

**1.4 229 HUNTINGDALE ROAD & 48 HENRY STREET, OAKLEIGH
EXTENSION OF TIME - THE CONSTRUCTION OF A THREE-STOREY RESIDENTIAL
BUILDING
TPA/38620**

EXECUTIVE SUMMARY:

An application has been received for an extension of time to Planning Permit TPA/38620 for the construction of a three-storey residential building (plus basement). The original permit was issued on the 15 November 2011. The permit has been extended on three (3) previous occasions.

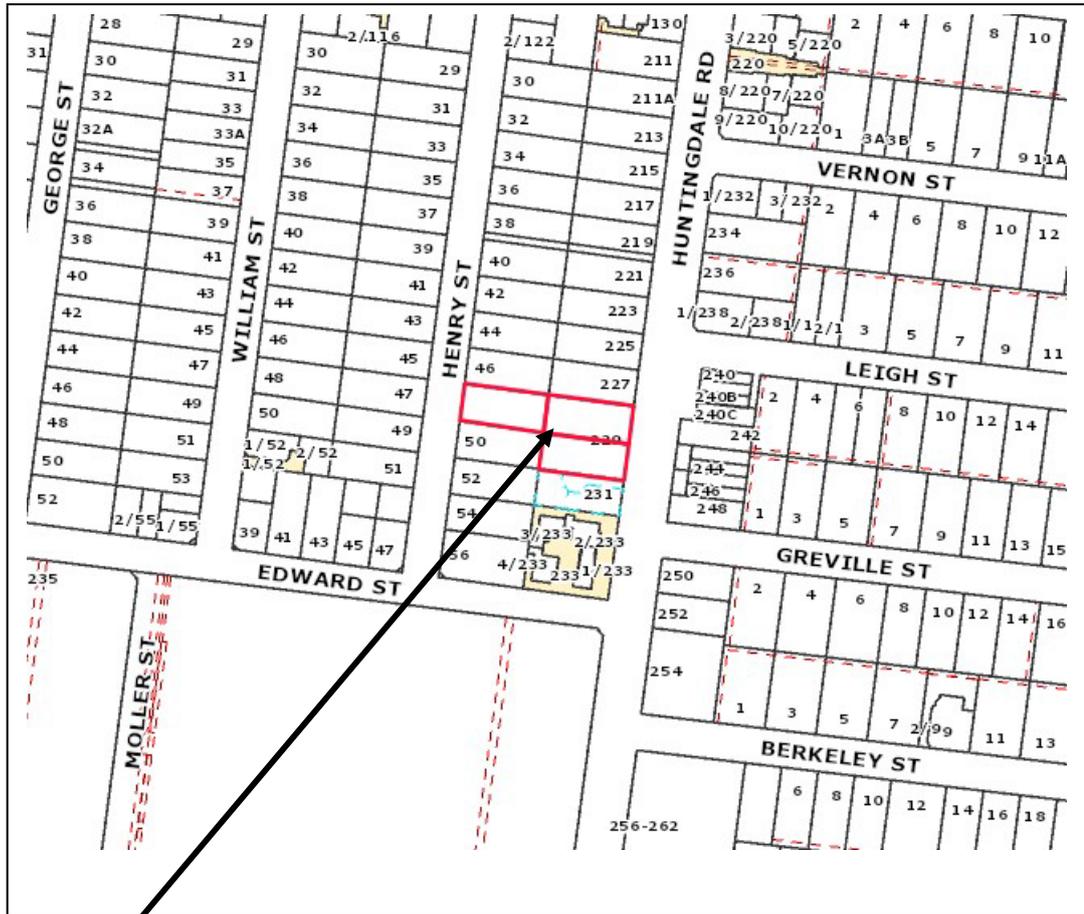
Construction of the development has not commenced. The subject site is currently vacant.

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.

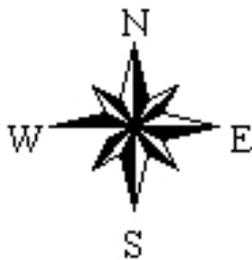
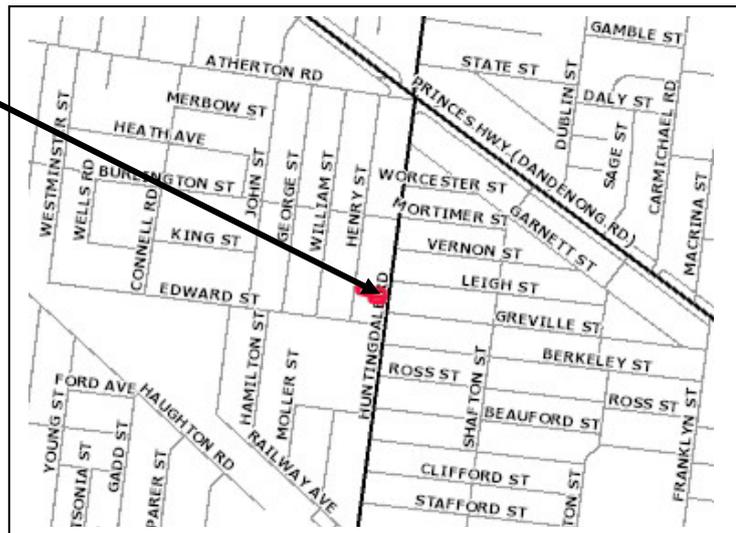
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Jeanny Lui
WARD:	Oakleigh
PROPERTY ADDRESS:	229 Huntingdale Road & 48 Henry Street, Oakleigh
NUMBER OF OBJECTIONS:	N/A
ZONING:	General Residential Zone Schedule 2
EXISTING LAND USE:	Vacant
OVERLAY:	No Overlay
ADOPTED AMENDMENT C125	General Residential Zone Schedule 3
RELEVANT LEGISLATION:	Section 69 of the P&E Act 1987

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



229 Huntingdale Road & 48 Henry Street, Oakleigh - Extension Of Time - The Construction Of A Three-Storey Building (Plus Basement), And The Construction Of Access To A Road Within A Road Zone Category 1 In Accordance With The Endorsed Plans

RECOMMENDATION:

That Council resolves to issue a refusal for an **Extension of time** to Planning Permit No. **TPA/38620** for the construction of a three-storey building (plus basement), and the construction of access to a road within a Road Zone Category 1 in accordance with the endorsed plans at 229 Huntingdale Road & 48 Henry Street Oakleigh, pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.

The grounds of refusal are as follows:

1. It is considered that the land owner is seeking to 'warehouse' the permit.
2. The time limited originally imposed on the planning permit was adequate and the permit has been previously extended three times for a total elapse time of 7 years.
3. 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.
4. The development fails to comply with the requirements in Clause 55.07 of the Monash Planning Scheme for apartment developments.

BACKGROUND:**History**

Planning permit **TPA/38620** was originally issued on the 15 November 2011 allowing the construction of a three-storey residential building (plus basement), and the construction of access to a road within a Road Zone Category 1 in accordance with the endorsed plan.

The original application was decided by Council and there were eleven (11) objections to the proposal.

The permit has been extended on three (3) previous occasions. The current expiry date was 15 November 2018. The current extension of time request was made within 6 months of the expiry date in accordance with the requirements of the Planning and Environment Act 1987.

Development plans were endorsed on 15 August 2017.

The Site and Surrounds

The subject site is located on the western side of Huntingdale Road approximately 50 metres north of its intersection with Edward Street in Huntingdale. The subject land comprises of three parcels of land, two fronting Huntingdale Road and one fronting Henry Street. The overall land area of the three lots is approximately 1,630 square metres.

The land is currently vacant with no vegetation.

Surrounding land to the north, south and west is residential in use and development comprising of a mix of single and double storey, brick and weatherboard dwellings. The immediate surrounding residential properties have driveways and associated garages and outbuildings abutting common boundaries with the subject land. Across Huntingdale Road to the east is a small strip shopping centre providing for various small businesses. The built form is a mix of single and double storey premises providing for active shopfronts at ground level and offices at first floor level.

An industrial precinct is located approximately 50 metres to the south-west of the subject land, south of Edward Street and west of Huntingdale Road. A small strip shopping centre is located 350 metres south of the subject land surrounding Huntingdale Railway Station located 650 metres south of the subject land.

PROPOSAL

The applicant has requested an extension of time of the permit's start and completion dates for a further two (2) years due to the applicant's intention to amend the building design due to changes in the residential property market.

PERMIT TRIGGERS:

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 requested was made on 21 March 2019, within six months of the expiry date in accordance with the requirements of the Planning and Environment Act 1987.

DISCUSSION:**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%	Non-compliance – 53.67%
Increasing onsite permeability from 20% to 30%	Complies – 36.36%
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.	Satisfactory – 3 canopy trees could be accommodated within the front street setback, and 5 canopy trees could be accommodated on the ground floor secluded private open space areas.
Requiring that secluded private open space of 35m ² be clear of all structures and services	Does not comply- most of the ground floor apartments (with the exception of apartment G01 and G07) contain a secluded private open space of more than 35 square metres however they are not clear of structures (storage sheds). Apartment G01 contains a secluded private open space of 22 square metres and Apartment G07 contains a secluded private open space of 32.9 square metres including a 6m ³ storage shed.
Requiring a minimum 5 metre rear setback	Does not comply- the building is setback a minimum of 1.2 metres from the rear boundary.
Requiring garages/ carports to be set back behind the front wall of the dwelling.	Complies – the basement garage entrance is setback behind the building façade.

The approved development fails to comply with the relevant planning requirements introduced in Amendment C125. As the requirements in Amendment C125 is a consequence of the Monash Housing Strategy, it is reasonable to conclude that the approved development is inconsistent with the Monash Housing Strategy objectives.

Amendment VC110 requires 35% garden area for land above 650 square metres and limits building heights to 11 metres. The approved development provides a garden area of 35% based on a desktop assessment. The maximum building height of 8.8 metres which is not higher than 11 metres.

In addition to Amendment C125 and VC110, Amendment VC148 introduced planning requirements for apartment developments. The approved development does not comply with a significant number of the requirements. Details of the non compliance are as follows:

Apartment Development Requirements under Clause 55.07	Assessment against Clause 55.07 of submitted plans
Integrated water and stormwater management	A sustainability management plan is not provided.
Accessibility objective	The approved development plan does not have a minimum of 50% of dwellings meeting the accessibility requirements.
Private open space above ground floor objective	A number of apartment dwellings do not comply with the minimum dimension for balconies.
Waste and recycling objective	Water tanks are not provided.
Functional layout objective	A number of apartment dwellings do not comply with the minimum width/ depth, and the living room area requirements.
Windows objective	A number of apartment dwellings have a secondary area less than the minimum width of 1.2 metres and will not allow adequate daylight into new habitable room windows.
Natural ventilation objectives	The approved development does not provide at least 40% of the apartment dwellings to have the breeze path on different orientations of the dwelling.

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

It is worth noting that a Precinct Plan for the Huntingdale Activity Centre is currently being prepared by Council's Strategic Planning that will articulate a vision for Huntingdale in its role as a key precinct within the Monash National Employment and Innovation Cluster. The Plan will identify how changes in land use, activity and built form will transform the Huntingdale Precinct and make the

vision a reality. This site is within the investigation area for the Precinct Plan, which is being finalised for Council consideration and endorsement for consultation in the coming months. The future planning controls to the subject land is unknown at this stage.

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.

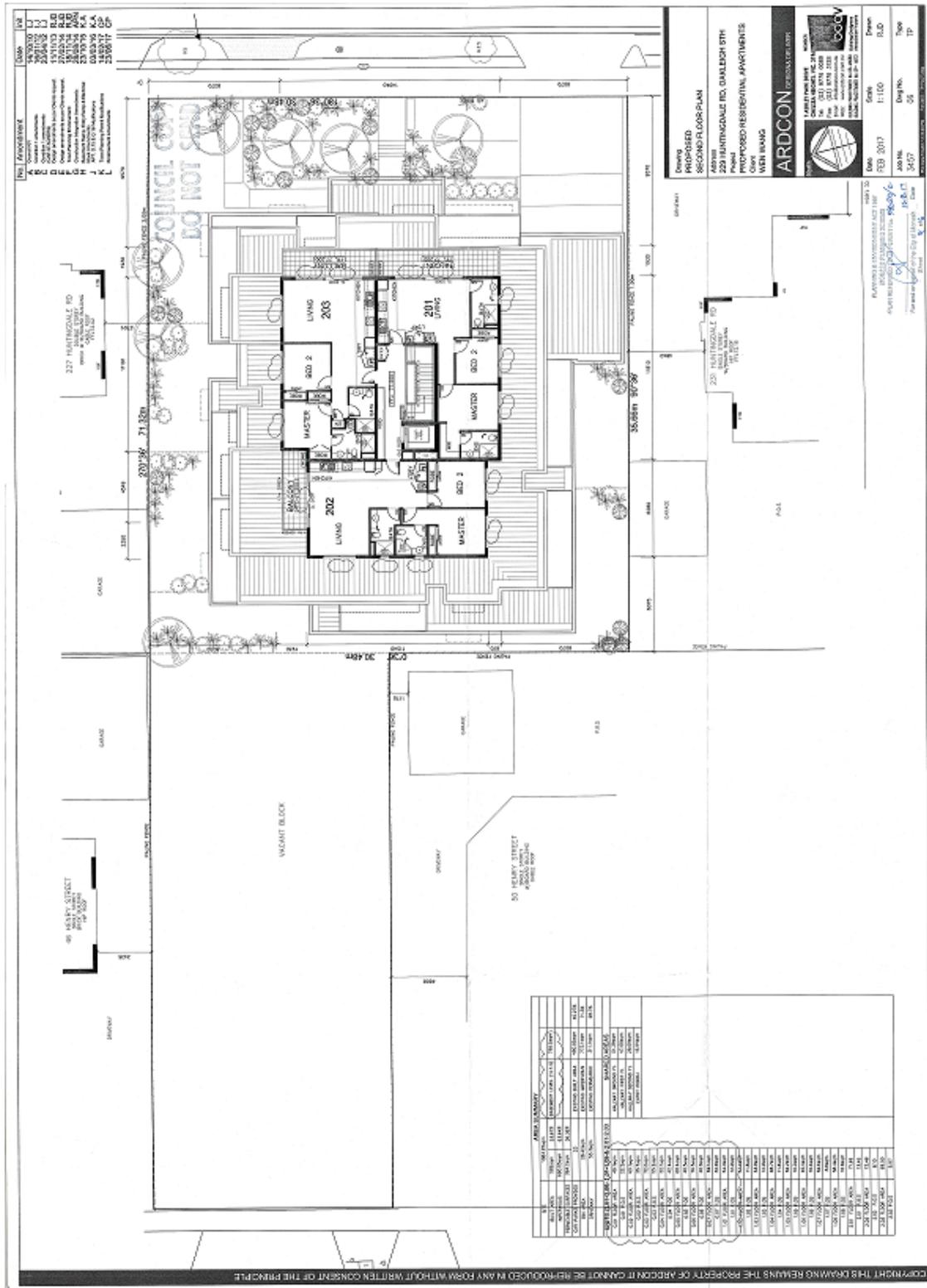
Council's records indicates that the development did not proceed since the development plans were endorsed by Council in August 2017. Permit conditions requires the approval of the Waste Management Plan (Condition 5), Construction Management Plan (Condition 8) and Landscape Plan (Condition 12) prior to the development starts. None of these plans have been submitted to Council for approval before the permit expired on 15 November 2018, 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 circumstancing 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:

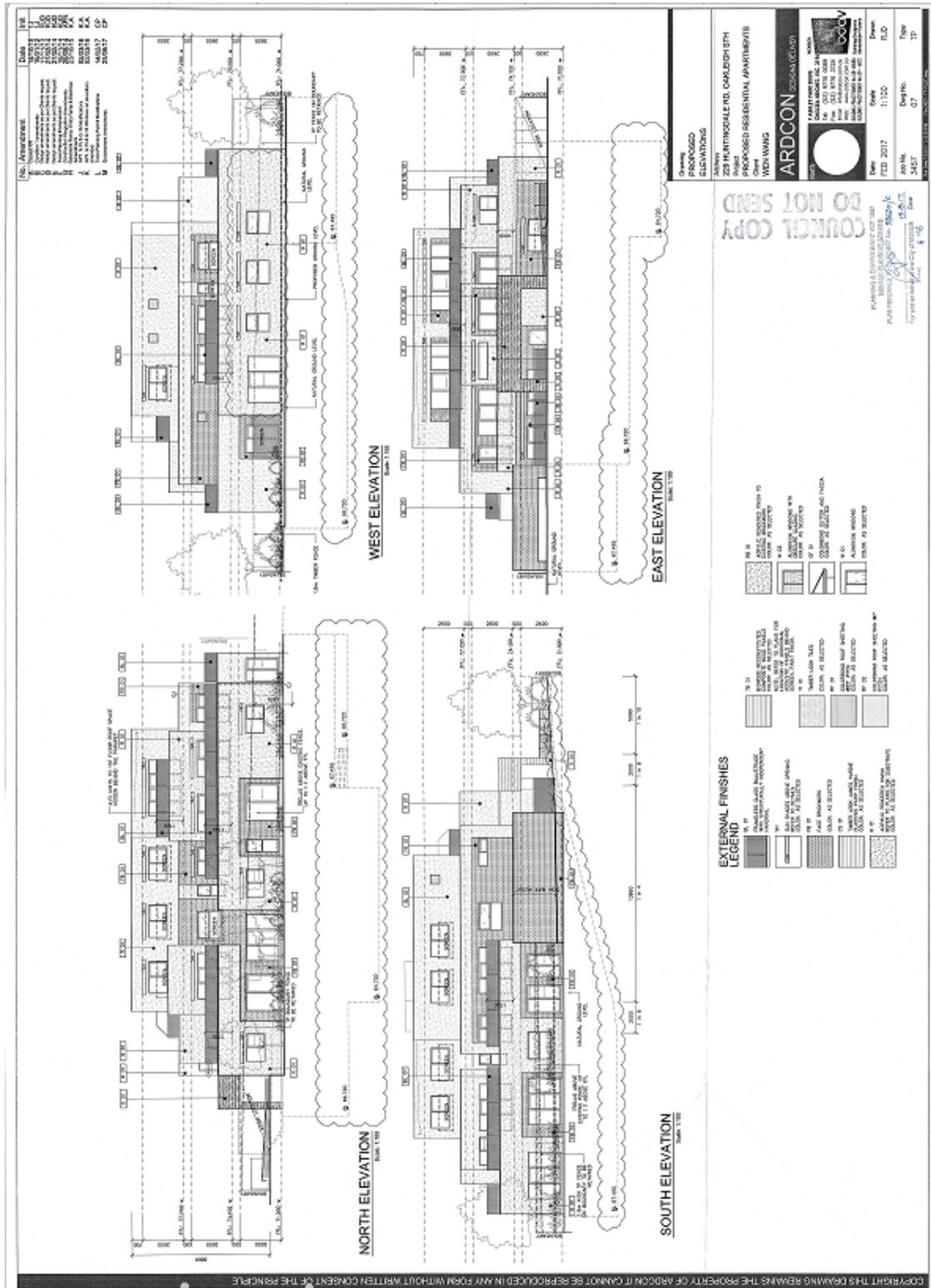
It is considered the development would not meet the current planning requirements in Council's proposed amendment C125 and the proposal fails to demonstrate compliance of garden area required by the State Government under Amendment VC110. Given the total elapse of time for this planning permit is more than 7 years, it is recommended the Council refuses to grant an extension for the planning permit.

ATTACHMENT 1 (Continued)



229 Huntingdale Road & 48 Henry Street, Oakleigh - Extension Of Time - The Construction Of A Three-Storey Building (Plus Basement), And The Construction Of Access To A Road Within A Road Zone Category 1 In Accordance With The Endorsed Plans

ATTACHMENT 1 (Continued)



229 Huntingdale Road & 48 Henry Street, Oakleigh - Extension Of Time - The Construction Of A Three-Storey Building (Plus Basement), And The Construction Of Access To A Road Within A Road Zone Category 1 In Accordance With The Endorsed Plans