic Impact Assessment noted that there would be a variation of parking demand over time. Demand generated by the office space would peak during business hours. The learning workshop, museum and performing arts centre were expected to peak during evening and weekend periods. It would be highly unlikely that the performing arts centre and museum would both be at capacity simultaneously. The assessment also noted that many patrons would not drive to the site during the Jewish Sabbath period (from sunset Fridays until Saturday evenings).

The Traffic Impact Assessment included a Car Parking Demand Assessment that included a survey of parking currently available in the area. When the surveys were undertaken, the only COVID-19 restrictions in place were international travel bans. No restrictions were in place to limit the movement of people in the community, or their ability to gather, work or other enjoy other activities. The Applicant submitted that the survey results were therefore representative of typical conditions, and not influenced by restrictions relating to the COVID-19 pandemic.

The Applicant called Mr Gnanakone of One Mile Grid to peer review the Traffic Impact Assessment and provide independent traffic and parking evidence. His assessment was consistent with the conclusions of the Ratio Traffic Impact Assessment that parking demand will vary throughout the week with the varying peak operating periods of the various proposed uses. He agreed with the Ratio assessment that employees and office users will typically generate a peak demand during business hours, while the museum, performing arts centre, and learning workshop would more likely create peak demand in the weekday evenings and weekend periods.

Mr Gnanakone considered that the statutory rate of 0.3 spaces per patron for the museum and performing arts centre was high, and a more realistic rate would be between 0.1 and 0.2 given the site's accessibility to public transport and the provision of a substantial number of bicycle parks and end of trip facilities. He calculated that the museum and performing arts centre would generate a car parking demand of between 30 and 60 spaces each. He assumed no more than 450 patrons of the museum and performing arts centre would likely be present on the site at any one time, resulting in a total demand of 45 to 90 spaces for both the museum and performing arts centre when operating concurrently.

Consistent with the Ratio assessment, Mr Gnanakone's evidence was that long term on-street parking in the surrounding area is currently heavily restricted, and any unrestricted spaces are very well utilised. Mr Gnanakone noted that when on-street parking is heavily restricted or in short supply, staff will generally utilise alternative transport modes. His evidence was that the restricted long term parking in the area, combined with the accessibility of this site to alternative transport modes, mean that staff will likely utilise alternative transport.

Mr Gnanakone considered discussion around existing patterns of car parking to be of marginal value, given the strong policy imperatives about relying less on motor vehicles and more on public transport, walking, and cycling. He stated:

Census data from 2011 or 2016 is simply a snapshot in time, a base point, and such data should not be given much weight in determining what number of car spaces should be provided in future, for dwellings with different bedroom numbers.

Mr Gnanakone concluded that fully waiving the parking provision is appropriate for this development, for the following reasons:

- The site has excellent access to public transport and the surrounding bicycle network, which will reduce reliance on private motor vehicles to access the site.
- The provision of bicycle parking in excess of the statutory requirement will encourage the use of sustainable transport modes, and reduce dependence on private motor vehicles.
- The Elsternwick MAC includes a wide range of uses which peak at different times of the day and week, with shared car parking resources available.
- Due to the restrictions on parking in the area, staff will be encouraged to change their travel behaviour. Any staff that do require a car space have the ability to lease a space elsewhere in Elsternwick.
- While the surveys demonstrate limited parking availability, resident parking will be protected through the current permit zones which are in place from 6pm and enforced by Council.

He also noted that car parking and traffic are directly related. More available car parking generates higher traffic volumes.

Council called traffic and parking evidence from Ms Dunstan of Traffix. She also undertook a carparking supply and demand assessment. Her parking supply survey was undertaken in March 2021. The results of Ms Dunstan's survey were broadly consistent with those of the Ratio survey, including the moderate to high demand for on-street parking in the vicinity of the site.

Similar to Mr Gnanakone, Ms Dunstan considered that the statutory parking rate of 0.3 car spaces per patron for the museum and performing arts centre (resulting in a provision of 90 spaces for each) was highly conservative. She considered a lower rate of 0.15 car space per patron is more realistic, given the site's excellent access to public transport, that it will serve the local community who may walk to the venue and that there is limited parking in the immediate area (making it more likely that patrons will rely on alternative transport modes).

Ms Dunstan's interpretation of the application and the NOD conditions was that the performing arts centre would largely be an evening use, and the museum a daytime use. The performing arts centre space could support the museum during the day, by holding separate performances, but it would be highly unlikely that there would be 600 patrons on-site at any one time. Ms Dunstan was satisfied that a more realistic likely maximum would be 300 patrons on-site at any one time. On that basis, she calculated an actual demand of 48 spaces for the performing arts centre and museum combined.

Ms Dunstan concluded that the full carparking waiver is unlikely to have a negative impact on the Elsternwick MAC, and should be supported. Her reasons were largely consistent with those of Mr Gnanakone, although she added that it would be impractical to provide any meaningful level of car parking on the site given its size and the design of the proposed development.

The objectors were concerned that the complete absence of on-site parking would create an entirely unacceptable outcome that will impact on the amenity of existing residents, and was not appropriate given the demand that will be generated. They submitted that parking in the area is already stretched beyond acceptable limits, and the situation will be exacerbated by the demands generated by other developments in the precinct including any amended proposal for the Fabcot site. While the objectors appreciated that car dependence is sought to be reduced, they submitted that a waiver of this magnitude should not be supported in this location. There is no

cogent reason why the provision of (at a minimum) staff and/or visitor car parking is not provided on-site, particularly when there is a three level basement in the proposed development.

The Council officer's report dated 1 September 2020 supported the full waiver of the statutory parking requirement, noting that the site has access to excellent public transport and convenient pedestrian and cyclist access, is conveniently located within a MAC, and that patrons will likely make multi-purpose trips within the MAC. The officer's report noted that the Traffic Impact Assessment included an empirical assessment demonstrating that actual car parking demand would be much lower than that anticipated by the Planning Scheme. It concluded that the factors required in the Green Travel Plan weigh in favour of a reduction of car parking, and support a holistic approach to the sustainable management of transport associated with the use.

Mr McGurn's planning evidence for Council was that the contribution and significance of the land uses and support of the pedestrianised cultural precinct should be favoured over the provision of car parking, which will have intermittent usage and will be difficult to accommodate efficiently on-site.

(iv) Discussion

The consultants' opinions broadly aligned, in that it is reasonable to conclude that there would be an increased demand for carparking as a result of the proposal. It is also reasonable to expect increased demand from the opening of the redeveloped Holocaust Centre, which has an almost full reduction in on-site parking requirements.

Ms Dunstan and Mr Gnanakone made different assumptions about the likely extent of the increased demand, based on their differing assumptions regarding the maximum numbers of patrons on the site at any one time. While neither thought it likely that there would be 600 patrons on-site simultaneously, Ms Dunstan considered that a maximum of 300 patrons was likely at any one time, while Mr Gnanakone assumed a maximum of 450 patrons.

Accordingly, Mr Gnanakone considered that the use is likely to generate a demand for between 45 and 90 additional spaces, whereas Ms Dunstan calculated the demand at 48 additional spaces.

The Committee acknowledges the concerns of the objectors, and recognises that an increase in parking demand in an area already under pressure can result in practices such as double parking and parking across driveways. Examples of this were provided by Ms Rader. These types of behaviours can be frustrating and can have real impacts on the amenity and safety of residents in the surrounding area.

Different options were put forward as to how any increased demand could be managed, including further restricting on-street parking, employees leasing parking spaces off-site, Council providing new carparking infrastructure elsewhere, and the Jewish Arts Quarter securing car parking in other developments. The objectors proposed that underground carparking should be provided in the basement of the proposed development.

In the Committee's view, options for managing the increased demand are not the key issue in assessing the appropriateness of a full waiver of carparking requirements. The key issue is whether visitors and employees are likely to use alternative transport modes. The successful implementation of the Green Travel Plan is fundamental to lessening the reliance on car use within the precinct. How will the outcomes of the Green Travel Plan be monitored, and by whom? What will be the impact on the precinct if parking demand cannot be successfully reduced, particularly

during a transition toward achieving the 50:50 mode share split aspired to in Council's Integrated Transport Strategy?

On balance, the Committee supports a full waiver of the statutory parking requirements for the development. The Committee has found that there is significant strategic justification for the proposed development, and the proposed development will deliver significant net community benefits that outweigh the immediate impacts of the development. The site is extremely well served by public transport, and cycling and walking is likely to increase in attractiveness with the completion of the Selwyn Street upgrades. Cycling for staff and users of the co-working spaces will be further encouraged by the provision of high quality easily accessible bicycle parking and end of trip facilities in the proposed development.

Further, and perhaps more critically, there is strong policy support for mechanisms that force a shift away from reliance on private vehicles. The Committee agrees with the experts that suppressing supply by restricting parking opportunities can be an effective way of forcing this behavioural change. However, behavioural change cannot be reasonably expected to occur immediately and some period of transition should be expected and anticipated. The Committee sees merit in adopting a precautionary approach to car parking in anticipation of a transition period before the Green Travel Plan is fully implemented.

In response to the different assumptions made by Ms Dunstan and Mr Gnanakone on maximum patron numbers, Council proposed some drafting changes to condition 19 of the NOD to clarify that no more than 450 patrons are allowed on the site at any one time.⁶ The Applicant accepted the 450 maximum, noting that this could only occur between 1pm and 5pm on Sundays when the operating hours of the museum and performing arts centre overlap.

The Committee considers that a control limiting the maximum number of patrons at any time would be prudent until the Green Travel Plan has been monitored and assessed by Council and demonstrated to be effective. The Applicant and Council have agreed to capping patron numbers to 450 people, but the Committee finds that this should include all attendees, including staff, performers, patrons, visitors and users of the co-working spaces. The Committee considers that some draft changes are required to Council's redrafted condition 19(b) to make this clear, and has included these in its recommended permit conditions in Appendix E (as new condition 21).

The cap on persons present on-site could be implemented through the Venue Management Plan, but until the Green Travel Plan has been demonstrated to be effective, the Committee considers that the cap is more appropriately applied through a condition on the permit. The Committee expects that the maximum attendance could be increased once Council undertakes future annual assessments of the Green Travel Plan and other Management Plans holistically. The Committee therefore supports the cap being subject to a secondary consent mechanism, as proposed by Council in its redrafted condition 19(b). This is included in the Committee's recommended condition 21.

(v) Findings

The Committee finds:

- It is appropriate to fully waive the 231 car parking spaces required by Clause 52.06.

⁶ Document 105

- The permit should include a condition limiting the total number of persons on-site at any one time to 450 unless otherwise approved by Council, until such time as the Green Travel Plan has been demonstrated to have been effective in reducing private car based trips to the site (see Appendix E).
- In considering whether to lift or remove the 450 person cap, Council should consider the implementation and annual reviews of the Green Travel Plan, implementation of the Venue Management Plan, and any other developments that impact on parking in the area.

7.3 Traffic impacts

(i) The issues

The issues are whether:

- the impacts of the proposed development on the broader traffic network are acceptable
- cumulative impacts with surrounding uses and developments can be adequately managed.

(ii) Relevant considerations

Clause 65 of the Planning Scheme requires consideration of (among other things) the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

The Structure Plan and Integrated Transport Strategy are particularly relevant to the consideration of traffic impacts. Key features are summarised in Table 3 on page 18.

(iii) Submissions and evidence

The Deacon Group submitted that there had not been adequate consideration of the increased traffic that the proposed development could generate, and impacts on the immediate vicinity. The Selwyn Street upgrades would mean that traffic from the north would have to utilise Gordon Street, Elizabeth Street, and St Georges Road, causing safety issues and parking issues in those streets. Traffic from the south, east, and west would have to utilise Glen Huntly Road and Riddell Parade. This would put a strain on the already overburdened thoroughfares. Mr Thomson (for the Deacon Group) regarded the proposed Green Travel Plan initiatives aimed at encouraging patrons and employees to walk or ride to and from the site as ‘fanciful’.

The Rader Group were not opposed to development in principle, but were concerned that the proposal would add an unacceptable traffic burden to the local traffic network. They submitted that there is already too much traffic around the precinct, associated with retail and hospitality venues and the Classic Cinema. Ms Rader said that the driveway access to the Gordon Street apartments was regularly blocked by delivery vehicles, and other vehicles parking while passengers are dropped at or picked up from the cinema and retail venues.

The Applicant highlighted the extensive public transport facilities servicing the site (train, multiple tram routes and multiple bus routes), and submitted that the site has the locational characteristics to support public transport and walking as the primary modes of travel to and from the site. The existing footpath infrastructure and the Selwyn Street upgrades would improve the pedestrian links between the site and the public transport network, minimising the need to rely on motor vehicles.

Mr Gnanakone concluded that the measures implemented in the ITAP and Green Travel Plan will provide a robust and suitable program to reduce vehicular travel to the site which will result in significant benefits to the area.

Council's transport planner assessed the application and recommended permit conditions that require the following:

- further information to demonstrate incentives to improve sustainable transport objectives, including rideshare incentives
- a detailed breakdown of estimated travel demand identifying the peak period of each use
- an estimated breakdown of mode choice to determine likely vehicle trip generation rates to assist with further consideration of road network impacts
- confirmation of who the Green Travel Plan Coordinator is, and that it is the Applicant's responsibility to initiate the plan and update Council regarding travel patterns
- details of the management of large group attendees (such as school groups).

The Applicant did not oppose these conditions.

Ms Dunstan's assessment noted that Plan Melbourne directed change in the way that development is considered, given the issues facing Melbourne around traffic and congestion. One of Plan Melbourne's aims is to create a series of 20 minute neighbourhoods, within which residents commute for their daily needs including employment. Ms Dunstan's evidence was that the proposed development accords with Plan Melbourne, particularly its Direction 5.1 (20 minute neighbourhoods), by reducing traffic impacts and better utilising a site located near alternative modes of transport.

Ms Dunstan considered that the performing arts centre is likely to generate the greatest traffic impact, with large number of people arriving and leaving the site before and after performances. Given the operating hours of the performing arts centre, the primary traffic impact would likely be after the PM peak hour. The worst-case scenario would be for all patrons to arrive and depart the site within the hour before or after a performance. Given no on-site car parking is being provided, this traffic will be spread throughout the Elsternwick MAC.

While the museum has the same number of patrons permitted, the traffic generated by the museum would be more spread out and less likely to be significant in the traditional AM and PM peak hours.

Ms Dunstan was satisfied that the traffic impacts of the proposed development would not be of significant concern.

The Committee asked Ms Dunstan how the Green Travel Plan would be implemented. She indicated this would be done by the permit holder, with reporting requirements to Council. Her evidence was that some councils require reporting or updating of Green Travel Plans periodically to the Council and this is normally reflected in permit conditions.

TfV provided a response to the Committee's letter dated 11 June 2021⁷ which stated that TfV had no objection to the granting of a Permit. The relevant parts of the letter are extracted below:⁸

Transport for Victoria considered that the proposed development would not have any significant adverse impacts on the surrounding transport services and activity centre.

⁷ Document 23

⁸ Document 98

The assessment also included a review on the impact on the declared road network under the *Road Management Act 2004*. Glen Huntly Road (east of Nepean Highway) is not a declared arterial road, and most visitors to the site will be travelling by public transport. There are no mitigation treatments required to the road network for which Transport for Victoria is responsible.

The Green Travel Plan included as part of the permit application for the development is a useful tool for Council to assess opportunities for walking, cycling, and public transport access to a site. Such plans are often used as part of the planning permit application, or a secondary consent, where a high number of trips will be made to or from a specific site as a result of land use change and/or a reduction of car parking requirements is sought. The aim is to reduce single-occupancy car trips where possible.

TfV had previously made a submission to Council's Integrated Transport Strategy⁹ which indicated that it considers the Strategy a "*commendable vision*" to create vibrant and connected centres, and provide for a range of travel options and reduce car use:

Municipal transport strategies provide an important framework to understand local transport issues, connections to the State Transport System and to articulate future transport aspirations.

(iv) Discussion

The Jewish Arts Quarter, together with the adjacent Holocaust Centre, are anticipated to generate significant visitor numbers. The Committee was told that approximately 15,000 students visit these facilities each year, which could equate to approximately 2,000 per month (by the Committee's reckoning).

As discussed in the previous chapter, the Applicant has agreed to Council's proposal for a cap of 450 patrons attending the performing arts centre and museum at any one time, which the Committee recommends be applied as a cap on all persons on the site until the effectiveness of the Green Travel Plan is demonstrated.

All attendees will access the site from Selwyn Street. Council controls and manages Selwyn Street, and has adopted a proposal to upgrade Selwyn Street in connection with the development of the Elsternwick Cultural Precinct (see Figure 5 above). This provides guidance for the Committee with regard to how the whole street will function as an arts, hospitality, and events space and pedestrian thoroughfare.

The evidence of Ms Dunstan and Mr Gnanakone, and the commentary from TfV, were broadly in agreement that the Green Travel Plan should create opportunities for walking, cycling, and public transport access to the site. This would be achieved by (among other things) encouraging patrons and staff to use public transport (including by providing financial incentives) and providing the infrastructure to support pedestrianisation and bicycle use.

The Elsternwick train station is part of the Sandringham Metro line, which connects to the Cranbourne/Pakenham line, and ultimately the Metro Tunnel at South Yarra station. The station, tram lines and public bus stops are all within around 120 metres of the site. Pedestrian movements would generally cross Glen Huntly Road at a signalised pedestrian crossing at the Gordon Street intersection. The Committee was advised that if the Fabcot site at 10-16 Selwyn Street is redeveloped, signalisation of the intersection between Selwyn Street and Glen Huntly

⁹ Document 80

Road will be required as a condition of that permit, potentially providing an additional safe crossing point for pedestrians and mobility restricted persons.

The preceding provides some basis for the Committee to consider whether the proposal to implement a Green Travel Plan is practical, reasonable, and appropriate.

The Planning Policy Framework supports the Green Travel Plan approach in seeking to minimise vehicle use. This is highly consistent with the Plan Melbourne initiatives around creating 20 minute neighbourhoods summarised in Table 2 on page 17. Relying on the advice of TfV and the evidence of both Ms Dunstan and Mr Gnanakone, the Committee concludes that the proposed approach is a reasonable response to these policies.

The Committee enquired of Council and the Applicant whether the timing of the Selwyn Street upgrades should be coordinated with the Jewish Arts Quarter development, in order to realise the Green Travel Plan's aspirations. Both responded that they had no concerns in relation to the timing of the streetscape improvements.

In the Committee's view, the Selwyn Street upgrades are likely to be a significant factor in the success of the Green Travel Plan, and the uptake of pedestrian and cycle trips to access the site. The Selwyn Street upgrades should therefore be coordination with the redevelopment of the site. Council should also take the Green Travel Plan into account as it prepares a detailed design for the Selwyn Street upgrades.

The NOD conditions are robust in requiring further iterations of a more detailed ITAP and Green Travel Plan to be compiled to the satisfaction of Council. Furthermore, the Green Travel Plan provides for ongoing monitoring and reporting, including an annual report to Council on the results of surveys of employees' and visitors' modes of travel to and from the site, how they compare to the targets, what actions have been implemented and what actions are still to be implemented. This will ensure that any changes and improvements that may be required to the Green Travel Plan can be implemented by Council and/or the Applicant in a timely way.

The precinct has access to the surrounding bicycle network via on-road lanes along Glen Eira Road, Orrong Road, Glen Huntly Road, and Rusden Street. The Integrated Transport Strategy identifies safe cycling streets on Riddell Parade, Orrong Road and Nepean Highway. The route along Riddell Parade provides access to the Elster Creek Trail 800 metres to the south of the site. This infrastructure provides further connections to the broader Melbourne bicycle network.

No evidence was provided regarding Glen Huntly Road being an effective cycling route to the precinct. The Committee notes that it is not identified as a safe cycling street in the Integrated Transport Strategy, and has some doubts about the safety of cycling along Glen Huntly Road given the high traffic volumes, existing kerb side carparking on both sides, and the tram route. The adequacy and safety of the existing bicycle lanes along Glen Huntly Road should be considered by Council when assessing the updated ITAP and Green Travel Plan.

The Committee asked Mr Gnanakone whether he had considered mobility restricted persons when rating the pedestrian thoroughfare from the site to the train station and bus terminal as 97/100. He responded that he had assumed that the current footpath network met regulations around design for disability access, and that he expected these requirements would be complied with when Council undertakes the Selwyn Street upgrades.

In the interest of maximising the benefits of the Green Travel Plan, the Applicant should also give consideration to further encouraging non-car commuting by providing easy access for motorised scooters and wheel chairs.

A key issue of concern to the objectors was the cumulative traffic impacts of not just this proposal, but other proposals in the Cultural Precinct, including the Fabcot proposal at 10-16 Selwyn Street opposite the site. While the Committee acknowledges these concerns, no evidence was presented that cumulative traffic impacts would be unmanageable, and the Committee has no reason to expect that increased traffic cannot be managed with appropriate traffic calming measures and the like. As noted in the previous chapter, reducing the supply of carparking in the proposed development will have the effect of reducing the development's contribution to traffic in the local area.

Ultimately, addressing traffic impacts in Selwyn Street is the responsibility of Council. Council will need to balance multiple considerations in the final functional design response to ensure the traffic impacts of this and other developments within the Cultural Precinct are properly considered. In the Committee's view, the proposals to create bus bays in Sinclair Street, include a pick-up and drop off point outside the proposed development, and to include a dedicated car share parking space in Selwyn Street will assist in managing cumulative traffic impacts in Selwyn Street. The Applicant had offered to be involved in the redevelopment of Selwyn Street at a detailed design stage.

(v) Findings

The Committee finds:

- The impacts of the proposed development on the local traffic network are acceptable.
- The cumulative impacts of surrounding uses and developments can be managed by Council through the Selwyn Street upgrades (including their timing), the conditions on the NOD (for the proposed development) and appropriate permit conditions on permits for any other redevelopment proposals in the vicinity of the site.

7.4 Bicycle parking

(i) The issue

The issue is:

- whether the proposed bicycle parking arrangements are acceptable.

(ii) Relevant considerations

Planning Scheme requirements include Clause 52.34 (Bicycle Facilities), under which statutory bicycle parking requirements are calculated. The statutory requirements for this development total 15 spaces (7 staff and 8 visitor). This is well exceeded by the proposed 40 on-site spaces. The shower and change facilities also exceed the statutory requirements of Clause 52.34.

(iii) Submissions and evidence

Ms Dunstan was satisfied that a high level of bicycle facilities had been provided in this proposed development, and the provision of bicycle parking accords with (and exceeds) the requirements of Clause 52.34.

The Committee enquired of the Applicant how practical the access would be for cyclists via the glass tilt-up garage door to the loading bay on Selwyn Street. Mr Brown indicated that the door could be divided into two halves, or a separate bicycles only access door provided.

(iv) Discussion

The provision of bicycle parking facilities exceeds the statutory requirements and is appropriate. On-site bicycle parking and end of trip facilities will be provided to staff who would have security access through the tilt-up glass loading bay door (or similar arrangement). The Committee encourages the Applicant to give further thought to a more practical access arrangement for the bicycle parking and end or trip facilities.

The Committee is concerned that the ten spaces provided on the footpath might not be adequate for the number of visitors to the proposed development. Council should address this in the final design of the Selwyn Street upgrades. Condition 17 of the NOD appropriately requires Council's approval of a Public Realm Plan, which the Committee regards as an acceptable measure to address this concern.

(v) Findings

The Committee finds:

- The proposed bicycle parking arrangements are acceptable.
- The Committee encourages the Applicant to give further thought to a more practical access arrangement for the bicycle parking and end or trip facilities.
- Council should give specific consideration to whether there will be sufficient visitor bicycle parking provided in Selwyn Street when considering the detailed design of the Selwyn Street upgrades and the Public Realm Plan required under the NOD.

8 Heritage and neighbourhood character

8.1 The issues

The issues are whether there will be acceptable:

- impacts on the Elsternwick Estate and Environs heritage precinct
- heritage impacts of the loss of the existing Kadimah building
- impacts on neighbourhood character.

8.2 What is proposed?

The existing Kadimah building is currently graded non-contributory to the Elsternwick Estate and Environs heritage precinct (HO72). The existing building will be completely demolished, but the ceramic mural, stained glass windows and bronze plaques by Karl Duldig titled 'The Great Awakening' in the facade of the existing building will be retained and displayed in the ground floor foyer of the proposed building (NOD conditions 1(b) and 4 to 6).

8.3 Relevant considerations

Clause 15.03-1S (Heritage Conservation) seeks to conserve and protect heritage values by (among other things):

- providing for the conservation and enhancement of places of aesthetic, archaeological, architectural, cultural, scientific or social significance
- encouraging appropriate development that respects places with identified heritage values
- retaining elements that contribute to the importance of the heritage place
- encouraging the conservation and restoration of contributory elements of a heritage place
- ensuring an appropriate setting and context for heritage places is maintained or enhanced
- supporting adaptive reuse of heritage buildings where their use has become redundant.

Clause 21.10 (Heritage) acknowledges that Glen Eira is currently experiencing a development boom that is resulting in pressure to demolish older buildings. Strategies include:

- ensuring sympathetic redevelopment and renovation of areas and places identified as having architectural, cultural or historic significance
- enhancing knowledge and popular understanding of Glen Eira's architectural, cultural and historic heritage.

Clause 22.01 (Heritage Policy) builds on Clauses 15.03 and Clause 21.10 and sets out objectives and performance measures for all individual properties and heritage precincts in Glen Eira. Clause 22.01-4 outlines a hierarchy of significance for heritage places (individually significant, contributory, or non-contributory). The policy includes Statements of Significance for each Precinct and the contributory properties within each precinct.

The purposes of the HO are set out in Table 1 on page 15. Under the HO72, external building and land development controls apply, but no paint, internal or tree controls.

Planning Practice Note 43: Understanding Neighbourhood Character provides clarification of the relationship between neighbourhood character and heritage significance:

... it is important to understand the differences between neighbourhood character and heritage. While all areas have a history or a heritage, not all areas are historically significant. Heritage significance is determined by recognised criteria set by Commonwealth, State and local agencies, with reference to the Burra Charter. Cultural heritage is largely embodied in the fabric and setting of a building and place. It is important to manage and retain this fabric and setting to retain the cultural significance of a place.

Heritage significance can't be improved, but the fabric of a place can be improved, restored or reinterpreted. In many areas building style is important to setting the character of the area. This includes not just typical form and massing, but may also include details, materials and colours. Buildings do not need to be old or historically significant to have a character that is important to people's understanding and enjoyment of an area ...

8.4 Submissions and evidence

The Applicant relied on the assessment of Bryce Raworth in relation to the heritage values of the site.¹⁰ Mr Raworth found that the building falls short of the threshold for an individual Heritage Overlay control. The Applicant submitted that the findings of Mr Raworth were consistent with the expert evidence of Anita Brady (who was called by Council to present heritage evidence) in the following respects:

- the demolition of the existing building is acceptable
- the proposed replacement building will provide a landmark contribution to the Elsternwick MAC and will not adversely affect the significance of the heritage precinct
- the Duldig work 'The Great Awakening' is notable and worthy of protection
- the importance of having the building photographed both inside and out before demolition occurs, for archival records.

Relying on Ms Brady's evidence, Council submitted that the heritage impacts of the proposal were reasonable and appropriately mitigated through conditions on the NOD. Ms Brady's evidence was that the loss of the existing building was an acceptable heritage outcome. Specifically:

- The existing building is not graded significant or contributory. However she recognised its historical significance, and considered that the proposed development presents an opportunity to maintain, sustain and continue that significance.
- In considering the heritage loss, it is also reasonable to consider the balancing actions, some of which could be seen to enhance the heritage values.
- The proposed replacement building will maintain the historical significance of the site. The new Jewish Arts Quarter represents the latest in a long line of Kadimah buildings, and an evolution in the size, capacity and use of these buildings on the site.
- The salvaging, retention and reinstatement of the Duldig artwork enhances the balancing actions of the proposal.

Ms Brady noted that 'design excellence' is relevant factor in the assessment of the replacement building under Clause 22.01. Her evidence recognised the architectural quality of the proposed building, which she regarded as a striking contemporary building that will be introduced into this

¹⁰ Mr Raworth's assessment formed part of the application materials. He was not called to present evidence to the Committee, and his assessment has been weighted accordingly.

area of the HO72 precinct. Her evidence was that the proposed development would have an acceptable impact on the heritage values of the precinct on the basis that:

- The area of the precinct bounded by Sinclair, Gordon and Selwyn Streets and Glen Huntly Road is different to other areas. This area is associated with a changing strategic and built form context as reflected in the DDO10 and Structure Plan.
- The generally changing character of this area, especially to the west of Selwyn Street, includes an emerging mid to high-rise character.
- The west side of Selwyn Street is not an intact heritage streetscape. The 'experience' of the west side of the street is not one of strong heritage character or a streetscape of homogenous or complementary heritage buildings. This section of the street has limited heritage intactness and limited heritage sensitivity.
- The site has a different relationship to Glen Huntly Road than the Fabcot site. It is not associated with, or to the rear of, the long intact run of heritage commercial buildings between Selwyn Street and St Georges Road.
- The proposed new building will be seen in a context of large buildings and developments of varying scale, effectively affording a different foreground and/or broader setting in views from Glen Huntly Road.

The Historical Society, while not a party to the VCAT proceedings, provided a written submission with the permission of the Committee. A key contention was that the height and bulk of the proposed development are too visually intrusive from key viewing points within HO72. The Society was particularly concerned about the views along Glen Huntly Road from Elsternwick Plaza and from the south side of Glen Huntly Road near Riddell Parade. The Society noted that the Structure Plan nominates lower preferred heights for new buildings (6 to 8 storeys) than the DDO10, and submitted that the Structure Plan heights are more appropriate in this part of the HO72 precinct. It submitted that a lower built form would promote a better response to important views when walking from Riddell Parade to Elsternwick Plaza on the south side of Glen Huntly Road.

Under questioning, Ms Brady sought to differentiate between the lack of intactness of the western and eastern sides of Selwyn Street. She explained that the subject site is distinct and different from the Fabcot site. Unlike the Fabcot proposal, the proposed built form will not loom over the Glen Huntly Road shopping strip. Ms Brady considered that the proposed development (unlike the building considered in Fabcot) exhibits architectural excellence, is not a 'busy' building and would not compete with the heritage buildings in the foreground.

In questioning Ms Brady, the Deacon Group suggested that the intersection of Gordon Street and Glen Huntly Road marks the western entry to the heritage precinct. As a consequence of this being a gateway site, they suggested that the prominence of the tower when viewed from this angle would be detrimental and dominate the heritage setting below. Ms Brady did not accept this proposition and differentiated the heritage sensitivities of the sections of Glen Huntly Road to the east and west of Selwyn Street (the former being the more sensitive).

8.5 Discussion

The Committee is required to consider the decision guidelines of Clause 43.08-1 (Heritage Overlay) including the significance of the heritage place and whether the proposal will adversely affect the cultural significance of the place by reason of its location, bulk or form. The Committee is also required to consider whether the proposal meets the heritage conservation objectives and

considerations that cascade throughout Plan Melbourne, the Planning Policy Framework and associated supporting documents.

(i) Demolition of the existing building

The evidence put to the Committee is that the heritage significance of this site is the ongoing cultural association of the Kadimah Cultural Centre and the ceramic bas-relief, stained glass windows and plaques by Karl Duldig. The existing building is not currently identified as contributory, and the evidence was that it has limited (although some) heritage value.

Council is proposing to prepare a planning scheme amendment (C214glen) to implement the findings of the City of Glen Eira Post-war and Hidden Gems Heritage Review 2020, Stage 2 Citations Report. The review proposes to include nominated sites within the Heritage Overlay.

The Committee understands that in an earlier draft of the Hidden Gems Review, the Kadimah building was assessed as being of local heritage significance and recommended to be included within the HO as an individual heritage place. However it was subsequently excluded in the final version of the Hidden Gems Review adopted by Council, and is not proposed to be included in Amendment C214glen.

It follows that the existing Kadimah building has only a non-contributory building status, with the heritage value primarily drawn from the Karl Duldig works and the ongoing association of the Kadimah Cultural Centre on this site.

On balance, the Committee accepts that the preservation and enhancement of the key heritage values of the site will be achieved through the salvage, protection and display of the Duldig pieces as required by condition 4 to 6 of the NOD. Demolition of the non-contributory building will not adversely affect the significance of the heritage place given the salvage and re-display of the significant pieces, and the ongoing association of the Kadimah Cultural Centre with the site.

(ii) Replacement building

The Committee is aware of the perceived tension between facilitating taller and more prominent built form within the Elsternwick MAC while ensuring the preservation of the values of the HO72 precinct.

Local policy and the HO encourage new buildings to respect, contribute and respond to the heritage place. New buildings should be sympathetic to and not detract from the significance of a heritage precinct. They should conserve and enhance cultural significance, and deliver architectural excellence.

At the roundtable there was much discussion and comparison of the proposed development (in particular its height) to the development considered and ultimately rejected by the Tribunal in Fabcot. The objectors urged the Committee to follow VCAT's findings in Fabcot and recommend a permit be refused.

Ms Brady gave heritage evidence for Council in Fabcot. She did not support that proposed development on the basis that it overwhelmed the heritage shops on Glen Huntly Road. Mr del Monaco (a member of the Deacon Group) questioned Ms Brady at length about her evidence in opposition to the Fabcot proposal, referring specifically to the 3D renders of the Fabcot towers as visible from the intersection of Riddell Parade and Glen Huntly Road, and surmising the visual bulk outcomes of this proposal and the Fabcot proposal were essentially the same.

The Committee does not agree. The subject site is markedly different in size to the Fabcot site. The proposed built form is markedly different in terms of height, proportions, orientation and architectural detailing, as is the way in which the proposal sits within the viewshed to Glen Huntly Road and the surrounding area.

The Committee undertook a detailed site and area inspection, paying particular attention to the vantage points suggested by the parties. It became apparent that the site sits in a recessive position relative to the Glen Huntly Road vantage points including those mentioned by the Historical Society, and is framed by a more robust foreground when viewed from the western entry to the precinct suggested by the Deacon Group.

While the Committee is not tasked with comparing the proposal to other proposals on Selwyn Street (see Chapter 5.1(iii) for more detail), it is worth acknowledging Ms Brady's evidence on this matter. Her evidence was that the built form context, including that which frames the development and the site's engagement with Glen Huntly Road, differ markedly from the Fabcot proposal. The Committee accepts that evidence, and agrees with Ms Brady and the other experts including Mr Czarny that the proposal will not dominate the sensitive and intact heritage fabric along Glen Huntly Road when viewed from either the west or the east.

Having regard to the various considerations outlined above, the Committee supports the proposed built form within this context. The broader strategic framework anticipates buildings of scale in the HO72 precinct. The heritage character and sensitivities of Selwyn Street, while in the HO72 precinct, are generally limited, with few contributory properties. The proposal exhibits excellent design quality which, in the Committee's view, respects and enhances the aesthetic, cultural and social significance of the precinct. The quality of the design and the podium and continuous street wall height to Selwyn Street ensures a sympathetic and integrated engagement to the street and heritage precinct context. The development will not impact on the historic fire station on the opposite side of Selwyn Street, or on the historic and highly intact commercial strip in Glen Huntly Road between Selwyn Street and St George's Road. Where visible from various vantage points, the building will present as a calm, and simplistic form for which its contemporary expression distinctly announces its civic function in the Cultural and Entertainment Precinct.

(iii) Neighbourhood character

The site's location within the MUZ1 and the Elsternwick MAC is accompanied by expectations that the neighbourhood character of these areas will evolve, likely at an expedited rate. This is emphasised by the DDO10 and the suite of development guidance within the Structure Plan, the Cultural Precinct Plan and the design objectives of the DDO10. To this end, the Committee agrees with the evidence of McGurn:

Given the site's location within the Activity Centre and the applicable Design and Development Overlay as well as the Jewish Museum under construction I consider that there is an expectation of a significant shift in 'neighbourhood character' in this particular location. The character of this precinct will remain distinct from the character of the residential and heritage areas to the north. This is also recognising that the areas of Selwyn and Gordon Street close to Glen Huntly Road is comprised of commercial buildings with solid street walls, rather than buildings of a traditional domestic nature.

The character of Selwyn Street will evolve towards the new preferred character anchored in the civic operation of the precinct, and the Committee considers that the built form proposed will contribute positively to this new character.

The change envisaged in Selwyn Street's character is already underway, demonstrated by the Holocaust Centre which is under construction at the time of this assessment. As discussed in Chapter 6, the zero-lot line street wall height, height of the podium and setbacks reflect the typology envisaged within the DDO10 and the Structure Plan. The proposal reasonably seeks to adopt a similar typology and form to its neighbours and seeks to provide street activation and public realm engagement.

Similarly, the characteristics of the skyline of the Elsternwick MAC continues to undergo change, with taller built form emerging along and behind the Glen Huntly Road spine. The tower component of the building will be read not only from the immediate ground plane and within or behind various heritage sightlines, but also within the broader built form context of taller forms emerging in and around the activity centre. Council's development analysis together with the site and area inspection was particularly beneficial in illustrating the extent of change that is underway.

The Committee is confident that the proposed built form will contribute to the preferred character of the MAC as it evolves and will be an exemplar for the execution of building typology, height and architectural expression that is sought after within the Cultural and Entertainment Precinct.

8.6 Findings

The Committee finds:

- There heritage impacts of the loss of the existing building are acceptable, and ameliorated by the salvage and retention of the Karl Duldig artworks.
- The proposal will not adversely impact the Elsternwick Estate and Environs heritage precinct.
- The proposal will positively contribute to the preferred neighbourhood character of the Selwyn Street streetscape, the Cultural and Entertainment Precinct and the Elsternwick MAC more broadly.

9 Amenity

9.1 Overlooking

The DDO10 includes the following:

- 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).
- 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.

Some objectors, particularly the Rader Group who are all occupants of the Gordon Street apartments, expressed concern that there would be overlooking from the proposed development into their private open space and living areas.

The only potential for overlooking will be to the Gordon Street apartments, as the other site interfaces are to non-residential premises.

At the interface with the Gordon Street apartments, windows are proposed in the mezzanine level learning workshop space and the level 1 museum exhibition space. Windows are also proposed in the upper levels of the curved section of the western facade that directly abuts the Classic Cinema. The western facade will be clad in expanded metal mesh cladding that is 23 percent visually permeable.

The Committee considers that careful consideration has been given to the potential for overlooking in the design of the building. Overlooking has been minimised by:

- the location of service and amenity areas in upper levels at the interface to the Gordon Street apartments
- the inclusion of minimal windows on the western facade
- the mezzanine and level 1 setbacks to the Gordon Street apartments (these are the only levels containing windows directly facing into the apartments)
- the 23 percent visually permeable mesh cladding over the windows.

The Committee finds that the impacts on both the private open space areas (balconies and courtyards) and the living areas in the Gordon Street apartments are acceptable given the site's context in a MAC. It accepts the evidence of Mr Glossop and Mr McGurn, who both specifically considered overlooking of the Gordon Street apartments, and concluded that the design response was appropriate in the context of the site. The Committee further notes that the potential for overlooking of the Gordon Street apartments would be significantly worse if the site were redeveloped with a multi-storey residential development, which could occur under the MUZ1.

The Committee finds:

- Overlooking impacts of the proposed development are acceptable.

9.2 Noise

The objective of Clause 13.05-1S (Noise abatement) is to assist in the control of noise effects on sensitive land uses. It seeks to ensure that development is not prejudiced and community amenity

and human health is not adversely impacted by noise emissions. Decision makers are required to consider:

- the noise requirements in accordance with regulations under the *Environment Protection Act 2017* (the EP Act)
- Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826.2, Environment Protection Authority, March 2021).

The permit application was accompanied by an assessment by Marshall Day Acoustics (22 April 2020) which considered the potential noise impacts of the proposal on surrounding residential areas. Potential noise sources included the performing arts centre, ground floor loading bay (deliveries and waste collections), and noise associated with the mechanical plant (fire pump room, substation, roof top chiller and air handling units/fans).

Noise monitoring was undertaken on-site in March 2020 to determine background noise levels and the applicable noise limits. These were determined in accordance with State Environment Protection Policy (Control of Noise from Industry, Commerce and Trade) (SEPP N-1) and State Environment Protection Policy (Control of Music Noise from Public Venues) (SEPP N-2). As of 1 July 2021, these SEPPs were replaced with EPA Publication 1826.2. The Committee understands that while the method of calculating noise limits has changed slightly, the limits are broadly similar.

Marshall Day noted that the performing arts centre's location in the basement of the proposed development would be well insulated, and this would minimise noise to external sensitive receivers. Marshall Day recommended mitigation measures to achieve compliance with the limits:

- internal airlocks will be required between the performing arts space and lifts and stairwells to control noise breakout to the foyer and loading bay
- external doors must remain closed during performances
- the foyer will need to incorporate sound absorption treatment to control reverberation including any music noise spill from the performing arts space
- air conditioning and outside air ducts will need to be acoustically treated.

Marshall Day did not specifically assess patron noise associated with the performing arts centre, as no outdoor areas associated with the performing arts centre are proposed, and the building envelope would be expected to comfortably contain patron noise. The foyer facade would need to be specified to achieve a satisfactory acoustic performance level. Any openings in the facade would need to be closable and be fitted with appropriate acoustic seals.

Marshall Day concluded that noise emissions from mechanical services, the loading bay, foyer and terrace areas, and the performing arts centre could be suitably controlled through permit conditions. Noise created by waste collection would be expected to be in line with that normally experienced in suburban locations.

The Waste Management Plan (prepared by Leigh Design) submitted with the application addressed noise minimisation measures for waste collection operations in more detail. Leigh Design did not anticipate any noise implications from recyclable waste being separated in association with the Victorian Government's upcoming Container Deposit Scheme (expected to be applicable from 2023), because noise is likely to be limited to an additional vehicle collecting separated containerised recyclables in a similar fashion as regular general waste and commingled recycling collections.

The Council officer's report confirmed that the proposed building had been designed to minimise noise, including to the Gordon Street apartments. Council included permit conditions in the NOD requiring:

- an updated acoustic report specifying any specific acoustic design and attenuation to ensure noise levels meet the SEPP N-1 and SEPP N-2 limits
- implementation of the Marshall Day recommendations (and those of the updated acoustic report)
- an acoustic compliance report to be submitted after operation commences confirming that the noise limits are being met, or (if they are exceeded) measures to bring the development into compliance.

The Structure Plan and Cultural Precinct Plan encourage hospitality and cultural activities including outdoor activities and events in Selwyn Street. The objectives of the Structure Plan and the MUZ1 point to the types of activities proposed in the Jewish Arts Quarter development being appropriate in the Jewish Cultural Precinct. That is not to say that noise should not be regulated to minimise amenity impacts on neighbouring residential areas, as required under Clause 13.05-1S.

The Committee considers that noise impacts have been appropriately assessed, and that appropriate noise attenuation measures are available and can be practically implemented to ensure that noise emissions from the proposed development will meet the statutory limits. Conditions 7 to 10 of the NOD are broadly appropriate to control noise emissions, subject to some updates to condition 10 to reflect the new EP Act and the associated changes to all planning schemes that took effect on 1 July 2021. The NOD also includes condition 19 requiring a Venue Management Plan and limiting patron numbers and hours of operation, which will further assist in managing noise impacts from the proposed development.

The Committee finds:

- The noise impacts of the proposed development can be controlled through permit conditions and are acceptable.

9.3 Impacts from the serving of alcohol

The application proposes liquor will be served within designated 'red line' areas within the performing arts centre and the ground floor cafe area. The licenced activities would be generally to accompany performances, but would extend to the cafe bar space when served with a meal. It is proposed to serve liquor between the hours of 11am and 9pm.

Clause 52.27 of the Planning Scheme requires decision makers to consider the impact of the following on the amenity of the surrounding area:

- the sale or consumption of liquor
- the hours of operation and patron numbers
- cumulative impact of any existing licensed premises and the proposed licensed premises.

The Council officer's report noted that the serving of liquor is considered ancillary to the primary museum and performing arts centre functions of the building, and is not considered to have a cumulative impact on the amenity on the area. Council concluded that the serving of alcohol within the confines of the proposed hours would not result in a significant noise disturbance from large gatherings. Council further noted that social and amenity impacts associated with licensed premises are considered by the Victorian Commission for Gaming and Liquor Regulation, and that the Commission would impose appropriate management requirements on the premises.

Mr McGurn's evidence (for Council) was that the proposed licensed areas are well removed from surrounding residential uses and will have limited hours of operation. He was satisfied that the proposed sale and consumption of liquor would not have a significant amenity impact in terms of noise disturbance and patrons, and would be appropriate in a MAC context.

The Committee considers that the sale of liquor for on-premises consumption is consistent with the objectives of the Structure Plan and Cultural Precinct Plan. The design for the Selwyn Street upgrades provides a basis for hospitality and events activities in the public realm to interface with the hospitality component of the development. It is within broad community expectations that the sale and consumption of liquor be permitted within a MAC, and within a cultural precinct in which hospitality and cultural activities are encouraged.

While the licensed areas are in proximity to residential uses, the conditions in the NOD limit the hours of operation and control noise emissions. The Committee is consequently satisfied that there will not be unmanageable amenity impacts associated with the sale and consumption of liquor.

The Committee finds:

- The amenity impacts associated with serving alcohol in the proposed development are acceptable.

9.4 Waste management

Waste storage and collection can have implications for the amenity of both users of the building and neighbours in terms of traffic and noise impacts.

Refuse and recycled waste bins will be located within the 20 square metre bin storage room on the ground floor. The 1,100 litre capacity bins will be loaded external to the building at the kerb side in Selwyn Street.

The Waste Management Plan states that the overall recycling capacity can be used for commingled recycling or split into various recycling streams (such as containers, glass, cardboard), which would deal with an eventual separated container collection that will be required under the Container Deposit Scheme announced by the Victorian Government in 2019 and expected to be in operation by 2023. Waste streams would be separated within the building and stored in bins in rooms adjacent to the ground level loading bay. The bins would be wheeled to the kerb side for collection. Trucks would rear load the bins, rather than side-tip load.

Marshall Day recommended that the schedules and practices detailed in EPA Publication 1254 *'Noise Control Guidelines'* be adopted for waste collections on the site. These include:

- refuse bins should be located at points that provide minimal annoyance to residential premises
- compaction should be carried out while the vehicle is moving
- bottles should not be broken up at the collection site
- routes which service predominantly residential areas should be altered regularly to reduce early morning disturbances
- noisy verbal communication between operators should be avoided if possible
- collections should occur during the acceptable times specified in the Guidelines.

These recommendations will be implemented through condition 8 on the NOD.

There was no objection to the proposed arrangements for the storage and collection of waste generated in the proposed development. Condition 12 of the NOD requires an updated Waste Management Plan. The Applicant should ensure that the updated plan makes provision for recycling of waste material in accordance with the Victorian Government Container Deposit Scheme policy.

The Committee finds:

- The proposed development would provide an appropriate waste management outcome for the site.

10 Reasons and recommendation

10.1 Reasons

State policy including Plan Melbourne directs development to areas with good access to services and facilities, and specifically directs entertainment and cultural uses into activity centres. The Urban Villages policy in Clause 22.05, the Structure Plan and the Cultural Precinct Plan specifically identify the site as an appropriate location for cultural and community uses, and specifically encourage the consolidation of significant cultural institutions to reinforce Jewish cultural identity. The site's co-location with the Holocaust Centre will provide a strong focus for Jewish culture in the heart of Melbourne's Jewish community.

There was little dispute that the proposed uses (with the exception of the office component) align with objectives in the local policy framework, the Structure Plan and the Elsternwick Cultural Precinct Plan relating to the establishment of a cultural precinct in and around Selwyn Street.

While the office component was more controversial, on balance the Committee is satisfied that the office component is an appropriate use on the site. The Committee recognises that policy in Clause 21.06 (Business) states that offices are secondary and complementary to the retail function of activity centres. Office is, however, a permitted use in the MUZ. Locating office and employment space within a MAC, in a location accessible by high quality public transport services, is highly consistent with other aspects of State and local policy including 20 minute neighbourhood policy.

The Committee does not consider that it would be appropriate to recommend the removal of the four levels of office space, as submitted by the Deacon Group. The Committee was persuaded that the office is an integral component of the proposed development, as discussed in Chapter 5.1(ii). It is an appropriate use for the site given its physical and strategic context. Further, the Committee has found that the built form implications of the office, including the height of the building, are acceptable.

In the Committee's view, the proposed development represents an exceptionally high quality architectural and urban design outcome that will contribute positively to the preferred character of the area, community and cultural life, and will enhance the public realm. There is no doubt that the development will impact on neighbouring properties, particularly the Gordon Street apartments, but the Committee is satisfied that detrimental impacts, including overshadowing, have been minimised by the building's design as required by the MUZ and Clause 15.01 (Built Environment).

While the height of the proposed development is significant, it is a landmark building that the Committee considers will contribute positively to the local context, marking the Selwyn Street precinct as a cultural destination. While the setbacks are generally minimal, the only sensitive interface of the building is the Gordon Street apartments. The tapered setback to the apartments is an appropriate and contextual response, given the site (and the apartment development) are located within a MAC and given the built form expectations set for the site and surrounds by the Planning Scheme.

The building will be visible from the surrounding heritage areas, including from Glen Huntly Road. However policy does not direct that new development not be visible from heritage precincts. Rather, it encourages new development that respects, complements and responds to the heritage

significance of a precinct. The Committee considers that this proposal does just that. It presents a simple, calm form that rises above the sensitive heritage streetscape in Glen Huntly Road east of Selwyn Street. It does not compete with the heritage streetscape, or overwhelm the heritage fabric. The proposal, both in its built form and proposed uses, reflects and respects the development of religious and cultural institutions throughout the history of Elsternwick, consistent with the local heritage policy in Clause 22.01 of the Planning Scheme.

Policy in Clause 18.02-4S seeks to ensure an adequate supply of car parking having regard to existing and potential modes of access including public transport, the demand for off street parking, road capacity and the potential for demand management of car parking. A waiver of 231 spaces is substantial, and it appears counter-intuitive to suggest that such a substantial waiver is consistent with policy, particularly in an area that is already under parking pressure.

However there is very strong policy support in favour of a shift away from private vehicle use to more sustainable modes of transport. This mode shift requires access to suitable and practical alternatives such as public transport, cycling and walking. The site is extremely well served by public transport, and cycling and walking initiatives are provided for under Council's Integrated Transport Strategy. These will be further enhanced by the Selwyn Street upgrades.

The transition to alternative modes of transport also requires behavioural change. The Committee accepts the evidence of the two independent traffic experts that suppression of parking supply is an effective way of forcing behavioural change and reducing reliance on private vehicle transport, and is appropriate in circumstances where the site is well serviced by alternative transport modes.

That said, behavioural change can be expected to take some time, even where suitable and accessible alternative transport modes are readily available. The transition away from car based trips can be expected to take some time. The Committee therefore considers it prudent to apply a cap to the total number of persons on-site at any one time, until such time as the Green Travel Plan has been demonstrated through the annual review process to be effective in reducing private car based trips to the site.

The Committee found in Chapter 5.1(i) that the proposal should be assessed in terms of net community benefit rather than significant community benefit. In the Committee's view the proposed development will deliver both net and significant community benefit. It will play a critical role in the development of the Selwyn Street Cultural Precinct, and will (together with the adjacent Holocaust Centre) provide a strong cultural focus for both the Jewish and the broader communities. It will create a strong civic presence through both its built form and its co-location with the Holocaust Centre, with which it has a 'synergistic relationship' as sought by Clause 21.09 (Public Uses/Community Facilities). It is also likely to act as a catalyst for Council's Selwyn Street improvement works.

The proposal represents a highly positive outcome for the Elsternwick community, and for the community more broadly. The Committee supports the grant of a permit, subject to some minor modifications to the proposed conditions (see Appendix E).

10.2 Recommendation

The Priority Projects Standing Advisory Committee recommends:

- 1. That the Minister for Planning support the proposed development and recommend to the Governor in Council that Glen Eira Permit Application GE/DP-33539/2020 be issued, subject to the conditions in Appendix E.**

Appendix A Terms of Reference



Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
 - a. the specific issues the Minister for Planning seeks advice about
 - b. the mechanism of intervention being considered
 - c. whether, or which previously collected, submissions are to be considered by the Committee
 - d. how the costs of the Committee will be met.

1. The letter of referral will be a public document.
2. In making a referral, the Minister for Planning or delegate must, either:
 - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
 - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
3. The Committee may inform itself in anyway it sees fit, but must consider:
 - a. The referral letter from the Minister for Planning,
 - b. referred submissions,
 - c. the comments of any referral authority,
 - d. the views of the project proponent,
 - e. the views of the relevant Council,
 - f. The relevant planning scheme.
4. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
5. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
6. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
7. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
8. The Committee may:
 - a. assess any matter 'on the papers'.
 - b. conduct discussions, forums, or video conferences when there is a quorum of:
 - i. a Chair or Deputy Chair, and
 - ii. at least one other member.
9. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

10. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
11. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

Outcomes

12. The Committee must produce a concise written report to the Minister for Planning providing the following:
 - a. A short description of the project.
 - b. A short summary and assessment of issues raised in submissions.
 - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
 - d. Any other relevant matters raised in the course of the Committee process.
 - e. Its recommendations and reasons for its recommendations.
 - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
 - g. A list of persons consulted or heard, including via video conference.

1. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

Timing

2. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
 - a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. receipt of the final submission of material or final day of any public process in respect of a referral.

Fee

3. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020

Appendix B Letter of referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Ms Kathy Mitchell
Chair (Lead), Priority Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Ref: MBR044234



Dear Ms Mitchell

CALL IN OF VCAT PROCEEDINGS P1539/2020, P1631/2020, P1637/2020 AND P1644/2010 AT 7 SELWYN STREET, ELSTERNWICK

I refer to the above Victorian Civil and Administrative Tribunal (VCAT) proceedings, which relate to the proposed development of the Jewish Arts Quarter building at 7 Selwyn Street, Elsternwick. The project has been considered by the Development Facilitation Program (DFP), which has deemed it to meet relevant criteria for accelerated assessment and determination.

I advise that I have decided to call in the proceedings from VCAT under Clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998*. I have also decided to refer the matter to the Priority Projects Standing Advisory Committee (SAC) for advice and recommendations about whether a planning permit should be issued and, if so, the appropriate conditions that should be imposed. I ask that the Priority Projects SAC consider how the project aligns with planning policy relating to settlement, amenity, the built environment and heritage, economic development, transport, and social and cultural infrastructure. Additionally, I ask for specific advice about the suitability of the building height, setbacks and design quality; the acceptability of any overshadowing impacts; as well as the appropriateness of there being no on-site car parking proposed. The cost of the advisory committee will be met by the applicant.

On 4 September 2020, the Glen Eira City Council issued a notice of decision to grant a planning permit. The council's decision was generally consistent with the recommendation of council officers, except for an additional condition requiring the building height to be reduced to align with the preferred building height provisions of the Design and Development Overlay Schedule 10, which relates to the Elsternwick Activity Centre. Following the council issuing its planning approval, four separate objector proceedings were lodged with VCAT under section 82 of the *Planning and Environment Act 1987*. The matters raised by the objectors generally relate to design and neighbourhood character, heritage, amenity impacts (particularly overshadowing and equitable development considerations), as well as traffic and car parking. A compulsory conference was scheduled for 2 March 2021, with a hearing scheduled from 28 June to 9 July 2021.

If you have any questions about this matter, please email Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, at jane.homewood@delwp.vic.gov.au.

Yours sincerely

HON RICHARD WYNNE MP
Minister for Planning

14/3/21



Appendix C Full list of objector parties

Objector parties to VCAT proceedings P1539/2020, P1644/2020, P1631/2020 and P1637/2020		
E Fabian	R Ciampoli	I Hollosy
D Zyngier	G R Agg	D Efrat C/- H Silver
J Carroll	P Jordan	D S Rader
K Marrow	S Rosen	M and M Tehan
S Togias	National Trust of Australia (Victoria)	M and K Deacon
T Cook	G Brookfield	E M Broome
J Robilliard	D and D J Grace	S Rechtman
P C Hede	J E and C M Rudolph	N L Graves
M J Dillon	M Craig	S and J Denmead
H Dillon	G Wallace	S J Park
B and B Dillon	S Hoffman	K Boyd-Jones
M Hart	M and A L Thompson	B Harris
N R and N Jones	S N Baker	J MacQuarrie
L Jones	C Baker	T Laragy
T Kaye	J McKellar	T S Cordery
L M Howe	J Smith	C Cordery
J L Black	C Isakow	P Di Palma
K B and K Greenwood	B Rimer	A P Brough
C Campbell	G Whitfield	R E Scott-Thompson
M Campbell	A and B Wylie	J and H Tatton
R and L Campbell	G L Osborne and A Bonacci	E A Jackson and N Crisafi
M Howard	A D Pook	Highburn Pty Ltd C/- Edward Tamir
J Barnett	D Pook	G and E Subbotin
M E Laws	P G O'Dowd	S Dugdale
G Clogan	M and G Beaumont	S E Dullard
A T Fraser	C and J Gilhome	L T Holden and B A Holden
S Boyle	A Gottschalk	V Petros
T Battersby	P Mitchinson	M N Meneghini

Objector parties to VCAT proceedings P1539/2020, P1644/2020, P1631/2020 and P1637/2020

K Forbes	C and K Brown	C Beavis
T Taylor and C and G Mansfield	M Biviano	S Litchfield
C J McNicol	A Del Monaco	L C and J K Ivett

Appendix D Document List

No	Date	Description	Provided by
1	14/03/21	Letter of Referral	Minister for Planning
2	23/03/21	VCAT file* for proceeding P1539/2020 including: <ul style="list-style-type: none"> - Orders - Statement of Grounds - Correspondence - Draft conditions for compulsory conference - Plans - Application material 	VCAT
3	"	VCAT file* for proceeding P1644/2020 including: <ul style="list-style-type: none"> - Orders - Statement of Grounds - Correspondence - Draft conditions for compulsory conference - Plans - Application material 	"
4	"	VCAT file* for proceeding P1631/2020 including: <ul style="list-style-type: none"> - Orders - Statement of Grounds - Correspondence - Draft conditions for compulsory conference - Plans - Application material 	"
5	"	VCAT file* for proceeding P1637/2020 including: <ul style="list-style-type: none"> - Orders - Statement of Grounds - Correspondence - Draft conditions for compulsory conference - Plans - Application material 	"
6	26/03/21	P1539/2020 Edward Tamir v Glen Eira City Council – Orders dated 10 November 2020	"
7	"	P1539/2020, P1631/2020, P1637/2020 and P1644/2020 Tamir, Deacon and Ors, Gottschalk and Rader and Ors v Glen Eira City Council – Orders dated 20 November 2020	"
8	30/03/21	Notification letter	Committee Chair

No	Date	Description	Provided by
9	01/04/21	Letter to Committee confirming that Best Hooper act for Edward Tamir	Mr Scally, Best Hooper for Mr Tamir
10	"	Objection of Mr Tamir to permit application (attachment to Document 9)	"
11	"	Application for review filed on behalf of Mr Tamir (attachment to Document 9)	"
12	09/04/21	Correspondence from Mr Panos filing objector details for proceeding P1644/2020 (Dana Rader and Ors)	Rader Group of objectors
13	"	List of objectors who are party to proceeding P1644/2020 (attachment to Document 12)	"
14	"	Reasons for objection filed for proceeding P1644/2020 (Rader and Ors)	"
15	12/04/21	Email filing list of objectors for proceeding P1631/2020 (Kathleen Deacon and Ors)	Deacon Group of objectors
16	"	Objectors for proceeding P1631/2020 (Deacon and Ors) (attachment to Document 15)	"
17	"	Statement of grounds filed by the objectors in proceeding P1631/2020 (Deacon and Ors)	"
18	26/04/21	Email to all parties sharing OneDrive link to tabled documents	Planning Panels Victoria (PPV)
19	20/05/21	Email to all parties inviting suggestions for site inspection locations	"
20	21/05/21	Suggested site inspection locations	Rader Group
21	24/05/21	Suggested site inspection locations and request of the Applicant to prepare photo montages	Deacon Group
22	"	Request to make a written submission on behalf of National Trust	Ms Keam for the National Trust of Australia (Victoria)
23	"	Letter to Transport for Victoria seeking views on permit application and Council's Integrated Transport Strategy	Committee Chair
24	"	Directions and Timetable (version 1) and updated Distribution List	"
25	"	Response to Ms Keam (document 22)	"
26	25/05/21	Suggested site inspection locations	Applicant
27	"	Letter indicating Mr Tamir will no longer participate in the Committee process	Mr Scally
26	"	Suggested site inspection locations	Applicant
27	"	Duplicate document	

No	Date	Description	Provided by
28	"	Bookmarked Advertised Planning Permit Application documentation	Council
29	"	15-19 Gordon Street, Elsternwick – Permit	"
30	"	15-19 Gordon Street, Elsternwick – Endorsed Plans	"
31	"	13-15 Selwyn Street, Elsternwick – Endorsed plans	"
32	"	13-15 Selwyn Street, Elsternwick – Permit	"
33	"	Application Plans for revised Fabcot proposal (February 2021) at 10-16 Selwyn Street. Accompanied by Documents 34 to 46:	"
34	"	- Planning Report	"
35	"	- Landscape concept design	"
36	"	- Heritage Impact Statement	"
37	"	- Design Statement	"
38	"	- Cultural Heritage Management Plan Approval	"
39	"	- Arboricultural Report	"
40	"	- Application form, Titles and Metropolitan Planning Levy	"
41	"	- Acoustic Report	"
42	"	- Wind Impact Assessment	"
43	"	- Waste Management Plan	"
44	"	- Urban Context Report	"
45	"	- Traffic assessment and Additional Letter	"
46	"	- Sustainable Management Plan	"
47	"	Expert witness statement of Mr Gnanakone (traffic)	Applicant
52	"	Expert witness statement of Mr Glossop (planning)	"
48	"	Expert witness statement of Mr Czarny (urban design)	"
49	"	Expert witness statement of Ms Dunstan (traffic)	Council
50	"	Expert witness statement of Mr McGurn (planning)	"
51	"	Expert witness statement of Ms Brady (heritage)	"
53	"	Submission for Council	"
54	"	Index of supporting material	"
55	"	Cadastral plan	"
56	"	Aerial image - close	"
57	"	Aerial image - mid	"
58	"	Aerial image- far	"
59	"	Zoning map	"

No	Date	Description	Provided by
60	"	Overlay map – Design and Development Overlay Schedule 10	"
61	"	Overlay map – Heritage Overlay Schedule 72	"
62	"	Overlay map – Parking Overlay Schedules 2 and 3	"
63	"	Relevant Planning Scheme provisions	"
64	"	Waste referral response	"
65	"	Property consultant referral response	"
66	"	Parks services referral response	"
67	"	Heritage referral response	"
68	"	City Futures referral response	"
69	"	Council's officers report	"
70	"	Council's meeting minutes dated 1 September 2020	"
71	"	Notice of Decision to Grant a Permit	"
72	"	Development analysis of surrounding developments prepared by Marcus Lane Group	"
73	"	Elsternwick Structure Plan 2018-2032, February 2018	"
74	"	Glen Eira City Council Quality Design Guidelines – Commercial and Mixed Use Areas 2018	"
75	"	Elsternwick Cultural Precinct Plan, City Futures, 2018.	"
76	"	Integrated Transport Strategy 2018-31, June 2018	"
77	"	Plan Melbourne 2017-2050	"
78	"	Urban Design Guidelines for Victoria – DELWP, 2017	"
79	"	Urban Design Charter for Victoria – DPCD 2009	"
80	"	Transport for Victoria – submission to Integrated Transport Strategy	"
81	"	Submission for the Glen Eira Historical Society	Ms Kilpatrick for the Glen Eira Historical Society (observer)
82	"	Statement of significance – Elsternwick Commercial Precinct	"
83	"	Submission for the Applicant	Applicant
84	"	Design and Development Overlay 43_02	"
85	"	Heritage Overlay 43_01	"
86	"	Parking Overlay 45_09	"
87	"	Mixed Use Zone 32_04	"
88	"	Schedule 1 to the Mixed Use Zone 32_04s01_glen	"
89	"	Schedule 2 to the Parking Overlay 45_09s02_glen	"

No	Date	Description	Provided by
90	"	Schedule 10 to the Design and Development Overlay 43_02s10_glen	"
91	"	Schedule to Heritage Overlay 43_01s_glen	"
92	"	Relevant State Planning Policy	"
93	"	Relevant Local Planning Policy	"
94	"	Particular and General Provisions	"
95	"	Fabcot Pty Ltd v Glen Eira CC [2020] VCAT 957	"
96	"	Residential Aged Services Pty Ltd v Stonnington City Council [2017] VCAT 435	"
97	"	Submission for the Rader Group of objectors	Rader Group
98	"	Response from the Head, Transport for Victoria to Committee correspondence (Document 23)	Ms Stapleton for the Department of Transport
99	"	Submission for the Deacon Group of objectors	Deacon Group
100	15/06/21	Email circulating Documents 23 and 98 to all parties (letter to and response from DoT)	PPV
101	"	Email thread discussing attendance at the roundtable discussion	Rader Group
102	"	Acoustic evidence addendum (Marshall Day Acoustics)	Applicant
103	18/06/21	Shadow diagrams for 19 June	"
104	"	Daylight savings off – shadow diagrams for 22 September	"
105	25/06/21	Email providing revised drafting of condition 19	Council

Appendix E Committee preferred version of Permit Conditions

[Tracked Added](#)

~~Tracked Deleted~~

Note: Tracked against the NOD dated 4 September 2020

APPLICATION NUMBER:	GE/DP-33539/2020
ADDRESS OF THE LAND:	7 Selwyn Street ELSTERNWICK VIC 3185
WHAT WILL THE PERMIT ALLOW?:	Demolition of the existing building, construction of an up to nine storey building, use of the land for offices, a place of assembly, sale and consumption of liquor, reduction of car parking and display of advertising signage on land affected by the Heritage Overlay and Design and Development Overlay in accordance with the endorsed plans.

WHAT WILL THE CONDITIONS OF THE PERMIT BE?:

Amended plans

- Before the development starts, amended and additional plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must generally accord with the plans submitted with the application (identified as TP015, TP020, TP101-TP113, TP201-TP204, TP301-TP303, TP401, prepared by McIlldowie Partners and dated 1 May 2020) but modified to show:

Additional plans and material samples

- The building reduced in height to a maximum of 37m, except for any architectural features, masts, building services or enclosed stairwells ~~that may exceed this height by no more than 4m.~~
- Elevations and sections at a scale of 1:20 demonstrating how the retained Karl Duldig stained windows and bas relief will be displayed within the museum, including lighting details to highlight notable features;
- A schedule of all external advertising and directional signs, including fully dimensioned floor plans and elevations at a scale of 1:50, and for the signs to be an integral design element of the building;
- Fully dimensioned floor plans and elevations at a scale of 1:50 showing any external site services within the frontage of the building and for the site services to be an integral design element of the building;
- A physical materials board showing all external facade materials, colours and finishes;

Amended plans and documents

- (f) Access to the building from Selwyn Street to be DDA compliant;
- (g) An annotation on the plans that the rooftop will be used for plant, equipment and service use only;
- (h) The material treatment for any section of the blank walls of the building (identified as 'FE-11') that is visible from the public realm to be modified to enhance the visual interest such as by using an inscribed pattern treatment, textural finish or the like~~s~~;
- (i) Annotation that any steel cladding material will not cause glare to adjoining properties;
- (j) Any noise attenuation measures or requirements of the Acoustic Report required by Condition 7;
- (k) Any requirement of the Waste Management Plan required by Condition 11;
- (l) Any requirement of the Public Realm Management Plan required by Condition 17.

Layout not to be altered and construction oversight

- 2. The layout of the uses and the development as shown on the endorsed plans, including the location and details of the signs must not be altered or modified (unless the Glen Eira Planning Scheme specifies a permit is not required) without the prior written consent of the Responsible Authority.
- 3. As part of the ongoing consultant team, McIldowie Partners or an architectural firm to the satisfaction of the Responsible Authority must be engaged to oversee the design and construction to ensure that the design quality and appearance of the approved development is realised or otherwise to the satisfaction of the Responsible Authority.

Heritage documentation and retention

- 4. Before the development starts, including any demolition and excavation, a Heritage Retention Management Plan prepared by a suitably qualified conservation architect must be submitted to and approved by the Responsible Authority. When approved, the Heritage Retention Management Plan will form part of this permit and all buildings and works must be carried out in accordance with the Heritage Retention Management Plan.

The Heritage Retention Management Plan must specify actions for the management, maintenance and salvaging of the existing ceramic bas relief on the street facade, stained glass windows and plaques by Karl Duldig (~~—~~'The Great Awakening' feature~~), making specific comment on the following matters to the satisfaction of the Responsible Authority to ensure that the feature remains in good condition and are is not damaged throughout the demolition and construction period:~~

- (a) The establishment of appropriate procedures for the retrieval, storage and installation of ~~the existing ceramic bas-relief on the street facade, stained glass windows and plaques by Karl Duldig—~~'The Great Awakening' feature, including that demolition of the existing building and construction of the development must not commence until ~~the existing ceramic bas-relief on the street facade, stained glass windows and plaques by Karl Duldig—~~'The Great Awakening' feature has been retrieved and stored;
- (b) Retention of a conservation architect and details of the times when supervision by ~~him or her~~a will be required onsite and time frames specified for supervision;

- (c) Any remedial works that are required to be performed on ~~the existing ceramic bas-relief on the street facade, stained glass windows and plaques by Karl Duldig~~ — ‘The Great Awakening’ feature before, during and post development of the site.;

~~(d)~~ — A report is to be prepared for archival photo record purposes for the remainder of the existing building to be retained or salvaged.

- 5. The requirements and recommendations contained within the approved Heritage Retention Management Plan must be implemented to the satisfaction of the Responsible Authority.
- 6. ~~The existing ceramic bas-relief on the street facade, stained glass windows and plaques by Karl Duldig~~ — ‘The Great Awakening’ feature ~~to~~ must be salvaged and incorporated into the foyer/lobby area to remain on site in perpetuity to the satisfaction of the Responsible Authority.

Acoustic requirements

- 7. Before the development starts, an updated Acoustic Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the report will be endorsed and will then form part of the permit. The report must be generally in accordance with the report prepared by Marshall Day Acoustics (Revision 02) and dated 6 May 2020, but modified to include the following:
 - (a) any specific acoustic design and attenuation to ensure noise levels from the uses, plant and equipment can meet the requirements of Condition 10.
- 8. The provisions, recommendations and requirements of the endorsed Acoustic Report, must be implemented and complied with to the satisfaction of the Responsible Authority and must not be varied except with the written approval of the Responsible Authority.
- 9. Within two months of all of the uses starting, a further Acoustic Report prepared by an acoustic engineer must be submitted to the Responsible Authority to its satisfaction. The further report must detail whether the noise levels associated with the uses are in accordance with the requirements of the endorsed Acoustic Report at Condition 7 with plant equipment operating at practical peak load (assuming operation during hot weather in summer during the evening and night). If the noise levels exceed those specified in the endorsed Acoustic Report at Condition 7, the report must outline a program or measures to ameliorate or attenuate noise to ensure that the levels are met, to the satisfaction of the Responsible Authority. The uses must not continue until such time that the attenuation measures have been implemented to the satisfaction of the Responsible Authority.
- 10. Noise levels ~~to and~~ from the development and use must not exceed those required to be met under the ~~State Environment Protection Policy (Control of Noise from Industrial Commerce, Industry and Trade), No. N-1 (SEPP N-1) and the State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2 (SEPP N-2)~~ Environment Protection Regulations made under the Environment Protection Act 2017 and Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826.4, Environment Protection Authority, March 2021), or any other equivalent or applicable State or relevant policy and should meet accepted sleep disturbance criteria EPA Publication 1254 and any other relevant guideline or Australian Standard.

Management plans

- 11. Before the development starts, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When

approved, the plan will be endorsed and will then form part of the permit. The WMP must be generally in accordance with the Waste Management Plan prepared by Leigh Design and dated 9 April 2020, but modified to show:

- (a) The size and location of the proposed waste room;
 - (b) Provision within the waste room for recyclables including 1 x 1,100L bin designated for cardboard and paper stream, and 1 x 1,100L bin for comingled recycling stream;
 - (c) Consideration of the provision of a Container Deposit Scheme (CDS) collection point, noting ~~that~~ introduction of the CDS by 2023 (ie. a reverse vending machine or a bin).
12. The provisions, recommendations and requirements of the endorsed ~~Waste Management Plan~~ WMP must be implemented and complied with to the satisfaction of the Responsible Authority. ~~The endorsed WMP and~~ must not be varied except with the written approval of the Responsible Authority.
 13. Before the uses start, an updated Integrated Transport and Access Plan (ITAP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The ITAP must be generally in accordance with the ~~Integrated Transport and Access Plan~~ ITAP prepared by Ratio Consultants and dated 1 May 2020, but modified to include:
 - (a) Provision of the detailed Green Travel Plan and actions;
 - (b) Confirmation of Green Travel Plan Coordinator; and
 - (c) Rideshare incentives to improve sustainable transport objectives;
 - (d) An estimated breakdown of mode choice to determine trip generation;
 - (e) Management of large group attendees (i.e. school groups).
 14. The provisions and requirements of the endorsed ~~Integrated Transport and Access Plan~~ ITAP must be implemented and complied with to the satisfaction of the Responsible Authority. ~~The endorsed ITAP and~~ must not be varied except with the written approval of the Responsible Authority.
 15. Before the development starts, including any demolition and excavation, a Construction Management Plan (CMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The CMP must show:
 - (a) Delivery and unloading points and expected frequency;
 - (b) Truck haulage routes, circulation spaces and queuing lanes;
 - (c) Details of how traffic and safe pedestrian access will be managed, including during the drop off and pick up times of the Sholem Aleichem College. These must be in the form of a Traffic Management Plan designed by a suitably qualified traffic practitioner;
 - (d) A liaison officer for contact by owners / residents and the Responsible Authority in the event of relevant queries or problems experienced;
 - (e) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;
 - (f) Any requirements outlined within this permit as required by the relevant referral authorities;
 - (g) Hours for construction activity, which must only occur within the following hours:
 - (i) 7am to 6pm – Monday to Friday;
 - (ii) 7am to 1pm – Saturdays;

- (iii) No construction on Sundays or public holidays;
 - (h) Measures to control noise, dust, water and sediment laden runoff;
 - (i) Measures to ensure that subcontractors/tradespersons operating on the site are aware of the contents of the CMP;
 - (ii) Any construction lighting to be baffled to minimise intrusion on adjoining lots.
16. All construction (including demolition and excavation) must be carried out ~~and complied with~~ in accordance with the approved ~~Construction Management Plan~~ CMP to the satisfaction of the Responsible Authority. The endorsed CMP must be complied with and must not be varied except with the written approval of the Responsible Authority.
17. Before the development starts, a Public Realm Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must be prepared by a suitably qualified urban design professional and must be drawn to scale and dimensioned. The plan must include:
- (a) Plans, elevations, treatments and materials schedules prepared in conjunction with the Responsible Authority for the area directly in front of the subject site and to align with any streetscape design for the Selwyn Street Cultural Precinct;
 - (b) Description of proposed works, including proposed landscaping, surface treatments, and street furniture (including signage, bins, seats, bicycle facilities, gates, fences and the like);
 - (c) Details of water sensitive urban design;
 - (d) A plan defining the area in which the works are to be undertaken;
 - (e) Existing street trees to be removed; and
 - (f) Vehicle and pedestrian access arrangements including any signage or safety measures.
18. Before the development is completed, the requirements of the endorsed Public Realm Management Plan must be carried out and completed to the satisfaction of the Responsible Authority. The endorsed Public Realm Management Plan must be complied with and must not be varied except with the written approval of the Responsible Authority.
19. Before the use of the museum and place of assembly starts, a Venue Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed and will then form part of the permit. The plan must include:
- (a) Detailed description of the various activities that will occur on site. The description should contain details of when and where these activities will be taking place;
 - (b) Patron Numbers specified with a maximum of 300 patrons for the museum and a maximum of 300 patrons for the place of assembly, except with the prior written approval of the Responsible Authority and subject to condition 21;
 - (c) Operating hours of each component of the use as follows, except with the prior written approval of the Responsible Authority:
 - (i) Museum – 8am to 5pm, Sunday to Friday (closed on Saturdays); and
 - (ii) 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

20. The provisions and requirements of the endorsed Venue Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority and must not be varied except with the written approval of the Responsible Authority.

21. [No more than 450 people \(including staff, performers and patrons\) are permitted on the site at any one time, except with the prior written approval of the Responsible Authority.](#)

Note: Renumber subsequent conditions

General amenity

21. Before the development is completed, all screening shown on the endorsed plans must be erected and thereafter maintained in accordance with the endorsed plans. The screening measures as shown on the endorsed plans are not to be altered or removed without the written consent of the Responsible Authority.
22. The amenity of the area must not be adversely affected by the uses or development including through the:
- (a) transport of materials, goods or commodities to or from the land;
 - (b) appearance of any building, works, stored goods or materials;
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil;
 - (d) Traffic generated by the use,
- or in any other way, to the satisfaction of the Responsible Authority.
23. All security alarms or similar devices installed on the land must be of a silent type.
24. All outdoor lighting must be baffled and/or located to prevent light from the site causing detriment to the locality to the satisfaction of the Responsible Authority.
25. All pipes, fixtures, fittings and vents servicing the building must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
26. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the buildings without the prior written consent of the Responsible Authority.
27. Before the building is occupied, the walls on the boundary of adjoining properties must be cleaned and finished in a manner to the satisfaction of the Responsible Authority. Painted or bagged walls must be finished to a uniform standard and unpainted or unrendered walls must have all excess mortar removed.

Signage

28. The signs must be constructed and maintained to the satisfaction of the Responsible Authority.
29. External sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority.
30. The signage light source must be designed to minimise light spillage onto surfaces other than the sign to the satisfaction of the Responsible Authority.

Permit expiry

31. This permit will expire if one of the following circumstances applies:
- (a) The development is not started within three years of the date of this permit.
 - (b) The development is not completed within five years of the date of this permit.
 - (c) The use is not started within five years of the date of this permit.
 - (d) The use is discontinued for a period of two years.

The Responsible Authority may extend the permit if a request is made in writing in accordance with Section 69 of *Planning and Environment Act 1987*.

32. The permit as it relates to the display of signs will expire fifteen years from the date on which the use commences, at which stage all signs and structures built specifically to support and illuminate the signs must be permanently removed from the land.

Conditions End

NOTES: *(The following notes are for information only and do not constitute part of this permit or conditions of this permit)*

- A. This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Glen Eira City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this Planning Permit.
- B. Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
- C. Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approvals.
- D. No net increase in peak stormwater runoff in the Council drainage network. Post development peak storm water discharge to Council drainage network must be maintained to the predevelopment level for 10 year ARI. Detailed plans and computations should be submitted to Council for approval prior any construction works.
- E. Engineering Services encourage using of rainwater tanks for storage and reuse for toilet and irrigation purpose and or stormwater detention system.
- F. Drainage associated with basement construction (seepage and agricultural waters are to be filtered to rain water clarity) must be discharged to the nearest Council Drain/Pit and not be discharged to the kerb and channel.
- G. All stormwater runoff must be connected to Council underground drainage network. No uncontrolled stormwater discharge to adjoining properties and footpaths.
- H. Any firefighting equipment for the building shall be accommodated within title boundary. Submitted plans are not showing location of any hydrant / booster. Council will not allow private fire equipment in the Road Reserve.
- I. Asset Protection Permit must be obtained from Council Engineering Services Department prior commencement of any building works.
- J. All relevant Engineering Permits must be obtained prior any works within the Road Reserve and or stormwater connection to Council drainage network.
- K. Any modifications, amendments or changes that could impact Council's infrastructure assets are to be discussed with the Engineering Services prior to issuing a planning permit.