

PLANNING SCHEME AMENDMENT REQUEST

PLANNING SCHEME AMENDMENT UNDER SECTION 96A OF THE
PLANNING & ENVIRONMENT ACT 1987 TO AMEND THE
SCHEDULE TO THE HERITAGE OVERLAY (CL 43.01) TO ALLOW
COUNCIL TO CONSIDER A PROHIBITED USE FOR HO104

LOT AA PS 814723, COTSWOLD CRESCENT, OFFICER

PROPOSED BY:
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1. PRELIMINARY

ADDRESS	Lot AA PS 814723, Cotswold Crescent, Officer			
RESPONSIBLE AUTHORITY	Cardinia Shire Council			
ZONE	Urban Growth Zone - Schedule 3 Applied zone is the General Residential Zone - Schedule 1			
OVERLAY	Heritage Overlay (HO104) Development Contributions Plan Overlay - Schedule 4 (DCPO4)			
BUSHFIRE PRONE AREA	No			
CULTURAL HERITAGE	No			
EASEMENTS, RESTRICTIONS, ENCUMBRANCES	Yes. Please refer to PS814723 for easement details.			
PROPOSAL	S96a application to amend the schedule to the Heritage Overlay to allow a prohibited use to be considered, and a separate planning permit application seeking council approval to: ☐ Develop & use the land for an office, café, restaurant/wine bar and associated car parking. ☐ Construct and display signage associated with the development. ☐ Reduce the number of carparks required to be provided. ☐ Create access to the Princes Highway (TRZ2).			
	AUTHOR	DATE ISSUED	CHECKED BY	REVISION
	JB	October 2023	RO	1

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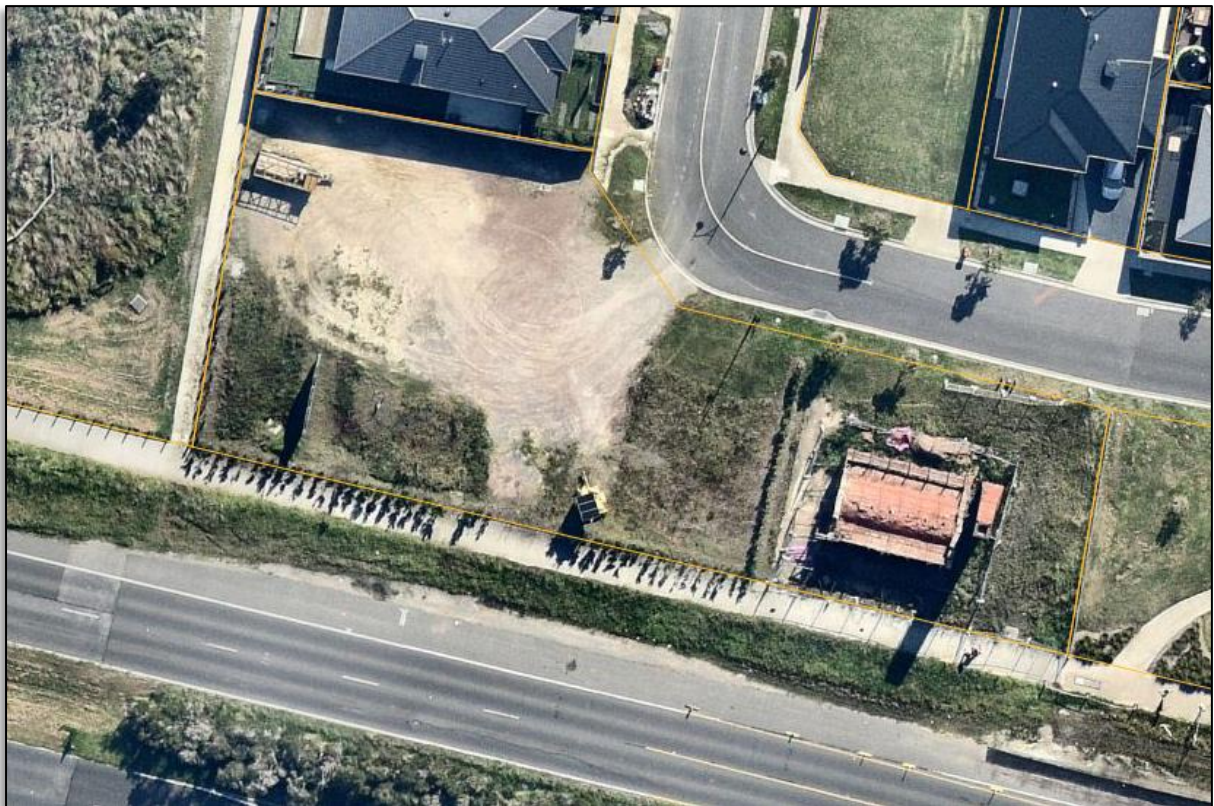
2. INTRODUCTION

This planning scheme amendment is proposed by Nobelius Land Surveyors on behalf of James Hicks Pottery Site Pty Ltd, and is submitted to the Cardinia Shire Council (the responsible authority) to be considered concurrently with a planning permit application pursuant to Section 96A of the *Planning and Environment Act 1987*.

The subject site is identified as Lot AA PS814723 Cotswold Crescent, Officer, and comprises a total area of approximately 1,759m². The subject site is known as the James Hicks Pty Ltd Pottery site and forms part of the Officer Precinct Structure Precinct (PSP) area. The land is mapped within the Urban Growth Zone – Schedule 3 and the applied zone provisions of the schedule to the UGZ include the land in the General Residential Zone. The Development Contributions Plan Overlay – Schedule 4 (DCPO4) and the Heritage Overlay (HO104) apply.

The site has dual road frontages with interfaces to the Princes Highway to the south for approximately 72.5 metres and Grace Street to the north for approximately 48.71 metres. The site's western boundary abuts an open space reserve that contains a former clay pit which has been incorporated into the drainage system of the adjoining residential estate.

The site has historically been used for the manufacture of terracotta building materials as part of the James Hicks Pty Ltd Pipe and Bricks Works. The brick kiln and chimney structures on the eastern portion of the land and the disused clay pit on the adjoining land to the west are associated with this former use. The balance of the land is cleared. Several easements encumber the site, please refer to PS814723U for further details. A recent aerial image of the site is provided below:



ABOVE: THE SUBJECT SITE, LOT AA PS814723 (NEARMAP, APRIL 26, 2023)

This planning scheme amendment seeks to amend the schedule to Clause 43.01 Heritage Overlay. Specifically, the amendment proposes to:

- Amend the table contained in the schedule to Clause 43.01 Heritage Overlay to allow prohibited uses for HO104. The table contains site specific heritage controls, and includes a column that asks whether prohibited uses are permitted. The response in the table for HO104 currently states 'No' and it is proposed to change this to state 'Yes'.
- This will enable Council to consider the concurrent planning permit application seeking approval for the use of the land for an office. The table of uses contained in Clause 32.08-1 (General Residential Zone) was recently revised in Amendment VC232, and changed 'Office' from a Section 3 use (prohibited) to a Section 2 (permit required) use on the condition that *the use must be associated with a use or development to which clause 53.23 (significant residential development with affordable housing) applies*.
- The proposed development of the subject site does not meet the condition for the Section 2 use as it is not proposing significant residential development with affordable housing, and therefore, by virtue, is a prohibited use.

This report should be read in conjunction with the:

- *Town Planning Report* prepared by Nobelius Land Surveyors for the concurrent planning permit application for the site that provides an assessment of the development, use, carparking, signage and access components of the proposal against the relevant State and Local planning controls of the Cardinia Planning Scheme.
- *Heritage Impact Statement* prepared by Anthemion Consultancies.
- *Development Plans* prepared by UXD Group.

The purpose of this report is to assess the proposed amendment against the relevant sections of the Planning and Environment Act 1987, and under the provisions of the Cardinia Planning Scheme.

This report aims to demonstrate that the proposal:

- Is consistent with the requirements of the *Planning and Environment Act 1987*;
- Is consistent with the requirements of the State and Local Planning Policy Framework of the Cardinia Planning Scheme;
- Details how allowing the prohibited use will demonstrably contribute to the conservation of the heritage structures on the site and their setting;
- Justifies the social, environmental and economic effects to be achieved by introducing such a provision;
- Provides an opportunity for development in a location that is not within a designated bushfire prone area;
- Is consistent with the Minister's Directions;
- Supports and implements State planning policy, including the relevant directions and policies of *Plan Melbourne 2050*;
- Addresses the requirements of the Transport Integration Act 2010; and
- Does not burden administrative costs on the Responsible Authority.

The proposal is appropriate to receive Council's full support on the basis that the amendment responds to environmental and cultural values on the land and seeks to conserve these values as part of the development of the land. The Amendment and concurrent planning permit application will ensure that the new development preserves and enhances the heritage values of the site and is responsive to its predominately residential context.

3. WHY IS THE AMENDMENT REQUIRED?¹

The proposed amendment to the the schedule to Clause 43.01 Heritage Overlay has the purpose of enabling Council to consider prohibited uses of the land. Specifically, the amendment proposes to:

- Amend the table contained in the schedule to Clause 43.01 Heritage Overlay to allow prohibited uses for HO104. This will allow Council to consider the concurrent planning permit application seeking approval for the use of the land for an office, which is a Section 2 use with conditions that the proposal does not satisfy under Clause 32.08-2 (General Residential Zone). The table contains heritage controls, including a column that asks whether prohibited uses are permitted. The response in the table for HO104 currently states 'No' and it is proposed to change this to state 'Yes'.

Currently, pursuant to **Clause 43.01-9 Use of a heritage place**, a permit may be granted to use a heritage place for a use which would otherwise be prohibited if all of the following apply:

- The schedule to this overlay specifies the heritage place as one where prohibited uses may be permitted.
- The use will not adversely affect the significance of the heritage place.
- The benefits obtained from the use can be demonstrably applied towards the conservation of the heritage place.

This application to amend the HO104 under Section 96A fo the Planning and Environment Act 1987 is lodged concurrently with a planning permit application seeking council approval to:

- Develop & use the land for an office, café, restaurant/wine bar and associated car parking.
- Have the restaurant licenced to sell alcohol.
- Construct and display signage associated with the development.
- Reduce the number of carparks required to be provided.
- Create access to the Princes Highway (TR22).

Extracts of the development plans associated with the planning permit application are provided below for context.



ABOVE OF THE VIEW OF THE SITE AS APPROACHED FROM THE WEST ON THE PRINCES HIGHWAY. BELOW ARE THE THREE LEVELS OF THE PROPOSED DEVELOPMENT WITH THE FIRST AND SECOND STOREY OFFICE SPACE SHOWN IN PURPLE AND ORANGE.

¹ The structure of our report will generally follow that recommended in Planning Practice Note 46 – Strategic Assessment Guidelines for preparing and evaluating planning scheme amendment.



The amendment of HO104 under the *Planning and Environment Act 1987* is the most appropriate mechanism to achieve the desired outcome (as opposed to the other regulations such as the building regulations or a non-statutory tool), given the use of the land is governed by the planning scheme. Should the proposed amendment be supported by Council, it will enable the Council to consider a prohibited office use for the James Hicks Pty Ltd site (HO104) and facilitate the development of the site and associated conservation of the heritage structures. The proposed Office use will not adversely affect the significance of the heritage place, and a planning permit application has been prepared and lodged concurrently with this planning scheme amendment application to demonstrate how the proposed mixed-use development and the proposed office use will aid in the conservation of the heritage elements and provides evidence of how the development will result in a favourable planning outcome with beneficial environmental, social and economic consequences.

Of salience here is an *Engineering Assessment* by G&P Consulting Engineers dated 17th February 2023 and a *Heritage Impact Statement* (hereafter HIS) prepared by Robyn Riddett (Principal, with Anthemion Consultancies) dated August 2023, both of which provide evidence of the heritage and engineering merit of the proposal in terms of contributing to the conservation of the heritage place. The Engineering Assessment by G&P Consulting Engineers had the purpose of providing a detailed scope of works suitable for estimating (cost)². The installation of temporary propping around the kiln will enable the “removal of previous structural steel bracing on the kiln and cleaning as required in preparation for construction works”, including the repointing of masonry throughout (page 3). Essentially, the preliminary works provide structurally engineered stability to the Kiln and chimney that will facilitate the works associated with the conservation of the heritage buildings and the development of the site.

The HIS provides the background context associated with the site, especially the failed VCAT appeal for a two lot subdivision of the site³, which would have desolved the connection of the kiln and chimney with the clay pits that are now being employed as urban drainage. Of the current proposal,

² It is acknowledged that further land surveying, geotechnical investigations and detailed architectural designs were required at the time of the delivery of the report.

³ VCAT reference No: P1695/2020, associated with Planning Permit T200214.

the HIS states there is “unlikely to be any visual impact on the kiln setting or in views to it as a consequence of the triple-storey office building” (paragraph 33, page 17). This is facilitated by the appropriate setbacks that maintain a visual link between the kiln and chimney and the clay pits in the approach to the site from the west along the Princes Highway. The protective glazed steel frame structure proposed to ‘encase’ the kiln to halt further weathering contributes to the building height of the kiln and ensures it is consistent with the restaurant and café (at 4.2 metres). The three-storey office building and lift core measure 11.8 metres, which is approximate to the height of chimney, ensuring the new development avoids overwhelming the heritage buildings and evidences a balance between the existing heritage buildings and the proposed development (paragraph 36, page 17). Additionally, the employment of ‘industrial style and materials’ for the proposed development borrows from the onsite heritage precedent, contributing significantly to the continuation of the heritage ‘rhythm’ created by the kiln and chimney. The proposed restaurant and café (and office space) will draw people to the site enabling ‘active uses’, “which is a significant improvement from the present vacant site devoid of any activity and uses” (paragraph 45, page 18). The incorporation of interpretive signage and ongoing conservation works are examples of “good conservation practice” (paragraph 45, page 18). This is consistent with the objectives of clause 15.03-1S Heritage Conservation, the Burra Charter and the Officer Precinct Structure Plan and supports adaptive re-use where the original use of the site has become redundant. In summary, the HIS concludes that “there is no heritage reason not to grant a planning permit” (paragraph 52, page 20).

4. DOES THE AMENDMENT IMPLEMENT THE OBJECTIVES OF PLANNING AND ADDRESS ANY ENVIRONMENTAL, SOCIAL AND ECONOMIC EFFECTS?

The proposed amendment is consistent with and seeks to implement the objectives of Section 4 (1) of the Planning and Environment Act 1987, which are provided below:

- a) *to provide for the fair, orderly, economic and sustainable use, and [development](#) of [land](#);*
- b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- c) *to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;*
- d) *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;*
- e) *to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community;*
- f) *to facilitate [development](#) in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e)*

The proposal seeks the economic and sustainable use and development of the subject site in a fair and orderly manner. The construction phase of the proposed development will be governed by the suitable work safe requirements in order to meet the provision of a safe and efficient working environment. The provision of *a pleasant, efficient and safe working, living and recreational environment* of the completed development will be subject to certified compliance with the requirements of the relevant state regulations such as the Building Regulations and the National Construction Code.

The heritage significance of the kiln and chimney have been a determining factor in the design of the development of the site and use of the land, and the extensive HIS found that ‘there was no heritage reason not to grant a planning permit for the proposal’ (paragraph 52, page 19). This is indicative of a proposal that seeks to prioritise the conservation and enhancement of the *buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value*.

The proposal to amend the Heritage Overlay to enable the use of the land for an office has the additional objective of protecting *public utilities and other assets*, namely the heritage buildings, *and enabling the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community*. The provision of an architecturally-designed point of interest that compliments the existing heritage buildings and provides a meeting place seeks to address the provision of *other facilities for the benefit of the community*, therefore addressing the provision of Section 4 (1) (f).

The *Planning Practice Note 46 – Strategic Assessment Guidelines for preparing and evaluating planning scheme amendment* recommends an amendment proposal application submitted to Council is consistent with and seeks to implement the objectives of Section 12 (1) (a) of the *Planning and Environment Act 1987*, and extraction of which is provided below:

- (1) A planning authority must—
 - (a) implement the objectives of planning in Victoria.

ENVIRONMENTAL, SOCIAL AND ECONOMIC CONSEQUENCES

An amendment of this nature must address any environmental, social or economic effects as per the requirements of Section 12 (2)(b) and (c) of the *Planning and Environment Act 1987*, which are reproduced below:

S. 12(2)(b) amended by No. 86/1989 s. 25(d).

- (b) *must take into account any significant effects which it considers the scheme or amendment might have on the environment or which it considers the environment might have on any use or development envisaged in the scheme or amendment; and*

S. 12(2)(c) amended by No. 3/2013 s. 71(2).

- (c) *must take into account its social effects and economic effects.*

The amendment meets these objectives by implementing the vision for the Cardinia Shire as outlined in the Municipal Strategic Statement, specifically clause **21.01-4 Strategic vision** which states, “Cardinia Shire will be developed in a planned manner to enable present and future generations to live

healthy and productive lives and to enjoy the richness of the diverse and distinctive characteristics of the Shire”.

The Council seeks to facilitate a balance between the often competing needs of the environment and economic development and the community through the following mechanisms:

- Developing a strong economic base.
- Recognising and protecting the diverse and significant environmental and cultural heritage values in the municipality.
- Providing opportunities to create and maintain a cohesive, safe and robust community.
- Enhancing the experience of people who live, work and visit the municipality.

The Amendment responds to environmental and cultural values on the land and seeks to conserve these values as part of the development of the land. The Amendment and concurrent planning permit application will ensure that the new development preserves and enhances the heritage values of the site and integrates into the existing residential area to the north of the site.

The use of the site for offices (pending amendment) will have no discernible environmental impacts such as air quality, or noise generation (given the acoustic treatments on the northern and western elevations) that will be detrimental to adjoining lots, or the surrounding area. Nor will the proposal have any discernible detriment on land or water quality of the area. The environmental conditions of the site and surrounding land do not present an environmental impediment to the use and development of the site as per the concurrent planning application.

The social and economic effects of the amendment are challenging to quantify as they are likely to be indirectly related however, we have sought to provide an assessment of the social and economic effects of the amendment and the concurrent planning application in terms of the creation of employment opportunities associated with the various businesses accommodated in the proposed development; and the liveability of the region calculated in terms of commuting between residential areas of Cardinia and distant work places, with the distance between residential areas and work places necessitating car dependency.

A report by *SGS Economics & Planning* that has regard to the challenges associated with the growth of Melbourne’s outer suburbs (posted 23rd August 2023)⁴ found that population growth and associated development in Interface Council areas such as Cardinia was occurring in the absence of access to employment opportunities and infrastructure. Principal researcher, Dr Marcus Spiller found an increasingly pronounced trend of “residents of outer suburbs often lacked access to suitable employment opportunities when compared to their counterparts in inner suburbs”, which he identified as the concealed cost of affordable housing in outer suburbs. This was exemplified by the difference of access of residents to jobs over time: “In 1996, new residents moving to Lynbrook could access over 373,058 jobs within half hour drive in the morning peak. 15 years later, those living in the new growth area of Officer could access fewer than 300,000 (specifically 133,233) jobs within a half-hour drive during the morning peak”. The salient point here is that the economic inclusion of outer suburb residents equates to providing access to employment opportunities that make the most of peoples skills. This was further explored in an online ABC News article⁵ that detailed the long

⁴ <https://sgsep.com.au/publications/insights/melbourne-outer-suburb-growth>

⁵ <https://amp.abc.net.au/article/102761842>

commutes and hours spent in a car instead of with friends and family that are experienced by outer suburb residents. The economic burden of this included elevated petrol costs given outer suburbs tend to also evidence an absence of suitable public transport options. Additionally, the point was made that with access to jobs comes improved access to services like health, recreation and retail, and contribute to the elevated liveability of outer suburb areas.



The subject site has the beneficial location adjacent to residentially-zoned land and provides employment opportunities for local, out-suburb residents (Sourced from ABC News: Danielle Bonica; <https://amp.abc.net.au/article/102761842>)

Commentary by the Cardinia Shire Council Mayor Tammy Radford likens the shire to a “bed and breakfast”, because people come home to bed and then get up and go back to the city to work. This is reflected by the Interface Councils Report (hereafter ICR) that states *‘Almost 20% of ICR residents report that they spend at least two hours commuting to and from work. The absence of convenient, direct, accessible, reliable and efficient public transport has enhanced car dependency. The ICR is Melbourne’s most car-dependent region, with 75% of residents reporting that they commute to work by car and basic essentials such as schools, supermarkets and parks require a vehicle for access.’*

‘Many residents work outside the communities they reside in, creating an unhealthy work-life balance. Long travel times to and from work, combined with limited public and active transport are impacting the accessibility of employment and the region’s liveability as a whole.’

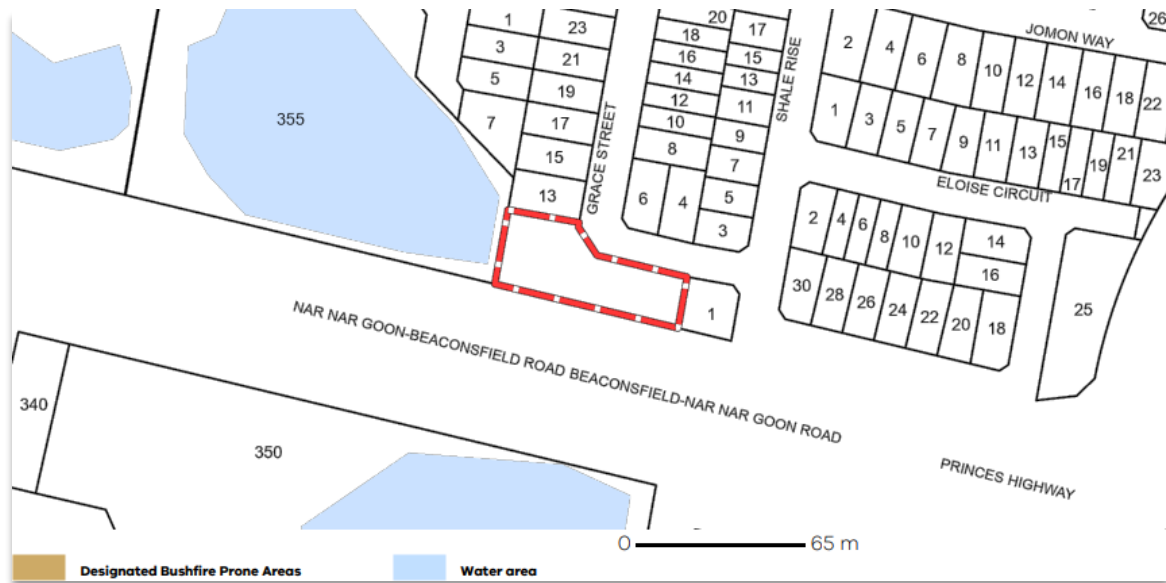
Further, Cr Radford said the Council was keen to help residents spend less time commuting and more time with family and friends.

Providing employment opportunities such as those associated with office land use goes some way to addressing commuter times, associated congestion and the financial burden this has on residents of outer suburbs who in all likelihood have located in areas like Officer to take advantage of the affordable housing options. This will likely have beneficial effect on the liveability of residential

suburbs such as Officer and is consistent with the objectives of **clause 71.02-3 Integrated decision making**, which seeks to balance the needs and expectations of the community in terms of the provision of built form to accommodate a growing population, protection of the environment, economic wellbeing, various social needs, management of resources and infrastructure.

5. DOES THE AMENDMENT ADDRESS RELEVANT BUSHFIRE RISK?

The subject site is not located within an area designated as a Bushfire Prone Area, as per the VicPlan mapping below.



The proposed amendment will have no bearing on the bushfire risk, or lack thereof on the site. The proposed amendment and concurrent planning application for the use and development of the site will not result in an increase to the risk of bushfire to life, property assets, community infrastructure or the natural environment.

The proposed amendment is not subject to an assessment against the requirements of clause 13.02 Bushfire planning because the site is not located within a designated bushfire prone area; subject to the Bushfire Management Overlay, nor does it propose a use or development that may create a bushfire hazard.

The amendment is consistent with the Local Planning Policy Framework objectives of clause 21.02-4 Bushfire management, which acknowledges the high risk associated with some of the areas within the shire. The subject site is however, topographically flat and features significant separation from any classifiable vegetation under the provisions of AS 3959:2018. Additionally, the site benefits from advantageous access and egress.

6. DOES THE AMENDMENT COMPLY WITH THE MINISTERS DIRECTIONS?

There are no requirements of the Ministerial Direction on the Form and Content of Planning Schemes (as per Section 7(5) of the *Planning & Environment Act 1987*) that have regard to the proposed amendment to HO104.

There are no other Minister Directions that apply to the amendment under Section 12(2)(a) of the *Planning & Environment Act 1987*.

7. DOES THE AMENDMENT SUPPORT OR IMPLEMENT STATE PLANNING POLICY?

To ensure planning schemes further the objectives of planning in Victoria, planning authorities must take into account the general principles and specific policies pursued by the State Government and those implemented by the State Planning Policy.

Melbourne's outer suburbs will accommodate an additional 1 million people by 2056 with interface Councils like Cardinia absorbing much of the growth. In an effort to contain the urban spread to the city's outer rim, the State government has committed to a 70/30 ration where 70% of growth would be contained in Melbourne's established suburbs and 30% in green field areas such as Officer (SGS Economic and Planning, 2023⁶), which is in line with Policy 2.1.2 of Plan Melbourne. Such growth in the outer suburbs must be considered in context with the attendant pressures for service provision, employment opportunities, amenity and those elements that contribute to the liveability of Melbourne. Here we are particularly interested in access to employment opportunities for residents of outer greenfield suburbs such as Officer. From the SGS Economic and Planning report we learn that the residents of greenfield suburbs benefit from a fraction of the economic connectivity of the average Melbournian, which limits their prospects and acts as a 'handbreak' on the productivity of the metropolis (2023:2). Economic connectivity is often measured in terms of the 'Effective Job Density' (EJD) index which looks at the nexus between employment massing and transport availability and takes into account the number of jobs in the area plus those that can be reached divided by the travel time spent in getting to those jobs. Greenfield areas are considered the "bottom reaches" of the EJD spectrum, with a suitable response suggested as 'a push for a more consolidated city that positions jobs access for both equity and productivity reasons' and takes into account the associated benefits a potential dilution of central city productivity, saved congestion costs and the associated reduction of climate change emissions, greater equity in employment access and better availability of services in suburban communities (SGS Economic and Planning, 2023:16-17).

Consolidating residential land use and access to employment, the preservation of post-contact heritage and the creation of liveable 20-minute neighbourhoods are strategies that are relevant to our proposal and contained in *Plan Melbourne 2050*. We have addressed the States' planning

⁶ https://sgsep.com.au/assets/main/Publications/SGS-Economics-and-Planning_Melbournes-Development-Opportunities-Report.pdf

objectives that are relevant to our amendment proposal and the concurrent use and development planning application before Council. Refer below.

PLAN MELBOURNE 2050
OUTCOME 1: MELBOURNE IS A PRODUCTIVE CITY THAT ATTRACTS INVESTMENT, SUPPORTS INNOVATION AND CREATES JOBS.
<u>Direction 1.2 Improve access to jobs across Melbourne and close to where people live.</u> <i>The distribution of jobs across Melbourne is uneven. Outer suburbs and growth areas generally have less access to jobs than middle and inner Melbourne. For example, in the outer areas of Melbourne there are about 11 jobs for every 10 employed residents. Job density across Melbourne is shown at Map 12.</i> <i>Supporting investment and job creation across the city will drive productivity and economic growth and accommodate employment in designated locations across the city.</i> <u>Policy 1.2.2 Facilitate investment in Melbourne’s outer areas to increase local access to employment.</u> <i>A number of former industrial and other sites – including government sites – around Melbourne are currently underutilised. Local planning authorities should identify and plan for ways these sites can be repurposed to create jobs and accommodate growth.</i> <i>There is a need to support investments that create jobs in outer suburbs and growth areas. There is also a need to make it easier for people to access jobs – particularly high value knowledge jobs – in established middle and inner areas from these locations.</i> Response: The concurrent use and development planning permit associated with the subject site seeks approval for a restaurant, café and office space, all of which provide employment opportunities to the residents of Officer and surrounding growth suburbs. The amendment proposal and concurrent planning application seeks to re-employ a currently vacant heritage site in a fashion that will revitalise the site and contribute to the conservation of the heritage place.
OUTCOME 4: MELBOURNE IS A DISTINCTIVE AND LIVEABLE CITY WITH QUALITY ENVIRONMENTS.
<u>Direction 4.4 Respect Melbourne’s heritage as we build for the future.</u> <i>Heritage will continue to be one of Melbourne’s competitive strengths, contributing to its distinctiveness and liveability and attracting visitors, new residents and investors. Heritage is an important component of Victoria’s tourism industry and benefits the economy. Innovative approaches to the creative re-use of heritage places need to be adopted, ensuring good urban design both preserves and renews historic buildings and places.</i> <u>Policy 4.4.3 Stimulate economic growth through heritage conservation.</u> <i>Melbourne’s heritage is fundamental to its cultural economy. That is why we must invest in our heritage, and in places that contribute to Melbourne’s identity and distinctiveness.</i> <i>Regeneration of heritage assets through adaptive re-use can deliver unique and exciting places that can be used well into the future. Rehabilitating old buildings and places also creates opportunities for new investment and jobs.</i> Response: The proposal contemplates the create re-use of a heritage place and incorporates good urban design which preserves and renews the kiln structure. The re-development of the kiln and chimney site is sensitive to the heritage character of the existing built form with the design of the development taking its materials, finishes, scale and setback cues from those of the kiln and chimney. The glazed steel enclosure proposed to encase the kiln will ensure its preservation and deliver a unique and exciting focal point that will contribute a sense of place and identify to Officer into the future, as it has done in the past.
OUTCOME 5: MELBOURNE IS A CITY OF INCLUSIVE, VIBRANT AND HEALTHY NEIGHBOURHOODS
Direction 5.1 Create a city of 20-minute neighbourhoods <i>A 20-minute neighbourhood must:</i> - <i>Be safe, accessible and well connected for pedestrians and cyclists to optimise active transport</i> - <i>Offer high-quality public realm and open space</i> - <i>Provide services and destinations that support local living</i> - <i>Facilitate access to quality public transport that connects people to jobs and higher-order services</i> - <i>Deliver housing/population at densities that make local services and transport viable.</i>

- *Facilitate thriving local economies.*

The 20-minute neighbourhood is all about 'living locally' – giving people the ability to meet most of their everyday needs within a 20-minute walk, cycle or local public transport trip of their home. If 20-minute neighbourhoods existed across Melbourne, it could reduce travel by nine million passenger kilometres and cut Melbourne's daily greenhouse gas emissions by more than 370,000 tonnes.

Response: The incorporation of food services, a social gathering place and offices provides a strong mixed use for the site, to the benefit of local residents.

The site will be accessible by car, public transport (via the highway), bicycle and pedestrianism, ensuring it contributes to the creation of 20-minute neighbourhoods; connecting people through non-car dependant mechanisms.

8. DOES THE AMENDMENT SUPPORT OR IMPLEMENT STATE & LOCAL PLANNING POLICY?

This part of the report assesses and responds to the legislative and policy requirements for the project outlined against State and Local Policies in the Cardinia Planning Scheme, and in accordance with the *Planning and Environment Act 1897*. The proposed amendment supports and gives effect to the objectives of relevant clauses of the State Planning Policy Framework, which are largely contained in **Clauses 15 - Built Environment and Heritage, 17 - Economic Development, 18 - Land use and Transport and 19 – Development infrastructure**. The relevant Local Planning Policies pertinent to the proposed amendment are contained in the **Municipal Strategic Statement** and **clause 22.04 Highway Development**.

CLAUSE 15 BUILT ENVIRONMENT AND HERITAGE

Clause 15 Built Environment and Heritage has the objective to ensure planning delivers built form that is of high quality and efficient, responsive to the surrounding landscape and character including its associated risks, protective of heritage and provides the functionality required by the community. The proposal aligns with the objective of **Clause 15.01-15 Urban design**, which is:

- *To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.*

The proposal contemplates the amendment of HO104 to support the concurrent planning application that seeks to use and development the subject site through design that responds to the heritage context of the site and will contribute to the surrounding context, ensuring a high level architectural interface between the residential land to the north of the site, the Princes Highway to the south of the site through a mixed use proposal. The development supports public realm amenity and provides a social meeting hub within walking and cycling distance of the surrounding residential growth suburbs. Landscaping and interconnecting pathways provide safe access and a visual link between the kiln and chimney and the clay pits to the west, which are now repurposed as an urban waterway.

Clause 15.01-2S Building design has the objective to:

- *achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.*

The architecturally designed development by *UXD Group* (September 2023) draws from the setbacks, heights, scale and massing of the kiln and chimney to inform the new build. The inset second and third storey's reduce any overlooking of adjoining lots and strategically located and designed landscaping softens the development from a northern perspective. Fencing to the rear of the site buffers sound to the north and the development will cushion noise from the highway to the residential sites to the north.

Clause 15.01-4s Heathy neighbourhoods has the objective:

- *To achieve neighbourhoods that foster healthy and active living and community wellbeing.*

The landscaping surrounding the kiln development will incorporate pathways that will contribute to the safe passage of pedestrians and provide connectivity to the clay pits to the west (now urban waterways) and safe access for residents of surrounding growth suburbs to upmarket café and restaurant facilities, and employment opportunities, which is consistent with the strategies of clause 15.01-4s.

Clause 15.01-5S Neighbourhood character has the objective to:

- *..recognise, support and protect neighbourhood character, cultural identity, and sense of place.*

The immediate area is characterised as a new medium density residential estate within the Officer Precinct Structure Plan. The kiln and chimney have a long local history that grounds the site and provides a unique focal point for the local community. The new development will compliment the historic character of the kiln and chimney and contribute to a sense of identity that sets Officer apart from surrounding growth suburbs.

Clause 15.03-1S Heritage conservation has the objective:

- *To ensure the conservation of places of heritage significance.*

The HIS provides resounding support for the use and development of the site proposed by a concurrent planning application. The protection, conservation and enhancement of the heritage buildings is facilitated through the protective glazed steel frame structure proposed to 'encase' the kiln to halt further weathering. The development respects the scale, setbacks and industrial style of the heritage buildings as has been discussed previously and the landscaping including pathways and interpretive signage facilitates a visual link between the kiln, chimney and clay pits (that are now employed as urban waterways).

The proposed restaurant and café (and office space) will draw people to the site enabling adaptive reuse of the site, "which is a significant improvement from the present vacant site devoid of any activity and uses" (HIS, paragraph 45, page 18). This is consistent with the objectives of clause **15.03-1S Heritage Conservation**, the Burra Charter and the Officer Precinct Structure Plan and supports adaptive re-use where the original use of the site has become redundant. In summary, the HIS concludes that "there is no heritage reason not to grant a planning permit" (paragraph 52, page 20).

CLAUSE 17 ECONOMIC DEVELOPMENT

Clause 17 examines economic development through employment, commercial enterprise and tourism, what are salient to our proposal and will be addressed accordingly. An objective common to each of these policies is associated with providing employment opportunities closer to where people live. The provision of a café and restaurant will provide employment opportunities that will appeal to younger workers given the site is nestled within a residential hub, ensuring accessibility, pedestrianism and non car-dependant travel. The office use will appeal to a skilled subset of workers that may also be catered to by the growing residential suburbs. This is consistent with clauses **17.01-1S Diversified economy**; **17.01-1R Diversified economy – Metropolitan Melbourne**; and **17.01-1R Diversified economy – Metropolitan Melbourne – Southern Metro Region**. This is also consistent with the visions contained in the Municipal Strategic Statement, clause **21.04-1 – Employment**.

The appeal of the glass-encased heritage kiln and chimney is likely to attract visitors to the area who are after a unique dining experience, as has occurred in places like Gembrook since the opening of the acclaimed Independent Restaurant and Stationhouse Pizza. This is consistent with the strategies of clause **17.04-1S Facilitating tourism**.

CLAUSE 18 LAND USE AND TRANSPORT

Clause 18 seeks sustainable and safe mechanisms of movement for people from one place to another. Of salience here are the strategies of clause **18.02-2S Walking** and **18.02-2S Cycling** that promote efficient and safe, non-car dependant forms of transport, especially when they are facilitated through the design of local infrastructure such as bike lanes and walking paths. The surrounding residential areas feature pathways that cater to pedestrianism and cycling, as is clearly evidenced by the aerial below. Residents of the surrounding residential suburbs would have little impediment to accessing the redeveloped James Hicks site by foot or bicycle.



CLAUSE 19 DEVELOPMENT INFRASTRUCUTRE

The development of the site proposed by the concurrent planning application will be subject to the Development Contribution Plan (Overlay - Schedule 4). While the specificities of this overlay will be addressed in Section 9 of this report (below), it is salient to note here that the planning provisions ensure the provision and design of necessary infrstrucutre on the site is the remit of the developer.

This is consistent with the requirements of clauses **19.03-1S Development and infrastructure contributions plans** and **19.03-3S Integrated water management**.

MUNICIPAL STRATEGIC STATEMENT

The Municipal Strategic Statement (hereafter MSS) for Cardinia contains the strategic objectives of the Council and the strategies to be employed to implement and achieve them. When assessing an amendment to the planning scheme, the planning authority must take into account the MSS as per the requirements of Section 12(2)(ab) of the *Planning and Environment Act 1987*.

The proposed amendment to the HO104 seeks to enable the assessment of prohibited uses of the land, and provides the strategic capacity for Council to consider the concurrent Use and Development proposal of the site for an office. The use and development of the site will ensure the preservation, revitalisation and reuse of a heritage site. It will also contribute to the provision of localised employment opportunities, which is consistent with one of the key issues identified in **clause 21.01-3**, and **clause 21.03-3 Urban Growth Areas**.

The proposed amendment evidences consistency with the MSS, and it does not seek to change the objectives of the MSS. It is important to address the effect of the proposed amendment of HO104 on other objectives of the municipality. The amendment seeks to change the answer to the question “Prohibited uses permitted?” from “no” to “yes”, contained in Part 2.0 of the Schedule to the Heritage Overlay, presented below.

PS map ref	Heritage place	External point controls apply?	Internal alteration controls apply?	Tree controls apply?	Solar energy system controls apply?	Outbuildings or fences not exempt under Clause 43.01-4	Included on the Victorian Heritage Register under the Heritage Act 2017?	Prohibited uses permitted?	Aboriginal heritage place?
HO104	James Hicks Pty. Ltd. Pottery 365 Princes Highway, Officer	Yes	Yes	No	Yes	Yes	No	No	No

The effect of this change enables the Council to consider the use of the land as an office, as is proposed in the concurrent planning application. The benefits of this land use have been explored and supported with strategic impertus provided in previously sections of this report.

CLAUSE 22.04 HIGHWAY DEVELOPMENT

Clause 22.04 Highway Development is a local planning policy, which provides a tool for day-to-day decision making in relation to a specific discretion in the planning scheme. It helps the responsible authority and other users of the scheme to understand how a particular discretion is likely to be exercised. To be clear, the amendment has no bearing on the Local Planning Policy Framework however, the amendment should be considered against the objectives of clause 22.04 that has regard to use and development of land along the Princes Highway to ensure the efficient and safe movement of traffic along the highway is not impacted, nor the visual amenity.

As stated, the amendment will not have any bearing on the objectives of clause 22.04, nor will the concurrent planning application for the use and development of the subject site given the proposed built form will maintain existing setbacks from the highway, existing visual links will be maintained and proposed signage associated with the development is designed to avoid being a visual distraction for drivers. Please refer to the development plans provided by *UXD Group* dated September 2023. It is also noted that the application’s will be subject to referral requirements under Section 55 of the *Planning and Environment Act 1987*, providing the opportunity for responsible authorities such as the Head, Department of Transport to assess the access and egress conditions of the proposal.

9. DOES THE AMENDMENT MAKE PROPER USE OF THE VICTORIAN PLANNING PROVISIONS?

The proposal is zoned Urban Growth Zone – Schedule 3 in the Cardinia Planning Scheme and the applied zone is the General Residential Zone. Any development must be in accordance with the Officer Precinct Structure Plan. The Development Contributions Plan Overlay Schedule 4 (DCPO4) and the Heritage Overlay Schedule (HO104) apply. The amendment appropriately proposes a change to the HO104, as previously discussed, to achieve the intended outcome of enabling the Council to consider a prohibited use for the site.

The proposed amendment avoids detrimental affects, conflicts or duplication of another provision in the planning scheme that deals with the same parcel of land, the proposed use and development. Additionally, the amendment does not render redundant any other existing provisions in the Cardinia Planning Scheme.

10. DOES THE AMENDMENT ADDRESS THE REQUIREMENTS OF THE TRANSPORT INTEGRATION ACT 2010?

Planning authorities, acting under the *Planning and Environment Act 1987*, are an 'interface body' under the *Transport Integration Act 2010* (hereafter TIA). The TIA requires a planning authority to have regard to a set of transport system objectives and decision making principles where a planning scheme amendment is likely to have a 'significant impact on the transport system'.

The proposed amendment is unlikely to have a significant impact on the transport system.

The TIA requires a planning authority have regard to any Statement of Policy Principles that specifies powers or functions which the planning authority is exercising. The Statement of Policy Principles prepared under Section 22 of the TIA 2010 were requested from the Department of Economic Development, Jobs, Transport and Resources. Receipt pending.

11. IMPACTS OF THE AMENDMENT ON THE ADMINISTRATIVE COSTS OF THE RESPONSIBLE AUTHORITY

The introduction of this amendment to the Cardinia Planning Scheme will not create a financial burden for have significant resource implications for Responsible Authorities including the Cardinia Shire Council.

The project developer will bear the burden of Fees under the *Planning and Environment Act 1987* (and set by the Planning and Environment Amendment Regulations 2016) that are associated with this proposal to amend the HO104.

12. CONCLUSION

It is submitted that the amendment proposal is consistent with the relevant policies and provisions of the Cardinia Planning Scheme, the requirements of the *Planning and Environment Act 1987*, and the Planning and Environment Regulations 2015. The proposal warrants Council's support as:

- It is consistent with the Municipal Planning Strategy and the Planning Policy Framework.
- It is consistent with relevant directions of *Plan Mebourne 2050*.
- Provides justification to show that allowing the prohibited use (office) will contribute to the conservation of the heritage structures on the site (the brick kiln and associated chimney);
- Provides justification that supports the benefits to be achieved by introducing such a provision.
- Implements the objectives of planning and makes proper use of the Victorian Planning Provisions
- Provides evidence of the beneficial environmental, social and economic effects of the proposal.
- Does not pose any risks to human life associated with bushfire.
- Does not impose unnecessary administrative costs onto the responsible authority.

The proposal provides an excellent opportunity to support amenity and provide employment opportunities within the local realm of Officer, promoting non-car dependant transport. The proposal avoids discernible detriment and facilitates further development in a prominent location that promotes and enhances the liveability of the Officer precinct.