Maddocks

Date 18 July 2025

Submission on behalf of the Planning Authority

Amendment C341ston to the Stonnington Planning Scheme

Council's submission: Part B

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Introduction

1. These submissions are made on behalf of Stonnington City Council (**Council**).

2. Council is the Planning Authority for Amendment C341ston (**Amendment**) to the Stonnington Planning Scheme (**Scheme**). Council has prepared and is the proponent of the Amendment.

3. On 7 July 2025, Council circulated its 'Part A' submission in accordance with Direction #5 of the Panel Directions issued on 12 June 2025 (**Panel Directions**). The Part A submission addressed the following themes:

   3.1 The Subject Land and surrounds;

   3.2 Background to the Amendment;

   3.3 Preparation of the Amendment;

   3.4 Strategic context and assessment;

   3.5 Issues identified in submissions;

   3.6 Suggested changes to the Amendment in response to submissions;

   3.7 Letter gradings used in the Heritage Citation; and

   3.8 Chronology of events.

4. These submissions respond to Direction #13 of the Panel Directions, directing Council to address the following issues:

   4.1 Council's response to submissions and evidence; and

   4.2 Council's final position on the Amendment.

5. Accordingly, this submission will focus on providing a detailed response to the issues raised in the submissions to the Amendment.

6. These submissions are to be read together with Council's Part A Submission.

General comments on the Amendment

Strategic support for the Amendment

7. The Explanatory Report to the Amendment and the Part A submission provide an overview of the strategic basis of the Amendment, specifically by reference to relevant State and local policies as well as other background material. This analysis is consistent with, and responds to the list of considerations relevant to an amendment, as set out in Ministerial Direction No.11 – Strategic Assessment of Amendments (**Ministerial Direction No.11**).

8. Council observes that the Explanatory Report provides a sound reference to the underlying purpose of the Amendment. It records the following:

> The amendment is required to apply an individual Heritage Overlay to 13-15 Avalon Road, Armadale, which has been assessed to be of local heritage significance to the City of Stonnington. The heritage citation prepared by Trethowan Architecture identifies the property at 13-15 Avalon Road to be of historical (Criterion A) and representative (Criterion D) significance to the City of Stonnington.
>
> On 11 November 2021, Council received a request under Section 29A of the Building Act 1993 to consent to the proposed full demolition of the dwelling at 13-15 Avalon Road. Interim Heritage Overlay controls were applied as the property had been identified as having potential local heritage significance and the council was undertaking work to include the property in the Heritage Overlay as an extension to the existing Hampden Road Precinct. Council refused the application for demolition.
>
> On 2 May 2022, the council requested authorisation from the Minister for Planning to prepare Amendment C320ston to the Stonnington Planning Scheme. Amendment C320ston implements the recommendations of the Toorak, Kooyong and Armadale heritage reviews, prepared by Extent Heritage, by introducing a number of individually significant properties and precincts to the Heritage Overlay and making other changes to the Stonington Planning Scheme. Amendment C320ston proposes to extend the existing Hampden Road Precinct to include 13-15 Avalon Road as a 'contributory' place. Amendment C320ston was exhibited in February–March 2023, progressed to a planning panel and adopted by the council on 18 December 2023. The panel for Amendment C320ston did not support the inclusion of 13-15 Avalon Road, Armadale within the Hampden Road Precinct.
>
> At Council's meeting on 18 December 2023, Council resolved to reject the panel's recommendation and retain 13-15 Avalon Road, Armadale within the Hampden Road Precinct. Additionally, Council resolved to authorise council officers to commission an assessment of 13-15 Avalon Road, Armadale to determine whether it warrants protection by way of an individual Heritage Overlay.
>
> In February 2024, council officers commissioned Trethowan Architecture to undertake an assessment of 13-15 Avalon Road in accordance with Council's resolution to determine whether it warrants the application of an individual Heritage Overlay. The assessment recommended its inclusion within an individual Heritage Overlay.
>
> The application of the Heritage Overlay on a permanent basis will ensure a permit is required for demolition and/or buildings and works and enable any proposal to be assessed by Council against the purpose and decision guidelines of Clause 43.01 (Heritage Overlay) and state and local heritage policy at Clause 15.03 (Heritage).

…

The amendment implements Section 4(1)(d) of the Planning and Environment Act 1987 (the Act) which seeks:

'To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value'.

The amendment will meet this objective by applying permanent heritage protection to 13-15 Avalon Road, Armadale to conserve its heritage significance to the City of Stonnington. The amendment will ensure that heritage significance of the place at 13-15 Avalon Road, Armadale is considered in any development proposal.

Role of the Amendment

9. The Amendment proposes to apply a site-specific Heritage Overlay to 13 – 15 Avalon Road, Armadale on a permanent basis.

10. The Amendment implements the recommendation of Trethowan Architecture's Citation entitled Former 'Ken-Ailsa', 13-15 Avalon Road, Armadale, April 2024, Citation (**Trethowan Heritage Citation**).

11. Specifically, the Amendment:

    11.1 Amends the Schedule to Clause 43.01 (Heritage Overlay) to insert one new individual Heritage Overlay HO790 and include a Statement of Significance;

    11.2 Amends the Schedule to Clause 72.04 (Incorporated Documents) to insert the 'Former Ken-Ailsa, 13-15 Avalon Road, Armadale, Statement of Significance (Trethowan Architecture, April 2024) (**Statement of Significance**)';

    11.3 Amends the Schedule to Clause 72.08 (Background Documents) to insert the Trethowan Heritage Citation; and

    11.4 Amends Map 5HO of the Stonnington Planning Scheme to apply the Heritage Overlay to 13-15 Avalon Road, Armadale (HO790).

Heritage value of 13-15 Avalon Road

12. The Heritage Overlay is the appropriate planning mechanism to protect the heritage values of 13-15 Avalon Road, Armadale.

13. As the Panel will be aware, the 'overarching objective' with respect to heritage conservation is, of course, that found at s 4(1)(d) of the Planning and Environment Act 1987:

> …to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value.

14. The Amendment seeks to ensure that 13-15 Avalon Road is included in the Heritage Overlay to achieve this objective, by implementing the recommendations of the Trethowan Heritage Citation.

15. The key focus of the Panel with respect to the heritage components of this Amendment (and in response to the submissions received) relates to the requirements of the Heritage Overlay and the Planning Practice Note 1: Applying the Heritage Overlay, Victorian Planning Provisions (**PPN1**).

16. PPN1 provides that the following places should be included in a Heritage Overlay:

> Places identified in a local heritage study, provided the significance of the place can be shown to justify the application of the overlay.[1]

17. Further, PPN1 provides:

> The heritage process leading to the identification of the place needs to clearly justify the significance of the place as a basis for its inclusion in the Heritage Overlay. The documentation for each place shall include a statement of significance that clearly establishes the importance of the place and addresses the heritage criteria.[2]

18. At this stage in the 'heritage process', these are the key matters which should be considered by a Panel when assessing an amendment to the planning scheme which proposes to apply the Heritage Overlay. PPN1 sets the threshold for 'local significance' (being the threshold for inclusion) as:

> …those places that are important to a particular community or locality.

19. Council's heritage consultant followed the approach to applying the Heritage Overlay in PPN1 to identify the significance of 13-15 Avalon Road. This approach includes using recognised criteria set out in PPN1. To satisfy the requirements of PPN1, Council's heritage expert has:

    19.1 used the recognised HERCON criteria to assess the heritage value of 13-15 Avalon Road;

    19.2 prepared a detailed comparative analyses to substantiate the significance of the property at 13-15 Avalon Road; and

    19.3 prepared a statement of significance using the three-part format of 'What is Significant?, 'How is it Significant?' and 'Why is it Significant?'.

20. PPN1 outlines the HERCON Criteria that are to be used for the assessment of the heritage value of the heritage place. They are:

    20.1 Criterion A: Importance to the course or pattern of our cultural or natural history (historical significance).

[1] PPN1, page 1.

[2] PPN1, page 1.

20.2 Criterion B: Possession of uncommon, rare or endangered aspects of our cultural or natural history (rarity).

20.3 Criterion C: Potential to yield information that will contribute to understanding our cultural or natural history (research potential).

20.4 Criterion D: Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).

20.5 Criterion E: Importance in exhibiting particular aesthetic characteristics (aesthetic significance).

20.6 Criterion F: Importance in demonstrating a high degree of creative or technical achievement at a particular period (technical significance)

20.7 Criterion G: Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significance of a place to Indigenous peoples as part of their continuing and developing cultural traditions (social significance).

20.8 Criterion H: Special association with the life or works of a person, or group of persons, of importance in our history (associative significance).

21. A place needs to meet at least one of the HERCON criteria in order to warrant inclusion within the Heritage Overlay. There is no requirement that a place meet more than one criterion and it would be highly unlikely that a place proposed for inclusion would meet all eight criteria.

22. An important foundational element of the heritage process leading to the identification of a place that Council proposes be included in the Heritage Overlay is an established methodology. This includes the consistency and 'rigor' of the strategic work which informs the Amendment.

23. The methodology involved in the development of the Trethowan Heritage Citation was rigorous and in accordance with best practice. The methodology and conclusions drawn by Dr Paul are set out in Dr Aron Paul's report[3]. Importantly, the methodology involved historical research, preparation of a description the place, and comparative analysis and assessment undertaken in accordance with PPN1.

24. Dr Paul has also sought to respond to submissions and the specific queries of the Panel set out the Panel's Directions. Dr Paul was briefed with all relevant information and brought a fresh mind to the assessment process. Dr Paul has access to the various historical opinions expressed in relation to the Subject Site as well as the evidence that was before the Panel that considered Amendment C320.

25. Between February and March 2025, the formal public exhibition of the Amendment provided the opportunity for community consultation. The views of the property owner and members of the local community were ventilated and considered by Council and Trethowan as the heritage expert engaged by Council.

26. Council's assessment of the heritage significance of the place subject to this Amendment has been professional, thorough, considered and objective.

[3] Paras 1 to 13.

27. The strategic basis of the Amendment with respect to State and local policies is explained in the Part A submission. We do not repeat that material here other than to draw the Panel's attention to the following key policies:

    27.1 **Clause 15.01-5S – Neighbourhood character,** which seeks to recognise, support and protect neighbourhood character, cultural identity, and sense of place;

    27.2 **Clause 15.01-5L – Preferred neighbourhood character,** which seeks to encourage the retention of Victorian, Edwardian and Interwar era buildings that are intact and in good condition" and to "Maintain the character of the Garden Suburban 1 (**GS1**) precinct, comprising leafy streetscapes with a range of Victorian, Edwardian or Interwar era and contemporary buildings set in established garden surrounds';

    27.3 **Clause 15.03-1S – Heritage conservation,** which seeks to ensure the conservation of places of heritage significance; and

    27.4 **Clause 15.03-1L – Heritage**, which seeks to retain, conserve and re-use significant and contributory heritage places;

28. It is further noted that the Amendment aligns with Council's Municipal Planning Strategy at clause 02.03-4 of the Scheme, which seeks to:

    > Protect and reinforce Stonnington's distinctive character, in particular the following attributes:
    >
    > - Places and precincts of heritage significance.
    > - …
    > - The distinctive low rise scale of the established residential areas where they exist outside of activity centres and land within the Housing Choice and Transport Zone.

29. Finally, it is submitted that the strategic basis of the Amendment more broadly is also firmly in line with the objectives and strategies of the Future Stonnington Council Plan 2021-2025.

30. In particular, the Amendment aligns with the following Direction 1.3, relating to Stonnington as a thriving and unique place:

    Direction 1.3 Pride of place and character

    1.3.1 Provide safe, inviting, accessible and well-maintained streetscapes, neighbourhoods and public realm as defined by our community, to promote pride of place and improved health and wellbeing outcomes.

    1.3.2 Ensure our built, natural and cultural heritage is protected and celebrated.

    1.3.3 Reactivate and celebrate private and public heritage buildings.

1.3.4 Set and promote high design standards that contribute to the preferred character of the area, creating sustainable and enduring places.

1.3.5 Advocate for and accommodate sustainable growth and development, while protecting our unique character and liveability.

Key issues raised in Submissions

Submissions received

31. Council received 13 submissions in response to the exhibition of the Amendment. This comprised:

    31.1 11 in support of the Amendment;

    31.2 1 opposing the Amendment; and

    31.3 1 which took a neutral position in respect of the Amendment.

32. Supporting submissions primarily agreed with the findings of historical (Criterion A) and representative (Criterion D) significance outlined within the Trethowan Heritage Citation, and several noted a perception by the community of the 'landmark' status of 13 – 15 Avalon Road within the Avalon Road locality.

33. The opposing submission by the property owner raised the following matters (in summary):

    33.1 the Planning Panel for the Toorak, Kooyong and Armadale Heritage Review, Amendment C320ston, did not recommend the inclusion of the Subject Site within the Hampden Road Precinct. The Panel also commented that 'there is insufficient justification for the application of an individual Heritage Overlay to 13-15 Avalon Road';

    33.2 the Panel's commentary was based on the views of five heritage experts, including three engaged by Council. Leaving only one heritage expert (Trethowan Architecture) who recommends an individual Heritage Overlay;

    33.3 the RBA Architects heritage advice prepared on behalf of the Stonnington Heritage Group 'does not include a recommendation that a site-specific overlay be imposed but provides arguments in favour of such a control'; and

    33.4 the Trethowan Heritage Citation is the only heritage advice recommending an individual overlay and includes no new information.

34. Council provides a response to both the heritage issues and non-heritage issues raised in submissions below.

35. At the outset, Council adopts the evidence of Dr Aron Paul filed on 14 July 2025, including Dr Paul's response to heritage issues raised in submissions.

Issues raised by Opposing Submission

What are the issues?

36. Submission #8 objects to the inclusion of the Subject Site in the Heritage Overlay and submits that there is insufficient justification for individual heritage protection, including on the basis that:

    36.1 the Planning Panel in Amendment C320ston did not support protection;

    36.2 previous heritage assessments did not support protection; and

    36.3 the comparative analysis does not support protection.

37. The submission references several earlier heritage assessments to support its position that the Subject Site does not meet the threshold for an individual Heritage Overlay, including:

    37.1 two memoranda of advice prepared by Bryce Raworth;

    37.2 the Extent Armadale Heritage Review; and

    37.3 The evidence of Ms Schmeder, Ms Bashta, Mr Lovell and Mr Patrick in the Amendment C320ston panel hearing.

38. The submission also references the heritage assessment prepared by RBA Architects who were engaged by the Stonnington Heritage Group, which submitter #8 says did not recommend imposing a site-specific overlay, but rather, presented arguments in favour of the potential a site-specific overlay control.

39. Ultimately, the submitter contends that only one heritage expert (Trethowan) considers there should be a site-specific heritage control.

Council response

40. 13 – 15 Avalon Road meets the threshold of local significance by reference to HERCON Criteria A and D, which apply respectively to heritage places that are of importance:

    40.1 to the course, or pattern, of our cultural or natural history (historical significance) (Criteria A); and

    40.2 in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness) (Criteria D).

41. As noted above, only one of the criteria needs to be established to warrant the inclusion of 13 – 15 Avalon Road within the Heritage Overlay.

42. Planning Practice Note 1 – Applying the Heritage Overlay (PPN01) provides guidance in relation to the places that should be included in the overlay.

43. Panels have also had regard to the Victorian Heritage Register Criteria and Threshold Guidelines in assessing heritage significance, however PPN01 remains the primary consideration in determining local significance.[4]

44. PPN01 does not identify a standard threshold of significance that must be met before a place is determined suitable for inclusion within the Heritage Overlay.

Primary contentions

45. The Council's primary contentions are as follows:

45.1 On a fair, detailed and objective assessment, Ken-Alisa meets the threshold of local significance in respect of HERCON Criteria A and D;

45.2 A comprehensive comparative assessment reveals Ken-Alisa to be better than typical examples of the Old English Revival style, and is comparable to examples within the Heritage Overlay;

45.3 Ken-Alisa reflects an important part of the history of Stonnington, by demonstrating the how wealth and status were reflected in the design and siting of houses, the way in which Victorian mansion estates were subdivided and original homes built in a more modern style, and also in terms of the tradition of patronage of leading architects by wealthy residents;

45.4 Ken-Alisa possesses many of the characteristics of the Old English revival idiom; and

45.5 Ken-Alisa is substantially intact, affirming its significance.

46. These contentions are reflected in the evidence of Dr Paul and provide support for the inclusion of 13 – 15 Avalon Road in the Heritage Overlay.

The threshold of significance

47. In 2007, an Advisory Committee undertook a review of the heritage provisions in planning schemes. The Advisory Committee discussed the level of cultural significance that a place must have before it can be recommended for inclusion in the planning scheme in terms of the need to meet a threshold of significance:

> An initial threshold will always be the consideration of whether there is something of heritage value forming an element of the place required to be and capable of being managed by the planning system.
>
> If it is a place potentially to be managed through planning, a selection process based on threshold criteria and comparative assessment follows.

48. The purpose of the threshold is to identify those heritage values that warrant recognition and management by the planning scheme. A threshold of significance is:

[4] Nillumbik C142nill (PSA) [2022] PPV 47 (27 July 2022).

> To be used to 'sieve' places identified as of some significance by the above criteria and determine those that should be listed under the Heritage Overlay.[5]

49. The Advisory Committee elaborated as follows:

> On the basis that the concept of thresholds is an integral component of assessing heritage significance, the Committee concludes that the threshold for inclusion of a place in the Heritage Overlay in Planning Schemes should be a positive answer to the question '**Is the place of sufficient import that its cultural values should be recognised in the planning scheme and taken into account in decision-making?**'
>
> The Committee considers that thresholds have the potential to vary from place to place as they will respond to the particular history and cultural fabric of the area under study. It is therefore not possible to make a list of thresholds per se that might be applied across all local government areas. Nevertheless, the types of factors that might be deployed to establish local thresholds can be specified State-wide. They would include rarity in the **local context, condition/degree of intactness, age, design quality/aesthetic value and their importance to the development sequence documented in the thematic environmental history**.[6]
>
> [our emphasis]

50. The Advisory Committee cited the findings of the Panel that considered Amendments C37 & C38 to the Bayside planning scheme, as follows:

- With respect to defining thresholds of significance, it was widely agreed by different experts appearing before this Panel that there is a **substantial degree of value judgement** required to assess a place's heritage value, so that **there is always likely to be legitimate, differing professional views about the heritage value of some places**.

- There is a **wide range of matters that can be taken into account** in making any assessment (e.g. a place's value in relation to historic, social, aesthetic, cultural factors, its fabric's integrity and so on), leading to further grounds for differences between judgements.[7]

> [our emphasis]

51. The evidence of Dr Paul articulates the way in which 13 – 15 Avalon Road meets the threshold of significance, through both a comparative analysis, and by affirming a clear connection with the historical themes that have influenced development in the municipality, identified in the the Stonnington Thematic Environmental History (2009) (**the TEH**).

[5] Table at p. 2-44.

[6] P. xviii.

[7] At p. 2 – 32.

Historical significance and the Thematic History

The role of the thematic history

52. The Council submits that:

    52.1 the TEH sets out clear, distinct and important thematic history relating to the evolution of development in the municipality;

    52.2 there is a clear and strong association between Ken-Alisa and important historical themes; and

    52.3 that association supports the application of the Heritage Overlay.

53. The role of a thematic environmental history in supporting the application of the Heritage Overlay has been considered in previous Panels. In *Hepburn C82hepb* [2021] PPV 91, the Panel considered heritage controls for the Old Hepburn Hotel. The Panel observed that:

> …preparing a municipal wide or township thematic environmental history would reduce the level of uncertainty when considering whether places are of individual local level significance particularly for Criterion A.

54. Further, in *Melbourne C387melb* (PSA) [2021] PPV 89, the Panel considered the Hoddle Grid Heritage Review. In that case, a Postwar Thematic History was prepared to support the amendment. The Panel relevantly stated:

> Significance is a complex matter – who determines what is significant to a community, or different groups within the community. The foundation is generally established in the Thematic Environmental History which sets the framework as to those places that demonstrate important phases. As demonstrated in the Heritage Review, the Thematic Environmental History is reviewed and evolves over time as community values changes. When it comes to assessing the significance of individual places, the Thematic Environmental History, is an important starting point the starting point for context and establishing important themes and classes of building. Ultimately, applying thresholds at a local level involves applying a level of considered judgement, informed by a combination of heritage factors (such comparators, intactness and integrity) and appropriate guidance tools.

55. In relation to establishing Criterion A more broadly, the Panel stated:

> 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 Panel is satisfied that for this Amendment the pattern (phase or era) or themes of significance have been appropriately established in the Melbourne Thematic History and Postwar Thematic History. **The question is how well each place demonstrates or has a clear association with that theme to be considered important.**

[our emphasis]

Thematic association

56. The Statement of Significance attributes historical significance to the dwelling as follows:

> '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.

57. Council submits, consistent with the evidence of Dr Paul,[8] that the assessment of historical significance (Criterion A) must have regard to, and place considerable weight on the connection between Ken-Alisa and the historical themes identified in the TEH. The TEH defines the themes that are important to Stonnington's history, an important factor for consideration of Criteria A.

58. The purpose of the TEH is expressed as follows:

> The Stonnington Thematic Environmental History (the study) provides an explanation of the themes and activities that have been important in shaping the present-day city of Stonnington (the study area), which was created in 1994 and comprises the former city of Prahran and the city of Malvern…
>
> It is important to understand that it is not intended as a complete social or political history of the municipality, but rather as a summary of human use and impact upon the landscape from the time of the arrival of the first Indigenous inhabitants. It is not a chronological record and has not been prepared in that way.
>
> **Rather, the history is organised according to themes so as to provide a context to assist with the identification of heritage places that illustrate the rich natural and cultural history of the study area**. These heritage places include buildings and structures, precincts, objects, ruins, trees and landscapes. The themes are also embodied in the historic or continuing use of places and people's social and spiritual associations with them.[9]

[our emphasis]

59. The objectives of the TEH were to:

- Identify the key themes and sub-themes in the historical development of the study area
- explain how these themes have influenced settlement and development patterns within the study area

[8] See pg. 5.

[9] P. vii.

- Provide a clear context for the identification, assessment and continuing management of places of heritage significance in the study area.[10]

60. The themes are arranged around topics such as altering the environment, settling the land, transport and communications, governing and administering Australia, developing local, regional and national, building suburbs, education and community and culture.

61. Dr Paul identifies the theme 'Building suburbs' as one which informs the significance of the place. The connection is clear and direct rather than tenuous. The relevant thematic association is of importance to the municipality. More particularly, the TEH out a substantive and comprehensive narrative relating to the theme, not just of building suburbs, but suburbs of a particular quality, style, expression and status.

62. The relevant theme is described by reference to the Australian Heritage Criteria as:

> Building settlements, towns and cities; Planning urban settlements; Developing Australia's cultural life. [11]

63. The theme is of particular importance in that Stonnington accommodates some of the most prestigious suburbs in Victoria, including Toorak, Malvern, Kooyong and Armadale. The theme is not just about tracking the history and evolution of development within the municipality, as all suburbs have a history. Rather, the important thematic expression is of distinction and value because of the wealth and status that is reflected in built form in these suburbs over time:

> Of **major significance to the history of the study area** is the social and physical development of some of Australia's most prestigious suburbs, particularly Toorak. The growth of middle-class suburbs such as Malvern is discussed in the context of middle-class suburban aspirations, economic booms and recessions, and the development of public transport routes that influenced their creation. The working- class residential areas reflect the original topography and their relationship with the local industries, and include the housing commission flats built in the mid-twentieth century.
>
> **This chapter also considers the way the physical fabric of the residential properties represents the lifestyles of the wealthy and middle class, and explores the strong tradition of patronage of leading architects by wealthy residents**.
>
> The list of architects whose work is represented in the study area reads like a 'who's who' of Australian architectural practice. Some architects also lived within the study area in their own creations.
>
> [our emphasis]

64. The evidence of Dr Paul demonstrates a connection between Ken-Alisa and this historical theme, with a focus upon:

64.1 the way in which Ken-Alisa reflects the significance of high-status dwellings and their identification with prominent design and siting;

[10] P. viii.

[11] P. 122.

64.2 demonstrating the way in which mansion estates were subdivided and redeveloped;

64.3 the "culture of architect design" by which wealth residents patronised leading architects, noting the importance of the architect Arnaud E Wright; and

64.4 the aesthetic qualities of the house (identified in the supporting submissions) can be understood as part of its historical significance as an interwar house by architect Arnaud Wright.

65. Critically, these historical themes and related narratives, as set out in the TEH, are both important to the City of Stonnington and reflected clearly in the features and siting of Ken-Alisa.

The comparative analysis

66. A comparative analysis is the key tool to determine whether the threshold of local significance is met. PPN01 provides:

> 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.
>
> [our emphasis]

67. In this context, a comparative analysis seeks to assess the place proposed for inclusion in the Heritage Overlay by reference to other examples of an architect's work, or in the relevant building style. In order to achieve the threshold level of local significance, the relevant place does not need to be "the best" by comparison, nor do the places selected for comparison need to be "the best" examples of the architect's work or the building style. The panel that considered Amendment C387 to the Melbourne planning scheme 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.
>
> [our emphasis]

68. A comparative assessment necessarily references the particular characteristics and features of the place. The matters that may properly inform the comparative exercise are broad and not capable of precise definition. Relevant considerations may reasonably include scale, setting, massing, architectural features and expression and materiality, as well as intactness and integrity.

69. In this case, the place is representative of the Old English Domestic style of dwelling, described by Dr Paul as:

> …among the styles popularised during the interwar period in particular that arose out of nostalgia for 'Old England' around the Tudor period.[12]

70. A full description of the style is contained in Dr Paul's evidence and is not proposed to be repeated here.[13] Importantly, the dwelling exhibits many, if not most of the characteristics of the style, noting that not all of the identified features "are present in every example of the style and there are various combination that may apply or be substituted".[14]

71. Dr Paul explains the significance of Arnaud Wright's work as a prolific local architect in the interwar period, a proposition that does not appear to be in dispute. Dr Paul characterises historically important examples of the architect's work as representative of the interwar connection between architectural design and the speculator development of the suburbs, amongst other points of distinction.[15] There is a clear connection between the architect's work and the thematic history of the area.

72. Dr Paul's comparative analysis is comprehensive. Dr Paul identifies the following works by way of comparison:

    72.1 6 examples of Old English Revival designs by Arnaud Wright;

    72.2 7 examples of Georgian Revival designs by Arnaud Wright; and

    72.3 6 examples by other architects of note.

73. The examples referenced in the comparative analysis are appropriate for their ability to provide a representative sample of comparable places. The comparison demonstrates that Ken-Alisa is 'better than typical' and is, according to a fair and balanced assessment, an important example of the style.

74. The Council disputes Ms Baker's criticisms of the methodological approach adopted in Dr Paul's comparative analysis. Ms Baker is inappropriately dismissive of the comparator examples cited in the Statement of Significance by reference to the fact three are within a heritage precinct. Ms Baker goes so far as to say that by reason of that fact, they "shed little light" on whether Ken-Alisa meets the threshold of individual local significance. This approach is simplistic and flawed. And Dr Paul's evidence contains many more comparison examples that support his ultimate conclusion.

75. The examples cited by Dr Paul provide a valid and important framework for comparison as they enable a clear, direct and transparent reference by which to assess Ken-Alisa as an example of the architects work as well as the Old English style, more broadly. The inclusion of comparative examples in a precinct rather than an individual overlay is not disqualifying.

76. If that were the preferred approach then many worthy comparator examples would be unreasonably disregarded when they are clearly are capable of informing an understanding of where the dwelling sits by reference to significantly graded (and other) examples of the architect's work. It matters not that the precinct Statements of

[12] Para 34.

[13] Paras 34 – 41.

[14] Para 37.

[15] Paras 38 – 46.

Significance (or Citations) do not provide a "house-by-house" assessment[16] – that is the precise purpose of this comparative exercise.

77. Whilst the dwelling retains its contributory grading within HO136, it is trite to observe that Amendment C320 did not consider the dwelling for inclusion in a site-specific overlay. The focus of the panel's deliberations, and the expert evidence presented in relation to the Amendment, was directed to the site's relationship with the HO136 precinct and not the heritage value of the dwelling in its own right.

78. This process has provided the opportunity for the Council (and local community) to bring forward for consideration by the panel, a comprehensive heritage assessment of the significance of Ken-Alisa in its own right. The Council's position has been and remains "evidence lead". Dr Paul has formed an independent expert opinion based on all relevant material (including historical assessments). Even Ms Baker acknowledges that further investigation has been undertaken since the panel report for Amendment C320 was published.[17]

79. Unlike previous assessments, directed to other statutory processes, Dr Paul's analysis has regard to the important thematic history of Stonnington and its connection with the dwelling, and includes a comprehensive comparison based on a fair selection of comparator examples (rather than the best). The dwelling was not included in the historical Interwar Houses Study as it was graded B,[18] and that study only included A1 and A2 buildings.

80. Dr Paul approaches the comparison exercise by seeking to identify important points of distinction and alignment, none of which are determinative but which combine to inform his conclusion that the dwelling is of local significance. By contrast, Ms Baker disaggregates distinct elements and disregards them as either irrelevant or not determinative.[19] Of course, no singular built form element will ever be determinative. Ms Baker does not undertake any independent comparison exercise, nor does she reference or consider the dwelling's expression of many features of the idiom.

81. 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 controls. There is no basis to downplay these aspects of the dwelling. Siting and setting is almost always relevant and may well be important, as may scale; these are all elements that may contribute to significance. This is demonstrated by the citation for the dwelling at 28 Albany Road, Toorak, which includes, in the Statement of Significance, under heading "What is significant" the following:

> The double-storey English Domestic Revival style house at 28 Albany Road, Toorak was constructed in 1934 to designs by the noted architectural firm Irwin and Stevenson. The house was built on land subdivided from the grounds of the 1880s Eilyer mansion.

[16] Para 73.

[17] Para 75.

[18] In the Prahran Character and Conservation Study (Nigel Lewis, 1992), which defined B graded buildings as those that "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."

[19] See for example para 76 in which Ms Baker expressed the view that taller chimneys or a large garden does not automatically equate to a higher level of significance.

Elements that contribute to the significance of the place include (but are not limited to):

- The original external form, materials and detailing.
- The high level of external intactness.
- The legibility of the original built form.
- **The domestic garden setting (but not the fabric of the garden itself).**
- The low height of the front fence and its sympathetic clinker brick and render design.
- The absence of modern garages or carports in the front and side setbacks.

82. The setting and overall scale of the site and surrounds impacts the way the dwelling is read and whilst no single attribute is determinative, it would be shortsighted to disregard scale and setting as elements that may influence significance, as Ms Baker does.

83. Ms Baker's commentary in relation to 8 Monaro Road, Malvern suggests that to her understanding, heritage assets are relevant comparators only insofar as they exhibit precisely the same built form attributes.[20] The Council disagrees. All of the examples cited in Dr Paul's comparative assessment are informative of an understanding of the relative attributes of Ken-Alisa.

84. The purpose of the comparison is not to find examples that are the same as but rather which together comprise a fair representative example. The Council submits that Dr Paul's comparative assessment is extensive and highly informative. It demonstrates that Ken-Alisa is a fine example of the Old English style and is strongly connected to the thematic history of the municipality.

Representative significance

Criteria D

85. As detailed in the Trethowan Heritage Citation and Statement of Significance exhibited with Amendment C341ston, 13 – 15 Avalon Road is also of representative significance (Criterion D) to the City of Stonnington.

86. PPN1 states that Criterion D denotes a place's importance in demonstrating the principal characteristics of a class of cultural or natural places or environments (representativeness).[21]

87. The Trethowan Heritage Citation confirms that 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

[20] Para 82.

[21] PPN1, pg. 1.

local architect Arnaud E Wright. The Trethowan Heritage Citation states that Ken-Alisa:

> …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).

88. Dr Paul states that to meet a threshold of significance at a local level, 13 – 15 Avalon Road should demonstrate a high degree of integrity and representativeness[22]. It is Dr Paul's evidence that 'this is clearly the case' in respect of 13 – 15 Avalon Road. Dr Paul goes on to state[23]:

> As outlined in the Comparative Analysis, it compares well to significant representatives of Wright's and Old English revival houses in Stonnington and is strongly representative of Wright's interpretation of the style.

89. Dr Paul sets out the following list of representative characteristics that he says are demonstrated by the house at 13-15 Avalon Road:

89.1 prominent gables with slit brick details;

89.2 steep roof forms with terracotta shingles;

89.3 tall brick chimneys with corbelled brickwork;

89.4 decorated external chimney breast including 'S' detail;

89.5 flush gable ends;

89.6 bell cast eaves;

89.7 corbelled gable eaves;

89.8 combination of imitation lime wash walls with clinker brick detailing;

89.9 diamond and multi pane windows;

89.10 bay windows with roofs;

89.11 arched doorway with gabled porch;

89.12 double hung sash windows;

89.13 brick on edge sills;

[22] See para [62]

[23] Ibid.

89.14 porch with arch; and

89.15 basketweave brick details.

90. It is Dr Paul's evidence that dwelling at 13 – 15 Avalon Road 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 roof with finely detailed eaves.[24] As noted above, these are elements that inform local significance and ought not be disregarded or downplayed as suggested by Ms Baker.

91. In relation to other examples representative of the style, Dr Paul states:

> [64] The importance of the house as a representative of the style is established by its particularly well resolved and fully detailed design on a par with the other Significant graded house at 21 Power Avenue, incorporating terracotta shingles, with flush and detailed gable ends.
>
> [65] The house is larger than 21 Power Avenue and in a more imposing position and fuller garden setting. While the fabric of the landscape has been altered in the post-war period, the scale, position and setting of the house within a garden nonetheless contributes to its importance.
>
> [66] It also 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. It certainly 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.

92. Council adopts Dr Paul's evidence in relation to the representative significance of 13 – 15 Avalon Road.

Intactness and integrity

93. The dwelling exhibits a high level of intactness, which adds further weight to the opinion expressed by Dr Paul. Ms Baker acknowledges that the dwelling remains generally intact aside from modifications to the rear.[25]

94. The panel that considered Amendment C192 to the Bayside planning scheme found in relation to representativeness:

> The level of intactness and integrity in the comparative analysis plays a key role setting an appropriate benchmark. A representative place should demonstrate most of the principal characterises of the class in a manner that is clear and as such can be tested against.

[24] Apperly, R. *A Pictorial Guide to Identifying Australian Architecture ,Styles and Terms from 1788 to Present* (1998). Identifies "tall chimneys" as "Style Indicator of Inter-War Old English dwellings c. 1915 – 1940, at page 204.

[25] Para 51.

95. The Panel found:

> … that intactness is fundamental to assessing whether a property meets the threshold for significance, and whether a building is significant to the values of a precinct.
>
> The process for determining whether something is intact or not intact, or applying qualifiers as to the degree of intactness, is not an exact one. Intactness impacts how a particular place might be read and understood.
>
> The Panel agrees with the Hoddle Grid Heritage Review Panel that the key questions are:
>
> - is there still sufficient fabric in place to assist our understanding and appreciation of the particular place including its original use, era and design?
> - do the extant changes and alterations impact on our understanding and appreciation of the particular place?
> - are we still able to appreciate its significance and why it is significant?[26]

96. There is no dispute that the dwelling measures favourably against these criteria.

The historical assessments

97. The submitter has placed significant weight on the various historical documents that reference 13 – 15 Avalon Road.

98. Council does not contend that previous heritage reports are irrelevant. However, they are not a weighty consideration in the Panel's consideration of the Amendment. Critically, previous examinations:

98.1 have largely been directed to different statutory processes;

98.2 relied upon variable levels of information, research and analysis;

98.3 generally (if not completely) omit reference to TEH and the strong association between 13 – 15 Avalon Road and important development themes set out therein; and

98.4 where undertaken by reference to a comparative assessment, such assessment is not as comprehensive as Dr Paul's.

Conclusion in relation to the opposing submission

99. Council submits that the evidence of Dr Paul provides a sound and reliable basis upon which the Panel can conclude that Ken-Alisa meets the threshold of local significance by reference to Criteria A (historical significance) and Criteria D (representativeness).

[26] C192 citing Melbourne C387melb (PSA) [2021] PPV 89 (10 November 2021), pages 38–39}

100. The evidence of Dr Paul demonstrates that the dwelling measures favourably by reference to the comparative assessment, is substantially intact and has a strong association with important historical themes as set out in the TEH. Those themes are not generic but rather are important to Stonnington and provide compelling justification for the dwelling's inclusion in the Heritage Overlay.

101. Council submits that Ken-Alisa is worthy of heritage protection. This finding is consistent with the views of the local community submitters.

Issues raised by Supporting Submissions

What are the issues?

102. The submissions of local community support the preservation of the place. The supporting submissions evidence the value of Ken-Alisa to the residents of this part of Stonnington, who recognise and seek to retain the dwelling for its heritage significance.

103. Submissions #1, #2, #3, #4, #5, #7, #9, #10, #11, #12 and #13 express support for the Amendment. These submissions support the application of the Heritage Overlay to 13 – 15 Avalon Road on the basis of (variously):

103.1 historical significance;

103.2 representative significance;

103.3 aesthetic significance; and

103.4 its contribution to the existing and preferred neighbourhood character of the area.

Historical and representative significance

104. As detailed in the Trethowan Heritage Citation and Statement of Significance exhibited with Amendment C341ston, 13-15 Avalon Road is of historical significance (Criterion A) and representative significance (Criterion D) to the City of Stonnington.

105. Several submissions to the Amendment express strong support for the heritage protection of 13–15 Avalon Road, emphasizing its historical significance as a landmark property that embodies the architectural, cultural, and developmental history of Stonnington. Submitters describe the dwelling as a rare and intact example of early 20th-century architecture with strong associations to the area's interwar suburban growth.

106. Submission 1 highlights that the home was:

> designed by the renowned architect Arnaud E. Wright... [and] has stood the test of time, remaining an enduring testament to architectural brilliance 92 years after its design and build.

107. Similarly, Submission 9 states:

> It was built by Arnaud Wright who made an extremely important contribution to Stonnington's development during the 1930s.

108. Submission 3 emphasizes Ken-Ailsa's significant place in Wright's body of work:

> Ken-Alisa stands out as one of his finest remaining contributions, especially when compared to similar—but smaller—Old English homes like the one he built at 21 Power Avenue in Toorak. Recognizing Ken-Alisa is therefore both an acknowledgment of Wright's exceptional legacy and a safeguard of Stonnington's broader cultural heritage.

109. Submissions also highlight Ken-Ailsa's importance as a surviving example of the mansion estate subdivisions that defined Stonnington's residential development in the early 20th century. As noted in Submission 3:

> Ken-Alisa also stands as an important piece of history that reflects the mansion estate subdivisions that shaped Stonnington in the early 20th century. Since 1933, this residence has showcased how the grand Avalon mansion estate was reimagined to create significant homes that maintain a tangible connection to Armadale's past.

110. Several submissions describe 13 – 15 Avalon Road as one of the most historically intact properties in the area. Submission 9 describes it as:

> one of the most beautiful and historically intact properties of the area from this era and [it] constantly has pedestrians, cyclists and drivers stopping to admire it.

111. Submission 1 similarly refers to 13 – 15 Avalon Road as "a landmark of profound historical and architectural significance within Stonnington," and remarks on the enduring community appreciation of its setting:

> Every afternoon we walk by Ken-Alisa and it is an opportunity to appreciate and reflect on the potential it holds when nurtured with the love and care it undoubtedly deserves.

112. Submission 3 identifies the home's Old English Revival architecture, typical of the interwar period, as historically significant. Submission 3 states:

> One of the most remarkable qualities of this property is its exemplary Old English Revival style from the interwar era, which highlights a defining architectural character of Stonnington. The house's pitched roofs, distinctive brick chimneys, and period-specific elements capture the timeless charm that is so integral to our city's historical identity.

113. Submission 10, from a resident who has lived proximate to 13 – 15 Avalon Road for 25 years, emphasises the importance of preserving the property:

> The architecture of this property, including the magnificent gardens, are reflective of past times. The old English architecture will never again exist in this world. It's SO important to protect a house like this because it has enormous historical and heritage significance.

114. A number of submitters stated that 13 – 15 Avalon Road also demonstrates representative significance (Criterion D):

114.1 Submitter 7 supported the Amendment on the basis that the house has historical and representative significance associated with mansion subdivision

and submitted that the house is an excellent version of an Old English Revival Interwar house. Submitter #13 also submitted that the place has historical and representative significance (as well as aesthetic significance);

114.2 Submitter 7 noted that Arnaud E Wright contributed many houses to the development of Stonnington, including 21 Power Avenue, which the submitter states 'is similar but smaller'. Submitter 1 and 3 also identify 21 Power Avenue as a comparable example of Arnaud E Wright's work.

Council response

115. Council supports the submissions in relation to historical and representative significance and relies upon the submissions set out above, and the evidence of Dr Paul.

Aesthetic significance

116. A number of submitters stated that 13 – 15 Avalon Road also demonstrates aesthetic significance (Criterion E).

117. For example, submitter #3 identifies the aesthetic qualities of the property as including its generous garden, the curved driveway and metal gates that enhance the streetscape.

118. Submitter 4 states that that the property is of historic and aesthetic significance and is an increasingly rare example of its type.

119. Submitter 12 and 13 both state that the property has aesthetic, architectural and historic value. Submitter 13 states:

> 'The Property makes a significant contribution to the aesthetics of the neighbourhood. It is an imposing double story mansion surrounded by well-established gardens. The unique design demonstrates grandeur of a foregone and irreplaceable era including terracotta shingle roofs, tall brick chimneys, sash windows and bay windows. The house is well set back and approached with a long curved driveway. The landscaped garden is significant due to its substantial set back, large grounds, curved driveway, metal front gates and paved pathway. The house and garden features satisfy Criterion E of the heritage overlay planning scheme.'

Council's response

120. Criteria E relates to importance in exhibiting particular aesthetic characteristics. While Council acknowledges the submitters' position regarding the aesthetic significance of the property, Council does not consider that 13 – 15 Avalon Road satisfies Criterion E.

121. The Trethowan Heritage Citation states that Criterion E is 'not applicable' to 13 – 15 Avalon Road. Council agrees.

122. Adopting the evidence of Dr Paul, Council considers that the aesthetic qualities of the house can be understood as part of its representative as well as historical significance as an interwar house by architect Arnaud Wright. As Dr Paul states in his evidence:[27]

[27] Evidence Statement of Mr Paul, page 27.

[107] Again in relation to Criterion E, Lovell critiques the house for not being distinctive enough compared to aesthetically outstanding houses of the style that "excel in the application of the style in their complexity and sophistication". Instead, the house is critiqued for being overly representative of Arnaud Wright's application of the style. In my view, this is something that might be of more relevance to support its representative architectural significance under Criterion D.

[108] Overall, in relation to Criterion E, I found Lovell more persuasive where the house was compared to more 'strident' examples of the style in houses that have been singled out for their aesthetic significance in terms of individual distinction and design in Stonnington. In my view Lovell was correct in analysing the house to be highly representative of the way in which Wright applied elements of the style to various residences depending on the particular circumstance.

[109] However, in my view, the way in which the houses were designed using combinations of repeated and representative forms and details provides some additional insight, historically and architecturally, into the way in which builder-architects like Wright could appeal to the combination of 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 whom they were replacing. The representative nature of the house tends therefore to reinforce the significance of Criterion D even as it may make the house less individually distinctive or 'particular' under Criterion E.

123. Further, Council notes that the Trethowan Heritage Citation acknowledges that 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.

124. No changes to the Amendment are proposed in response to submitter concerns regarding aesthetic significance.

Neighbourhood character

125. Submitter 12 agrees that 13 – 15 Avalon Road is of historical and representative significance. In particular, submitter 12 notes:

> I believe that the preservation of Tudor Lodge has special aesthetic, architectural and historic value in that it will support and protect the character of the neighbourhood in which it is situated.
>
> Tudor Lodge according to Council's report is situated in the preferred neighbourhood character area "Garden Subdivision 1" which seeks to "Encourage the retention of Victorian, Edwardian and Interwar buildings that are intact and in good condition".

Council response

126. In response to this submission, Dr Paul notes the support for historic and architectural significance, but in relation to the submission regarding the neighbourhood character area, states[28]:

> The broader street context has not been included in this assessment.

Issues raised by Neutral Submission

What are the issues?

127. Submission 6 refers to a demolished site at 34 Armadale Street, noting that the site should have been protected.

Council response

128. This submission does not refer to the Subject Site and therefore is not relevant to the heritage significance of the Subject Site.

Conclusion

129. Council will address further issues which arise over the course of the Panel hearing in its reply in the form of a Part C submission.

[28] Evidence statement of Dr Paul, p. 34.