ITEM 4

ADDRESS: 37 PARK ROAD, MIDDLE PARK

PROPOSAL: DEMOLISH THE EXISTING REAR GARAGE, PARTIALLY DEMOLISH/ALTER THE EXISTING DWELLING AND CONSTRUCT A TWO-STOREY ADDITION, DECK, GARAGE AND NEW CROSSOVER AT THE REAR OF THE SITE

WARD: ALBERT PARK

NEIGHBOURHOOD: MIDDLE PARK

TRIGGER FOR DETERMINATION BY COMMITTEE: MORE THAN 16 OBJECTIONS

APPLICATION NO: 654/2011

APPLICANT: JOHN CRAVEN

EXISTING USE: RESIDENTIAL

ABUTTING USES: RESIDENTIAL

ZONING: RESIDENTIAL 1 ZONE

OVERLAYS: HERITAGE OVERLAY (HO444) SPECIAL BUILDING OVERLAY (SBO2)

STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL: EXPIRED

RESPONSIBLE MANAGER: GEORGE BORG, MANAGER, CITY DEVELOPMENT

AUTHOR: AARON DYER, SENIOR URBAN PLANNER

TABLE OF CONTENTS:

1. EXECUTIVE SUMMARY ........................................................................................................ 2
2. SITE HISTORY .................................................................................................................. 12
3. PROPOSAL ........................................................................................................................ 12
4. SUBJECT SITE AND SURROUNDS ................................................................................ 13
5. PLANNING SCHEME PROVISIONS ............................................................................... 15
6. REFERRALS ..................................................................................................................... 15
7. PUBLIC NOTIFICATIONS / OBJECTIONS ................................................................. 17
8. OFFICER’S ASSESSMENT .............................................................................................. 18
9. COVENANTS ................................................................................................................... 25
10. OFFICER DIRECT OR INDIRECT INTEREST .......................................................... 25
11. OPTIONS ...................................................................................................................... 25
12. CONCLUSION ............................................................................................................... 25
13. RECOMMENDATION – NOTICE OF DECISION ....................................................... 25
1. EXECUTIVE SUMMARY

1.1. The application proposes to demolish the existing rear garage, partially demolish/alter the existing dwelling and construct a two-storey addition to the existing dwelling, a deck, a garage and a new crossover at the rear of the site.

1.2. The application was advertised and 22 objections were received, mainly relating to heritage impacts, neighbourhood character, building bulk and amenity impacts.

1.3. The proposed development would be consistent with heritage objectives expressed within the City of Port Phillip’s Local Planning Policy Framework, in particular the guidelines for ‘Additions and or Alterations to Heritage Places’ outlined in Clause 22.04-3 of Council’s Heritage Policy.

1.4. Due to the small size of the site and the fine-grain pattern of subdivision within this established neighbourhood, it would not be possible for the proposed rear addition to achieve all numeric standards outlined in Clause 54 (ResCode). However, an assessment of the application has determined that the proposal would meet all objectives required by Clause 54.

1.5. Deficiencies with respect to environmentally sustainable design and water sensitive urban design can be suitably addressed via the provision of appropriate conditions on any permit to be granted.

1.6. It is recommended that a Notice of Decision to Grant a Permit, subject to conditions be issued for this application.

---

**KEY ISSUES**

1. Heritage considerations with respect to Park Road and Neville Street
2. Residential amenity
3. Environmentally sustainable design and water sensitive urban design
2. SITE HISTORY

2.1. There is no relevant planning history or background for the site at 37 Park Road, Middle Park.

3. PROPOSAL

3.1. On 15 December 2011, the application was formally amended pursuant to s.57A of the Planning and Environment Act 1987. A brief summary of the amendments includes:

- Deletion of the proposed ‘shard’ feature
- Reconfiguration of the proposed roof form to the rear addition
- Deletion of all proposed red perspex glazing
- Reduction of the proposed maximum building height from 9m to 7m.

3.2. These plans were re-advertised by ordinary mail, but none of the objections were withdrawn.

3.3. The application proposes to demolish the existing rear carport, partially demolish/alter the existing dwelling and construct a two-storey addition to the existing dwelling, a deck, a garage and a new crossover at the rear of the site. Details are as follows:

Demolition

3.4. The detached garage at the rear of the site, a portion of the northwest wall and roof of the original heritage place and the entirety of the rear single storey addition – including its roof and an existing northwest boundary wall adjacent to 35 Park Road – would be demolished as a result of the proposed development.

Ground & First Floors

3.5. The proposed ground floor of the dwelling would comprise a bedroom with an ensuite and walk-in robe, a bathroom with separate w.c., a smaller bedroom, a laundry room and an open plan kitchen/dining/living area opening onto a north-facing secluded private open space (SPOS) comprising a deck and small grassed area. A single car garage with a storage room would be located to the north of the SPOS, with only a minimal setback from the site’s north abutment to Neville Street.

3.6. The proposed first floor would comprise a bedroom with an ensuite and a study that would be open to the double-height living area below.

Roof

3.7. The proposed rear addition would be capped by a dual-angle raked roof. The southwestern portion of the roof would slope downward at a 10 degree pitch toward Park Road, with the remainder of the roof sloping downward at a similar pitch toward the southeast boundary shared with the adjoining property located at 39 Park Road.

3.8. The proposed rear garage would also be capped by a 10 degree raked roof, pitched downward toward the southeast boundary.

Building Envelope

3.9. The tallest portion of the proposed development would be the roof apex of the rear addition. It would be constructed to a maximum height of 7m above ground level.

3.10. Two new boundary walls would be constructed on the northwest boundary shared with the adjoining property at 35 Park Road:

- A small 0.6m x 5.6m extension (ground level ensuite and bathroom) would project into the existing 0.6m side setback between the original dwelling and the adjacent boundary wall of the next-door dwelling located at 35 Park Road. The height of this new northwest boundary wall would be constructed 3.6m above ground level.
- The proposed northwest boundary wall associated with the double-storey addition would increase the length of the existing boundary wall from 10m to 15m. The height of this proposed wall would also be increased to an effective height of 7.0m.
above ground level. However, the entirety of this wall would be constructed opposite existing boundary walls at 35 Park Road, including an existing 11.7m long, 6.2m high boundary wall associated with its own rear double-storey addition.

3.11. The existing 2.7-4.0m southeast boundary wall shared with the adjoining building at 39 Park Road would be retained. The southeast wall of the upper-storey would be to a maximum height of 6.0m above ground level and would be setback 1.8m from the southeast boundary.

3.12. Excluding the proposed rear garage which would be constructed with a 0-1.2m setback to Neville Street, the proposed rear addition would be setback a minimum distance of 10.4m from Neville Street (including the 1.6m north roof eave).

External Materials and Finishes

3.13. As presented to Park Road and the adjoining property located at 39 Park Road, the upper-storey walls of the proposed rear addition would be finished in a mixture of white-coloured metal cladding and clear glazing (refer ‘South Elevation – Dwelling’ TP2312, ‘East Elevation’ TP2313 and ‘West Elevation’ TP2314). The roof would be clad in metal decking (refer ‘Roof Plan’ TP2241).

3.14. The proposed ground level extension located within the northwest side setback would be finished in timber cladding (refer ‘South Elevation – Dwelling’ TP2312).

3.15. The northeast elevation of the rear addition would be finished with a border of black-coloured metal cladding around the upper-level window, a timber-clad portal frame leading between the living area and the rear deck, natural (grey) concrete render and clear glazing. The underside of the projected roof eave would be clad with timber (refer ‘North Elevation – Dwelling’ TP2311).

3.16. The northeast elevation of the rear garage would be similarly finished in natural (grey) concrete render and black-coloured metal cladding plus timber eaves and a metal roof.

4. SUBJECT SITE AND SURRounds

Subject Site

4.1. The site is located on the north side of Park Road, approximately 20m northwest of the intersection of Park Road and Langridge Street in Middle Park (refer p.3 Locality Plan). The site is also bordered by Neville Street to the northeast.

4.2. The lot is rectangular in shape, though its boundaries are slightly irregular. It is defined by a 5.66m frontage boundary and a 45.3m side boundary. The total area of the lot is approximately 259 square metres.

4.3. No easements affect the lot, and the land is relatively flat. There is no significant vegetation located on the site.

4.4. Vehicular access to/from the property is made via a rear crossover on Neville Street, leading to a detached carport/garage built with a 0-1.2m setback to Neville Street.

4.5. The property is currently developed with an original single-storey Victorian dwelling. A single-storey addition and garage have been constructed to the rear of this dwelling sometime after its initial construction.

4.6. The existing dwelling is setback 2.4m from the front southwest boundary, 0.6m (in part) from the northwest side boundary shared with the adjoining property located at 35 Park Road. The dwelling is constructed on the southeast boundary shared with 39 Park Road and on the northeast boundary (garage) abutting Neville Street.

Surrounding Area

4.7. Park Road is a wide residential street with generous landscaped front setbacks, bluestone gutters/kerbs and broad nature strips containing medium-sized street trees. Dwellings on Park Road share a relatively consistent low-scale heritage character generally involving one-to-two storeys in height.
4.8. Neville Street presents a very different streetscape. It is a narrow one-way street with narrow footpaths and small, infrequent street plantings. Although the scale of buildings is roughly consistent with that of Park Road, the narrowness of the street combined with minimal front setbacks results in a more imposing built environment. Moreover, a 45m long row of utilitarian garage structures and fences extends along the southern side of Neville Street (including the subject site), closer to its intersection with Langridge Street.

4.9. The surrounding area is affected by a Heritage Overlay (Middle Park & St Kilda West Precinct – HO444). A Heritage Review recently prepared by Simon Reeves, Architectural Historian identifies the heritage significance of the HO444 as follows:

**Why is it significant?**

Historically, the precinct is significant as a notable and highly atypical expanse of late nineteenth and early twentieth century inner-suburban residential development, conspicuously sandwiched between the much older settlements of Port Melbourne (Sandridge), South Melbourne (Emerald Hill) and St Kilda. With the contemporaneous development of Middle Park and St Kilda West hampered by a notorious expanse of swampland and a foreshore military reserve, it was not until the late 1870s and early 1880s – when the swamp was reclaimed, military presence was withdrawn and the new Middle Park Railway Station was opened (1882) – that residential expansion could begin in earnest.

The major boundary thoroughfares of Kerferd Road and Canterbury Road were amongst the first to develop, attracting the attention of wealthier citizens who built large and grand residences – a trend that continued into the early twentieth century and established these roadways as prestigious residential addresses. Elsewhere in the precinct, specific areas ably illustrate the two closely-spaced phases of intense settlement: housing from the 1880s and 90s along the northern fringes, and to the southeast of Fraser Street, and counterparts from the 1900s and 1910s in the blocks closer to the beach. Contemporaneous non-residential buildings provide evidence of the expansion of community services during this key period: most notably the five churches, one school and numerous corner shops established along Richardson Street.

A scattered but noteworthy overlay of later twentieth century development is represented by large interwar dwellings along Canterbury Road, inter-war shops (including three dairies), low-rise inter-war apartment blocks (which significantly follow the alignment of the 1926 electric tramway route), and larger post-war counterparts in the former City of St Kilda and, most notably, as high-rise towers along Beaconsfield Parade. These apartments ably illustrate a tendency towards higher density living that has been a significant theme in the former City of St Kilda from the 1920s to the 1980s.

Aesthetically, the precinct is significant for its fine and largely intact streetscapes of Victorian and Edwardian housing. The former, concentrated along the north-western fringe and in the former City of St Kilda south-east of Fraser Street, represent most of the ubiquitous dwelling types associated with the era: small single-fronted cottages in brick and timber, more ornate Boom-style terraces, larger double-fronted villas, two-storey terrace houses and a few mansions. Edwardian housing, concentrated in the beachside blocks between Mills and Fraser Street, is dominated by modest single-storey red brick dwellings in the Queen Anne style, in attached rows, semi-detached pairs or freestanding. The boundary streets of Kerferd Road and Canterbury Road are especially notable for larger and grander residences from the period 1890-1930, including fine rows of double-storey Victorian terrace houses, large Victorian and Edwardian villas and inter-war attic-storey bungalows. Today, the high-status Victorian, Edwardian and Inter-War dwellings along Canterbury Road constitute the most intact remaining streetscape of the four prestigious residential boulevards (cf Albert Road, Queens Road and Fitzroy Street) that originally overlooked the Albert Park Lake reserve.

Aesthetically and architecturally, Beaconsfield Parade stands out for its high concentration of residential buildings (from all eras) that – befitting its status as one
of Melbourne’s most iconic beachfront promenades – not only generally display a higher level of architectural expression but were also explicitly designed to exploit views across the bay. Thus it is of especial significance within the precinct as a specific and consistent architectural pattern, rather than a reflection of any single era.

Irrespective of their style and era, the pre-war buildings within the precinct exhibit notable cohesion through their broadly consistent scale (mostly one and two storey) and materials, their closely-grained siting and relatively narrow setbacks. Many of the streetscapes are enhanced by their settings, which includes original bluestone kerbs, gutters and pitching to laneways and crossovers (particularly along Kerferd Road), landscaped median strips (again in Kerferd Road, and the far end of Danks Street) as well as some outstanding rows of mature deciduous street trees (most notably on Mary Street and Richardson Street, as well as Park Street, Page Street, York Street)

5. PLANNING SCHEME PROVISIONS

5.1. Permit Triggers

<table>
<thead>
<tr>
<th>Zone or Overlay</th>
<th>Why is a permit required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 32.01</td>
<td>Pursuant to Clause 32.01-3, a permit is required to construct or extend one dwelling on a lot less than 500 square metres in size.</td>
</tr>
<tr>
<td>Heritage Overlay</td>
<td>A permit is required to demolish or remove a building, externally alter a building and construct a building or construct or carry out works pursuant to Clause 43.01-1.</td>
</tr>
<tr>
<td>Special Building Overlay</td>
<td>A permit is required to construct a building or construct or carry out works pursuant to Clause 44.05-1.</td>
</tr>
</tbody>
</table>

5.2. State Planning Policy Framework (SPPF)

The following sections of the SPPF are relevant:
- Clause 15.03-1 Heritage Conservation

5.3. Local Policy Planning Framework (LPPF), including the Municipal Strategic Statement (MSS)

The following sections of LPPF and MSS are relevant to the proposal:
- Clause 21.03-1 Environmentally Sustainable Land Use and Development
- Clause 21.05-1 Heritage
- Clause 21.06-3 Middle Park and Albert Park
- Clause 22.04 Heritage Policy

5.4. Particular Provisions

The following Particular Provision is relevant to the proposal:
- Clause 54 One dwelling on a lot

5.5. Amendment C78

Amendment C78 proposes to introduce a new Local Planning Policy, Stormwater Management (Water Sensitive Urban Design) into the Port Phillip Planning Scheme at Clause 22.12 and would apply to all new buildings. The Policy would establish requirements for new development that promotes the use of best practice performance objectives for stormwater management (water sensitive urban design) in the consideration of planning applications/proposals.

The Amendment documentation was adopted by the Port Phillip City Council on the 27th September 2010 and has now been submitted to the Minister for Planning for approval. As such, Amendment C78 is now a “seriously-entertained” document which possesses lawful status before the Victorian Civil and Administrative Tribunal (VCAT).

6. REFERRALS
6.1. **Internal Referrals**

The application was referred to the following areas of Council for comment. The responses received are summarised below:

**Urban Design and Heritage Advisor**

The proposal is considered to be significantly set back from the Park Street frontage and therefore having no significant impact on the heritage of the streetscape. The proposal would have an even lesser impact having removed the shard and reducing the bulk and massing. There will no detriment to the character of the heritage place.

Response by the planning officer:

This matter is further discussed in Section 8.1 below.

**Sustainable Design Architect**

The proposal does not adequately demonstrate that it would meet Council’s current expectations for environmentally sustainable design. To counter this, the applicant should provide the following:

- A sustainable design assessment statement (SDA), which indicates how the development would address relevant sustainable design criteria.
- A Sustainable Tools for Environmental Performance Strategy (STEPS) assessment to support claims made in the SDA.
- An energy rating (e.g. FirstRate, Accurate, BERS Professional, etc.) of the proposal or a deemed-to-satisfy report indicating how energy efficient measures or standard (6 Stars suggested) are intended to be met.
- A STORM rating report that would capture all impervious surfaces on the site including roofs, balconies, roof decks and paved surfaces that feed into one treatment drain and would achieve a calculation of 100%. The information presented in this report will supplement the Stormwater category of the STEPS assessment.
- Either a gas-boosted solar hot water service or photovoltaic energy system to reduce greenhouse gas emissions (recommended).

Response by the planning officer:

It is appropriate to include these additional ESD requirements via condition(s) on any permit to be granted (refer recommended Condition 6).

**Development Engineer**

According to flood report 2011, the flood level is 1.932m AHD (1:100 yr basecase). The predicted extent of flooding would extend into the site by approximately 4m beyond the front and back boundaries. The freeboard for habitable area (master bed room) is 300mm above flood level. Minimum finished floor level = 2.232m. The freeboard for nonhabitable area (carport, deck) is 150mm above flood level. Minimum finished floor level = 2.082m

The proposed new crossover via Neville Street is supported, provided that it is designed and constructed in accordance with Council’s standard SD4101.

With regard to the stormwater drainage, the following condition should be included on any permit to be granted:

- The development of the site must be provided with stormwater drainage which incorporates the use of a rainwater tank connected for reuse. The drainage provided must prevent overflows onto adjacent properties and be satisfactorily maintained. A drainage plan must be prepared by a qualified person and show all details of the proposed stormwater drainage.

Response by the planning officer:
The 4m extent of expected flooding that would affect the front of the property would not reach the proposed ensuite/bathroom extension, which would be setback 7.8m from the front boundary to Park Road. Therefore, there would be no need to raise the floor level of either the ensuite or bathroom.

The proposed non-habitable rear garage would be constructed to a level of 2.03m AHD which would be 0.052m (52mm) below the 2.082m AHD freeboard level recommended by Council’s Development Engineer. Therefore, it is appropriate to require the floor level of the rear garage to be raised accordingly as a condition of any permit to be granted (refer recommended Condition 1b).

With respect to the additional crossover and stormwater drainage requirements, it is appropriate to include these requirements via conditions on any permit to be granted (refer recommended Conditions 7 and 8).

6.2. External Referrals

The application was not required to be referred to any external referral authorities.

7. PUBLIC NOTIFICATIONS / OBJECTIONS

7.1. It was determined that the proposal may result in material detriment therefore Council gave notice of the proposal by ordinary mail to the owners and occupiers of surrounding properties and directed that the applicant give notice of the proposal by one notice on the site facing Park Road and one facing Neville Street for a minimum 14 day period, in accordance with s.52 of the Planning and Environment Act 1987.

In response, 22 objections were received. The key concerns are summarised as follows followed by the planning officer’s comments in italics:

- The proposed ‘red shard’ feature at the rear of the site would be excessive in its scale, inappropriate in its form and inconsistent with the heritage character of Neville Street.

  Following the consultation meeting held on 15 November 2011, the application was formally amended pursuant to s.57A of the Planning and Environment Act 1987. This amendment deleted the ‘shard’ feature completely. Therefore, it is no longer included in this proposal.

- The proposed provision of extensive areas of red-tinted glazing both to the upper level of the rear double-storey addition and the ‘shard’ feature would not respect or sympathise with the heritage character of Neville Street and would be inconsistent with Council’s Heritage Policy.

  The amended plans not only deleted the shard feature but all red-tinted glazing. Therefore, these elements are no longer included in this proposal.

- The proposed rear addition would be inconsistent with the neighbourhood character.

  The proposed rear double-storey addition would respect the low scale character of Park Road and would appropriately respond to the mixed scale and character of adjoining buildings presenting from the south side of Neville Street, including an original double-storey heritage dwelling at 39 Park Road, a contemporary triple-storey infill development at the rear of 41 Park Road and contemporary double-storey rear additions at 35 and 29 Park Road.

  Many of the existing dwellings fronting Neville Street also possess double storey rear additions, including: 154, 156, 160, 161, 163 and 167 Neville Street. Resultantly, it is considered that double-storey rear additions are an intrinsic element of the existing character of Neville Street. Indeed, such developments are an established component of the built environment of the Middle Park neighbourhood as a whole.

  Although the proposed rear addition would be designed in a contemporary manner and would be partially visible from Neville Street to its north, Council’s Heritage
Policy openly encourages such an approach for rear additions to existing heritage places. The detailing, window proportions, and roof form would successfully employ a ‘contextual design response’ that would be different yet sympathetic with the heritage character of the area and would be consistent with the mixed character of this portion of Neville Street. Moreover, the proposed rear carport would be visually compatible with the rear addition and consistent in its detailing and design with the abutting row of rear carports located on the south side of Neville Street.

- The proposed rear addition would deprive existing north-facing windows of the adjoining dwelling at 39 Park Road of adequate solar access.
  
  *There are no habitable room windows to this adjoining dwelling that adhere to the definition of a “north-facing window” pursuant to Standard A13.*

- Proposed site coverage would be excessive.

  The proposal would not achieve adequate site permeability.

  The proposed rear addition would unreasonably overshadow the rear courtyard of the adjoining dwelling at 39 Park Road.

  *These particular matters are further discussed at Section 8.5 later in this report.*

- Construction impacts, including: construction noise, traffic problems to Neville Street due to blocked access, structural damage to adjoining properties as a result of proposed demolition/construction of boundary walls and potential obstruction of sub-floor ventilation grilles to an adjoining property.

  *These issues do not constitute valid planning considerations. If a planning permit is granted and the development is commenced, relevant construction practices will be required to accord with the applicable provisions of the Victorian Building Regulations, the Building Code of Australia and relevant local laws.*

- Property devaluation

  *This is not a valid planning consideration.*

7.2. **Consultation meeting**

A consultation meeting was held on 15 November 2011. No resolution was achieved at the meeting, but amended plans were submitted and were re-advertised.

8. **OFFICER’S ASSESSMENT**

8.1. **State Policy**

The key State Planning Policy Framework objectives and strategies of Clause 15.03-1 (Heritage Conservation) relevant to the subject proposal are:

- To ensure the conservation of places of heritage significance.

- Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.

- Retain those elements that contribute to the importance of the heritage place.

- Encourage the conservation and restoration of contributory elements.

- Ensure an appropriate setting and context for heritage places is maintained or enhanced.

8.2. **Local Policy**

Clause 21.03-1 Environmentally Sustainable Land Use and Development identifies the following relevant Objectives and Strategies:

1.1 **Encourage resource-efficient design, material selection and construction techniques that minimise negative and maximise positive environmental impacts.**
1.2 Promote ecologically sustainable development through the use of industry standards and environmental performance assessment tools.

1.3 Encourage innovative landscape design that minimises water consumption and maximises biodiversity, including greater use of indigenous and drought tolerant plant species, recycled materials and water re-use and recycling, subject to heritage and urban character considerations.

1.4 Encourage water sensitive urban design in all new developments, to increase on-site stormwater retention and treatment to improve water quality to the bay, and to facilitate water conservation.

Furthermore, Clause 21.05-1 Heritage of Council’s MSS identifies the following objectives and strategies relevant to the subject site:

1. To conserve and enhance the architectural and cultural heritage of Port Phillip.
   1.1 Protect, conserve and enhance all identified significant and contributory places, including buildings, trees and streetscapes.
   . . .
   1.3 Support the restoration and renovation of heritage buildings and discourage their demolition.
   1.4 Encourage high quality design that positively contributes to identified heritage values.
   1.5 Ensure that new development respects and enhances the scale, form and setbacks of nearby heritage buildings.

Clause 21.06-3 Middle Park and Albert Park outlines the following relevant local strategies for these neighbourhoods:

6.3.1 Protect the intact heritage character of the area.

In areas zoned Residential 1:

6.3.2 Encourage all development to respond to the following character elements:
   - The historic, low-rise Victorian and Edwardian architectural character of the area.
   - The low scale of development that is predominantly 1 and 2 storeys in most streets with the exception of some taller buildings along the foreshore and in the vicinity of Albert Road.
   - The wide streets and boulevards, as well as the intricate network of small streets and back lanes.
   - The small size of most residential lots in the neighbourhood.

Heritage considerations applying specifically to the City of Port Phillip are outlined in Clause 22.04 which applies to all land within a Heritage Overlay and, pursuant to Clause 22.04-1, builds upon Clauses 15.03-1 and 21.05-1.

The City of Port Phillip Heritage Policy Map (Sept 09) is an Incorporated Document within Clause 22.04-6 of the Port Phillip Planning Scheme. It identifies the subject site as a ‘significant place’ which, pursuant to Clause 22.04-5, is defined as:

...buildings and surrounds that are individually important places of either State, regional or local heritage significance and are places that together with an identified area, are part of the significance of a Heritage Overlay. These places are included in a Heritage Overlay either as an area or as an individually listed heritage place and are coloured “red” on the City of Port Phillip Heritage Policy Map in the Port Phillip Heritage Review, Volume 1-6.

Clause 22.04-2 states the following relevant objectives for Council’s heritage policy:
To retain and conserve all significant and contributory heritage places.

To ensure all new development and redevelopment of significant and contributory places is respectfully and harmoniously integrated with the surrounding character.

To promote design excellence (in terms of building siting, scale, massing, articulation and materials) which clearly and positively supports the heritage significance of all Heritage Overlay areas.

To ensure that new development and any publicly visible additions and/or alterations in or to a heritage place maintains the significance of the heritage place and employs a contextual design approach.

To ensure that reconstruction and repair of significant heritage bluestone kerb and channeling, bluestone laneways and significant concrete kerb and channel is carried out in a way that reflects as closely as possible the original appearance.

Clause 22.04-3 Policy identifies the following relevant policy considerations relating to the proposed rear addition:

**General**

It is policy to:

- Encourage new development to be respectful of the scale, form, siting and setbacks of nearby significant and contributory buildings.

- Encourage a contextual design approach for additions and/or alterations to a heritage place or for new development. A contextual approach is where the alteration, addition or new development incorporates an interpretive design approach, derived through comprehensive research and analysis. New development should sit comfortably and harmoniously integrate with the site and within the streetscape and not diminish, detract from or compete with the significance of the heritage place or streetscape character. This approach can include

  - Contemporary architecture and innovative design which is an important part of the contextual approach because it adds to the existing diversity and layering of styles through time. This layering is a defining feature in a number of areas and is therefore an important component of Port Phillip’s heritage.

**Additions and/or Alterations to Heritage Places**

It is policy that:

- Additions and alterations:
  - Do not change the original principal facade(s) or roof.
  - Are distinguishable from the original parts of the heritage place to be conserved, if a contemporary architectural approach is used.
  - Are based on research that can identify the elements, detailing and finishes originally employed.
  - Do not obscure or alter an element that contributes to the significance of the heritage place.
  - Maintain an existing vista or viewlines to the principal facade(s) of a heritage place.

- An upper storey addition is sited and massed behind the principal facade so that it preferably is not visible, particularly in intact or consistent streetscapes [the 10 degree sightline performance measure].
• If visible from the front (principal) street, the roof of any addition is related to that of the heritage place in terms of form, pitch and materials.

• Walls, windows, roofs and fences are complementary to the heritage place in terms of materials, finishes, textures and paint colours and are appropriate to its architectural style.

• New development achieves environmentally sustainable outcomes, including upgrading existing fabric to reduce operational environmental impact of existing buildings, which is balanced with protecting the heritage significance of the site.

Demolition:
• Allow the demolition of part of a heritage place if it will not affect the significance of the place and the proposed addition is sympathetic to the scale and form of the place.

Car Parking:
It is policy to:
• Discourage new vehicle crossovers in the front of a property with a narrow street frontage or in streets with few or no crossovers.

• Encourage new on-site car spaces to be located at the rear of the property or in a side setback area.

• Encourage carports, garages and outbuildings, if visible from the main street frontage, to have wall openings, roof forms and materials that complement the main building and the streetscape.

Pursuant to Amendment C78 – a “seriously-entertained” document – proposed Clause 22.12 Stormwater Management (Water Sensitive Urban Design) sets out the following relevant policies in Clause 22.12-3:

It is policy to:
• Require the use of stormwater treatment measures that improve the quality and reduce the flow of water discharged to waterways, including, but not limited to:
  - collection and reuse of rainwater and stormwater on site
  - vegetated swales and buffer strips
  - rain gardens
  - installation of water recycling systems
  - direction of flow from impervious ground surfaces to landscaped areas.

8.3. Heritage Policy / Heritage Overlay assessment

To determine whether the proposed rear addition would achieve appropriate heritage outcomes, the proposal must be assessed against Clause 22.04 Heritage Policy, a Local Planning Policy unique to the City of Port Phillip. To this effect, the policy guidelines expressed in Clause 22.04-3 for ‘Additions and/or Alterations to Heritage Places’ play the most significant role; however, policy guidelines outlined in ‘Demolition’ and ‘Car Parking’ are also relevant. In response to these guidelines, the following points are noted:

• The proposed partial demolition of the existing dwelling would not change the original façade or roof of the existing dwelling as it presents from the site’s principal frontage on the north side of Park Road.

• The proposed rear addition would not obstruct views of any adjoining original principal facades from the public realm, either from Park Road to the south or Neville Street to the north.
The proposed rear addition would be sited below a 10 degree ‘envelope’ projected from the gutter line of the front façade (refer ‘East Elevation’ TP2313 and ‘West Elevation’ TP2314). Thus, it would comply with Performance Measure 1.

Although the proposed double-storey rear addition would be visible from the site’s secondary street frontage on the south side of Neville Street, the massing, form and scale of the addition would be consistent with the eclectic character of the Neville Street streetscape, which includes a mixture of original heritage dwellings, more recent contemporary additions and infill development and utilitarian car parking structures.

The contemporary nature of the proposed materials, finishes, textures and paint colours of the rear addition would also compliment the eclectic character of the Neville Street streetscape.

The proposed rear addition would utilise a contextual design approach that would positively contribute to the diverse layering of building styles and designs found throughout the neighbourhood. It would be designed in a contemporary aesthetic that would distinguish itself from the subject building and adjoining heritage places in an innovative yet sensitive manner.

The proposed single-storey rear garage would be consistent in terms of its street setback, size and general appearance with abutting car parking structures present on the south side of Neville Street.

The proposed relocated crossover via Neville Street would be consistent with the existing crossover to/from the subject site.

Based on the conclusions above, the proposal would retain and conserve the existing heritage characteristics of both Park Road and Neville Street and would respectfully and harmoniously integrate with the surrounding character. Therefore, it would accord with the relevant objectives and guidelines expressed in Clause 22.04 Heritage Policy and would be consistent with the Statement of Significance which relates to the totality of the HO444.

8.4. ESD & WSUD Policy

Clause 21.03-1 Environmentally Sustainable Land Use and Development and proposed Clause 21.12 Stormwater Management (Water Sensitive Urban Design) – pursuant to the “seriously-entertained” Amendment C78 – require all new developments in the City of Port Phillip to meet minimum standards for energy/resource efficiency.

Comments by Council’s Sustainable Design Architect and Development Engineer (refer Sections 6.1.2 and 6.1.3 above) identify that, at this stage, the proposal does not adequately demonstrate that it would meet Council’s current expectations for environmentally sustainable design and water sensitive urban design.

Therefore, it is appropriate to include conditions on any permit to be granted to ensure that the proposal would achieve these policy requirements (refer recommended Conditions 1d, 6 & 7).

8.5. Clause 54 (ResCode) assessment

A full copy of the ResCode assessment is available on file.

The proposal would comply with the following standards: A1 Neighbourhood character, A4 Building height, A12 Daylight to existing windows, A15 Overlooking, A17 Private open space, A18 Solar access to private open space and A19 Design Detail.

The following standards are not applicable to this application: A2 Integration with the street, A3 Street setback, A8 Significant trees, A9 Parking, A13 North-facing windows and A20 Front Fences.

Variations have been sought and are supported in relation to the following standards: A5 Site coverage, A10 Side and rear setbacks, A11 Walls on boundaries, A14
Overshadowing open space and A16 Daylight to new windows. Conditions would be required in relation to A6 Permeability and A7 Energy efficiency protection.

Each of these non-compliances is discussed in turn below:

- **Site coverage**
  The proposal would result in an increase of site coverage from 64% (existing) to 79% (proposed). Although both the existing and proposed site coverage exceed the maximum rate of 60% suggested by Standard A5, this is not uncommon in an inner-city neighbourhood such as Middle Park where residential lots are usually small and site coverage is typically between 60-80%. Indeed, this is clearly evidenced by a majority of existing properties found on both Park Road and Neville Street.

As the proposed 79% site coverage ratio is consistent with the character of sites found throughout Middle Park, a variation to Standard A5 is supported.

- **Permeability**
  Proposed permeability would only achieve 16% which would increase the impact of stormwater run-off on the drainage system if not appropriately addressed.

  The application was referred to Council’s Sustainable Design Architect who identified that the proposal would not meet Council’s current expectations for Water Sensitive Urban Design (WSUD). To address this shortcoming, the officer recommended a series of conditions to be included on any permit to be granted.

  To ensure that the proposal would meet an acceptable standard for WSUD, it is appropriate to include further requirements – such as the provision of a rainwater tank – as conditions of any permit to be granted (refer recommended Conditions 1d & 7).

- **Energy efficiency protection**
  The application was referred to Council’s Sustainable Design Architect who identified that the proposal would not meet Council’s current expectations for energy efficiency. To address this shortcoming, the officer recommended a series of conditions to be included on any permit to be granted.

  To ensure that the proposal would meet an acceptable standard for ESD performance, it is appropriate to include further requirements as a condition of any permit to be granted (refer recommended Condition 6).

- **Side and rear setbacks**
  The 'north elevation – dwelling' on sheet TP2301 demonstrates that the southeast wall of the proposed double-storey rear addition would be setback from the southeast boundary shared with 39 Park Road well in excess of the requirements of Standard A10 (noting that A10 allows roof eaves to project up to 0.5m into the setback standard). As such, it is considered that the proposed southeast wall would be appropriately positioned to limit its impact upon the amenity of this neighbouring dwelling.

  The 'north elevation – fence' on sheet TP2311 demonstrates that the northwest wall of the proposed rear garage would be constructed to a height of 3.6m and would be setback 0.25m from the northwest boundary shared with 35 Park Road. This wall would meet the requirements of Standard A10 and would not present any unreasonable impacts upon neighbouring amenity.

  A similar projection atop the 5.9m boundary wall of the double-storey rear addition would also be setback 0.25m from the boundary. However, it would be constructed to an approximate height of 7m above ground level which would not comply the numeric goal outlined in Standard A10 (refer ‘north elevation – dwelling’ TP2311). Nevertheless, it would extend along an existing 6.2m high boundary wall of the adjoining dwelling and would not project beyond the northern-
most point of the double-storey rear addition of the adjoining dwelling (refer ‘west
elevation’ TP2314). As this present circumstance would limit the ability of this wall
to impact on the amenity of the neighbouring property, a variation to Standard A10
for the west wall of the rear addition is supported.

- **Walls on boundaries**
  The application proposes to construct several new walls on the northwest
  boundary shared with 37 Park Road. This includes the following:
  - A 5.6m long, 3.6m high wall associated with the new ground level ensuite
    and bathroom.
  - A 15m long, 5.9m high wall associated with the rear double-storey addition.
    This wall would replace an existing 10m long single-height boundary wall
    associated with the existing rear addition which would be demolished as
    part of this proposal.

These proposed boundary walls would be constructed directly against existing
boundary walls at 35 Park Road and would be constructed to roughly the same
heights.

Nevertheless, a 2.2m long x 1.7m high section of the proposed 5.9m high
boundary wall would project beyond the edge of the neighbouring boundary wall.
The entirety of this relatively minor projection, however, would be located behind
the northern-most point of the double-storey rear addition of the adjoining dwelling
(refer ‘first floor plan’ TP2232).  

As this proposed boundary wall would not project beyond the extent of the
neighbouring rear, double-storey addition, it would be consistent with existing
neighbourhood character and would not impact upon neighbouring amenity.
Therefore, a variation to Standard A11 is supported.

- **Overshadowing open space**
  The only existing secluded private open space area that would be overshadowed
  by the proposal is the 40.5 square metre courtyard of the adjoining dwelling
  located at 39 Park Road.

  The shadow diagrams submitted with the application (refer TP2841-TP2846)
  demonstrate that, due to the layout of the adjoining courtyard plus the positioning
  of abutting boundary walls and a north carport, a significant proportion of this
  SPOS area presently experiences overshadowing throughout a majority of the day
  on the equinox. Its peak solar exposure occurs within a limited ‘window of
  opportunity’ roughly occurring between 10am and 11:30am. Otherwise, it is
  largely cast in shadow.

  The shadow diagrams demonstrate that the proposed double-storey rear addition
  would not begin to overshadow this adjoining courtyard until roughly 12pm.
  Therefore, any amenity impacts caused by overshadowing would occur outside of
  the abovementioned ‘window’ that occurs in late morning. Moreover,
  overshadowing impacts that would be created by the proposal would only occur at
  times in the afternoon when the amenity of this courtyard is already substantially
degraded by existing conditions.

  As the proposal would not overshadow the adjoining courtyard during its optimal
  period of solar exposure on the Equinox, it would not unreasonably overshadow
  this existing SPOS area. Therefore, a variation to Standard A14 is supported.

- **Daylight to new windows**
  All proposed habitable room windows would have access to adequately-sized light
courts, except the proposed northwest-facing window to the ground floor ‘bed 1’.

  This proposed window would face a 0.6m x 4.8m light court (refer TP2231) which
  would be further deprived of daylight access by the roof of the rear addition above
(refer TP2241). Effectively, this window would only face a small 1.9sqm light court with a minimum dimension of 0.25m, falling well short of Standard A16.

The only feasible manner to achieve compliance with Standard A16 would be to increase the setback distance of the wall and window from the northwest boundary. Doing so, however, would reduce the size of an already small 3.1m x 3.6m ‘bed 1’ to an inadequate size of roughly 2.35m x 3.6m. Moreover, the first floor ‘master bedroom 2’ directly above ‘bed 1’ would need to be similarly reduced in its size along with the roof/leave above.

It is considered that addressing the shortcomings of the window to ‘bed 1’ would severely compromise the internal amenity of two out of three proposed bedrooms in this proposal. On balance, it is considered that amenity issues affecting one bedroom window should not take precedence over an overall aim of achieving a functional, practical floor plan and roof layout. Therefore, a variation to Standard A16 for the window of ‘bed 1’ is supported in this instance.

In summary, the assessment of the application has determined that, subject to conditions addressing deficiencies associated with Standards A6 Permeability and A7 Energy efficiency protection, the proposal would comply with the objectives of Clause 54. Moreover, variations to Standards A5 Site coverage, A6 Permeability, A10 Side and rear setbacks, A11 Walls on boundaries, A14 Overshadowing open space and A16 Daylight to new windows are supported as the proposal would meet the relevant objectives associated with these standards.

9. COVENANTS
9.1. The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the title for the subject site known as Lot 1 of Title Plan 99713R [Parent Titles Volume 5660 Folio 978 & Volume 9468 Folio 741].

10. OFFICER DIRECT OR INDIRECT INTEREST
10.1. No officers involved in the preparation of this report have any direct or indirect interest in the matter.

11. OPTIONS
11.1. Approve as recommended
11.2. Approve with changed or additional conditions
11.3. Refuse - on key issues

12. CONCLUSION
12.1. The proposed development would be consistent with heritage objectives expressed within the City of Port Phillip’s Local Planning Policy Framework, in particular the guidelines for ‘Additions and or Alterations to Heritage Places’ outlined in Clause 22.04-3 of Council’s Heritage Policy.

12.2. Due to the small size of the site and the fine-grain pattern of subdivision within this established neighbourhood, it would not be possible for the proposed rear addition to achieve all numeric standards outlined in Clause 54 (ResCode). However, an assessment of the application has determined that, subject to conditions that would address ESD and WSUD deficiencies, the proposal would meet all objectives required by Clause 54.

12.3. Subject to the conditions as noted, it is recommended that a Notice of Decision to Grant a Permit be issued.

13. RECOMMENDATION – NOTICE OF DECISION
13.1. That the Responsible Authority, having caused the application to be advertised and having received and noted the objections, issue a Notice of Decision to Grant a Permit.
13.2. That a Notice of Decision to Grant a Permit be issued to demolish the existing rear garage, partially demolish/alter the existing dwelling and construct and carry out works
for a two-storey addition to the existing dwelling, a deck, a garage and a crossover at the rear of the site at 37 Park Road, Middle Park.

13.3. That the decision be issued as follows:

1. **Amended plans required**

   Before the development starts, two (2) complete sets of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application but modified to show:

   a) A south elevation of the rear garage

   b) The minimum floor level of the rear garage raised to a minimum of 2.082m AHD (represented on all relevant floor plans and elevations) without altering the roof/ceiling height of the garage

   c) All plant – including hot water services, a/c condenser units, photovoltaic cells plus any associated screening (if applicable) – accurately depicted on all relevant plans and elevations

   d) The provision of a rainwater tank / storage device(s) with a minimum cumulative capacity of 2000L

   e) Any changes to the proposal as a result of the requirements of Conditions 6 and 7

   f) All levels to AHD

   all to the satisfaction of the Responsible Authority.

2. **No alterations**

   The development and/or use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. **No change to external finishes**

   All external materials, finishes and colours as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. **Satisfactory continuation**

   Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

5. **Demolition Method Statement**

   Prior to the commencement of the works permitted by this permit, including any demolition works, a fully detailed 'demolition method statement' from a qualified structural engineer must be submitted to and approved by the responsible authority. The report must be prepared by a qualified structural engineer. When approved, the statement will be endorsed and will then form part of the permit. The 'demolition method statement' must fully describe and clearly demonstrate that the construction methods to be used on site will ensure that the building fabric required to be retained on the endorsed plans approved under Condition 1 of the permit will be safeguarded during and after the demolition process has occurred. The demolition method statement may need to include reference to staging of demolitions on site in some instances. The statement must detail the necessary protection works required to retain individual walls, chimneys, flooring, roofing and other heritage features of significance during demolition.

6. **Sustainable Design Assessment**
Before the development commences a Sustainable Design Assessment (SDA) that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. Upon approval the SDA will be endorsed as part of the planning permit and the project must incorporate the sustainable design initiatives listed.

7. Stormwater drainage plan

Prior to the completion of the development, a drainage plan must be prepared by a qualified person and be submitted to and approved by the Responsible Authority. The drainage plan must include the following:

a) Accurate depiction of all stormwater drainage details
b) The use of a rainwater tank that is connected for re-use of collected water within the development
c) Designed to prevent overflows to adjoining properties.

All to the satisfaction of the Responsible Authority.

8. Vehicle crossings

Vehicle crossings must be constructed in accordance with Council’s current Vehicle Crossing Guidelines and standard drawings to the satisfaction of the Responsible Authority. All redundant crossings must be removed and the footpath, naturestrip, kerb and road reinstated to the satisfaction of the Responsible Authority.

9. Piping and ducting

All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed to the satisfaction of the Responsible Authority.

10. No equipment or services

Any plant, equipment or domestic services visible from a street (other than a lane) or public park must be located and visually screened to the satisfaction of the Responsible Authority.

11. Time for starting and completion

This permit will expire if one of the following circumstances applies:

a) The development is not started within two years of the date of this permit.
b) The development is not completed within two years of the date of commencement of works.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Permit Notes:

- **Building Approval Required**
  
  This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

- **Building Works to Accord With Planning Permit**
  
  The applicant/owner will provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.
- **Due Care**
  The developer must show due care in the development of the proposed extensions so as to ensure that no damage is incurred to any dwelling on the adjoining properties.

- **Days and Hours of Construction Works**
  Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council’s Local Laws Section:
  - Monday to Friday: 7.00am to 6.00pm; or
  - Saturdays: 9.00am to 3.00pm.
  An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.

- **Cross-over Permit Required**
  A cross-over permit must be obtained from Council (contact 9209 6216) prior to the carrying out of any vehicle crossing works.

- **Drainage Point and Method of Discharge**
  The legal point of stormwater discharge for the proposal must be to the satisfaction of the Responsible Authority. Engineering construction plans for the satisfactory drainage and discharge of stormwater from the site must be submitted to and approved by the Responsible Authority prior to the commencement of any buildings or works.