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Date: 24 July 2025

Submission on behalf of the Planning Authority

Amendment C341ston to the Stonnington Planning Scheme

Council's submission: Part C

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INTRODUCTION

1. These Part C submissions are made in response to the evidence and submissions filed during the course of the hearing, pursuant to direction 21 of the Panel's directions.

2. At the directions hearing on 5 June 2025, the Council sought a direction by which submitter #8 was required to advise whether the submitter wished to pursue the only ground articulated in their submission to the Amendment, namely, that the Amendment was an abuse of process. The Panel made related directions (6 and 7), and in response, submitter #8 subsequently advised that the ground was no longer pursued. Although submitter #8 withdrew the ground, the submission was not otherwise amended and was confined to matters relating to the historical assessment of 13 – 15 Avalon Road, Armadale.

3. As a result, the Council was not aware of the substance of the submissions to be made by the submitter until day 1 of the hearing. The Council has sought to respond to the submissions in the short time frame available to it.

THE HERITAGE GRADINGS

4. The property was graded B in the *Prahran Character and Conservation Study* (Nigel Lewis, 1992). At that time, B graded buildings were defined as follows:

> B buildings make an architectural and historic contribution that is important within the local area. This includes well preserved examples of particular styles of construction, as well as some individually significant buildings that have been altered or defaced.

5. Since that time, buildings classifications within the City of Stonnington have changed and evolved. This is common to metropolitan municipalities. It is not of any particular utility to trace the evolution of heritage grading definitions, except to observe that the Council is transitioning from a letter-based system to the modern "Significant", "Contributory" and "Non-contributory" approach. Dr Paul's evidence was that the modernised system seeks to "move away" from gradations of significance, preferring to identify places that are either significant or contributory. If a place is significant, it is so regardless of whether it is located within or outside of a heritage precinct.

6. As observed in the Part B submission, the Council is also presently undertaking a suburb-by-suburb (and street-by-street) heritage review, known as the "Stonnington Heritage Review". The Heritage Review comprises:

   a) Part 1 Malvern by GJM (Implemented by Amendment C316ston - adopted);

   b) Part 2 Toorak, Kooyong and Armadale by Extent (Implemented by Amendment C320ston – adopted);

   c) Part 3 Prahran & Windsor by Extent (Implemented by Amendment C331ston – awaiting Ministerial authorisation);

   d) Part 4 South Yarra by GJM (Implemented by Amendment C350ston – Council has resolved to request Ministerial authorisation); and

   e) Part 5 Glen Iris & Malvern East (to be commenced).

7. Amongst other changes to the scheme, the Heritage Review seeks to review and revise existing heritage overlays across applicable suburbs (both individual and precinct based) in accordance with PPN01. The Council has engaged expert external heritage consultants to undertake the Heritage Review.

8. Substantial heritage investigations have been undertaken for each area comprising Parts 1 to 4 (with Part 5 to be commenced). Amongst other work, each review has assessed places subject to the Heritage Overlay in accordance with PPN01.

9. In respect of the Armadale Heritage Review by Extent (the Heritage Review Summary Report, Part 2B Armadale (Volume 1 – Findings) (January 2024)) (**Armadale Heritage Review**), where properties within a heritage precinct 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[1]. GJM adopted the same approach for Malvern. This approach is consistent with PPN01, which states:

> **How are individual buildings, trees or properties of significance located within significant areas treated?**
>
> 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.

10. This approach is also consistent with Dr Paul's evidence, and in particular his explanation of the classification of 'significant' heritage places, whether within or outside of a heritage precinct.

11. GJM Heritage undertook the Malvern Heritage Review (2021). Each heritage place, whether comprising an individual property or a precinct, was the subject of historical research and inspection, and a review report was prepared to consolidate updated information and support the preparation of an assessment against the heritage criteria in PPN01. Under 'methodology', in respect of the review of heritage precincts already subject to the Heritage Overlay, the Malvern Heritage Review provided:[2]

> e) During the precinct inspections, the grading of each property within the precinct was reviewed. The introduction of the Heritage Policy at Clause 22.04 of the Stonnington Planning Scheme (Planning Scheme Amendment C132, 2018) transitioned Council's alphabetical heritage gradings into 'Significant', 'Contributory' and 'Ungraded' heritage places. The Heritage Policy defines each of these gradings as follows:
>
> - '*Significant places*' means places of either state or local significance including individually listed places graded A1, A2 or B.
> - '*Contributory places*' means buildings and other places in a heritage precinct graded C which are contributory to the built form attributes and significance of a heritage precinct.
> - '*Ungraded places*' means buildings and other places which do not contribute to the significance of a heritage precinct.
>
> To ensure consistency with the definitions within the Heritage Policy, places within precincts considered likely to meet the threshold for inclusion in the Heritage Overlay in their own right have been identified in the reviewed gradings as being 'significant', while those that demonstrate the values of

[1] Extent Heritage, Armadale Heritage Review, Vol 1, p. 12.
[2] GJM Heritage, Malvern Heritage Review, Vol 1, pp. 8 and 9.

> the precinct have been identified as 'contributory'. Those places that do not demonstrate the values of the precinct have been identified as non-contributory. In some instances, these non-contributory places were identified as warranting further assessment for potential inclusion in the Heritage Overlay in their own right on a site-specific basis where they did not demonstrate the identified values of the precinct. This is discussed further in Section 4.

12. The Armadale Heritage Review, the subject of Amendment C320ston, also incorporated revised precinct designations. Extent stated in the Armadale Heritage Review, in relation to precincts:

> The precincts were analysed to be given a putative common theme and then assessed against the HERCON criteria. To support this analysis, particularly with regards to Criterion D: Representativeness and Criterion E: Aesthetic significance, a precinct designation assessment was undertaken to understand the relative contribution of individual properties towards the significance of the precinct as a whole.[3]

13. In relation to the heritage gradings, the Armadale Heritage Review stated (emphasis added):

> These precincts were originally graded using the former heritage grading system used in Stonnington and the former cities of Malvern and Prahran. The **Stonnington Heritage Design Guidelines** glossary of terms provides a clear definition for each grading:
>
> - *A1 buildings*: Buildings of national or state significance or extraordinarily high local significance which are either individually significant or form part of a heritage precinct.
> - *A2 buildings*: Buildings of high local significance which are either individually significant or which gain their significance from their location within a largely intact heritage precinct of comparable buildings.
> - *B buildings*: Buildings which are substantially intact representatives of particular periods or styles which either gain their significance from their location within a largely intact heritage precinct or would otherwise have been graded A1 or A2 if they had not been significantly altered.
> - *C buildings*: Buildings which are representative examples of particular periods or styles of buildings in largely intact heritage precincts which have been substantially altered.
> - *Ungraded buildings*: Buildings which contain no built form which contributes to the character or significance of a heritage precinct.
>
> The designation of properties within precincts was reviewed in line with Council's local heritage policy at Clause 22.04 of the Stonnington Planning Scheme:
>
> - *Significant places*: means places of either state or local significance including individually listed places graded A1, A2 or B.
> - *Contributory places*: means buildings and other places in a heritage precinct graded C which are contributory to the built form attributes and significance of a heritage precinct.

[3] Extent Heritage, Armadale Heritage Review, Vol 1, p. 11.

- *Ungraded places*: means buildings and other places which do not contribute to the significance of a heritage precinct.

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. In addition to the former grading allocation, **the new designations took into consideration the aesthetic and representative attributes of the place (similar fabric, construction era, intactness etc.),** relative to the common theme upon which the precinct was nominated. Most places were either found to be contributory or non-contributory. **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**.[4]

14. This approach was reiterated again in the Armadale Heritage Review (emphasis added):

Precinct designations

To support the analysis of precincts, particularly with regards to Criterion D: Representativeness and Criterion E: Aesthetic significance, a precinct designation assessment was undertaken to understand the relative contribution of individual properties towards the significance of the proposed precinct as a whole.

The following gradings were allocated to individual properties, as relevant:

- **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 (DEWLP 2010, 6).**
- Contributory (C): elements that that contribute to the significance of the precinct;
- Non-contributory (NC): elements that do not make a contribution to the significance of the precinct; and

The designations took into consideration the aesthetic and representative attributes of the place (similar fabric, construction era, intactness etc.), relative to the common theme upon which the precinct was nominated. Most places were either found to be contributory or non-contributory. **Where properties were identified as significant, it was found that the site contributed towards the common theme of the precinct but was also of cultural significance in its own right[5].**

15. The Stonnington Heritage Design Guidelines are a policy document in the Council's local planning policy at cl 15.03-1L. The Guidelines include the following definitions:

A1 buildings

Buildings of national or state significance or extraordinarily high local significance which are either individually significant or form part of a heritage precinct.

A2 buildings

Buildings of high local significance which are either individually significant or which gain their significance from their location within a largely intact heritage precinct of comparable buildings.

[4] Extent Heritage, Armadale Heritage Review, Vol 1, pp. 11-12.
[5] Extent Heritage, Armadale Heritage Review, Vol 1, pp. 19-20.

> **B buildings**
>
> Buildings which are substantially intact representatives of particular periods or styles which either gain their significance from their location within a largely intact heritage precinct or would otherwise have been graded A1 or A2 if they had not been significantly altered.
>
> **C buildings**
>
> Buildings which are representative examples of particular periods or styles of buildings in largely intact heritage precincts which have been substantially altered.
>
> **Ungraded buildings**
>
> Buildings which contain no built form which contributes to the character or significance of a heritage precinct.

16. The Guidelines were updated by Amendment C132, which was gazetted on 25 January 2018. That Amendment also updated and expanded the Council's heritage policy at clause 22.04 (as it then was).

17. The Amendment C132 Panel, in its report dated 12 April 2017, found:

> As noted by the Amendment C222 Panel, in relation to submissions and evidence, that the letter grading system departs from the PPN01:
>
> > *The Panel considers the gradings applied in Stonnington open up unnecessary debate about the classification of places.*
> >
> > *The Panel is also concerned that the effect of the gradings in the implementation of the HO is unclear; is an A2 place treated differently to a place with a different grading when an application for a permit is made? Once it has been established that a place is of local heritage significance and warrants inclusion in the HO, it should be the Statement of Significance, not a letter grading, that is central to the approvals process*.
>
> Nevertheless, the Panel accepts that the Proposed Policy focuses on whether a place is significant or contributory and the letter gradings are placed within that context. **Further, Council advised that future heritage studies will apply current practice, which does not adopt the letter gradings**.[6]

18. The Panel concluded:

> The unified grading system in the Proposed Policy is an acceptable means of dealing with the historic practice in Stonnington (and its predecessors) of attributing letter gradings to heritage places.[7]

19. Amendment C222 proposed to introduce several individual heritage overlays.

20. The Panel, in its report dated 12 August 2016, referenced the Council's historical approach to grading definitions:

> In the *Stonnington Interwar Houses Study – Stage 3 Background Report* September 2015, the definitions of the gradings above, although consistent, are more expansive. For example, the A2 graded buildings are defined as:

[6] P. 13.
[7] Ibid.

> *A2 graded buildings – have been assessed as buildings **of high local significance**. They will typically stand out as important milestones in the development of the region or the municipality, and may illustrate one or more of the key local historical themes.*
>
> *Some A2-graded buildings gain part of their significance from their location within a largely intact heritage precinct. Where an A2-graded building reinforces one or more of the key historical themes of the heritage precinct, its presence may enhance the significance of the heritage precinct.*
>
> ***The same building in isolation or on the periphery of a heritage precinct may be graded B*** (Panel emphasis).
>
> The report then states *'In general, only places that achieve an A2 grading or above are considered to meet the threshold for individual listing on the schedule to the heritage overlay*.'

21. The Panel found in relation to the Council's heritage gradings:

> There was consensus at the Hearing that the letter gradings adopted in the Study and Council policy depart from the consistent state-wide approach advocated in the Practice Note, which states:
>
> > *The thresholds to be applied in the assessment of significance shall be 'State Significance' and 'Local Significance'. 'Local Significance' includes those places that are important to a particular community or locality. Letter gradings (for example, "A', "B', "C') should not be used.*
>
> In this case, the letter designation provides **even greater differentiation of significant places, with distinctions between A1 and A2 graded buildings**. The expanded definitions associated with these letter grades in the Study Background Report further confuses their application.
>
> The history of previous heritage Amendments indicates that the differentiation in the grading of significant places was a significant factor in decisions about which places gained Council support for inclusion in the HO. **This is despite the definition of A2 buildings being of regional or metropolitan significance, which exceeds the threshold for the HO of local significance**.
>
> The Panel considers the gradings applied in Stonnington open up unnecessary debate about the classification of places.

22. Similar comments were made by the Panel that considered Amendment C270, which sought to implement the Federation Houses Study (2018), and where the Council had applied several preconditions or criteria to the selection of houses to be included within the Heritage Overlay. One precondition limited the selected houses to only A1 and A2 graded properties. The Panel, in its report dated 27 June 2018, stated:

> References to A2 gradings of places and the preconditions adopted in the Study invited submissions and some evidence about what could be interpreted as setting a higher threshold for inclusion in the HO in this Amendment.
>
> The Panel notes that the brief for the Study could be interpreted as setting the bar for inclusion in the HO as 'A2' which at that time was defined as:
>
> > A2 graded buildings – have been assessed as buildings of high local significance. They will typically stand out as important milestones in the development of the region or the municipality, and may illustrate one or more of the key local historical themes.

> Some A2-graded buildings gain part of their significance from their location within a largely intact heritage precinct... (emphasis added)

While the new Clause 22.04 Heritage policy tempered the A2 definition to remove the suggestion that places should "typically stand out as important milestones", it maintains the distinction that an A2 place is of high local significance, which remains above the PPN1 threshold of local significance. As Mr Gard'ner noted, local significance aligns more with a 'B' graded places (although the definition applies to precincts) which are defined as:

> B graded buildings – have been assessed as being well preserved and substantially intact representatives of particular periods or styles, which demonstrate the key historical themes of a heritage precinct. Some altered or defaced buildings which would otherwise have been graded A1 or A2 may be graded B.

The Panel considers that the continued use of letter gradings in the assessments underpinning the Amendment and in the proposed citations suggests that a higher bar for inclusion in the HO was applied than is indicated in PPN1. Despite the commentary in the Study regarding the methodology adopted, all of the places proposed for inclusion in the HO by the Amendment were accorded an A2 grading in the proposed citations.[8]

23. The Panel found:

> The Panel recognises that the preconditions were well intentioned and were articulated in an attempt to provide greater transparency by amplifying the basis for assessments. The Panel also recognises that the assessment of places involves judgement and it is appropriate for that judgement to be open to testing. However, in submissions at the Hearing, Council invited the Panel:
>
> ... to note at the outset that, with respect to Criterion D, the word is 'representativeness'. It is not, 'benchmark example' or 'outstanding' or 'set apart' or 'unusually fine' as seems to be proffered by Mr Trethowan.
>
> As Mr Rantino acknowledged at the Hearing, the preconditions have been unhelpful as they have been interpreted by some as elevating the threshold for inclusion in the HO.[9]

24. The Exhibited Citation includes six properties in Dr Paul's comparative analysis – all of those are graded A2 except for 21 Power Avenue Toorak (which is a B graded property). However, that property has subsequently been confirmed in the Toorak Heritage Review by Extent as being 'significant' (within the Power Street Precinct).

25. Letter gradings have been reviewed as part of the Malvern, Toorak and Armadale Heritage Reviews. The B graded properties included in the comparative analysis in Dr Paul's evidence statement have subsequently been confirmed by those Heritage Reviews as being 'significant', with the exception of the four Huntingfield Road properties, which have been confirmed by Extent as being 'contributory', as explained below:

    a) 21 Power Ave, Toorak, has subsequently been confirmed in the Toorak Heritage Review by Extent Heritage as being '**significant'** to the Power Street Precinct (HO180);

    b) 11 Moorakyne Avenue, Malvern, has subsequently been confirmed in the Malvern Heritage Review by GJM Heritage as being '**significant'** to the Moorakyne/Stonington Precinct (HO182);

[8] P. 17.
[9] P. 18.

c) 1 Henderson Ave, Malvern, has subsequently been confirmed in the Malvern Heritage Review by GJM Heritage as being '**significant'** to the Moorakyne/Stonington Precinct (HO182);

d) 5, 7, 17, 19 Huntingfield Road, Toorak, have subsequently been confirmed in the Toorak Heritage Review by Extent Heritage as being '**contributory'** to the Huntingfield Road Precinct (HO347) (noting that Dr Paul describes these in the table as 'Other (Georgian Revival) designs by Arnaud Wright'.

26. The Council does not subscribe to the notion of "policy significance" rather than "cultural heritage significance". Both Extent in the Armadale Heritage Review, and GJM in the Malvern Heritage Review adopted a consistent approach which did not distinguish between significant graded buildings whether inside a precinct or subject to an individual overlay. A significant place was designated as such regardless of its location. The Council relies upon the evidence of Dr Paul as to the correct application of the HERCON criteria and PPN01. Dr Paul has compared 13 – 15 Avalon Road with comparator examples that are within the Heritage Overlay, either individual or precinct based. Dr Paul has explained the basis for his sample selection and it is "fit for purpose". Submitter #8 adopts an overly legalistic approach that is not reflected in PPN1.

27. The commentary of the Panel in Melbourne Amendment C426 does not aid the submission opposing the Amendment. The Panel expressed the view that i**n assessing whether a property is significant within a precinct** it is not particularly helpful to seek to understand whether it would be significant in some other (individual) context. The Panel stated:

> The Panel was not helped by Council's submission that significant buildings would warrant application of the Heritage Overlay as an individual listing even if the precinct were peeled away. It invites an analysis of the significance of a building by reference to alternate reality, namely the precinct is not significant. The Panel has formed the view that a strict application of 'significant in its own right' as a precondition to being categorised as significant in a precinct is not particularly helpful and potentially undermines a proper understanding of the precinct.

28. These comments are not informative of the Panel's task.

29. The Panel expressed caution about setting the bar too high for significant buildings in a precinct setting. However, that commentary must be viewed, in this case, against a backdrop of recent heritage reviews which affirm the significance of the relevant comparators (most notably the 3 buildings within precincts in the citation) which are either A2 or in the case of 21 Power Street, affirmed by Extent as being 'significant' and where Extent has indicated that significant buildings in a precinct "are of individual cultural significance in their own right". The other 3 comparators are in individual Heritage Overlays.

30. The Council submits that submitter #8 has advanced a case that raises the bar too high for a comparative assessment. The purpose of the comparison must be at the forefront of the assessment; it is not to adopt an overly forensic or legalistic approach that would preclude examples that are obviously informative and relevant in understanding whether the place is "better than typical". The litany of complaints levelled against Dr Paul's assessment suggest an overly rigid or restrictive approach. That approach is not reflected in PPN01. It says "some comparative analysis will be required". The guidance offered is simple and not suggestive of an overly pedantic approach:

> The comparative analysis should draw on other similar places within the study area, including those previously included in a heritage register or overlay.

31. The Panel that considered Melbourne Amendment C387 made similar findings:

> PPN01 does not identify what level of analysis is required, nor does it limit the analysis to just those places within a Heritage Overlay. In the context of postwar

> buildings in the Hoddle Grid, the Panel is of the view that the approach adopted by the Heritage Review to consider the comparative analysis other places in the study area and in the VHR (in a measured way), is entirely reasonable. This is particularly the case when looking at places that have not been comprehensively covered before. In some instances, it is also reasonable to consider comparators outside the Hoddle Grid but still within the City of Melbourne.
>
> 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.
>
> This exercise will not always be clear cut as not all places display the same characteristics or reasons for significance. Some comparators while similar in era, typology or class may have different attributes which contribute to their significance in different ways. Some existing Heritage Overlay places may have been assessed under different thresholds or when some attributes were not considered important at the time. The Panel considers that this is perhaps one reason why PPN01 does not try to establish a particular approach to the exercise. While the Panel appreciates the positions expressed by some parties and experts that the Heritage Review's comparative analysis is somewhat simplistic and generic, it is not required to be an exacting exercise or an exhaustive and detailed analysis. Project budgets simply don't enable such a high degree of analysis and even then, would be subject to differences of opinion and make the process prohibitive.[10]

THE RELEVANT CLASS

32. The Council does not agree with the assertion that the class assessed by Dr Paul is too narrow or overly qualified. Dr Paul's evidence was that the primary class is Old English Revival dwellings and that the architect, Arnaud Wright is of relevance by reference to the prolific nature of his work in this locality. This is an appropriate approach and is consistent with the VHRG (Victorian Heritage Criteria and Threshold Guidelines) description of class.

THE THEMATIC ENVIRONMENTAL HISTORY AND HISTORICAL IMPORTANCE

33. The themes expressed in the TEH regarding the subdivision of the mansion estates are not limited to Toorak.

34. The TEH expressly acknowledges that there were other areas of importance, of which Toorak is one example.

> These 'seats of the mighty' were not all in Toorak, with *Stonington* and *Moorakyne* part of a group lining the east side of Glenferrie road, Malvern, while others were in Kooyong.[11]

35. The Council submits that Dr Paul's assessment is correct; that the references to Toorak are not intended to be prescriptive or geographically confined.

[10] P. 43.
[11] P. 124.

HISTORICAL ASSESSMENTS

36. The historical assessments are not the subject of this proceeding. Whilst they can provide context and background they cannot reasonably inform the Panel's consideration of the Amendment. If that were the preferred approach, that would require a forensic analysis of the material upon which the various opinions were based, a clear understanding of their limitations and a fair opportunity to cross examine relevant experts. The opinions expressed by other heritage consultants, who are not present and have not provided evidence in relation to this Amendment cannot be given material weight.

37. It is illustrative that submitter #8 seeks to place substantial reliance upon the 2018 memorandum of Mr Raworth. That memo expressly acknowledges a significant limitation in stating that "the brief for this assessment allowed for limited historical research".[12] Importantly, Dr Paul expressed the opinion that Mr Raworth adopted the "Taj Mahal" assessment approach, whereby the dwellings referenced in the comparison assessment were selected from "the best", or close to the best, rather than good representative examples.

38. Submitter #8 also relies upon the evidence of Ms Bashta. Again, this is problematic. Extent initially proposed to include 13 – 15 Avalon Road in the Hampden Road Precinct.

39. Each of the historical opinions lend themselves to this sort of forensic analysis of their respective shortcomings. That is not an approach that is reasonable or appropriate in a statutory process that seeks to test the evidence presented in support of the Amendment. The Panel should avoid engaging in a forensic analysis of the kind encouraged by submitter #8. One of the difficulties in adopting the course advanced by the submitter is that it would require the Panel to forensically analyse all of the background material, not just the material that advances the submitter's case. Otherwise the process would be unfair. The Council does not countenance that approach.

40. The preferred approach is one that treats the historical opinion as contextual background. It ought to bring fresh eyes to the Amendment and the evidence before it. This was the approach adopted by the Panel in considering Amendment C320ston.

> The Panel has not given significant weight to the previous heritage studies that may have investigated the site. It is difficult to determine the extent to which the site was specifically researched and the circumstances around each of the previous studies or advice. On this basis, and consistent with the discussion in Chapter 2.2 of this report, the Panel has approached the assessment of 13-15 Avalon Road with 'fresh eyes'.[13]

QUESTIONS FROM THE PANEL

Ms Schmeder's peer review in Amendment C320ston

41. During the Panel hearing, Council explained that it engaged Ms Schmeder from Landmark Heritage to review the exhibited Amendment C320ston and submissions received in relation to the extension of the Hampden Road Heritage Precinct due to Extent Heritage changing its recommendation regarding the inclusion of 13-15 and 17 Avalon Road, Armadale within the Hampden Road Precinct.

42. The Panel queried whether any other heritage advice was received by Council in respect of 13-15 Avalon Road at that time.

[12] P. 1.
[13] P. 45.

43. Council confirms it did not seek advice from any other heritage experts in respect of 13-15 Avalon Road at that time (other than Extent Heritage and Landmark Heritage).

44. Further, as noted during the hearing, Council confirms that the only heritage assessment received by Council in response to the Council resolution of 18 December 2023 (authorising Council officers to commission an assessment of 13-15 Avalon Road to determine whether it warrants protection by way of an individual Heritage Overlay) was undertaken by Trethowan Architecture.

Interwar Houses Study

45. The Panel has asked Council about the background to the Interwar Houses Study (**Interwar Study**) and whether 13-15 Avalon Road was included in that study.

Stage 1

46. Stage 1 of the Interwar Study was prepared in 2013 by John Statham Urban Conservation. It notes that as part of Council's Heritage Review Action Plan (adopted by Council in 2006), Council has committed to identifying places, areas and themes of relevance to the municipality that are not protected under existing Heritage Overlays, and this is being implemented through a series of gap studies.

47. A gap study of heritage precincts was undertaken in 2006-2009, and reviews of specific building group typologies, such as shops, flats and stables, have also been undertaken. However, the Interwar Study states that the largest and most complex building typology within the municipality consists of residential dwellings. While it notes that almost all buildings of State significance are protected under existing Heritage Overlays (described as A1 graded buildings), many A2 graded buildings are also of very high significance and many of these are not currently subject to heritage controls. It states that 'it is intended that all of the A1 graded residences and a many A2 graded buildings that are not currently subject to heritage controls will be considered by future residential gap studies.'

48. The Interwar Study was the first of the residential studies.

49. The Stage 1 report states:

> Initially, it is Council's aim to review all interwar dwellings graded A1 and A2 in the Municipality that are not currently subject to a heritage control.
>
> …
>
> It is proposed that those buildings found to be of local or higher significance will be protected under an individual heritage control.
>
> To assist in the execution of the Stage1 work, Council has prepared a comprehensive preliminary list of interwar dwellings identified by various Heritage Studies but not protected under heritage controls. The list also includes a small number of dwellings nominated by residents, Councilors and others.

50. The aim of the Stage 1 study was:

> (i) to review Council's Preliminary List and to establish a reasonable prima facie case for a heritage control; and
>
> (ii) to produce a refined list of dwellings requiring detailed assessment by others as part of Stage 2 of Interwar Houses Study.

51. The methodology for Stage 1 is summarised below:

- All sites on Council's preliminary list were inspected to confirm the building is extant and no substantial alterations have occurred that might have diminished its significance. Site inspections also allowed the confirmation of the broad construction date. Council rate books or Sands and McDougall Directories were also consulted. In some cases, this process established that no prima facie case for a heritage control existed, resulting in a broad cull of buildings to produce a list of dwellings requiring detailed assessment as part of Stage 2.

- For all of the buildings within Council's preliminary list, a Building Assessment Sheet was prepared. The Building Assessment Sheets contain the following information: address, other names, description, construction date, current grading, recommended grading, heritage studies and registers (registers and a range of previous heritage and urban character studies were reviewed), statutory and strategic planning notes and other historical notes, discussion (including a background to the recommendation), and recommendation for further action.

52. The Stage 1 Interwar Study notes that Council's preliminary list was found to contain buildings across a broad range of styles, construction dates and significance. Where buildings were found to date from the period outside of the interwar time period of the study, an Assessment Sheet was prepared recommending consideration as part of another study. Others were found to be of reasonably low significance. In relation to B graded buildings, Stage 1 of the Interwar Study states:

> No B graded buildings are currently protected under Council's individual heritage controls and it is generally acknowledged that these buildings and others at the lower end of the A2 grading range do not meet the threshold of local significance required for an individual heritage control. Building Assessment Sheets for buildings in this category has been prepared but recommend against further investigation. The grounds for each recommendation are also provided.

53. A total of 91 sites were reviewed as part of Stage 1 of the Interwar Study. 13-15 Avalon Road was not identified as one of those 91 sites.

54. Of these, 55 dwellings were recommended for further investigation as part of the Interwar Study. The balance were either identified for further investigations as part of other future studies (such as the Victorian Houses or Federation Houses studies), found to have been demolished, or found to be of relatively modest significance and no further action in relation to those buildings was recommended.

Stage 2

55. Stage 2 of the Interwar Study was prepared in 2014 by Bryce Raworth Pty Ltd.

56. The objective of Stage 2 was to provide a prioritised list of places recommended for individual heritage overlay listing, with the preparation of detailed citations for individually significant places to be undertaken as part of Stage 3.

57. The methodology section of the Stage 2 report notes that:

- Council prepared a comprehensive preliminary list of A1 and A2 interwar dwellings identified by various Heritage Studies but not protected. The list also included a small number of dwellings nominated by residents, Councillors and others. Stage 1 of the Study involved a review of the preliminary list to establish whether a reasonable prima facie case for heritage overlay listing.

- A total of 91 sites were reviewed as part of Stage 1, with 55 dwellings recommended for further investigation as part of Stage 2.

- In addition to the houses in the Stage 1 list, a further 20 houses of potential heritage significance were identified through Stage 2 investigations. The majority of these additional sites were identified as being of local significance in the 1992 Malvern Heritage Study. Others formed part of proposed heritage areas in the former City of Malvern that never eventuated, or were identified during the course of Stage 2 fieldwork.

58. 13-15 Avalon Road was not identified in this additional list of properties.

59. Ultimately, 42 properties were recommended for heritage overlay controls (24 in the first round and 18 in the second round).

Stage 3

60. Stage 3 of the Interwar Study was prepared in 2015 by Bryce Raworth Pty Ltd.

61. Stage 3 of the Interwar Study focussed on the 42 sites identified for consideration for individual heritage overlay protection in Stage 2 of the study.

62. The objective of Stage 3 was to prepare detailed heritage citations for those 42 sites.

63. All of those 42 sites were proposed to be graded A2. Only one of those sites had a previous grading of B (22 St Georges Road, Toorak).

64. 13-15 Avalon Road was not one of the 42 properties considered in Stage 3, because it was not identified in the Stage 1 preliminary list or the additional properties identified in Stage 2.

65. Amendment C222 sought to implement the findings of the Interwar Study by applying the Heritage Overlay to 41 places in Toorak, Malvern and Armadale.

66. A review of the methodology for the Interwar Study does not reveal with any clarity why 13-15 Avalon Road was not included in the Interwar Study. In these circumstances, the Panel should not draw any inference about the significance of the place by reason of its omission from the Interwar Study.

67. Council notes that the Citation prepared by Trethowan Architecture includes the following comparators from Stage 3 of the Interwar Study (now included in individual heritage overlays by way of Amendment C222):

- 28 Albany Road, Toorak; and
- 46 Heyington Place, Toorak.

68. Council also notes that the comparative analysis in Dr Paul's evidence report (at paragraph 46) includes the following comparators from Stage 3 of the Interwar Study (now included in individual heritage overlays by way of Amendment C222):

- 28 Albany Road, Toorak;
- 46 Heyington Place, Toorak;
- 618 Toorak Road, Toorak;
- 2 Ledbury Court, Toorak;
- 48-50 Hopetoun Road, Toorak; and
- 407 Glenferrie Road, Malvern.

Federation Houses Study

69. Stage 3 of the Federation Houses Study was prepared by GJM Heritage in 2017.

70. The purpose of the Study was to review a list of 101 previously identified Federation period residences within the municipality and to determine whether they satisfy the threshold for local heritage significance and inclusion in the Heritage Overlay.

71. The 101 places on the list were identified during the *Federation Houses Heritage Study, Stage 1* (December 2014) and the *Federation Houses Gap Survey in the former City of Malvern* (June 2015), both completed by Context Pty Ltd.

72. 13-15 Avalon Road was identified in the list of 101 places. Its Stage 1 source was described as 'nominated by Context as part of their Hampden Road Precinct work'.

73. Ultimately, GJM found 13-15 Avalon Road to be outside of the scope of the Study because it was found to be built after the Federation period, during the Interwar period. In respect of the places outside the scope of the Study, GJM said:

> It is recommended that these places are assessed as part of separate studies, by the authors of the Interwar and Victorian houses studies. A preliminary recommendation is provided below based on a purely visual analysis, as to whether the places are thought to reach the threshold of local individual significance. However, these places require a targeted comparative analysis within their corresponding architectural types and periods of construction.

74. GJM's preliminary visual assessment noted that 13-15 Avalon Road was a 'substantial two-storey house with Arts and Crafts influences – warrants further investigation for potential individual significance'.

75. 44 Murphy Street, South Yarra was also identified as an Interwar place that warranted further investigation.

76. In 2018, Martin Turnor and Bryce Raworth prepared a Memorandum of Heritage Advice 'Stonnington Heritage Assessments: Two Interwar Places' dated April 2018. It notes that 13-15 Avalon Road was included in the Federation Houses Study but was subsequently found to have been built in the interwar period, and was recommended that the place be assessed by the authors of the Stonnington Interwar Houses Study.

77. The Memorandum explains that it provides a 'preliminary heritage assessment' of the buildings at 13-15 Avalon Road, Armadale and 44 Murphy Street, South Yarra with a 'view to determining whether they warrant further investigation and Heritage Overlay listing'.

78. It ultimately recommends that no further investigation is warranted in respect of 13-15 Avalon Road.

79. Dr Paul considers this Memorandum in his evidence report, noting he was not convinced 'to place a heavy weight on its conclusions' given (see page 25 of Dr Paul's evidence):

- 'their preliminary nature';
- 'reliance on relatively poor imagery to make a comparation with a single other Wright house';
- 'the other houses used in the comparative analysis seemed to be of a quite different class of 'unconventional' examples of the style or aesthetically outstanding'; and

- ‘there was also little consideration of potential historical significance, focusing purely on the aesthetic characteristics’.

80. The Memorandum is also addressed above in paragraph 37 of Council’s submission.

CONCLUSION

81. This completes the ‘Part C’ submission for the Council.