Planning Panels Victoria

Stonnington Planning Scheme Amendment C341ston
15 Avalon Road, Armadale

Panel Report

Planning and Environment Act 1987

25 August 2025

VICTORIA State Government

How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether to adopt the Amendment.
[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Stonnington Planning Scheme Amendment C341ston

15 Avalon Road, Armadale

25 August 2025

Con Tsotsoros

Con Tsotsoros, Chair

Planning Panels Victoria

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Glossary and abbreviations

Armadale Heritage Study (2024)	Stonnington Heritage Review Summary Report Part 2B Armadale Volume 1 – Findings (Extent Heritage, 2024)
Council	City of Stonnington
draft heritage guidelines	draft Local heritage criteria and threshold guidelines (consultation version)
Malvern Heritage Review (2022)	Malvern Heritage Review Final Report – Volume 1 (GJM Heritage, October 2022)
PE Act	*Planning and Environment Act 1987*
Planning Scheme	Stonnington Planning Scheme
Stonnington Interwar Heritage Study (2015)	City of Stonnington Interwar Houses Study – Stage 3 (Bryce Raworth Pty Ltd, September 2015)
Subject house	The house at 13-15 Avalon Road, Armadale
Subject land	13-15 Avalon Road, Armadale
Thematic Environmental History	Stonnington Thematic Environmental History (2006, updated March 2009)

Overview

Amendment summary	
The Amendment	Stonnington Planning Scheme Amendment C341ston
Common name	15 Avalon Road, Armadale
Brief description	Proposes to permanently apply the Heritage Overlay (HO790) to the subject land
Subject land	15 Avalon Road, Armadale
The Proponent	City of Stonnington
Planning Authority	City of Stonnington
Authorisation	10 September 2025, with conditions
Exhibition	6 February to 7 March 2025
Submissions	Number of Submissions: 13 Opposed: 1

Panel process	
The Panel	Con Tsotsoros (Chair)
Directions Hearing	By online video, 5 June 2025
Panel Hearing	Planning Panels Victoria and by video, 21 and 22 July 2025
Site inspection	Accompanied, 11 July 2025
Parties to the Hearing	- Stonnington City Council represented by Nicola Collingwood, instructed by Kristin Richardson of Maddocks, who called expert evidence on heritage from Dr Aron Paul of Trethowan Architects - Subject land owner represented by Marita Foley and Rupert Watters, instructed by Amanda Johns of Planning and Property Partners Pty Ltd, who called expert evidence on heritage from Carolynne Baker of Urbis
Citation	Stonnington PSA C341ston [2025] PPV
Date of this report	25 August 2025

Executive summary

The area which today is the Stonnington municipality, has been home to large estates with grand mansions since the nineteenth century, many of which were constructed during Victorian era. At the turn of the century, particularly after the first world war, a number of these estates were subdivided due to rising labour and maintenance costs. One of these estates, 'Avalon', was subdivided into 16 lots including 13-15 Avalon Road, Armadale (subject land) in 1929.

The subject land has been considered in, and omitted from, previous heritage assessments since 2009. Their wide-swinging approaches and findings include:

- excluding it from a heritage precinct extension assessment and relevant studies
- recommending further investigation to see if it is an individually significant place
- finding it not to be of individual heritage significance or a contributory property in the neighbouring heritage precinct
- reassessing and recommending it be included in the heritage precinct
- finding it inappropriate to include in the heritage precinct.

In 2024, Council engaged heritage consultants, who assessed the subject land and found it achieved Criterion A and D as an individually significant place.

Stonnington Planning Scheme Amendment C341ston (the Amendment) seeks to apply the Heritage Overlay on a permanent basis to the subject land. Council exhibited the Amendment from 6 February to 7 March 2025 and received 13 submissions including one objecting submission from the subject land owner. Key issues raised in the objecting submission relate to how the subject land was assessed to determine its local heritage significance, and whether it met Criteria A and D.

The Panel has considered the subject land with 'fresh eyes' because previous heritage assessments were conducted in different contexts and circumstances. While the Amendment broadly followed the methodology outlined in Planning Practice Note 1, the Panel has serious concerns about the assessment in the heritage citation.

Stonnington has many fine examples of interwar houses in the Old English Revival style which sets a higher local heritage threshold than municipalities with fewer and less comparable examples. This should not be interpreted as the threshold being too high or excluding more humble examples.

The subject land should be comparable with, if not better than, an appropriate sample of comparable properties in Stonnington. This is the point of difference between an individual heritage place that has heritage significance (comparable or better) with one that does not (does not compare well). It is appropriate to compare the subject land with a property in a heritage precinct that has been assessed as being significant by a suitably qualified professional.

The heritage citation and Statement of Significance have inappropriately combined multiple qualifiers *(the house style and era and outstanding example of Mr Wright's work)*. This has:

- narrowed the theme and distorted the comparative analysis and local heritage threshold
- excluded a more representative sample of Old English Revival interwar houses from the comparative analysis which the subject land is unlikely to have compared well against.

Previous heritage studies and citations have included better examples of interwar Old English Revival style houses than the subject house. Even with its narrow range of properties, the subject land does not compare well with three of the properties in the comparative analysis. The subject land would likely have compared less well with a more representative sample.

The subject land does not achieve Planning Practice Note 1 Criteria A and D and is not of individual heritage significance.

The Panel acknowledges the subject house is a grand handsome building on a generous property with a large front garden and curving driveway that has existed for almost 90 years. However, these attributes alone are not relevant when assessing heritage, and the subject land is not of local heritage significance.

Recommendation

Based on the reasons set out in this Report, the Panel recommends that Council:

1. **Abandon Stonnington Planning Scheme Amendment C341ston and permanently remove the Heritage Overlay (HO790) from 13-15 Avalon Road, Armadale.**

1 Introduction

1.1 The Amendment

(i) Amendment description

The Amendment proposes to implement the recommendation of the heritage citation titled *Former 'Ken-Ailsa' 13-15 Avalon Road, Armadale* (Trethowan Architecture, April 2024).

Specifically, the Amendment proposes to:

- permanently apply the Heritage Overlay (HO790) to 13-15 Avalon Road, Armadale (subject land)
- incorporate the HO790 Statement of Significance into the Stonnington Planning Scheme (the Planning Scheme) through the Clause 72.04 Schedule
- reference the HO790 heritage citation as a background document through the Clause 72.08 Schedule.

(ii) The subject land

The Amendment applies to land shown in Figure 1.

Figure 1 Subject land



Source: Council Part A submission

1.2 Background

Table 1 Chronology of events

Background summary	
Mar 2009	The *City of Stonnington Heritage Overlay Gap Study: Heritage Overlay Precinct Final Report* (Bryce Raworth, 2009) recommended the Hampden Road Precinct be extended without the subject land
2010	The *City of Stonnington Heritage Strategy Review: Precinct Gaps Study* (Context) stated the subject house "*is worthy of further investigation for its potential individual architectural and historic significance*"
20 Apr 2018	Bryce Raworth assessed the subject land for Council and concluded it did not meet individual heritage threshold, and it should not be included in a heritage precinct
8 Aug 2019	Bryce Raworth assessed the subject land for Council and concluded it should not be included in a heritage precinct
15 Aug 2019	Council received a demolition request for the subject land under section 29A of the *Building Act 1993*
10 Nov 2021	Council received a second demolition request for the subject land
2022	The *Toorak, Kooyong and Armadale Heritage Review: Preliminary Gaps Analysis and Detailed Gaps Analysis* (Extent, 2022) recommended the subject land be included as a contributory property in the Hampden Road Precinct (HO136)
20 May 2022	Interim Heritage Overlay (HO697) is applied to the subject land [Amendment C317ston]
25 Nov 2022	Interim Heritage Overlay (HO726 – Hampden Road Precinct Extension) is applied to the subject land [Amendment C319ston]
Jan 2023	*Stonnington Heritage Review Summary Report Part 2B Armadale Volume 2 – Citations* excluded the subject land
25 Jul – 2 Aug 2023	At the C320ston Hearing, there were differing expert views about the proposal to identify the subject land as a contributory property
27 Sep 2023	The *Stonnington PSA C320ston [2023] PPV* Panel Report concluded the subject land did not have enough heritage significance to contribute to the Hampden Road Precinct or to be an individually significant place
18 Dec 2023	Council officers recommended the subject land be removed from the Hampden Road Precinct. Council disagreed and resolved to: - adopt Amendment C320ston which retained the subject land in the Hampden Road Precinct - commission an assessment of the subject land to determine whether it warrants protection as an individual place through the Heritage Overlay
Jan 2024	*Stonnington Heritage Review Summary Report Part 2B Armadale Volume 1 – Findings* (Extent) had a revised citation which complied with Council's 18 Dec 2023 resolution
Feb 2024	Council commissioned Trethowan Architecture to assess the subject land
24 Apr 2024	Trethowan Architecture recommended the Heritage Overlay be applied to the subject land as an individually significant place

Background summary	
20 May 2024	Council resolved to request authorisation from the Minister for Planning to prepare and exhibit Amendment C341ston (the Amendment)
10 Sept 2024	Council received authorisation to prepare the Amendment
30 Jan 2025	Interim Heritage Overlay was extended to 31 July 2025 [Amendment C348ston]
6 Feb 2025	Amendment C341ston exhibition started
7 Mar 2025	Amendment C341ston exhibition ended
12 May 2025	Council considered submissions at its meeting and resolved to refer submissions to a Panel
5 Jun 2025	Directions Hearing
1 Jul 2025	Council received a third demolition request for the subject land

The Panel has summarised previous assessments in Table 2.

Table 2 Previous assessments

Date	Assessment	Precinct	Individual
Mar 2009	The *City of Stonnington Heritage Overlay Gap Study: Heritage Overlay Precinct Final Report* (Bryce Raworth, 2009)[1]	n/a	n/a
2010	The *City of Stonnington Heritage Strategy Review: Precinct Gaps Study* (Context)	n/a	Maybe
2015	Bryce Raworth Pty Ltd prepared the Interwar Study Stage 3[1]	n/a	n/a
20 Apr 2018	Bryce Raworth Pty Ltd assessed the subject land	No	No
8 Aug 2029	Bryce Raworth Pty Ltd assessed the subject land	No	n/a
2022	The *Toorak, Kooyong and Armadale Heritage Review: Preliminary Gaps Analysis and Detailed Gaps Analysis* (Extent, 2022)	Yes	n/a
25 Jul 2023	Peter Lovell [Amendment C320ston Panel Hearing]	No	No
25 Jul 2023	John Patrick [Amendment C320ston Panel Hearing] – limited to garden	No	No
25 Jul 2023	Michelle Bashta [Amendment C320ston Panel Hearing]	No	No
25 Jul 2023	Natica Schmeder [Amendment C320ston Panel Hearing]	Yes	n/a
27 Sep 2023	Stonnington PSA C320ston [2023] PPV Panel	No	No
Jan 2024	*Stonnington Heritage Review Summary Report Part 2B Armadale Volume 1 – Findings* (Extent)	Yes[2]	
24 Apr 2024	Trethowan Architecture	n/a	Yes
14 Jul 2025	Dr Aron Paul expert evidence [Amendment C341ston Panel Hearing]		Yes
14 Jul 2025	Carolynne Baker expert evidence [Amendment C341ston Panel Hearing]	n/a	No

1 Subject land was not identified as a candidate for assessment
2 Citation revised to comply with Council's 18 December 2023 resolution

1.3 Procedural issue

The Department of Transport and Planning started public consultation on its *draft Local heritage criteria and threshold guidelines* (draft heritage guidelines) on 31 July 2025. The final version will inform changes to Planning Practice Note 1.

The subject land owner wrote to Planning Panels Victoria on 6 August 2025 to request the Panel consider its submission regarding the draft heritage guidelines. The letter:

- referred to the draft heritage guidelines which states:
  - the place's historic association (Criterion A) is to be better appreciated than most other places in the local area
  - the place must be of higher quality or historical relevance, and better demonstrate the type or class than most other representatives (Criterion D)
- stated the subject land owner would be prejudiced if the Panel considered the Amendment before the draft heritage guidelines were finalised
- requested the Panel:
  - adjourn its process and defer its determination until the draft heritage guidelines are finalised
  - issue an interim report recommending the interim Heritage Overlay be extended before any further hearing
- provided reasons why it considered its approach to be fair.

Council responded on 8 August 2025 that:

- parties have had an opportunity to fully ventilate their issues and concerns
- the Panel should proceed to consider the Amendment based on the material and evidence before it.

Panel response

The Panel has considered unresolved issues referred to it by Council based on information available at that time. It is common for planning decisions and changes to occur while a Panel prepares its report. If the Panel considers them to be relevant to its consideration, it has the discretion to provide parties with an opportunity to make submissions on this new information. This is not the case with the draft heritage guidelines.

The Panel has not had regard to the draft heritage guidelines because its contents are intended for consultation purposes. For example, there may be opposition to places having to be *"better appreciated than most"* and "*better demonstrate the type or class than most*", resulting in changes before the guidelines are finalised by the Department of Transport and Planning. It would be unfair and unreasonable to delay the Amendment indefinitely, noting there is no apparent completion date for the guidelines.

There is always something changing in the urban planning process whether it be guidelines, strategies, plans, policy and provisions. Victoria's planning process would stall if each planning scheme amendment had to wait until all relevant reviews were finalised.

The Panel considers the subject land owner has not been prejudiced because:

- the subject land owner repeatedly submitted that the subject land should be better than the typical interwar Old English style to be important to Stonnington
- the draft heritage guidelines are not intended to be mandatory or enforceable rules

- the Panel has found the subject land is not of local heritage significance based on current information provided through the Hearing process.

1.4 The Panel's approach

Key issues raised in submissions relate to how the subject land was assessed to determine its local heritage significance, and where it met Criteria A and D.

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Strategic issues
  - Planning context
  - Strategic justification
- 15 Avalon Road, Armadale
  - Assessment methodology
  - Criterion A (Historical significance)
  - Criterion D (Representativeness).

Previous heritage assessments

Both Council and the subject land owner referred to previous heritage assessments which affected the subject land. Copies of previous assessments were provided by the subject land owner (Documents 13 to 15) and by Council (Documents 17(a) to (j)).

Council submitted:

- the subject land owner has placed significant weight on historical documents that reference the subject land, are not the subject of this proceeding and cannot be given material weight
- previous assessments can provide context and background but cannot reasonably inform the Panel's consideration of the Amendment
- previous assessments:
  - have largely been directed to different statutory processes
  - relied upon variable levels of information, research and analysis
  - generally (if not completely) referenced the Stonnington Thematic Environmental History and the strong association between its important development themes and the subject land
  - where undertaken by reference to a comparative assessment, are not as comprehensive as Dr Paul's assessment.

The Panel partly agrees with Council. The Panel has reviewed but not relied on previous assessments to help determine whether the subject land is of local heritage significance as an

individual place. Previous assessments were prepared for a different purpose within a different context and time. The Amendment has enabled a fresh assessment of the subject land.

However, for reasons explained in Chapter 3.1, the Panel has reviewed whether properties included in the heritage citation's comparative analysis have been appropriately assessed. This is to determine whether they are suitable examples.

2 Strategic issues

2.1 Planning context

This chapter identifies planning context relevant to the Amendment.

Table 3 Planning context

	Relevant references
Victorian planning objectives	PE Act section 4
Municipal Planning Strategy	Clause 2.03-4
Planning Policy Framework	Clauses: - 15 (Built form environment and heritage) - 15.01-5L (Preferred neighbourhood character) - 15.03-1S (Heritage conservation) - 15.03-1L (Heritage)
Other planning strategies and policies	Plan Melbourne: - Direction 4.4 (Respect Melbourne's heritage as we build for the future) - Policy 4.4.1 (Recognise the value of heritage when managing growth and change) Plan for Victoria – Pillar 3 (Great Places, Suburbs and Towns)
Planning scheme provisions	Heritage Overlay
Ministerial directions	Ministerial Direction on the Form and Content of Planning Schemes Ministerial Direction 9 (Metropolitan Planning Strategy) Ministerial Direction 11 (Strategic Assessment of Amendments) Ministerial Direction 15 (The Planning Scheme Amendment Process)
Planning practice notes	Planning Practice Note 1 (Applying the Heritage Overlay) Planning Practice Note 91 (Using the residential zones)

2.2 Strategic justification

For the reasons set out in this report, the Panel concludes that the Amendment:

- is not supported by, and does not implement, the relevant sections of the Planning Policy Framework because it seeks to apply the Heritage Overlay to a property that is not of local heritage significance (does not meet Criteria A and D)
- is not strategically justified for the same reasons
- should not proceed for reasons explained in the following chapters.

The Panel recommends that Council:

1 Abandon Stonnington Planning Scheme Amendment C341ston and permanently remove the Heritage Overlay (HO790) from 13-15 Avalon Road, Armadale..

3 15 Avalon Road, Armadale

Exhibited Statement of Significance



What is significant?

The house formerly known as Ken-Ailsa, designed by Arnaud E Wright built c.1933 is significant. Significant elements include the original fabric and design of the house, comprising its two-storey form with single-storey wings including an original garage. Significant elements include terra-cotta shingle roofs with flushed eaves curved at the ends, tall brick chimneys with corbelled crowns, imitation limewash walls with clinker brick detailing, sash windows and bay window, central porch entry and diamond pane window under corbelled eaves.

The expansive garden setting with curving driveway following original pathway contributes to the significance of the place as an appropriate garden and landscaped setting, but the garden plantings and landscape fabric itself is not original.

Post-war additions/alterations such as the bar extension, games building, swimming pool and shed are not significant.

How is it significant?

Former Ken-Ailsa is of historical and representative significance to the City of Stonnington.

Why is it significant?

Former Ken-Ailsa is significant for its association with the historical development of the municipality in the interwar period for its demonstration of the way in which mansion estates such as “Avalon” were subdivided in the twentieth century to make way for the development of affluent middle-class suburbs. ‘Ken-Ailsa’ is a fine example of such a house on the approximate site of a former mansion, designed by an influential local architect, Arnaud E Wright, in collaboration with developers who transformed the municipality into a leafy suburb in the interwar period with prestigious middle class homes in garden settings. **(Criterion A)**

Former Ken-Ailsa is significant as a fine representative example of an Old English revival styled interwar period house in the municipality and as an outstanding example of the work in this style of the notable local architect Arnaud W Wright. It demonstrates notable elements of the Old English style including prominent gables with slit brick details, steep roof forms with terracotta shingles, tall brick chimneys with corbelled brickwork and decorated external chimney breast including ‘S’ iron detail, flush and corbelled gable eaves, combination of imitation limewash walls with clinker brick detailing, diamond and multi pane windows, bay windows with roofs, arched doorway with gabled porch. It is distinguished among Arnaud Wright’s Old English designs by its large scale and spacious garden setting with curved driveway, tall chimneys and terracotta shingle roofs with finely detailed eaves **(Criterion D)**.

3.1 Assessment methodology

(i) The issue

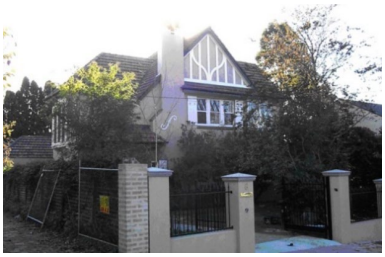
The issue is whether the assessment methodology is appropriate for assessing the heritage significance of the subject land.

(ii) Background

The HO790 heritage citation compares the subject land with properties shown in Figure 4.

Figure 4 Comparative analysis

Property	Citation comments	Other information
	**3 Myrnong Crescent, Toorak** Significant (A2 graded) in HO180. Built in 1935 the house is similar to the subject site but more compressed on a smaller block. The chimney is shorter and the fascia are plain. Roof is more standard Marseille terracotta tiles. Has similar render and brick decoration. By comparison the subject property is distinguished by its taller chimneys, finer gable and roof detailing and materiality, and grander landscape setting.	HO180 (Power Street Precinct)
	**21 Power Avenue, Toorak** Significant (B graded) in HO180. Constructed in 1934 contemporaneously with the subject property by Arnaud Wright, this is almost a mirror image of the subject property's main house, with its symmetrical form but asymmetric articulation, shingle roof, tall chimneys. The subject property is larger, with wider central bay and projecting wings, and located on a larger double block.	HO180 (Power Street Precinct)
	**19 Power Avenue, Toorak** Significant (A2 graded) in HO180. Comparable interwar period mix of render and brick detailing, prominent roof and tall chimneys with asymmetric composition featuring rendered walls, centrally located gable and gabled porch with arched entrance.	HO180 (Power Street Precinct)
	**28 Albany Road, Toorak** Significant (A2 graded) HO486. Built in 1934 to designs by the noted architectural firm Irwin and Stevenson English Revival residence (Criterion D) presents similar use of render with brick detailing, bay windows, shorter chimneys, more modest setting.	HO486 (Individually significant)

Property	Citation comments	Other information
	**46 Heyington Place, Toorak** Significant HO495. Built in 1933-1934 to designs by architect Stuart Calder. English Revival residence (Criterion D) presents similar use of render and roof forms with more minimal detailing and less elaborate chimneys in a more modest setting.	HO495 (Individually significant)
	**8 Monaro Road, Malvern** Significant HO277. The house is architecturally significant as one of the most impressive Old English style residences in the municipality (Criterion D). It has a strong but carefully articulated facade with intricate detailing demonstrating architect A Mortimer McMillan's talent for design in this mode. More modest than the subject property in scale, less prominent or decorative chimneys.	HO277 (Individually significant)

(iii) Evidence and submissions

Dr Paul's expert evidence on the subject land assessment methodology and 'threshold'

Assessment methodology

- Reviewed previous assessments of the subject land as background material.
- Inspected the subject land from the public realm.
- Conducted historical research.
- Made a comparative analysis which include places:
  - already identified
  - search of Heritage Victoria Database and HERMES database to "*ascertain a comprehensive range of places by the architect and residences of the style and period in Stonnington"*.

Threshold

- The Advisory Committee which reviewed heritage provisions in planning schemes in 2006 stated:
  - Thresholds are to be used to sieve out those places recommended for including in the planning scheme from those of lesser value.
  - A comparative analysis is therefore an important component of the assessment process.
  - The threshold for applying the Heritage Overlay to a place should positively answer the question – Is the place sufficiently important that its cultural values should be recognised in the Planning Scheme and taken into account in decision making?
  - This needs to consider two elements – Firstly, there should be something to be managed, evident in the fabric of the place. Secondly, there should be a criteria for assessment, and for this the HERCON Criteria have been accepted.
  - The threshold will vary according to the comparative analysis in the locality.

- The municipality's Thematic History should also be considered when assessing whether a place contributes towards the significance of the municipality.

All parties and experts

- Planning Practice Note 1 sets out an approach to assessing cultural heritage significance
- The subject house is sufficiently intact.

Council submission

- A comparative analysis is the key tool to determine whether the local significance threshold is met.
- Planning Practice Note 1 states:

> To apply a threshold, some comparative analysis will be required to substantiate the significance of each place. **The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay.** Places identified to be of potential state significance should undergo analysis on a broader (statewide) comparative basis.[3]

- The C387melb Planning Panel found:

> The process of comparative analysis for local level significance **does not require places to be better than others but they should compare at least as well as others that are similar phase, era or class.** This is important to ensure the integrity of existing places included in the Heritage Overlay is not diminished. It also ensures that it is not just the grand and landmark buildings that are identified but also allows for the humbler places to be recognised as contributing to the heritage significance of a city, town or precinct.[1]

- A comparative assessment necessarily references the particular characteristics and features of the place which may reasonably include scale, setting, massing, architectural features and expression and materiality, as well as intactness and integrity.

Dr Paul's expert evidence

- Of the 30 Hermes Orion database results for interwar period Old English style houses, the most relevant example is another individual significant house by Arnaud Wright at 3 Myrnong Court.
- Mr Wright was a prolific local architect in the interwar period who was involved in local developments such as the Huntingfield Road (1934) and Moonga/Power Avenue subdivisions (1930-40).
- These were significant subdivisions of the surviving mansion estates in the area during the period.
- Mr Wright generally employed the Georgian Revival and Old English Revival styles popular during the interwar period.
- The most comparable examples of Mr Wright's designs are:
  - 13-15 Avalon Road (the subject land) (1933) – appears to have been the earlier and possibly the prototype for houses below
  - 21 Power Avenue, Toorak (1934)
  - 16 Montalto Avenue, Toorak (1934)
  - 3 Myrnong Crescent, Toorak (1935).
- Mr Wright's other known houses in the Old English style include:
  - 11 Moorakyne Avenue, Malvern (1934)

[3] Council emphasis

- 19 Power Avenue, Toorak (1935)
- 1 Henderson Avenue, Malvern (1935).

Ms Baker's expert evidence

- The subject land does not meet the critical threshold of individual significance to justify a site-specific Heritage Overlay based on a limited overview of similar properties and gradings.
- The subject house is handsome, but a conventional example of a large interwar dwelling designed in the English Domestic Revival style.
- Mr Wright broadly reproduced the design with some minor differences on two other sites in Stonnington.
- The subject land belongs to a category of heritage buildings that would typically only warrant protection if they formed part of a precinct.
- The comparative analysis:
  - compares the subject house's key characteristics with other Old English Revival interwar residences in Stonnington, but these characteristics are not limited to individually significant buildings
  - ignores the picturesque composition and more skilful massing of the three individually significant dwellings at 28 Albany Road, Toorak; 46 Heyington Place, Toorak; and 8 Monaro Road, Malvern.
- 3 Myrnong Crescent, 19 and 21 Power Avenue in Toorak "*shed little light*" on whether the subject land meets the threshold of an individual significant heritage place because they gain additional significance by their location in a precinct with high quality interwar residential development.
- 38 and 42 Hampden Road, Armadale are contributory buildings in the Hampden Road Heritage Precinct (HO136) and share many such characteristics and Old English Revival design elements.
- It is unclear why the subject land was revised from a contributory property in a precinct (Amendment C320ston) to an individually significant place (Amendment C341ston) when:
  - no new information has been identified
  - the house remains unchanged.

Dr Paul's response to questions at the Hearing

- There is a risk of excluding more conventional houses if an assessment focuses on grand fine houses.
- A house should not be excluded if it is not the 'Taj Mahal' of its class.

Ms Baker agreed with Dr Paul that a 'Taj Mahal' approach would be incorrect.

Subject land owner submission

- A heritage study seeks to identify cultural heritage significance.
- Heritage policy in the Planning Scheme ascribes significance to a heritage place once the Heritage Overlay is applied.
- The C387melb Panel stated that "*policy is not relevant when it comes to determining whether or not a place is of heritage significance*".
- Council and Dr Paul appear to include heritage buildings in its comparative analysis that have 'policy significance' but are not individually significant in the Heritage Overlay.

- It is fundamentally wrong to apply policy as a tool for assessing cultural heritage value when considering whether to apply the Heritage Overlay.
- The C246melb Panel stated:

> In terms of the threshold for being categorised as significant in a precinct the Panel concludes a significant building in a precinct is a better than typical example of a building which demonstrates one or more heritage values significant to the precinct (the heritage place).
>
> …
>
> If the threshold to being categorised as significant in a precinct were the same as an individually significant place, there is a risk this would set the bar too high. This is clear in the evidence given to the Panel which says the proposed significant buildings do not all compare well against buildings proposed as individually significant places. They do not need to.

- The C246 Panel added:

> That is not to say a significant building in a precinct cannot meet the threshold for local significance in its own right, but that this is not a precondition to being a significant element in the precinct. If being significant in a precinct makes a building significant in its own right, this can be a consequence of its role in the precinct and not independent of it.
>
> A significant building is a highlight which exhibits the heritage values of the precinct, but without the precinct to provide context may not have the same heritage value. This is particularly relevant for a precinct identified for historic significance (Criterion A) as the buildings or properties make an important contribution to the story of the place.

Council submission in response

- It disputed Ms Baker's criticisms of the methodological approach adopted in Dr Paul's comparative analysis.
- Ms Baker inappropriately dismissed the comparator examples cited in the Statement of Significance by the fact that three are in a heritage precinct.
- Ms Baker's view on the comparative examples "*shed little light*" is simplistic and flawed.
- Amendment C320ston related to whether the subject land should be included in the HO136 heritage precinct so it is *"trite"* to say it did not consider the subject property as an individually significant place.
- Unlike previous assessments, Dr Paul's analysis has had regard to Stonnington's important thematic history and its connection to the subject house.
- The subject house's elements were:
  - considered collectively by Dr Paul when he undertook the comparative analysis
  - disaggregated by Ms Baker, where she disregarded them as either irrelevant or not determinative.
- It is common for the scale and setting of heritage buildings to be considered, and given weight in assessing significance, even where the garden is not subject to heritage provisions, as demonstrated in the Statement of Significance for 28 Albany Road, Toorak.
- The setting and overall scale of the site and surrounds impacts how the subject house is read and it would be shortsighted to disregard scale and setting as elements that may influence significance, like Ms Baker does.
- Regarding 8 Monaro Road, it disagreed with Ms Baker that heritage assets are relevant comparators only insofar as they exhibit precisely the same built form attributes.
- All examples in Dr Paul's comparative analysis inform an understanding of the relative attributes of the subject land.

- The purpose of the comparison is not to find the same examples but rather which together comprise a fair representative example.

Council subsequently provided Statements of Significance for properties referred to at the Hearing and prepared by professionally qualified consultants to support other planning scheme amendments including Amendment C320ston.[4]

The Panel provided an opportunity for the subject land owner to make submission on matters raised in Council's Part C submission, and for Council to respond to any further submission. They are summarised in Table 5.

Table 5 Further submissions

Subject land owner	Council response
Significance	

- The Melbourne C426melb Panel:
  - held that the threshold for identifying a building as significant in a precinct is lower than the threshold for identifying a building an individually significant place
  - recognised the significance of a building may depend on its context so that the same building might not have the same level of significance in a different context.
- The point of referencing the letter gradings in the previous submission was simply to emphasise that heritage assessment has long recognised significance from being located in a precinct and lose significance by not being in a precinct.
- It cannot be assumed a property which satisfies the threshold for a precinct significance also satisfies the threshold for individual significance.
- Council seeks to get around this by referring to:
  - policy definitions introduced by Stonnington Amendment C132
  - recent heritage reviews conducted by heritage consultants
  - referring to Planning Practice Note 1.
	- Historical definitions are not particularly informative.
	- Council set out the historical definitions for context and so that the historical summary of grading evolution was fairly and properly represented.
	- Council's most recent heritage reviews have confirmed that where a property is identified as significant in a precinct it would also warrant that designation in its own right.
	- Accordingly the reviews only identified properties of sufficient significance to justify applying the Heritage Overlay (individual listing).
	- Dr Paul's comparative analysis identified significant properties including those in a precinct that have been assessed by recent reviews as being significant.
	- The Melbourne C426melb Panel observed that all properties graded significant in a precinct would also have been regarded as significant in their own right and justify the Heritage Overlay (individual listing).
	- The C426melb Panel commented in was not helpful to assess the significance of a property by referencing a different 'hypothetical' context which did not apply to the property.

Heritage policy	
- The current Planning Scheme Clause 15.03-1L is a revised form of heritage policy introduced to Clause 22.04 through Stonnington Amendment C132 in 2018.	- This observation was made by the Amendment C132 Panel (not Council) and was provided for background context. - Heritage consultants have since confirmed the

[4] Documents 17(a) to (j)

Subject land owner	Council response
- Council seeks to rely on the following definition in Clause 15.03-1L: 'Significant places' means places of either state or local significance including individually listed places graded A1, A2 or B. - This definition has not attempted to move away from the letter grades that appeared in Clause 22.04. - Council exhibited the definition as 'individually listed buildings and places in a heritage precinct' and later proposed to delete the underlined words. - The Panel retained the underlined words, and did not support an approach that treats individual buildings in precincts (which are not individually listed) as significance places.	significance of the properties included in Dr Paul's comparative analysis.
The heritage reviews	
- The Armadale Heritage Study (2024): - describes a 'general approach' in which buildings in precincts were categorised as Significant, Contributory or Non-Contributory based on their existing letter grade 'in line with Council's local heritage policy' - takes into account considerations of representativeness and aesthetics as they relate to the 'common theme upon which precinct was nominated' - appears to have assumed the threshold for significance is the same both in an outside a precinct which should not be accepted unless it is clearly justified - states: Where properties were identified as significant, it was determined that the site contributed towards the common theme of the precinct but was also of cultural significance in its own right. … Significant (S): a place that is both significant in its own right, independent of its context within the precinct, and contributes to the broader significance of the precinct (DELWP 2010, 6) - The passage does not identify the basis for determining this. - There is no reference to authoritative guidance or Panel material to support this approach. - The subject land owner has not been able to	- The heritage reviews were conducted by competent and experienced heritage consultants who set out their methodology in the reviews. - It would be an overreach to suggest that Council must or should prove that independent experts that it engaged adopted appropriate methodology. - The heritage consultants applied the same approach to significance of properties in a precinct as Dr Paul – this reflects the current approach to grading. - It is appropriate to rely on those recent assessments in Dr Paul's comparative analysis.

Subject land owner	Council response
source the 15-year-old document from DELWP. - This document should not be given weight or relied on when making decisions in light of the C426melb Panel findings. - The Armadale Heritage Study (2024) comparative analysis compares the Power Street Precinct exclusively against other precincts, which is entirely proper. - A building significant to a precinct does not automatically make it individually significant. - None of the individual properties in the precinct which are identified as significant in Dr Paul's comparative analysis are themselves the subject of comparative analysis. - Nothing in the GJM Review indicates individual properties in the Moorakyne Precinct were subject of a comparative analysis. - There is no evidence the buildings' designation as significant was informed by the kind of analysis that would establish the building met the threshold for applying the Heritage Overlay (individual significance).	
Planning Practice Note 1 and Melbourne Amendment C387melb	
- Planning Practice Note 1 makes clear that there is 'no need' to separately schedule and map individually significant buildings located in a significant area because it will not change the controls that apply to them. - It does not say or suggest that buildings which are significant in a precinct are individually significant because they are significant in the precinct. - Council's quote from the C387melb Panel report does not reflect the circumstances. - The C387melb Panel made those comments in the context of the Hoddle Grid Post-War Heritage Review, and its emphasis reflected that this was the first time this period of heritage had been considered in this area. - It was reasonable to consider places outside the Heritage Overlay within this context. - The Amendment C387melb circumstance does not reflect the situation in Stonnington where there are many Old English Revival houses, many of which are on former mansion sites. - The passage regarding 'humbler places' appears to be *"a form of special pleading suggesting that*	- When the C387 Panel report, Council's Part C submission and Planning Practice Note 1 are read together, it is clear the Panel was affirming the preferred approach to comparative analysis is not rigid, forensic or prescriptive. - The C387 Panel report extract was included simply to caution against raising the base so high that properties were inappropriately excluded – Council agrees.

Subject land owner	Council response
some unspecified lower threshold should be adopted for the evaluation of the Property". - As explained in the C320ston Panel report, where the Heritage Overlay applies to many individually significant high quality buildings, then other buildings said to belong the same class are to be evaluated by reference to those buildings, even if that means that the standard for inclusion becomes very high. - The Panel needs to be satisfied that the properties selected by Dr Paul properly represent the benchmark for Stonnington and not some lower standard.	
Stonnington Amendment C320ston	

- Council's submission that the Panel cannot give material weight to information in the C320ston hearing represents a change in its position where it said in the Part B submission that this information is "*not irrelevant*" and should not be given weighty consideration.
- It would be procedurally unfair to deliberately ignore relevant information from the C320ston Panel.
- Disregarding this information would incentivise planning authorities to bring forward their cases 'piecemeal', knowing that they would face no penalty and may be advantaged.
- Panels have often declined to give weight because a property was not identified in an earlier heritage study in considering whether a property should now be included in the Heritage Overlay.
- Since the C320ston hearing:
  - there has been no relevant change to the subject land and no new historical information discovered so material from that process has not been overtaken by facts
  - there has been no material change in heritage practice or the broader policy framework.
- There was expert evidence and submissions at the C320ston hearing about whether the subject land was of individual significance so the C320 Panel information is reliable and relevant in informing an assessment of the subject land's heritage significance.
	- Council's Part C submission is consistent with its Part B submission as it addresses the expert reports submitted to Stonnington Amendment C320ston.
	- Council has maintained the reports are relevant for background and context, and cannot be relied on to prove the individual significance of the subject land.
	- Amendment C320ston sought to include the subject land in a precinct which is a different process.
	- The approach for the subject land is not 'piecemeal' – Council was faced with its heritage consultant changing its position regarding the subject land leading to the C320ston Hearing.
	- Council subsequently sought a peer review from another heritage consultant as to whether the subject land was individually significant.
	- Therefore, it did not re-litigate Amendment C320ston.

Class of objects

- There is continuing confusion in Council's articulation of what the relevant class is.
- Council's submission is consistent with the oral evidence of Dr Paul where he identifies an initial 'primary' class and qualifies it by reference to Mr Wright without articulating the precise nature of the qualification or how the involvement / significance of Mr Wright should be understood to affect the definition of the class.
- It remains unclear what the scope of the alleged class is.
- Relied on Dr Paul's expert evidence regarding the class of objects.

(iv) Discussion

Submissions, parties and heritage experts considered the subject house was intact enough to be assessed as to whether it has local heritage significance. The Panel agrees.

Council engaged professionally qualified heritage consultants to provide independent advice regarding the subject land. The heritage consultants broadly followed the methodology set out in Planning Practice Note 1. This includes:

- researching the subject land to see if it qualifies as an individually significant heritage place
- determining which criteria apply
- preparing a citation which included a comparative analysis
- preparing a Statement of Significance.

Did the comparative analysis include the right examples to determine the subject land's local significance?

The Panel agrees with Dr Paul that a threshold is important when assessing heritage significance because it helps 'sieve' a place that is sufficiently important for its cultural values from those which are not. The comparative analysis forms an integral part of this assessment, and how it is prepared can influence whether a property is found to be significant or not.

Stonnington's thematic environmental history and how it relates to the subject land needs to be clearly understood to support an appropriate comparative analysis. This will inform what properties can be compared with the subject land to appropriately represent the relevant theme, building style and development era in the municipality.

During the Victorian era, many of Melbourne's affluent class chose to build their mansions on grand properties in what is today, Stonnington. When labour and maintenance costs increased at the turn of the century, Stonnington had many more grand estates available to subdivide and develop during the interwar period than other parts of Melbourne. Many of them were designed in the Old English Revival style which was popular at the time. Stonnington therefore has many representative examples of interwar Old English Revival houses that are associated with this thematic history.

Many of Stonnington's interwar houses are fine examples including those identified in Dr Paul's expert evidence, the Stonnington Interwar Heritage Study (2015), and those subject to the Heritage Overlay. These better examples did not form part of the comparative analysis. As

discussed in the Chapter 3.3, this is because the comparative analysis restricted the range of comparable examples.

Dr Paul noted the threshold will vary according to the comparative analysis in the locality. By restricting the breadth of examples, the comparative analysis did not recognise that Stonnington has a relatively high local threshold for Old English Revival style houses built during the interwar period. This approach did not enable a fulsome assessment.

A higher threshold does not mean the Heritage Overlay will be applied only to the grand and landmark buildings. Rather, it would be applied to the better, more representative and important examples of interwar buildings including the grandest to the humblest.

Nonetheless, the subject house is by no means a humble interwar-era house. As acknowledged by the heritage citation and by the heritage experts, it was designed and built for a family that could afford a large two storey house on a large property comprising two lots. The subject house should have been compared with a more representative sample of significant interwar Old English Revival style houses in Stonnington.

A more representative sample includes some of the properties included in Dr Paul's expert evidence but excluded from the comparative analysis. However, the sample should not be too broad to simply include anything constructed during the interwar period. It is evident the interwar period had a diverse range of distinctive styles. The Statement of Significance specifically refers to the house being an *"Old English Revival styled interwar period house*".

Dr Paul's Georgian Revival examples included in his comparative analysis would be relevant as interwar houses associated with the relevant theme if they were subdivided from larger Victorian era estates. However, beyond that scope, they offer little by way of comparison. As explained by Dr Paul and Ms Baker, an Old English Revival style house is picturesque and generally asymmetrical. The Georgian Revival style houses in Dr Paul's expert evidence have a classical design and are generally symmetrical. The Panel accepts Dr Paul's view that representiveness relates to the overall composition of the building's features rather than their individual aesthetics. However, a Georgian Revival style house has a different design philosophy and composition to that of an Old English Revival style house, making it challenging to compare.

Stonnington has many examples of Old English Revival style house so the comparative analysis should not rely on other styles, particularly those with less decorative features.

Should a property be assessed and identified as 'significant' before it is included in the comparative analysis?

The comparative analysis included 3 Myrnong Crescent, 19 and 21 Power Avenue in Toorak which formed part of Amendment C320ston yet to be introduced into the Planning Scheme. The Panel is perplexed as to why the comparative analysis relied on these three properties when there were so many individually significant interwar Old English Revival houses with the Heritage Overlay in Stonnington, as evidenced in the Victorian Heritage Register (and reflected in the Planning Scheme) referred to by Dr Paul.

The Panel acknowledges the subject land owner's concern. The threshold for an individually significant property is higher than a contributory property in a precinct so it needs to be assessed accordingly.

The Panel has not sought to reassess the Armadale Heritage Study (2024) methodology, however the decision to include three properties from that study in the comparative analysis has made it

difficult to separate the two. Properties included in the comparative analysis need to be carefully selected because this process will influence whether a property achieves the threshold of heritage significance. It would be inappropriate to compare the subject land with a property that has not been appropriately assessed and found to be of individual heritage significance. These three properties should have been assessed with the same rigour that Council has exercised for the subject land through the Amendment.

The Armadale Heritage Study (2024) at section 2.2.8 states:

> As a general approach, places previously graded A1 and A2 were graded Significant, places previously graded B were graded Contributory, and places previously graded C or without a grading were graded Contributory or Non-Contributory, in line with Council's local heritage policy.

Planning policy at Planning Scheme Clause 15.03-1L assumes that A1, A2 or B graded places are significant heritage properties. It is unclear how this is possible because not every graded property may fit neatly into the 'significant' category. Each property needs to be individually assessed to determine whether it is significant or another heritage category.

For these reasons, the Panel considers it inappropriate to include 3 Myrnong Crescent, 19 and 21 Power Avenue in the comparative analysis. These properties may have been acceptable to include if there were few or no examples to draw from because the subject land was one of the first of its class in the municipality to be assessed for the Heritage Overlay. This is not the case in Stonnington.

Should a significant property in a precinct be included in the comparative analysis?

The Panel was referred to two perspectives regarding properties identified as 'significant' within a heritage precinct – Planning Practice Note 1 advice and the C246melb Panel report. Planning Practice Note 1 provides the clearest explanation:

> The provisions applying to individual buildings and structures are the same as the provisions applying to areas, so there is no need to separately schedule and map a significant building, feature or property located within a significant area.
>
> The only instance where an individual property within a significant area should be scheduled and mapped is where it is proposed that a different requirement should apply. For example, external painting controls may be justified for an individual building of significance but not over the heritage precinct surrounding the building.

Having reviewed documents provided at the Hearing, the Panel understands that heritage significance relates to the heritage place. A heritage place can be an individually significant property or a precinct comprising multiple properties. A property within a precinct can contribute to the precinct's significance where it shares the same theme. Properties that achieve this are categorised as 'contributory' while those that do not are 'non-contributory'.

There are instances where a contributory property may also be found to be individually significant. Where an individually significant place and a heritage precinct share the same requirements, Planning Practice Note 1 advises to categorise such a property as 'significant' and map it within the respective precinct to avoid double mapping the Heritage Overlay. Therefore, a significant property is not significant to the precinct. It is significant in its own right while also contributing to the precinct's significance.

The curtilage of an individually significant place ends along the Heritage Overlay boundary (which is generally along the boundary of an urban property) so it does not rely on its surrounding context. This means:

- a significant property in a heritage precinct would remain unaffected if it was removed from the precinct
- if 3 Myrnong Crescent, 19 and 21 Power Avenue in Toorak had been assessed and found to be individually significant, they would not have gained additional significance because of their location in a precinct with high quality interwar residential development.

It is therefore appropriate to compare the subject land with properties that have been appropriately assessed and found to be individually significant places including those identified as significant in a heritage precinct.

The Panel has taken into account the following conclusions when considering whether the subject land achieves Criteria A and D.

(v) Conclusions

The Panel concludes:

- Stonnington has many fine examples of interwar houses in the Old English Revival style which sets a higher local threshold than areas in Melbourne where there are fewer and less comparable examples.
- The subject land should be comparable with, if not better than, an appropriate sample of comparable properties in Stonnington.
- The comparative analysis did not include an appropriate representation of Stonnington's Old English Revival style houses which resulted in a disproportionate assessment of the subject land.
- It is appropriate to compare the subject land with a property in a heritage precinct that has been appropriately assessed and identified as being significant.

3.2 Criterion A (Historical significance)

(i) The issue

The issue is whether the subject land achieves Planning Practice Note 1 Criterion A.

(ii) Evidence and submissions

Subject land owner submission

- To achieve Criterion A, the property must be of:

  > Importance to the course or pattern of our cultural or natural history – historical significance.

- The key word is *"importance".*
- The C387melb Planning Panel stated:

  > Criterion A requires a place to be of importance to the course or pattern of our cultural or natural history (Panel's emphasis).
  >
  > There is some risk that if the pattern or theme is too generic any building consistent with it could meet the criterion. This clearly is not satisfactory, the theme or pattern in itself needs to be important to the municipality and then the place needs to clearly demonstrate it.

- The C320ston Planning Panel emphasised that merely being an example of a theme is not enough to make a property 'important' for the purposes of Criterion A.

- It must be shown that a property is better than the typical interwar Old English style dwelling in Stonnington, having regard to the high standard established by existing properties in the Heritage Overlay.

Council relied on Dr Paul's evidence that the subject land achieves Criterion A, and noted supporting submissions regarding the property's historical significance.

Ms Baker's expert evidence

- The subject land:
  - does not satisfy Criterion A at a local level
  - is associated with interwar development in Stonnington, however, all buildings represent the period of development in which they were constructed
  - is a result of this pattern of subdivision, it is otherwise undistinguished in this regard.
- The house may be of some historical interest for how it testifies to a major phase of development that occurred in first few decades of the twentieth century when many of Armadale's large mansion estates were subdivided to create prestigious residential enclaves (Thematic Environmental History 8.1.3) – this alone is insufficient to elevate the place to local level significance.
- If it were, many interwar dwellings in Stonnington would satisfy Criterion A to the extent they reflect the subdivision and redevelopment of the large nineteenth century estates which occurred during the interwar period.
- The Hampden Road Precinct (HO136) is identified as being significant against Criterion A for, among other things, testifying to the subdivision of mansion estates, however the alignment and subdivision of Hampden Road itself provides an understanding of this history, as does including the original mansion estate in the precinct.
- Any archaeological potential associated with the Victorian mansion that once partially stood in the north-eastern part of the subject land is not relevant when considering whether to apply the Heritage Overlay.
- The citation's comparative analysis includes three sites of individual heritage significance which are not included in the Heritage Overlay under Criterion A.
- Mr Wright was commissioned to design the house on the subject land, but he had no apparent involvement in the Avalon Estate subdivision.
- Mr Wright's role in shaping Huntingfield Road has little bearing on the subject land.
- Mr Wright was personally responsible for the Huntingfield Road subdivision of the former mansion sites and designed many of the buildings subsequently constructed on those sites.
- The Huntingfield Road estate more meaningfully represents Mr Wright's role in transforming the municipality, as recognised in the HO347 Statement of Significance.

Dr Paul's expert evidence

- The subject land is clearly associated with the following historic themes in the Thematic Environmental History:
  - 8. Building Suburbs
  - 8.1.3 The end of an era – mansion estate subdivisions in the twentieth century
  - 8.2 Middle class suburbs and the suburban ideal
  - 8.4 Creating Australia's most 'designed' suburbs
  - 8.7.1 Creating leafy suburbs.
- The subject land demonstrates:

  - how Victorian mansion estates were subdivided and original homes rebuilt in the new style
  - the continued culture of architect design which is another important theme in Stonnington's history (Theme 8.4)
- 'Middle class' is a very broad term, particularly in an age when almost everyone sees themselves or aspires to it.
- He applied the adjective 'affluent' to describe the character of the middle class in the area to distinguish them from a broader middle class – the kind of middle class people who were "*dentists, race horse owners, who might afford to build a 'high status' large house across two lots on a commanding and particularly prestigious site*".
- Nonetheless, they were suburban houses distinct from the very grand and expansive Victorian estates that characterised the 'upper class' mansions with aristocratic pretensions.

Expert response to evidence

Ms Baker's response to Dr Paul's expert evidence:

- The subject house's historical association with the development of the area and its estates is no stronger than any other interwar building constructed on land subdivided from a Victorian mansion estate.
- Many, if not most, interwar houses in Stonnington were constructed on land subdivided from early mansion estates.
- All the individually significant houses cited in the comparative analysis are identified as having been built on land subdivided from nineteenth century mansions, but none (including 50 Hopetoun Road) are identified as satisfying Criterion A (historical significance).

Dr Paul's response to Ms Baker's expert evidence:

- Remained confident the house is 'better than typical' and an important example of the style given its favourable comparison to other houses of the class.

Expert responses to questions at the Hearing

Dr Paul:

- A property needs to demonstrate importance to a historical association to achieve Criterion A rather than simple connection to the theme.
- All lots subdivided from the former estate align with the theme of a former subdivided estate.

Ms Baker:

- The subject land is not one of the largest in the area, and it does not gain more significance for retaining its driveway.
- The subject land's layout reflects the identified theme but this does not translate to being significant.
- The focus should be on an Old English style with a picturesque composition and fine detailing.

(iii) Discussion

Every building in Stonnington designed in the Old English Revival style and constructed on a lot subdivided during the interwar period from a former mansion estate meets the description set out

for Criterion A in the Statement of Significance. The key is whether the subject land is sufficiently important to the course or pattern of Stonnington's cultural history.

The subject land is most closely aligned with Thematic Environmental History sections:

- 8.1.3 (The end of an era – mansion estate subdivisions in the twentieth century
- 8.2 (Middle class suburbs and the suburban ideal).

This is because the subject land is one of the hundreds of interwar houses created from a subdivision from a larger estate that had a Victorian era mansion. However, this is not enough to make it important to Stonnington.

There should be something distinguishable about the subject land for it to achieve Criterion A as an individual heritage place. Otherwise, it is no different to one of the properties that contribute to the Hampden Road Precinct, noting the subject land is physically separated from that precinct.

The Panel agrees with the subject land owner submission that the Criterion A assessment should have regard to the high standard established by existing properties in the Heritage Overlay. The subject land's association as one of the properties subdivided from a Victorian era estate is unremarkable.

The subject house has relatively constrained Old English Revival form and detailing. It does not compare well with existing interwar heritage properties in Stonnington, including those in the comparative analysis, that have a stronger and more significant historical association with "*development of affluent middle class suburbs*". As noted in the Thematic Environmental History, the affluent middle class had well designed and presented homes as a symbol of their success. This is better associated with existing and finer examples of interwar Old English Revival houses found in Stonnington. Finer does not mean grander.

The Panel considers the subject house is not significant for its historical association with Thematic Environmental History section 8.4 (Creating Australia's most 'designed' suburbs). There is no evidence the subject land's clients encouraged their architect to explore experimental or innovative design (Thematic Environmental History section 8.4.2), as Mr Wright's design is broadly replicated in other houses in the area. This is not a house that Mr Wright designed and built to live in (Thematic Environmental History section 8.4.3).

The scale of the subject land and house should not be interpreted as adding significance to its historical association (Criterion A). These attributes alone do not contribute to its significance.

The subject house itself does not provide insight into how Stonnington created a leafy suburb (Thematic Environmental History section 8.7.1). The Hampden Road Precinct (HO136) more clearly demonstrates an important historical association through its collection of houses forming part of the subdivided 1929 Avalon estate. The Precinct is the last remaining intact section of the estate comprising 15 properties along Hampden Road and four along Dandenong Road bound by a common streetscape with wide avenues and large canopy trees, consistent with what is expressed in the Thematic Environmental History.

The information presented to the Panel, including the heritage citation and State of Significance, did not persuade it that the subject house has enough local historical significance to achieve Criterion A.

(iv) Conclusion

The Panel concludes the subject land does not achieve Planning Practice Note 1 Criterion A.

3.3 Criterion D (Representativeness)

(i) The issue

The issue is whether the subject land achieves Planning Practice Note 1 Criterion D.

(ii) Evidence and submissions

Subject landowner submission

- Relied on Ms Baker's expert evidence and considered the subject land did not achieve Criterion D.
- Dr Paul has conceded the standard for applying the Heritage Overlay to interwar houses in Stonnington is 'high'.
- Dr Paul's expert report refers to the subject house having a picturesque and asymmetric composition which does not appear in the comparative analysis.

Council submission

- Relied on Dr Paul's expert evidence that the subject land achieves Criterion D.
- The heritage citation confirms the subject house is significant as a fine representative example of an Old English Revival style interwar period house and as an outstanding example of Arnaud Wright's work in this style.

Ms Baker's expert evidence

- The subject house does not satisfy the relevant local-level threshold in relation to Criterion D at a level of individual significance.
- Within the Statement of Significant assessment for Criterion D, it is unclear whether the subject land is considered:
  - *"a fine representative example of an Old English Revival styled interwar period house"* or
  - "*an outstanding example of the work in this style of the notable local architect Arnaud Wright*".
- Regarding the former point:
  - all intact historical places represent the period and style in which they were constructed
  - a house constructed during the interwar period is representative of this era
  - such a point is so universally applicable that it alone is insufficient to elevate a place to the threshold of individual significance.
- All historical places are representative of 'a type' so representativeness alone cannot be considered a core measure of significance.
- The critical question is what elevates a particular building to the threshold of individual significance.
- While the subject house is representative of interwar development and is also a representative example of the work of architect and builder Arnaud Wright, they do not intrinsically elevate the building to a level of individual significance.
- The contention the subject land is an 'outstanding' example of Arnaud Wright's work should not simply be considered in the context of Wright's work alone, but should be considered in the context of interwar Old English Revival dwellings in Stonnington.
- As a rule, care must be taken to avoid engineering a narrow theme, as it risks distorting the point at which local-level threshold lies.

- Constructing an historical theme of multiple qualifiers risks excluding most other places in the municipality from comparison.
- Even if the comparative analysis were limited only to Arnaud Wright's work, the subject house is not an outstanding example of Wright's work in this style.
- The subject building:
  - is almost a mirror image of Arnaud Wright's design at 21 Power Avenue, Toorak, which was both constructed around the same time and identified as a B graded building, as noted in the heritage citation
  - shares many similarities with the dwelling a 3 Myrnong Crescent, Toorak, which its design is similar to others in Stonnington that gain significance through their heritage context.
- If a building is:
  - a 'fine' or 'outstanding' example' of a particular type, the proper test would be an assessment against Criterion E (aesthetic significance)
  - is significant for its association with a particular architect or developer, it should be assessed against Criterion H (associative significance).
- The heritage citation notes the threshold for a house in Stonnington to meet the threshold of individual significance against Criterion E is particularly high.
- The subject house:
  - does not provide an equal, let alone better, representation of Arnaud Wright's work shaping the municipality in this period
  - is simply an example of his architecture.
- Mr Wright was one of numerous architects working in the area, and his association with the subject land does not elevate its significance.
- The C320ston Planning Panel found the subject land's garden was not of any heritage significance in its own right and was typical of the period.

Dr Paul's expert evidence

- The subject land demonstrates a high degree of integrity and representativeness that meets the local threshold of significance.
- Representative characteristics of the subject house's style include *"the picturesque composition of the gabled wings and asymmetric composition".*
- The comparative analysis finds it compares well to significant representatives of Mr Wright and Old English Revival houses in Stonnington and is strongly representative of Mr Wright's interpretation of the style.
- The subject house's representative characteristics include:
  - prominent gables with slit brick details
  - steep roof forms with terracotta shingles
  - tall brick chimneys with corbelled brickwork
  - decorated external chimney breast including 'S' detail
  - flush gable ends
  - bell cast eaves
  - corbelled gable eaves
  - combination of imitation lime wash walls with clinker brick detailing
  - diamond and multi pane windows
  - bay windows with roofs
  - arched doorway with gabled porch

  - double hung sash windows
  - brick on edge sills
  - porch with arch
  - basketweave brick details.
- The subject house:
  - is distinguished among Mr Wright's Old English designs by its large scale and spacious garden setting with curved driveway, tall chimneys and terracotta shingle roof with finely detailed eaves
  - does not display half timbering details, which from the comparative analysis appears to have been Mr Wright's interpretation and application of the style
  - Mr Wright's style instead used brick, particularly the clinker brick fashionable at the time, to provide visual interest and decorative details, particularly to the gable ends and corners.
- The importance of the house as a representative of the style is established by its particularly well resolved and fully detailed design, consistent with the other significant graded house at 21 Power Avenue which incorporates terracotta shingles and flush detailed gable ends.
- The subject house is larger than 21 Power Avenue, in a more imposing position and fuller garden setting.
- The landscape fabric has been altered in the post-war period, but the scale, position and setting of the house within a garden nonetheless contributes to its importance.
- The subject house:
  - appears to have been the first of this series of similar houses to have been completed and may have served as the prototype for subsequent designs
  - presents as the most complete and grandest of the group.
- As an Old English Revival style house of the interwar period in general, the importance of the house rests both in its combination of representative elements listed above, and as the best example of the houses in the style designed by one of its significant practitioners in the municipality.
- Relevant to Criterion D, is that builder-architects like Mr Wright could appeal to the pretension and budgetary concerns of the interwar middle class residents of the area who, while affluent, often had more constraints than the owners of the grand Victorian estates they were replacing.

Expert responses to evidence

Ms Baker's response to Dr Paul:

- Plans for 3 Myrnong Crescent, Toorak held at the Stonnington History Centre are dated 1932 (before the subject house was constructed).
- Fine tall chimneys, terracotta roof shingles (also widely used on Georgian Revival buildings), scale and siting on block are not intrinsically a measure of significance.
- Detailing, particularly the flush bell eaves is not an element in itself that would elevate the building to the level of individual significance.
- A place does not have to be better than all other places in the Heritage Overlay to meet a threshold of significance, however it has not been established the subject house is better than typical of its class.
- The subject house:

- while handsome, is a conventional example of a larger interwar house design in the English Domestic Revival style
- does not meet the prerequisite threshold to be identified as individually significant
- belongs to a category of heritage buildings that would typically only warrant protection in a precinct.

Dr Paul's response to Ms Baker:

- Conceded the subject house was not the first of similar houses in the area.
- The subject house's significance as a representative Old English Revival house is intrinsically related to its significance as an important representative of Mr Wright's work – the two are connected, as Mr Wright was an important practitioner of the revival styles in the municipality.
- Including significant houses by Mr Wright in the comparative analysis, even if they are in a heritage precinct, provides valid and important comparison to assess the relative importance of the subject property as an example of the architect's work and the Old English style broadly.
- Continued to consider the subject house is of a higher calibre than a house that is only contributory in a precinct or only significant to the precinct.
- The subject land's better than typical characteristics outlined in the comparative analysis include its scale, setting and size, as well as the overall composition of its identified details.

Expert responses to questions at the Hearing

Dr Paul:

- Criterion E calls for particular aesthetics, whereas Criterion D (Representative) can be conventional.
- It is common to assess both Old English Revival style and an architect's work together.
- A significant building in a heritage precinct would be individually significant outside a precinct.
- Heritage considers a building's setting rather than the property size.
- Agree there needs to be care to identify a cultural class that is not a narrow theme, but it also should not be too broad otherwise it will not be meaningful.
- The subject house's elements collectively are a measure of its representative significance.
- Acknowledged his expert report does not refer to houses in the *City of Stonnington Interwar Houses Study – Stage 3 Background Report September 2015*.
- The front fence does not appear to be original.

Ms Baker – Criteria D and E can be confused with each other and are often conflated.

Further submission – Subject land owner

- If Mr Wright is found to not be sufficiently important to justify defining a class by reference to him, then the subject land cannot achieve Criterion D.
- This is because there is no evidence that Dr Paul's comparative analysis (of which two-thirds are designs by Mr Wright and one-third are not in the Old English Revival style) represents the broader class of Old English Revival buildings in Stonnington.

(iii) Discussion

The Statement of Significance identifies the subject house as a "*fine representative example of an Old English Revival styled interwar period house in the municipality and as an outstanding example of the work in this style of the notable local architect Arnaud W Wright*".

As a highly intact building, the Panel agrees with Dr Paul that the subject house, like other houses of the same style and era in Stonnington, has the characteristics identified in the heritage citation and in his evidence.

Consistent with Ms Baker's view, all intact houses constructed during the interwar period represent their period and style. There should be a point of difference, otherwise referred to as the 'local heritage threshold' to achieve Criterion D (Representativeness). The comparative analysis plays an important role in determining this.

As discussed in Chapter 3.1, the comparative analysis should have included a representative range such heritage houses in Stonnington. Combining multiple qualifiers (*the house style and era and outstanding example of Mr Wright's work*) has inappropriately:

- narrowed the theme and distorted the comparative analysis and local heritage threshold
- excluded potentially better examples of interwar Old English Revival houses.

The subject house is simply an Old English Revival interwar house that was subdivided from a grander Victorian estate and should have been compared accordingly. This is important in Stonnington because it represents the evolution from upper class mansions on grand estates to large middle class homes.

As recognised in submissions and expert evidence, Stonnington has a notably higher local significance threshold for individually significant Old English Revival interwar houses than in many other parts of Melbourne. This is because it has many more comparable and potentially better examples ranging from the larger mansions to the relatively less grand houses, many of which were not included in the comparative analysis. This higher threshold should not be interpreted as being 'too high' or including only the best examples.

The threshold for local heritage significance distinguishes interwar houses which are important in demonstrating the principal characteristics of a class or cultural place from all other interwar houses. Narrowing the theme and not comparing the subject land with a representative sample of properties reduces this threshold and risks applying the Heritage Overlay to properties that are not important to Stonnington's history or do not achieve Criterion D.

This is what has occurred with the assessment for the subject land. The subject house's design composition is relatively conventional and lacks important decorative details and asymmetric form found in better representative examples in Stonnington. These missing elements do not make the house a more 'humble' example, but rather, unimportant in representing its style and era.

Irrespective, the subject land does not compare well with three of the properties in the comparative analysis. As identified by Ms Baker, 28 Albany Road, Toorak; 46 Heyington Place, Toorak; and 8 Monaro Road, Malvern have Old English Revival style details that have been skilfully designed and composed.

Further examples in Dr Paul's expert evidence persuaded the Panel that the subject land would compare less favourably if similar and better examples in Stonnington were included in the comparative analysis. They include 407 Glenferrie Road, Malvern; 2 Ledbury Court, Toorak and the humbler 1 Henderson Avenue, Malvern. The subject house is most comparable with 1

Henderson Avenue, though the latter has an asymmetrical form and details that better represent an Old English Revival house in Stonnington during the interwar period.

The Panel does not agree with Dr Paul that the interwar affluent middle class residents with more financial constraints than owners of Victorian estates is a reason to justify a more constrained design. The better examples of interwar houses included and excluded from the comparative analysis were also of affluent middle class residents with similar financial constraints. This simply makes the subject house a less remarkable example of its class.

The Statement of Significance's reference to the subject house being "*an outstanding example of the work in this style of the notable local architect Arnaud W Wright*" adds confusion regarding its purported significance. The Panel agrees with Ms Baker that the direct association to the architect relates to Criterion H and the house's particular aesthetic characteristics as an 'outstanding example' relates to Criterion E. The heritage citation found these criteria did not apply to the subject land.

Dr Paul found the importance of the subject house rests both in its identified representative elements and as the best example of houses designed by one of its significant practitioners in the municipality. The Panel is not persuaded the identified representative elements are comparable with or better than other individually significant heritage places in Stonnington. The composition of its details are:

- unremarkable and insufficient to consider the subject house as individually significant
- at best, comparable with the contributory houses in the Hampden Road precinct.

Asymmetry is an important characteristic for an Old English Revival house representing its class. The subject house presents in a generally symmetrical form, though one of its front chimneys is aligned to the front façade rather than the side. This difference is insufficient to offset the overall dominant symmetrical form. Old English Revival style is more aligned with asymmetry found in houses in the comparative analysis – 28 Albany Road, Toorak; 46 Heyington Place, Toorak; 8 Monaro Road, Malvern; 407 Glenferrie Road, Malvern; 2 Ledbury, Toorak.

The heritage citation does not include information that support claims the house was designed by one of the municipalities most significant practitioners or a notable architect. The City of Malvern Heritage Study (1992) states "*Little is known about Arnaud Wright…*". The Thematic Environmental History does not refer to Mr Wright when referring to Stonnington's notable architects:

> Ballantyne and hare, Joseph Plottel, Marcus Martin and the influential Robert Haddon were among other notable architects whose work is well represented in the study area. The architects built predominantly in the fashionable architectural styles of Toorak in the 1920s and '30s, which were Georgian revival and Old English.

The Panel agrees with the subject land owner that there is no explanation regarding the precise nature of Mr Wright's involvement or why his association has been included as a qualification. Mr Wright's association with the subject house should not be considered when assessing whether the subject house is significant as an individual place that achieves Criterion D.

It is unsurprising the subject house is comparable with contributory houses in the Hampden Road Precinct (HO136). They are large properties with large interwar houses surrounded by generous gardens. This is because the subject land is a disconnected remnant from the same subdivided estate as those houses. However, the subject house is being assessed on whether it as an individual heritage place rather than its contribution to the precinct's heritage significance.

While the original owner purchased two lots (13-15 Avalon Road) to build their home, this does not elevate the property's importance or significance.

All the large houses in the subdivided estate were surrounded by generous gardens. The subject land has a significantly deeper property through good subdivision fortune, being wedged between Hampden Road and Barnato Grove properties. It is unclear whether siting the house further back to take advantage of the deeper property was at the request of the owner or something proposed by the architect. In either case, the relatively deeper setback and larger front garden setting are not significant in themselves.

The Statement of Significance acknowledges the landscape fabric is not original. This is affirmed by:

- the City of Prahran Significant Tree and Garden Study extract[5] which states the garden "*was created by the owner in the 1960s incorporating already mature trees and is a classic vernacular design*"
- the design and materials which were popular during the 1960s – the 'crazy paving' on the driveway and multi-coloured stone on the retaining walls.

The Statement of Significance identifies the 'expansive garden setting' with the curving driveway as contributing to the place's significance. The Panel disagrees. The threshold for an individually significant heritage place is much higher than a property contributing to a heritage precinct. Accordingly, the post-war driveway and garden retaining wall finishes would have to sensitively respond to the style and era that is sought to be represented – Old English Revival style interwar period. The 1960s garden finishes do not achieve this. The Panel was not presented with photographs which showed the garden's original finishes.

(iv) Conclusion

The Panel concludes:

- Combining multiple qualifiers *(the house style and era and outstanding example of Mr Wright's work)* has inappropriately:
  - narrowed the theme and distorted the comparative analysis and local heritage threshold
  - excluded potentially better examples of Old English Revival interwar houses.
- The subject land does not compare well with:
  - 28 Albany Road, Toorak; 46 Heyington Place, Toorak; and 8 Monaro Road, Malvern that were included in the comparative analysis
  - 407 Glenferrie Road, Malvern; 2 Ledbury Court, Toorak; and 1 Henderson Avenue, Malvern included in Dr Paul's expert evidence.
- The subject land does not achieve Planning Practice Note 1 Criterion D.

[5] Document 17h

Appendix A Document list

No.	Date	Description	Provided by
2025			
1	11 Jun	Panel Directions and Hearing Timetable	Planning Panels Victoria (PPV)
2	7 Jul	Council Part A submission	Stonnington City Council (Council)
3	14 Jul	Expert report – Dr Aron Paul	Council
4	14 Jul	Expert report – Carolynne Baker	Subject land owner
5	14 Jul	Panel Directions and Hearing Timetable (Version 2)	PPV
6	18 Jul	Council Part B submission	Council
7	18 Jul	Hearing presentation – Dr Aron Paul	Council
8	18 Jul	Dr Aron Paul response to Carolynne Baker expert report	Council
9	18 Jul	Carolynne Baker response to Dr Aron Paul expert report	Subject land owner
10	21 Jul	Subject land owner submission	Subject land owner
11	21 Jul	Memorandum: 13-15 Avalon Road, Armadale and 44 Murphy Street, South Yarra (Bryce Raworth, 20 Apr 2018)	Subject land owner
12	21 Jul	Memorandum: 13-15 Avalon Road, Armadale (Bryce Raworth, 8 Aug 2019)	Subject land owner
13	21 Jul	Stonnington Amendment C320ston expert report – Michelle Bashta (Jul 2023)	Subject land owner
14	21 Jul	Stonnington Amendment C320ston expert report – Peter Lovell (Jul 2023)	Subject land owner
15	21 Jul	Stonnington Amendment C320ston expert report – Natica Schmeder (Jul 2023)	Subject land owner
16	21 Jul	City of Stonnington – Heritage grading definitions	Subject land owner
17	25 Jul	Council Part C submission with attachments: a) Armadale Heritage Review: Volume 1 (Extent Heritage, 2024) b) HO180 Statement of Significance (Power Street Precinct) c) HO143 Statement of Significance (Montalto Avenue Precinct) d) HO347 Statement of Significance (Huntingfield Road Precinct) e) Malvern Heritage Review: Volume 1 (GJM Heritage, 2022) f) HO182 Statement of Significance (Moorakyne Stonington Precinct) g) City of Malvern Heritage Study 1992 – Arnaud E Wright extract	Council

No.	Date	Description	Provided by
		h) City of Prahran Significant Tree and Garden Study – 15 Avalon Road extract i) Marked up citation for 13-15 Avalon Road prepared by Trethowan Architecture, with additions marked up by Dr Paul j) HO333 Statement of Significance (14 Power Street, Toorak)	
18	4 Aug	Subject land owner response to Council Part C submission	Subject land owner
19	6 Aug	Letter – procedural issues and attached draft heritage guidelines	Subject land owner
20	13 Aug	Council response to Document 18	Council