

**1.4 1 EVELYN STREET, CLAYTON
EXTENSION OF TIME – CONSTRUCTION OF A TWO LEVEL BUILDING PLUS
BASEMENT CAR PARKING COMPRISING EIGHT DWELLINGS
TPA/38345/A**

EXECUTIVE SUMMARY:

An application has been received for an extension of time to Planning Permit TPA/38345 to construct a two level building plus basement car parking comprising of eight dwellings. The original permit was issued on the 6 May 2011. The permit has been extended on three (3) previous occasions.

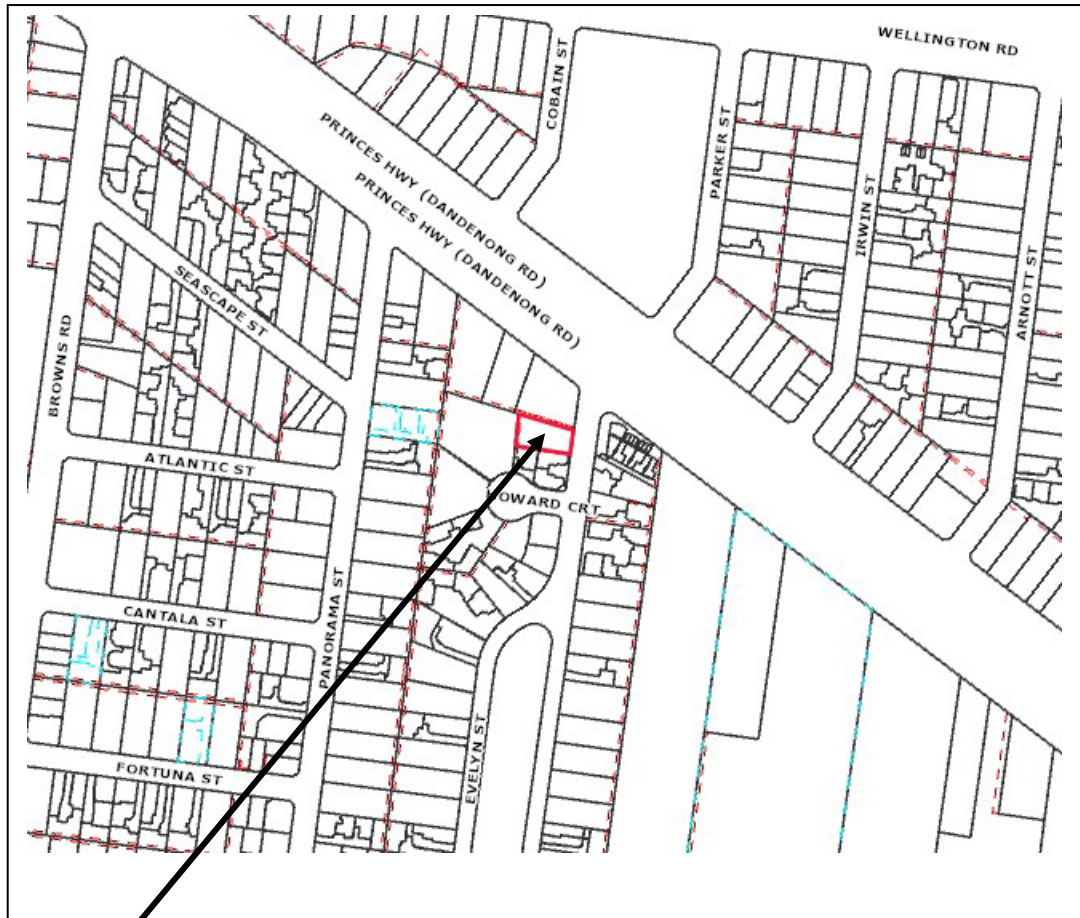
Construction of the development has not commenced.

Public notification of the application for an extension of time is not considered necessary.

The proposed extension of time is not considered appropriate and is inconsistent with the relevant provisions of the Monash Planning Scheme and it is recommended that the application be refused.

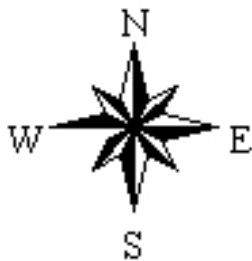
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Michael Edwards
WARD:	Oakleigh
PROPERTY ADDRESS:	1 Evelyn Street, Clayton
NUMBER OF OBJECTIONS:	N/A
ZONING:	General Residential Zone 2
OVERLAY:	No overlay
ADOPTED AMENDMENT C125	General Residential Zone 3
RELEVANT LEGISLATION:	Section 69 of the P&E Act 1987

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to issue a refusal for an **Extension of time** to Planning Permit No. **TPA/38345/A** to develop the land by constructing a two level building plus basement car parking comprising of eight dwellings with associated landscaping at 1 Evelyn Street, Clayton, pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.

The grounds of refusal are as follows:

1. The approved development is inconsistent with the Monash Housing Strategy, the future planning policy and requirements as envisaged by Amendment C125 to the Monash Planning Scheme.
2. It is considered that the land owner is seeking to ‘warehouse’ the permit.
3. The time limit originally imposed on the planning permit was adequate and the permit has been previously extended three times for a total elapse time of 8 years.

BACKGROUND:**History**

Planning Permit TPA/38345 was issued on the 6 May 2011 allowing the development of the land by constructing a two level building plus basement car parking comprising of eight dwellings with associated landscaping. (Refer to Attachment 1)

The original application was decided under delegation and there were 2 objections to the proposal.

Council has extended the permit on three (3) previous occasions. The current expiry date is 6 May 2019. The current extension of time request was made before the 6 month expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

Development plans were endorsed on 15 February 2018.

The Site and Surrounds

The subject site is located on the western side of Evelyn Street approximately 30 metres south of Princes Highway (Dandenong Road). The subject site a 15.4 metre wide frontage and 35.28 metres depth, with a total site area of 647 square metres.

The site currently contains the original single storey weatherboard dwelling, garage and outbuildings.

Surrounding the subject site features mainly residential dwellings comprising of both single and double storey dwellings, many being multi-unit developments.

PROPOSAL:

The applicant has requested an extension of the permit's start and completion dates for a further one (1) year due to administrative and financial delays. The applicant intends to start construction once Working Drawings have been approved, and a Building Permit is acquired to which the applicant is in the process of obtaining.

The previous request was made for similar reasons. Since acquiring the property the new owners made amendments to the plans which were approved in January 2017. The amendment process caused delays in obtaining building permits and other engineering working drawings, albeit they were approved over two years ago.

DISCUSSION:

Pursuant to the provisions of Section 69(1) of the *Planning and Environment Act 1987*:

“Before the permit expires or within six months afterwards, the owner or the occupier of the land to which it applies may ask the responsible authority for an extension of time”.

The request was made on 15 March 2019, before the expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

Assessment

VCAT decision *Kantor v Murrindindi Shire Council (1997)* established the following tests to determine if a permit should be extended:

- Whether there has been a change of planning policy;
- Whether the land owner is seeking to "warehouse" the permit;
- Intervening circumstances bearing on the grant or refusal of the extension;
- The total elapse of time;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the land owner by the permit; and
- The probability of a permit issuing should a fresh application be made

Since the issue of the original permit, Amendment C125 to the Monash Planning Scheme has been adopted by Council in February 2017 and the State initiated

Amendment VC110 has been implemented. In accordance with Council's decision on 28 February 2017, the changes proposed in Amendment C125 are to be considered with any new development. The changes introduced by Amendment VC110 are mandatory to the consideration of a development.

Under the Council adopted Amendment C125, the proposed new residential zone for the subject site is General Residential Zone — Schedule 3 (GRZ3). The proposed changes that will impact the development are:

Proposed Change to the subject site under the C125	Amendment C125 Assessment of submitted plans
Decreasing the maximum building site coverage from 60% to 50%	50.23% - Total Site Coverage - 325m ² - 1.5m ² above the requirement
Increasing onsite permeability from 20% to 30%	22.72% - Total Permeability - 147m ² - 47m ² below the requirement
Require the planting of a minimum of 1 canopy tree plus 1 canopy tree for every 5m of site width in new multi-unit development.	10 canopy trees are shown on the endorsed landscape plan.
Requiring that secluded private open space of 35m ² be clear of all structures and services	No apartment have ground floor secluded open space with a balcony provided for each apartment.
Requiring a minimum 5 metre rear setback	Does not comply – all rear apartments are setback of 2.0m – 2.8m. a balcony and stairs also encroach into this setback distance.
Requiring garages/carports to be set back behind the front wall of the dwelling.	Car spaces are in a basement.

The approved development fails to comply with a number of requirements under the Monash Planning Scheme due to the changes of planning policies since the permit was originally issued in May 2011. The development will no longer be consistent with the development objectives of the Monash Planning Scheme.

Amendment VC110 requires 30% garden area for land between 500-650 square metres and limits building heights to 11 metres. The proposal has 38% garden area of the site, and maximum building height of 8.75 metres for the apartment building.

The total elapsed time between the date of issue of the permit and the date of the request to extend the permit is more than seven (7) years.

Council's records indicates that the development did not proceed since the development plans were initially endorsed by Council in February 2012 to the original applicant. Since the change in ownership, the new owners have

achieved endorsement of amended development and landscape plans on February 2018.

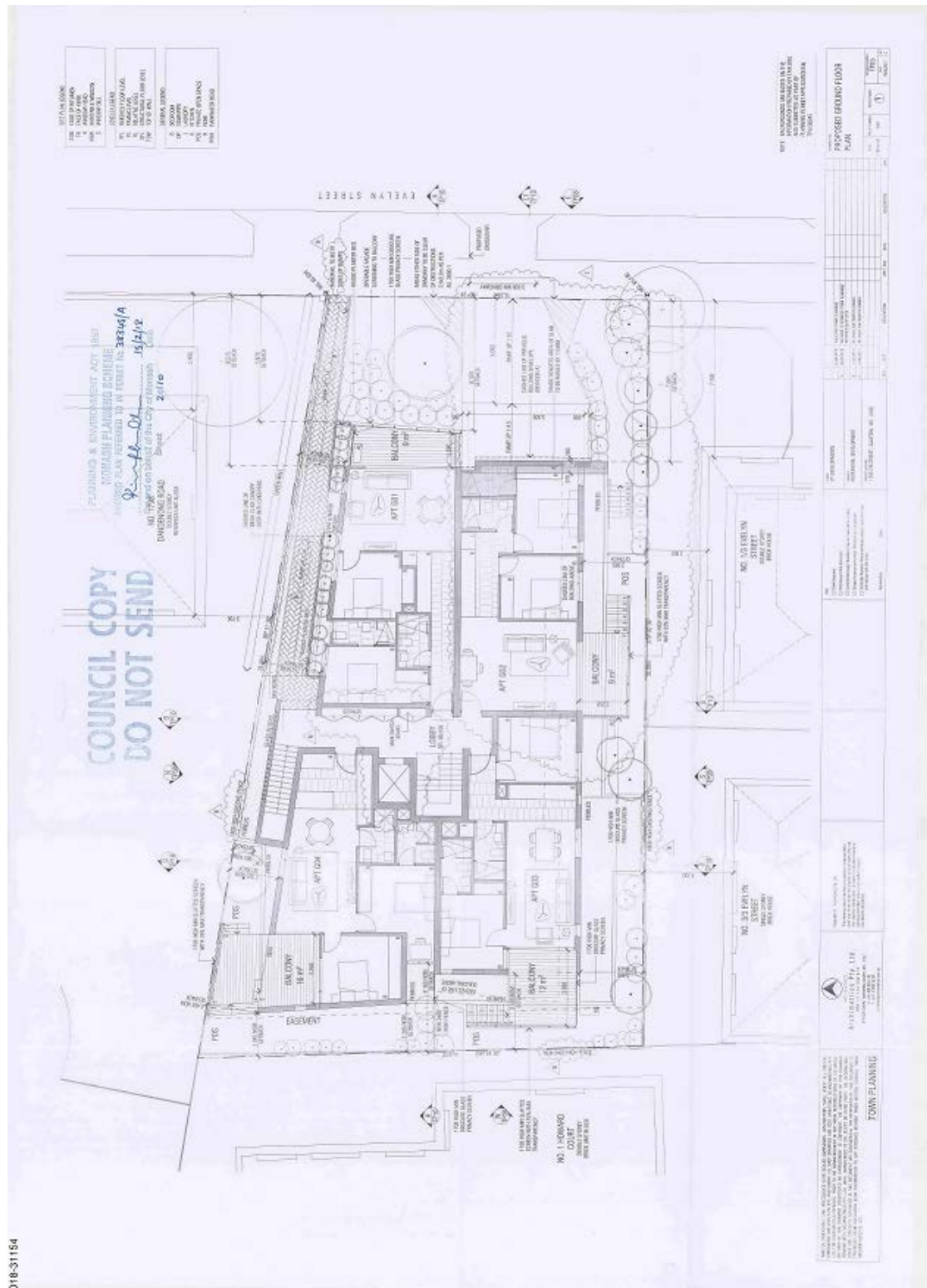
Permit conditions required the approval of the Waste Management Plan (Condition 15) and Construction Management Plan (Condition 16) prior to the development start. None of these plans have been submitted to Council for approval before the permit expired on 6 May 2019, and no plans have been submitted to Council at the time this report was prepared. It is considered that the land owner is seeking to 'warehouse' the permit.

There were no intervening circumstances and the time limit originally imposed was considered adequate, given the permit has already been extended 3 times previously, it is recommended that the extension of time application be refused.

CONCLUSION:

It is considered the development would not meet the current planning requirements of Council's proposed Amendment C125. Given the total elapse of time for this planning permit is more than 8 years, it is recommended the Council refuses to grant an extension for the.

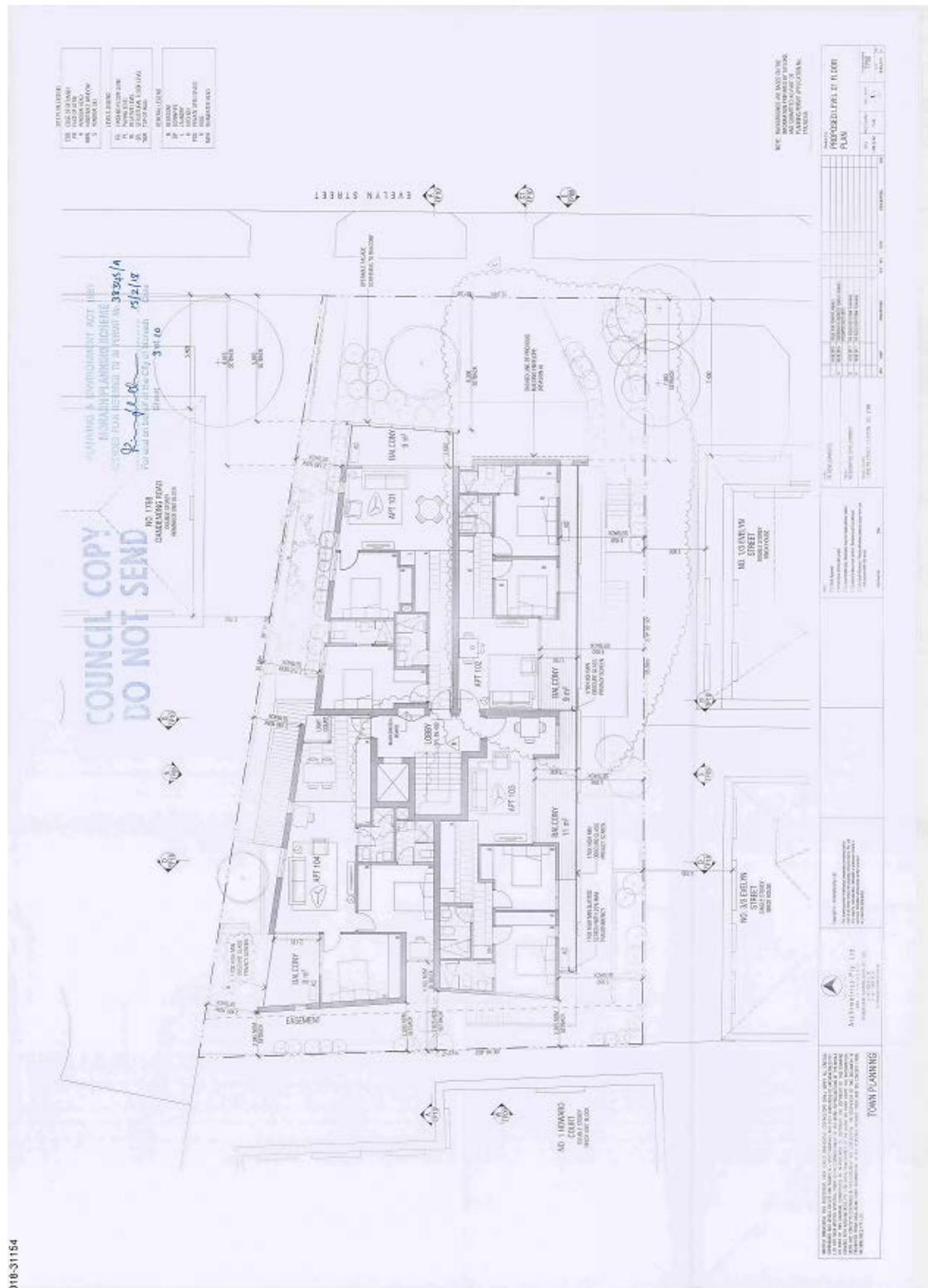
ATTACHMENT 1 (Continued)



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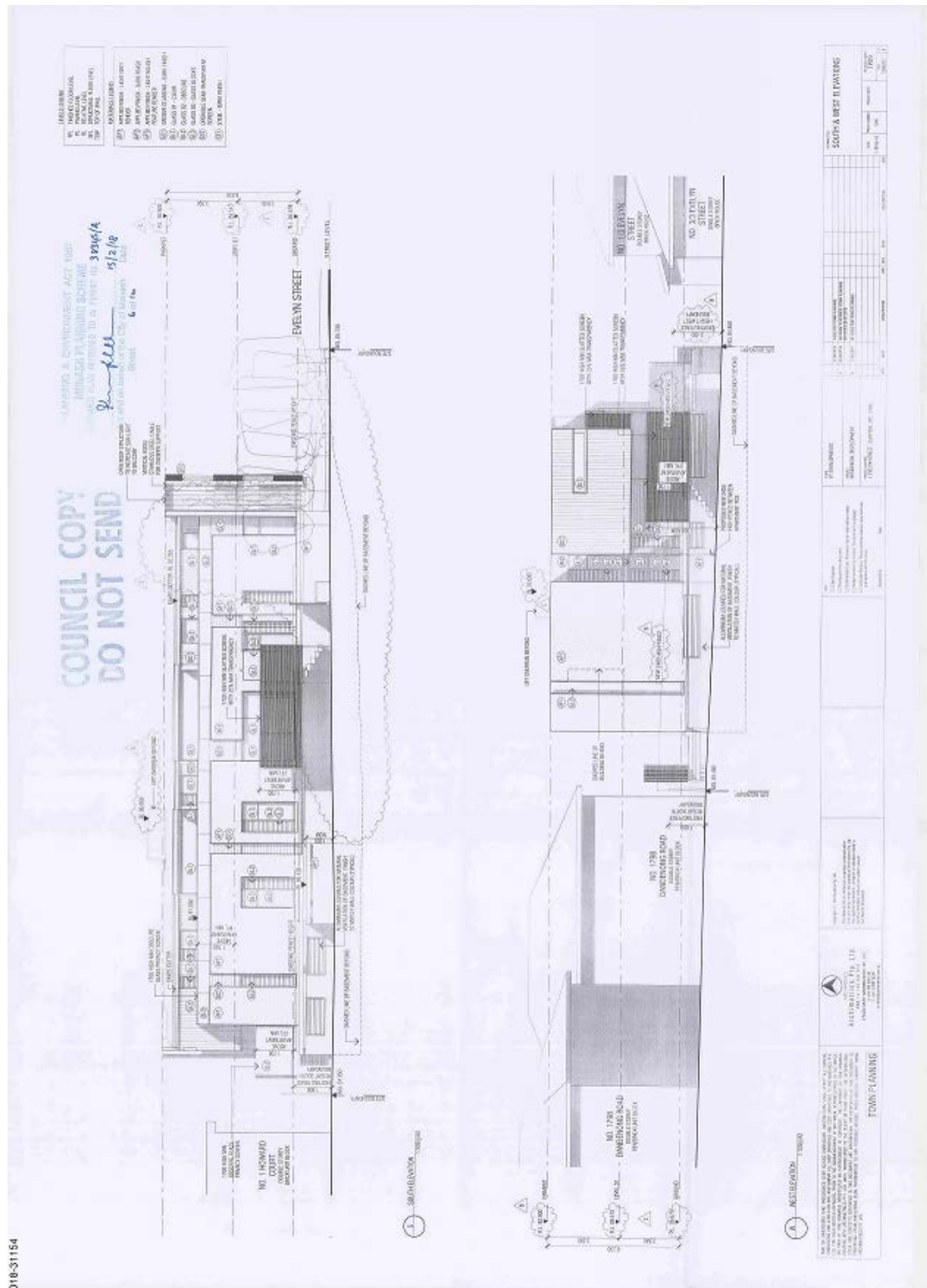
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ATTACHMENT 1 (Continued)



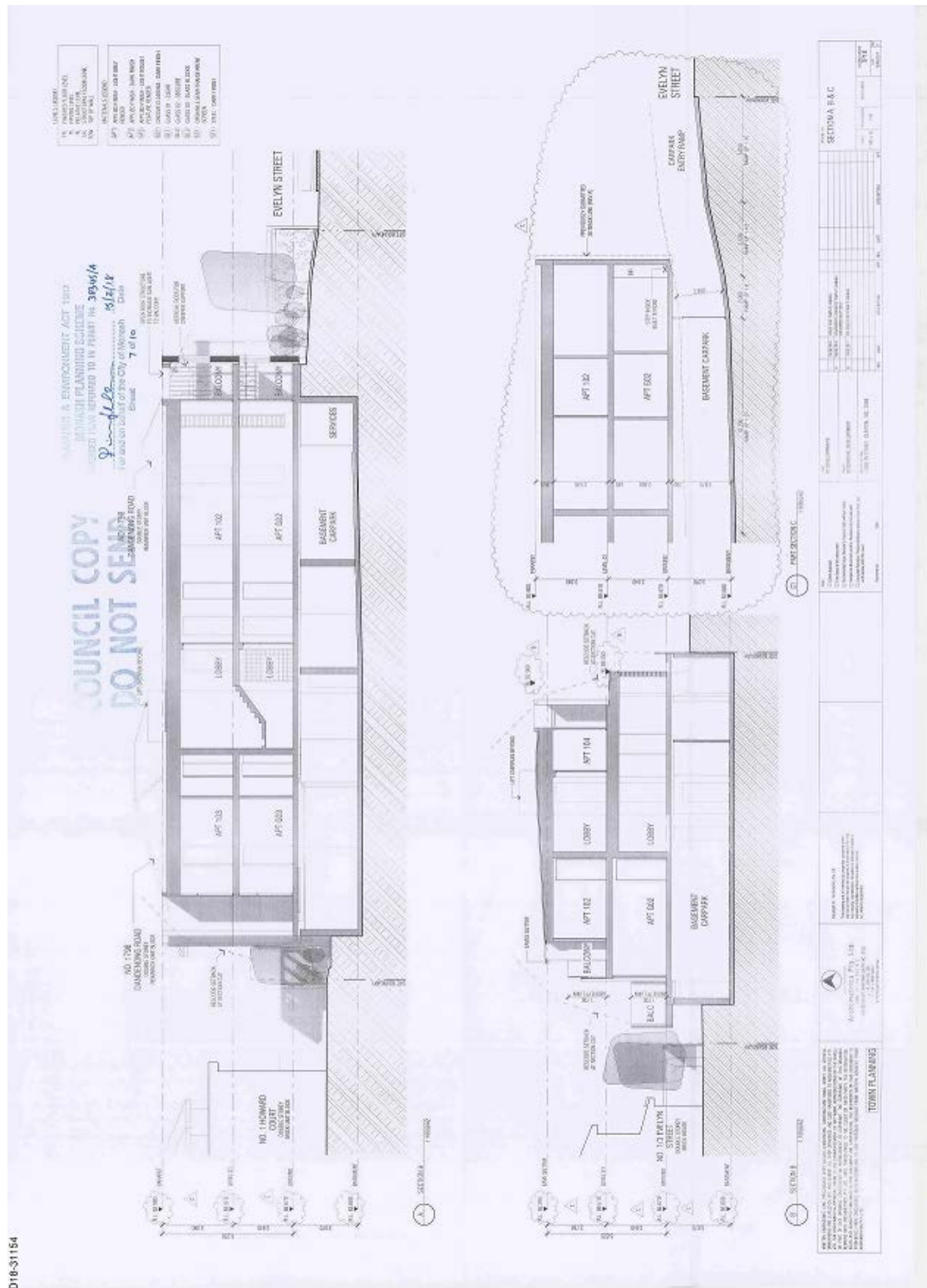
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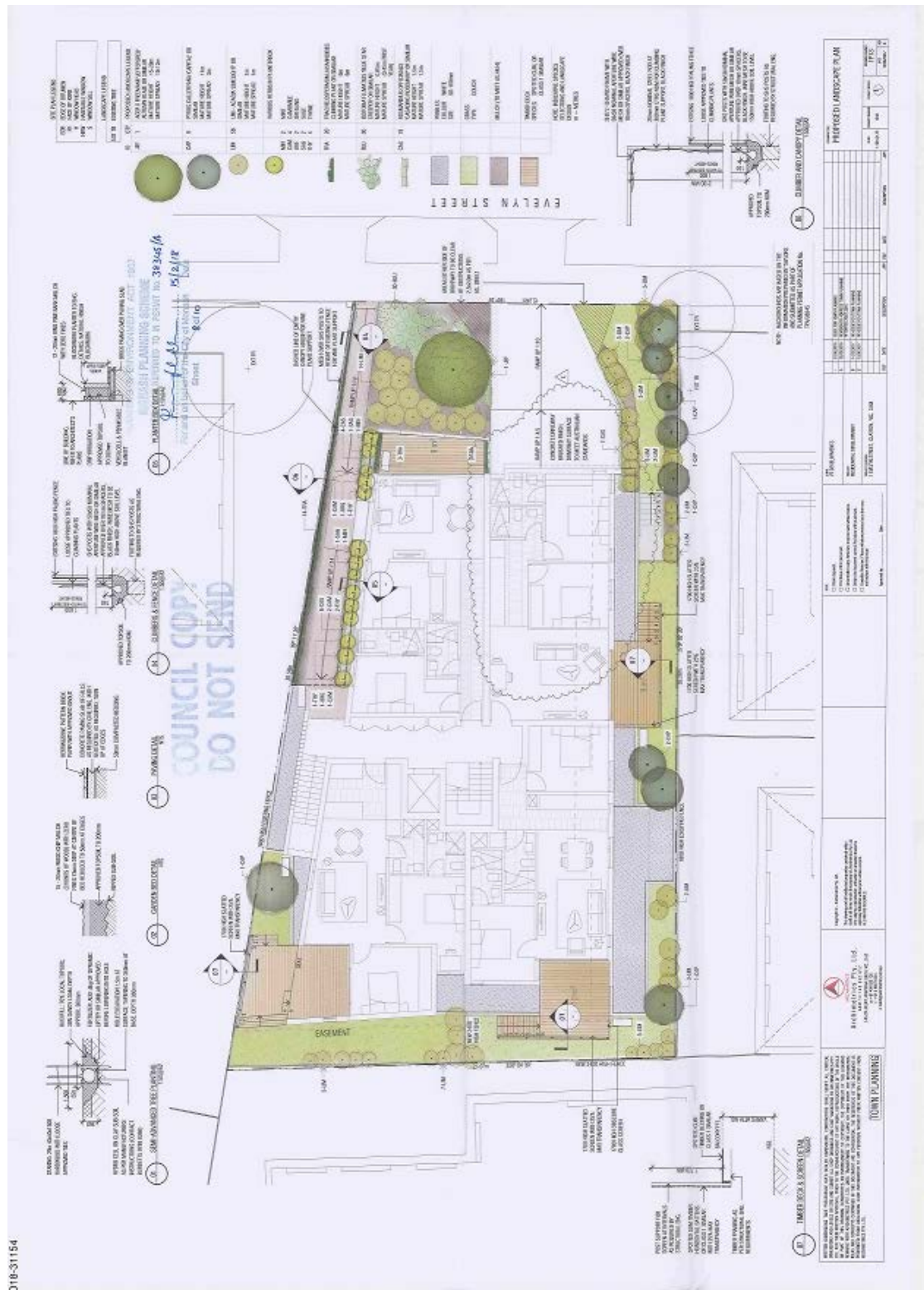
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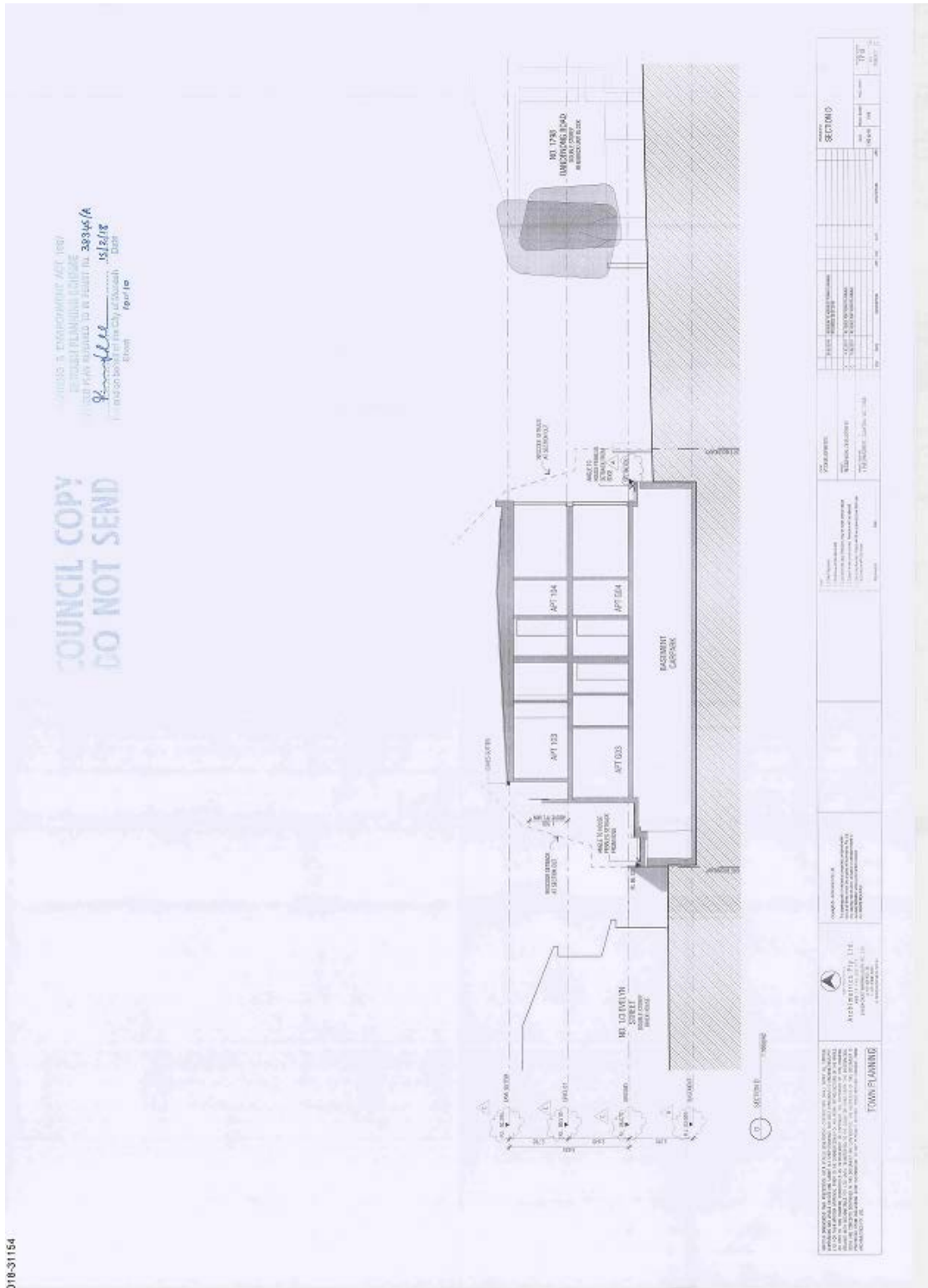
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