



<b>8.6</b>	<b>12 SPRING STREET EAST. PORT MELBOURNE</b>
<b>LOCATION/ADDRESS:</b>	<b>12 SPRING STREET EAST, PORT MELBOURNE</b>
<b>RESPONSIBLE MANAGER:</b>	<b>GEORGE BORG, MANAGER CITY DEVELOPMENT</b>
<b>AUTHOR:</b>	<b>RICHARD LITTLE, SENIOR URBAN PLANNER</b>
<b>TRIM FILE NO.:</b>	<b>P0830/2016</b>
<b>ATTACHMENTS:</b>	<b>1. Objector Map 2. Floor Plans 3. Elevation Plans 4. Shadow Diagrams</b>
<b>WARD:</b>	Gateway
<b>TRIGGER FOR DETERMINATION BY COUNCIL:</b>	More than 16 objections
<b>APPLICATION NO:</b>	830/2016
<b>APPLICANT:</b>	Ratio Consultants
<b>EXISTING USE:</b>	Single Dwelling
<b>ABUTTING USES:</b>	Single Dwellings
<b>ZONING:</b>	General Residential Zone
<b>OVERLAYS:</b>	Heritage Overlay Schedule I (HOI) Special Building Overlay Schedule Two (SBO2)
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	Expired

## **PROPOSAL**

Demolition of the existing dwelling, outbuildings and boundary fences and the construction of two dwellings comprising a two and a three storey dwelling, each with a basement and a two car garage.

### **I. EXECUTIVE SUMMARY**

- 1.1 The original application sought permission for the demolition of the existing dwelling, outbuildings and all boundary fences and construction of two, three storey dwellings each with a basement and two car garage.
- 1.2 Following notice of the application seventy-one (71) objections have been received. The objectors are concerned about the height and bulk, neighbourhood character, overlooking, overshadowing, loss of trees, side and rear setbacks, front facing balconies, site coverage, no front fence and car parking.
- 1.3 Following the consultation meeting, attended by Ward Councillors, planning officers, objectors and applicants, the application was modified pursuant Section 57A of the



Planning and Environment Act (1987). This resulted in a reduction in the floor area for Dwelling 2, including the deletion of the third floor of dwelling 2, reduction in the area of the third floor of dwelling 1, increased setbacks, new low front fence, reduction of front terraces and a reduction in the site coverage and increased permeability. The plans were re-advertised on 12<sup>th</sup> April 2017 to all objectors but did not result in any objections being withdrawn or any additional objections.

- 1.4 The proposal under consideration includes the demolition of the existing dwelling, outbuildings and all boundary fences and construction of a two storey and three storey dwelling each with a basement and two car garage.
- 1.5 The proposal is a contemporary design that interprets the Heritage elements of the surrounding area. Whilst the changes proposed via the Section 57A amendment addressed a number of the objectors concerns, however, the overall height proposed is still not considered to be in keeping with the one and two storey streetscape of the Heritage Precinct. The application has been supported by the Council's Heritage Advisor. The application has also been supported by Council's Urban Design Officer, subject to modifications to the design of Dwelling 1 including a reduction in height to two storeys.
- 1.6 In regards to residential amenity to the adjoining properties, the proposal is generally compliant with the provisions of Clause 55 (ResCode). There would be a minor increase in the amount of overshadowing to the secluded private open space to No. 131 Cruikshank Street, which is acceptable in this instance.
- 1.7 The proposal is recommended for approval, subject to modification.

## **2. RELEVANT BACKGROUND**

- 2.1 The application was originally submitted on 9 September 2016 for the demolition of the existing dwelling, outbuildings and all boundary fences and construction of two, three storey dwellings each with a basement and two car garage. Following notification of the application, seventy-one (71) objections were received. A consultation meeting occurred on 14<sup>th</sup> March 2017 and was attended by Ward Councillors, planning officers, objectors and applicants. Following the consultation meeting the application was formally amended pursuant to Section 57A of Planning and Environment Act (1987).

The changes include:

- Deletion of the second floor to dwelling 2.
- Reduction in the first floor size of dwelling 2 and an increased setback to the north-eastern corner from 5.25m to 7.6m.
- Inclusion of a low front fence along the front of the property boundary.
- Removal of raised planter and replacement with low level front garden space.
- Reduction in the size of the front terraces associated with both dwellings.
- Removal of all second floor terraces.
- An increase in the rear courtyard area of dwelling 2.



- Reduction in site coverage from 88% to 84%.
- Increase in permeability from 6% to 12%.
- Provision of 1.8 metre high screening to the rear terraces.
- Removal of the steel framed open pergola.
- Alterations of the materials to break up the building façade to include a natural cement render, natural grey wet dash at ground level and natural grey wet dash finish at first floor level.

The assessment relates to the Section 57A plans, (TP.1 – TP.13) all prepared by Davidov Partners Architects and received on 31st May 2017.

The following relevant applications have previously been approved for the subject site:

Application No.	Proposal	Decision	Date of Decision
1036/2015	Demolition of the existing dwelling and construction of two double storey dwellings.	Approval	25/02/2016- application still valid.

Planning Permit 1036/2015 was issued on 25th February 2016 and relates to the demolition of the existing dwelling, outbuildings and fencing and construction of two double storey dwellings.

More specifically the permission comprised:

- A double storey building comprising two dwellings with attached single car garages to the rear;
- The dwellings would be side-by-side and both would be partially constructed along each side boundary;
- The garages would be constructed on the western boundary being Cruickshank Lane and also constructed to the rear boundary;
- Unit 1 would be on the western side and would comprise two bedrooms, bathroom, ensuite, dressing room and a small laundry at ground floor level with kitchen/living/dining rooms at upper floor level with a balcony at either end. A small raingarden would also be located at ground level along the front section of the western boundary;
- Unit 2 would be constructed on the eastern side and would comprise a kitchen/living/dining room at ground floor level with two bedrooms, bathroom, laundry, ensuite and dressing room at upper floor level with a balcony at the front. An area of secluded private open space (SPOS) would be located to the rear. A small raingarden would be located along the central section of the eastern boundary.
- The two garages would be constructed 1.0 metre setback from the western boundary.
- Both dwellings would be setback 2.205 metres from the street frontage, but have a verandah built to the frontage and with an overall maximum height of 8.265 metres above natural ground level.
- The dwellings would be constructed of face brickwork, lightweight board cladding and lightweight rendered cladding at upper floor levels. The roof would be clad with corrugated steel sheeting and the garages would be constructed of aluminium composite cladding.



Comparing the current proposal to the approved development it is noted that:

- The overall height would be reduced from 8.26 m to 7.88 m, subject to the deletion of the third floor of dwelling 1, should the proposal be supported.
- The proposal would provide an additional car space per dwelling, with each dwelling having a double garage.
- Both the approved development and the proposal would be built side by side and partially constructed along the side boundaries.
- The site coverage would increase from 67 percent to 84 percent and permeability would be decreased from 30 percent to 12 percent.

The approved development did not include a basement level.

### 3. PROPOSAL

The application under consideration includes the following;

#### 3.1 Demolition

The whole dwelling, all boundary fences and outbuildings.

- 3.2 For the purpose of this report, dwelling 1 would be located on the corner of Spring Street East and Cruikshank Place and dwelling 2 on the corner of Spring Street East and the right of way.

#### 3.3 Buildings and Works

##### **Basement Level**

- Construction of a basement level, 16.478m long and 13.33m wide containing a laundry, bath, store room and multi-purpose room.
- The basement would be setback 1.2m from the frontage and 5.44m from the rear boundary.
- 4700L Water tank, under the garage of dwelling two.

##### **Ground Level**

- The layout of dwelling 1 would comprise an entrance, two bedrooms, bathroom, stairs and double garage.
- The layout of dwelling 2 would comprise an entrance, three bedrooms, bathroom, WIR, en-suite and a double garage. In addition to this dwelling 2 would have access to a rear courtyard.
- The development would be setback 1.2m from the front of the site, 21.95m long and 13.2m wide. The proposal would be built to the side and rear boundaries.

##### **First Floor Level**

- At first floor each dwelling would comprise a kitchen, dining and living area. Each dwelling would have a terrace to the rear, accessed via the living area.
- The development would be setback 1.2m from the frontage, 21.9m long and have a width ranging from 11.28m to 13.16m wide.



**Second Floor Level**

- Dwelling 1 would comprise a bedroom, two walk in robes and a bathroom. The development would be 10.7m long and 4.9m wide.
- The development would be setback 6.50m from the frontage, 790mm to Cruikshank Place, 5.896m to the rear boundary and 6.55m to the right of way.

**Roof Plan**

- The roof level proposes to contain skylights. There would be no access to the roof.

Heights

- The proposal would result in an overall height of 10.42m to the top of the roof of dwelling one and an overall height of 7.88m to the top of dwelling 2.

Materials

- The building would contain a mixture of materials including, metal roofing, render and metal cladding. The proposed render colour is natural grey wet dash finish.

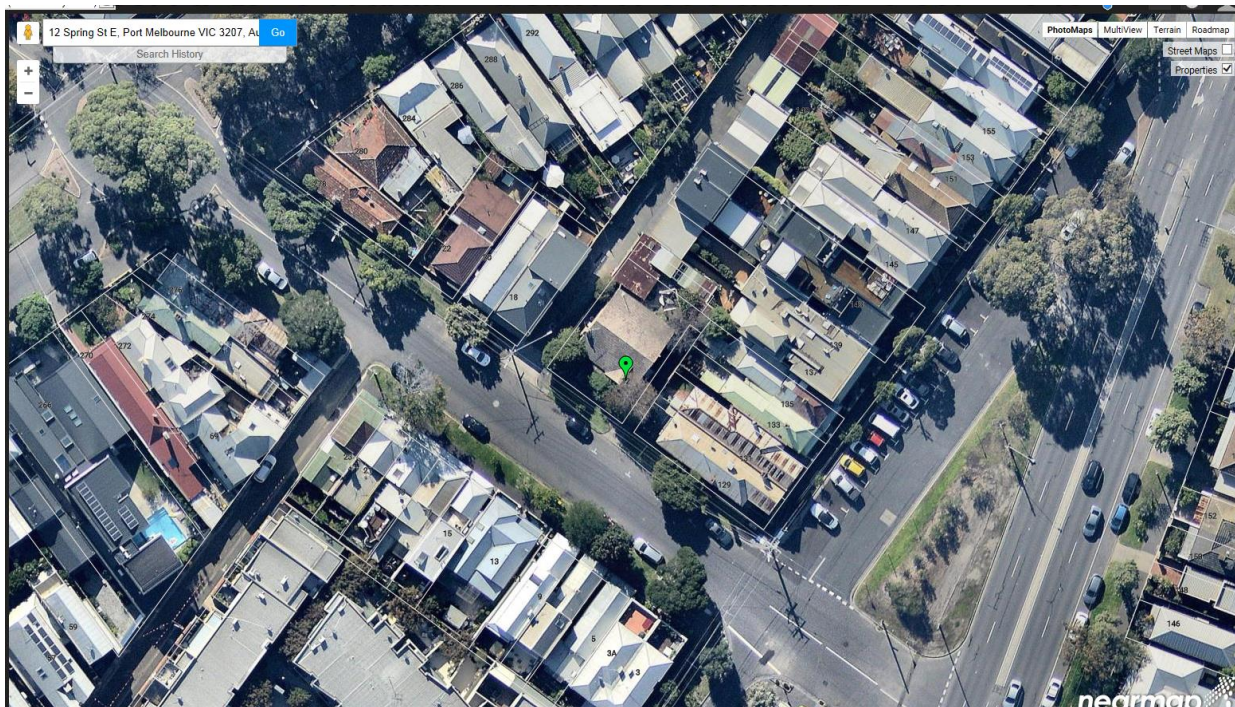
Site Coverage

- The proposed site coverage would be 84 %.

The assessment relates to the Section 57A plans, (TP.1 – TP.13) all prepared by Davidov Partners Architects and received on 31st May 2017.

**4. SUBJECT SITE AND SURROUNDS**

- 4.1 The subject site is located on the north-east corner of Spring Street East and Cruikshank Place, Port Melbourne.
- 4.2 The site has a frontage to Spring Street East of 13.2 metres and a sideage of 22.8 metres to Cruikshank Place with an overall area of 310m<sup>2</sup>.
- 4.3 To the east of the site is a right of way, which runs along the rear of 129-135 Cruikshank Street.
- 4.4 The site (identified by the green dot in Figure 1 below) contains a single storey masonry dwelling with a hipped roof and outbuildings to the rear. The site currently has a site coverage of 66% and has vehicular access from Cruikshank Place.



**Figure 1:** Aerial photograph of the site and surrounding area.

- 4.5 To the north of the site is the garage and rear garden of 137 Cruikshank Place. Cruikshank Place is to the rear of properties facing onto Esplanade East and Cruikshank Street. There are a number of two storey additions abutting Cruikshank Place at No. 141 and 143 Cruikshank Street and 306 and 318 Esplanade East.
- 4.6 To the east of the site are residential dwellings facing Cruikshank Street. The dwellings are a mixture of masonry and weatherboard single storey dwellings. The dwellings have their secluded private open space to the rear, with the exception of No. 129 which has the rear garden enclosed with a roof. Further north along Cruikshank Place are more modern two storey dwellings. The dwellings along Cruikshank Place have minimal front setbacks with low level front fences and landscaping.
- 4.7 To the west of the site is a weatherboard dwelling with a two storey extension. Further to the west are single storey masonry dwellings. These properties have low level front fences and small front setbacks with minimal landscaping.
- 4.8 To the south of the site is Spring Street with residential properties facing onto the street. The dwellings on Spring Street are mainly single storey and some dwellings with a first floor extension at the rear. There is a double storey dwelling and a triple storey dwelling on the corner with Cruikshank Street. Further south along Cruikshank Street are predominantly double storey dwellings with some third levels that have been recessed.
- 4.9 The site is with 250m of the Bay Street Activity Centre. The nearest public transport are bus routes (260m) along Bay Street and the route 109 light rail (580m).
- 4.10 There are no on street parking restrictions along this section of Spring Street East.



**5. PERMIT TRIGGERS**

The following zone and overlay controls apply to the site, with planning permission required as described.

<i>Zone or Overlay</i>	<i>Why is a permit required?</i>
<i>Clause 32.01 Residential I Zone</i>	<i>A permit is required to construct two or more dwellings on a lot pursuant to Clause 32.08-4. A development must meet the requirements of Clause 55.</i>
<i>Clause 43.01 Heritage Overlay</i>	<i>A permit is required to construct a building or construct or carry out works, and to demolish or remove a building pursuant to Clause 43.01-1.</i>
<i>Clause 44.05 Special Building Overlay- Schedule 2</i>	<i>A permit is required to construct a building or construct or carry out works, pursuant to Clause 44.05-1.</i>

**6. PLANNING SCHEME PROVISIONS**

**6.1 State Planning Policy Frameworks (SPPF)**

The following State Planning Policies are relevant to this application:

- Clause 15.01 Urban Environment
- Clause 15.03 Heritage
- Clause 16.01 Housing
- Clause 17 Economic Development

**6.2 Local Planning Policy Framework (LPPF)**

- Clause 21.03 Ecologically Sustainable Development, including
- Clause 21.03.1 Environmentally Sustainable Land Use and Development
- Clause 21.03.2 Sustainable Transport
- Clause 21.04 Land Use, including:
- Clause 21.04.1 Housing and Accommodation
- Clause 21.04.2 Activity Centres
- Clause 21.05 Built Form, including:
- Clause 21.05.1 Heritage
- Clause 21.05.2 Urban Structure and Character
- Clause 21.05.3 Urban Design and the Public Realm
- Clause 21.06 Neighbourhoods, including:
- Clause 21.06.4 Port Melbourne and Garden City



The following local planning policies are relevant to this application:

	Clause 22.04	Heritage Policy
6.3	<b>Other relevant provisions</b>	
	Clause 52.06	Car Parking
	Clause 55	Two or more dwellings on a lot
	Clause 65	Decision Guidelines

6.4 **Relevant Planning Scheme Amendment/s**

Amendment C123

At its meeting on 27 October 2015, Council adopted Amendment C118, as its updated translation of the New Residential Zones across Port Phillip, and Amendment C123, as an alternative option that addressed all of the matters for review raised by Minister. The Minister has referred Amendment C123 to the Residential Zones Standing Advisory Committee. Amendment C123 proposes to include the subject site in a Neighbourhood Residential Zone - Schedule 1. The purpose of the proposed zone is to recognise areas of predominantly single and double storey residential development and limit opportunities for increased residential development. New development must respect the identified neighbourhood character, heritage, environmental or landscape characteristics. Schedule 5 to the Neighbourhood Residential Zone includes a mandatory maximum building height of 8 metres.

Although this application pre-dates this provision and would benefit from the transitional provisions outlined at the proposed Clause 32.09-4, it is worth noting that the maximum building height of the proposal, subject to the recommended changes would comply with the proposed maximum building height of 8 metres.

7. **REFERRALS**

7.1 **Internal referrals**

The application was referred to the following areas of Council for comment. The comments are discussed in detail in Section 9.

**Council's Heritage Advisor:**

Comments on the amended (s57A) plans.

*In response to objections, a second set of revised plans has been submitted. I note the architect has changed, but fortunately, overall, while aspects of the design have changed most of the fundamentals have remained.*

*Notably, the façade remains well-articulated with deep reveals to the windows, and projecting awnings. There is also the addition of a low contemporary style picket fence, which is*





*appropriate.*

*Overall, I still believe the building an appropriate contextual response. It appears that, the building envelope, including the maximum height, is similar to before. This includes the angled wall on the Cruikshank Place boundary.*

*The most significant (and welcome) change is the reduction in the upper level footprint by removal of the front terraces the upper level to the eastern dwelling. This reduces the potential visual bulk and compensates somewhat for loss of some of the articulation of the original design.*

*The other change is to the colour scheme. A similar palette of materials (cement render and metal cladding) is proposed, but the colours appear to be lighter than before, which is acceptable.*

*Accordingly, the revised scheme is acceptable in relation to heritage.*

**Planners Comments:**

The proposal is supported by the Council's Heritage Advisor. A full assessment against Council's Heritage Policy is contained at Section 11 of this report.

**Council's Urban Design Officer:**

**Built Form**

*The property is within a heritage overlay (HOI). The proposed development is bulky and would dominate the neighbourhood and streetscape. Furthermore, it does not reflect the prevailing streetscape scale which is predominantly single storey houses with heritage significance.*

*In terms of form and material selection, the proposed new building and material selection are contemporary in style and the colour rendition conforming to adjacent properties.*

**Façade treatment & detail**

*Facade looks modern and open. A low fence that has high percentage of transparency is a good response and create a more generous interface with public realm.*

**Recommendation:**

*Overall, the new development proposal is not supported due to the following issues:*

- *Height of the building. The revised plan is generally supported and seen as better than the original plan. Though there has been a good amount of effort to reduce the visual bulk in the revised plan, the 3rd level of Dwelling 1 still presents a visual dominance that will tower on Cruikshank Street. One way to address this is through removal of the said third level.*

**Planner Comment:**

The proposal is supported by the Urban Design officer, with the exception of the second floor (referred to as 3<sup>rd</sup> floor) of dwelling one, which is recommended to be deleted. If the remainder of the application is considered to be acceptable a condition would be required to delete the second floor of dwelling 1. (Refer to condition 1a).



**Council’s Development Engineer:**

*The designated flood level for the property is 1.812m (AHD) as indicated below.*

- A. *The minimum Finished Floor Level (FFL) is 1.812m AHD + 300mm = 2.112m AHD.*
- B. *The minimum non habitable Finished Floor Level (FFL) is 1.812m AHD + 150mm = 1.962m AHD.*
- C. Referral responses:
  - *The proposed FFL of 2.40m (AHD) is higher than the required minimum floor level.*
  - *The proposed FFL of the garages at 1.85m (AHD) appears to be lower than the required minimum floor level.*
  - *The height for installation of any electrical/gas points or switches should be a minimum of 600mm above the flood level.*

Planner Comment:

Should the proposal be supported, a condition would require the floor level of the garage to be 1.962 AHD. (Refer to condition 1c). The increase in ground floor level can be accommodated within the current floor to ceiling height.

**Council’s Sustainable Architect**

A Water Sustainable Urban Design Response and a Sustainability Design Assessment have been received, but required further details to be acceptable. If the remainder of the application is acceptable a condition should be placed on any permit granted that requires a water sustainable urban development plan and a sustainable management plan.

Planner Comment:

The recommendation will require that an appropriate Water Sensitive Urban Design Response and Sustainability Design Assessment measure are provided for this proposal. (Refer Conditions 4, 5, 6, 7 8 and 9).

**7.2 External referrals**

The application was not required to be externally referred.

**8. PUBLIC NOTIFICATION/OBJECTIONS**

- 8.1 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 (28 letters) and directed that the applicant give notice of the proposal by posting two site notices on the site for a 14 day period, in accordance with Section 52 of the Planning and Environment Act 1987.
- 8.2 The application has received seventy one (71) objections. The key concerns raised are summarised below (officer comment will follow in italics where the concern will not be addressed in Section 9):



- Neighbourhood character
- Building Height
- Site Coverage
- Loss of on-site trees

*The site is not covered by a vegetation protection overlay and planning permission is not required for removal of the trees.*

- Overlooking
- Overshadowing
- No front fence

*The application has been amended and a front fence has been included.*

- Front facing balcony

*The application has been amended and the front facing balconies have been reduced in size.*

- Side and rear setbacks
- Parking

8.3 A consultation meeting was held on 14<sup>th</sup> March 2017 and was attended by the Ward Councillors, Planning officers, objectors and applicant. It resulted in the modification to the application by removal of the second floor to dwelling 2, inclusion of a front garden area, removal of second floor terrace and reduction in size of the front facing first floor terraces, decrease in site coverage, inclusion of a front fence and change in materials to increase articulation.

8.4 It is not considered that the number of objections raises an issue of significant social effect under Section 60 (1B) of the Planning Environment Act 1987.

## 9. OFFICER'S ASSESSMENT

9.1 The key matters raised in this application are considered to be the impact of the proposed dwellings on the heritage streetscape and residential amenity impacts from the proposal.

### 9.2 Demolition

It is proposed to demolish the dwelling, outbuildings and fences at 12 Spring Street East in their entirety. The dwelling at No. 12 Spring Street East has a 'nil' grading under the Port Phillip Heritage Review (2017). Furthermore, the existing dwelling and buildings are from the post war period and are out of character with the heritage streetscape. On this basis, the complete demolition and removal of dwelling and outbuildings would not adversely impact on the heritage place and would be appropriate subject to a suitable development proposal for the site. It is also acknowledged that the previous planning application for the site (1036/2015) granted approval for the demolition of the dwelling and outbuildings.



**9.3 Local Policy (Housing and Accommodation)**

Clause 21.04-1 (Housing and Accommodation) seeks to direct new medium-high density development to the substantial and moderate growth areas, which are locations that have the capacity for change, and offer highest accessibility to public transport, shops and social infrastructure. In this instance the site is not located within a substantial residential growth area or a moderate residential growth area.

The site is located in a minimal residential growth area, which is a location removed from a major activity centre and the fixed rail PPTN. In this regard residential growth in this location is not overtly encouraged but where contemplated, neighbourhood character should inform the suitability of the proposal.

In relation to the policy context, the proposal would advance statewide policies that promote urban consolidation, housing diversity and to a limited extent, housing affordability. In addition, in terms of local policy, there is a need for more diverse housing types to meet demographic trends, including an ageing of the population and a trend towards smaller household size. It is considered that an increase in housing density, by one additional dwelling in this location, given the site is within 250m from the Bay Street Activity Centre is appropriate. While the Council previously approved (1036/2015) for two dwellings on this site, the site is located within a Heritage Overlay and any new development must respect the heritage precinct and prevailing neighbourhood character.

**9.4 Heritage Precinct**

Clause 22.04 (Heritage) requires all new development and redevelopment of significant and contributory places is respectfully and harmoniously integrated with the surrounding character. The proposal would result in the demolition of the dwelling. Whilst, the existing dwelling would be demolished, the proposed dwellings would be respectful of heritage values in the street and provide a contemporary interpretation of the typical design elements of a Victorian dwelling. Of note the design includes deep reveals to the first floor balconies, projecting awnings that respond to the traditional verandahs and the angled upper walls respond to the traditional pitched roof forms in the street. Performance Measure 2 of Clause 22.04 requires new development to have a setback equivalent to the adjoining heritage place. In this case, the proposal would have a matching setback to the adjoining heritage property at No. 18 Spring Street East in accordance with Performance Measure 2. Performance Measure 3 of Clause 22.04 requires the height of a building, within a street with a diverse building scale, to respect the adjacent heritage place and prevailing scale of the area. In this case the adjoining heritage place (No. 18 Spring Street East), has a two storey addition and the properties in the immediate area include two and three storey dwellings.

In the context of the area, the proposal would be respectful of the heritage precinct and generally be in keeping with the neighbourhood character. Whilst this section of Spring Street East largely comprises single storey dwellings there are examples of two and three storey buildings nearby. At No. 18 Spring Street East is a highly visible two storey extension at the rear of the dwelling (approved 1<sup>st</sup> January 2015). At No. 90



Cruikshank Street is a three storey dwelling. Further south along Cruikshank Street are a number of two and three storey dwellings. It is noted that the third floors are generally well recessed from the front of the site. There are also a number of two storey townhouses and a dwelling with a recessed third floor (No. 137 Cruikshank Street) on the western side of Cruikshank Street, to the north of Spring Street. Whilst it is noted that there are third floor elements in the wider area, they are not within the context of the subject site and not part of the same streetscape.

The third floor element to dwelling 1 would be out of context within the immediate streetscape. The dwelling would be greater than one storey higher than the adjoining dwellings and would not be consistent with local policy at Clause 21.05 (Built Form). This is further supported by Council's Urban Design Officer who has raised concerns with the scale and height of dwelling 1 and recommend the deletion of the second floor of dwelling 1 (Refer to Condition 1a). This would result in an improved built form that would respond positively to the immediate neighbourhood.

Whilst the design of the dwellings would be contemporary, the design responds to the heritage characteristics of the surrounding area. In particular, small front setback would reflect the traditional street wall alignment. The contemporary design interprets the traditional building forms found in the area, the projecting awning responds to the traditional verandah's in the street, while the angled upper walls respond to the traditional roof forms.

When viewed from the rear of the site the height and scale of the proposed development would be in keeping with the established street scene of Cruikshank Place which includes a two storey extension at 18 Spring Street (under construction) and the recently complete cubic form of a two storey garage/ studio constructed at the rear 141 and 143 Cruickshank Street.

In terms of overall height and bulk the proposal, subject to the deletion of the second floor, would be in keeping with the broader area, reducing the height from 10.42m to 7.88m.

#### **9.5 Amenity- internal and external assessment**

Objective 9 of Clause 21.05-2 (Built Form) is "to ensure new development minimises any detrimental impacts on neighbouring properties. Strategy 9.1 of the objective is to "ensure new development does not unreasonably affect the amenity of adjoining properties by way of overshadowing, privacy or visual bulk".

The proposal would have a two storey wall, with a maximum height of 8.9m, on the western elevation. The proposed third floor level would be setback 0.75m from the western boundary and extend a further 2.45m higher. This elevation would abut Cruikshank Place and be opposite a dwelling with a two storey extension at the rear which is built to the boundary on Cruikshank Place. The proposed wall would not be opposite any secluded private open space. As the wall abuts a road it is not considered that there would be any loss of amenity from the proposed wall. It is also noted that Cruikshank Place has a number of two storey walls built to the boundary, in particular



at No. 18 Spring Street East and 141 and 143 Cruikshank Street. As such the proposed wall on the western boundary would be in keeping with the established character of the area and would not result in any loss of amenity.

On the northern elevation the proposal would have a 7.3m high wall on the boundary. The proposed wall would abut the boundary of No. 137 Cruikshank Street which has an existing garage built on the boundary. The garage is 3.0m in height and covers half the length of the shared boundary and garden area for the remainder. The width of this section of garden is less than 3m (1.92m) and is not considered to be secluded private open space. The principal secluded private open space of this property is further to the east, at the rear of the dwelling.

On the eastern boundary the proposed wall would be built on the boundary of the right of way. The highest section of the wall (7.8m) would be opposite the covered rear garden of 129 Cruikshank Street, whilst the lower section (4.37m) of the wall would be opposite the secluded private open space of 131 and 133 Cruikshank Street. The right of way is 2.4m wide between the subject site and the properties facing Cruikshank Street. At first floor level there would be a sloping wall opposite 131 and 133 Cruikshank Street. This further reduces any perceived visual bulk to the properties at 131 and 133 Cruikshank Street. It is considered that the combination of the setback, provided by the right of way and the sloping wall at first floor level would limit any loss of amenity through loss of daylight, outlook and creating a sense of enclosure to the adjoining properties at 131 and 133 Cruikshank Street.

In terms of overshadowing, the morning shadow would fall over Cruikshank Place, the dwelling at No. 18 Spring Street East and the footpath and road (Spring Street East). No shadow would fall on the secluded private open space of an adjoining dwelling. Between 10am and midday the shadow would move away from Cruikshank Place towards the right of way to the east of the site. There would be no shadow on any secluded private open space of any adjoining property. Between midday and 1pm the shadow would move further to the east, but would be no greater than the shadow currently experienced at the properties at 131 to 137 Cruikshank Street. At 2pm there would be a minor increase in shadow to the secluded private open space of No. 131 Cruikshank Street, by 2sqm. At 3pm the proposal would result in additional shadow to the secluded private open space to the properties at 131, 133 and 137 Cruikshank Street. It is noted that all surrounding properties, with the exception of No. 131 Cruikshank Street, would receive no reduction in sunlight to their secluded private open space between 9am and 3pm. In the case of the property at No. 131 Cruikshank Street, the reduction in sunlight at 2pm is considered to be minor and given its inner city location and the fine grain nature of the lots would be acceptable in this instance.

In terms of overlooking the proposal would have ground floor windows on the eastern elevation, but facing the R.O.W and the rear boundary fences of the properties that front Cruikshank Street. At first floor level all windows, on the eastern elevation, would be obscured to a height of 1.7m above finished floor level. Should this proposal be supported, a condition could be included on any approval that would require that that the lower 1.7m of the windows on the eastern elevation are fixed shut. (Refer to



condition 1.b).

On the northern elevation (rear) the first floor windows and terrace would be enclosed by a 1.8m high privacy screen. Given the design of the privacy screen there would be no loss of privacy and overlooking. At second floor level there would be a rear facing window which would be within 9m of the property to the rear No. 137 Cruikshank Street. However, it is recommended to remove the second floor level of dwelling one (refer to condition 1a) which would remove the rear facing window. On the western elevation there would be habitable room windows at ground and first floor level. The adjoining property at No. 18 Spring Street, has windows facing the subject site at ground and first floor level, however, these windows are not habitable rooms.

Walls on boundaries with a height greater than one storey have been sensitively located abutting either Cruikshank Place, the right of way or existing garages on adjoining land. The proposed setback to the upper floors exceeds the requirements of ResCode when they are opposite the secluded private open space of an adjoining property.

The development would have a high regard for internal amenity, through generous room sizes, good levels of light and outlook and appropriate levels of amenity.

#### 9.6 **Amenity – Clause 55 (ResCode)**

The proposal has been assessed against the provisions of Clause 55 and a full assessment matrix is held on file. The areas of non-compliance and the recommended changes to address those variations are discussed below:

##### B7- Building Height Objective

##### B8 Site Coverage Objective

The proposed level of site coverage would be 84%. The extent of site coverage is considered appropriate and would be consistent with the neighbourhood character, which has a high level of site coverage, and is therefore considered acceptable in this regard.

##### B9 Site Permeability Objective

The proposed site permeability would be 12%. It is noted that this is not out of character with the area as there are properties in the surrounding area with small rear gardens that are paved/ covered in hard surfaces. The proposal would incorporate rainwater tanks to help mitigate against the low site permeability. In this instance the variation to the standard is appropriate and would still satisfy all the objectives of this element.



B17 Side and Rear Setbacks Objectives

The proposal would require a variation to the side and rear setback requirements. In this instance the variation is considered to be acceptable as the proposal would exceed the requirements of the Standard where it abuts the secluded private open space of an adjoining property.

At first floor level the proposal seeks a variation to the setback requirements on the eastern elevation. On the eastern boundary the wall would abut the R.O.W. When the width of the R.O.W is added to the proposed setback, the proposal would exceed the setback requirement to the rear boundary of the secluded private open space of the properties facing Cruikshank Street

At second floor level the proposal seeks a variation to the setback requirements on the western elevation, which abuts Cruikshank Place. This elevation would be opposite a dwelling with a two storey extension at the rear which is also built to the boundary on Cruikshank Place. As the wall abuts a road it is not considered that there would be any loss of amenity from the variation. It is also noted that Cruikshank Place has a number of two storey walls built to the boundary, in particular at No. 18 Spring Street and 141 and 143 Cruikshank Place. As such the proposed wall on the western boundary would be in keeping with the established character of the area. However, the second floor is proposed to be deleted as it is not acceptable on due to the design impact on the heritage value of the area.

In this instance the proposed variation to this Standard is considered to be acceptable.

B18 Walls On Boundaries Objectives

The proposal requires a variation to the walls on boundaries Standard.

On the northern boundary the proposed wall would abut the boundary of No. 137 Cruikshank Place. The wall would abut the existing garage of No. 137 for half of its length and abut the rear garden for the remainder. The width of this section of garden is less than 3m (1.92m) and is not considered secluded private open space as defined by ResCode as having “a minimum dimension of 3 metres and convenient access from a living room”. The principle secluded private open space of this property is further to the east, at the rear of the dwelling.

On the eastern boundary the proposed wall would be built on the boundary of the R.O.W. The highest section of the wall (7.8m) would be opposite the covered rear garden of 129 Cruikshank Place, whilst the lower section of the wall would be opposite the secluded private open space of 131 and 133 Cruikshank Place.

On the western boundary the proposed wall would be adjacent to Cruikshank Place, and not any secluded private open space. It is also noted that No. 18 Spring Street East also has a two storey wall along the boundary with Cruikshank Place.

In this instance the variation to the Standard is considered to be acceptable as it would not result in any loss of amenity and would accord with the objective “To ensure that





*the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings”.*

B2I Overshadowing Open Space Objective

Between 9am and 1pm there would be no increase in the level of overshadowing to the secluded private open space of any adjoining property.

It is noted that all surrounding properties, with the exception of No. 131 Cruikshank Street, would receive no reduction in sunlight to their secluded private open space between 9am and 2pm and would meet the requirement of this Standard. In the case of the property at No. 131 Cruikshank Street, the reduction in sunlight at 2pm is considered to be minor, being 2sqm, given the inner city location and fine grain nature of the lots this outcome would be acceptable in this case. In this instance the variation to the Standard is considered to be acceptable.

9.7 **Are colours/materials/finishes appropriate?**

The contemporary use of materials and design of the building would result in an appropriate built form outcome that would provide for a point of difference between the proposed dwelling and surrounding heritage properties.

9.8 **Sustainable Design and Water Sensitive Urban Design**

A Sustainable Design Assessment and Water Sensitive Urban Design Response has been submitted. Whilst the Sustainable Design Statement and Water Sensitive Urban Design Response is not yet of a standard for approval, the sustainability officer has recommended that a revised statement is submitted via condition. (Refer to conditions 4, 5, 6, 7, 8 and 9)

9.9 **Traffic and Parking**

Car Parking Provision

Clause 52.06-5 requires two spaces for each three or more bedroom dwelling.

Each dwelling would be provided with a double garage which complies with Clause 52.06-5.

Vehicle Access

The existing access to the car spaces would be via Cruikshank Place and has been deemed acceptable by Council's Transport Safety and Engineering team.

Design Standards for Car Parking

The design of the proposed car park has been assessed and is satisfactory.



**10. COVENANTS**

The applicant has completed a restrictive covenant declaration form declaring that there is no restrictive covenant on the titles for the subject site known as Lots 1 and 2 on Title Plan 665614P [parent title Volume 04256 Folio 108, Volume 04829 Folio 706 and Volume 05477 Folio 361].

**11. OFFICER DIRECT OR INDIRECT INTEREST**

- 11.1 No officers involved in the preparation of this report have any direct or indirect interest in the matter.

**12. OPTIONS**

- 12.1 Approve as recommended
- 12.2 Approve with changed or additional conditions
- 12.3 Refuse - on key issues

**13. CONCLUSION**

It is considered that the proposed demolition of the building, boundary fences and outbuildings would be appropriate as the building has a nil grading under the Port Phillip Heritage Review (Version 21, March 2017) and does not add any heritage value to the streetscape.

Subject to conditions, to delete the second floor level of dwelling two, the proposed dwellings would be respectful of the height and form of the surrounding dwellings. The Council's Urban Design and Heritage Advisor has assessed the proposal and all supporting documentation submitted by the applicant and supports the application. The Council's Urban Design Advisor conditionally supports the application, subject to the removal of the second floor.

Furthermore, the proposal has been sympathetically designed to protect the amenity of neighbouring occupiers and is considered to be worthy of support subject to the conditions noted below.

The contemporary two storey dwellings would represent an appropriate design response with respect to both the heritage overlay and the wider neighbourhood.

Variations to ResCode have been supported in relation to B8, B9, B17 and B18 however, this is justified having regard to the existing pattern of development in the locality, proposed design and the existing conditions.

Approval is recommended subject to conditions.



**14. RECOMMENDATION – NOTICE OF DECISION**

- 14.1 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
- 14.2 That a Notice of Decision to Grant a Permit be issued for demolition of the existing dwelling, out building and all fences and the construction of two double storey dwellings at 12 Spring Street East, Port Melbourne
- 14.3 That the decision be issued as follows:

**1. Amended Plans required**

Before the development starts, 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 drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- a) Deletion of the second floor of dwelling one.
- b) The first floor windows on the eastern elevation to be obscured glass and fixed shut to a height of 1.7m above finished floor level.
- c) The finished floor level of the garage to be at least 1.962 AHD.
- d) The maximum height of the dwellings to be 7.88m above natural ground level.

All to the satisfaction of the Responsible Authority.

**2. No Alterations**

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

**3. Walls on or facing the boundary**

Prior to the occupation of the building(s) allowed by this permit, all new or extended walls on or facing the boundary of adjoining properties and/or the laneway must be cleaned and finished to a uniform standard. Unpainted or unrendered masonry walls must have all excess mortar removed from the joints and face and all joints must be tooled or pointed to the satisfaction of the responsible authority. Painted or rendered or bagged walls must be finished to a uniform standard to the satisfaction of the responsible authority.

**4. Sustainable Design Assessment**

Before the development starts (other than demolition or works to remediate contaminated land) a Sustainable Design Assessment (SDA) that outlines proposed sustainable design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. When approved, the Assessment will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

**5. Incorporation of Sustainable Design initiatives**

The project must incorporate the sustainable design initiatives listed in the endorsed



Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority.

#### **6. Implementation of Sustainable Design Initiatives**

Before the occupation of the development approved under this permit, a report from the author of the Sustainable Design Assessment (SDA) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures and recommendations specified in the SDA have been implemented and/or incorporated in accordance with the approved report to the satisfaction of the Responsible Authority.

#### **7. Water Sensitive Urban Design**

Before the development starts (other than demolition or works to remediate contaminated land) a Water Sensitive Urban Design Report that outlines proposed water sensitive urban design initiatives must be submitted to, be to the satisfaction of and approved by the Responsible Authority. The report must demonstrate how the development meets the water quality performance objectives as set out in the Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) or as amended.

When approved, the Report will be endorsed and will then form part of the permit and the project must incorporate the sustainable design initiatives listed.

#### **8. Incorporation of Water Sensitive Urban Design initiatives**

Before the occupation of the development approved under this permit, the project must incorporate the water sensitive urban design initiatives listed in the endorsed Water Sensitive Urban Design Report to the satisfaction of the Responsible Authority, and thereafter maintained to the satisfaction of the Responsible Authority.

#### **9. Maintenance Manual for Water Sensitive Urban Design Initiatives (Stormwater Management)**

Before the development starts (other than demolition or works to remediate contaminated land) a Maintenance Manual for Water Sensitive Urban Design Initiatives must be submitted to and approved by the Responsible Authority.

The manual must set out future operational and maintenance arrangements for all WSUD (stormwater management) measures. The program must include, but is not limited to:

- inspection frequency
- cleanout procedures
- as installed design details/diagrams including a sketch of how the system operates

The WSUD Maintenance Manual may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder' User's Guide or a Building Maintenance Guide.

#### **10. Piping and ducting**

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



### **11. 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.

### **12. Privacy screens must be installed**

Privacy screens as required in accordance with the endorsed plans must be installed prior to occupation of the building to the satisfaction of the Responsible Authority and maintained thereafter to the satisfaction of the Responsible Authority.

### **13. 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 or within 6 months after the permit expiry date, where the use or development allowed by the permit has not yet started; and
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

### **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.



**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.

**Noise**

The air conditioning plant must be screened and baffled and/or insulated to minimise noise and vibration to other residences in accordance with Environmental Protection Authority Noise Control Technical Guidelines as follows:

- a) noise from the plant during the day and evening (7.00am to 10.00pm Monday to Friday, 9.00am to 10.00pm Weekends and Public Holidays) must not exceed the background noise level by more than 5 dB(A) measured at the property boundary
- b) noise from the plant during the night (10.00pm to 7.00am Monday to Friday, 10.00pm to 9.00am Weekends and Public Holidays) must not be audible within a habitable room of any other residence (regardless of whether any door or window giving access to the room is open).