

TOWN PLANNING REPORT

JAMES HICKS BRICK & PIPE WORKS

A PLANNING SCHEME AMENDMENT TO AMEND THE SCHEDULE TO THE
HERITAGE OVERLAY TO ALLOW A PROHIBITED USE (OFFICE);

AND

PLANNING PERMIT APPLICATION UNDER SECTION 96A OF THE
PLANNING AND ENVIRONMENT ACT 1987 FOR THE USE AND
DEVELOPMENT OF THE LAND FOR A RESTAURANT/CAFÉ/WINE
BAR/OFFICE, BUILDINGS AND WORKS, CHANGE OF ACCESS FROM A
TRZ2, REDUCTION OF CAR PARKING SPACES & SIGNAGE (CATEGORY 3)



TABLE OF CONTENTS

1. PRELIMINARY	3
2. INTRODUCTION	5
3. SUBJECT SITE AND SURROUNDING LOCALITY	8
SITE ANALYSIS	8
RESTRICTIONS, ENCUMBERANCES.....	10
SURROUNDS	11
ENVIRONMENTAL CONSIDERATIONS	13
PERMIT HISTORY	14
4. THE PROPOSAL	16
5. RELEVANT PLANNING CONTROLS.....	22
ZONING CONTROLS	22
OVERLAYS	25
6. MUNICIPAL PLANNING STRATEGY & VISION.....	28
7. STATE AND LOCAL PLANNING POLICY FRAMEWORK.....	30
CLAUSE 11 SETTLEMENT	30
CLAUSE 13 ENVIRONMENTAL RISKS AND AMENITY	30
CLAUSE 15 BUILT ENVIRONMENT AND HERITAGE	31
CLAUSE 17 ECONOMIC DEVELOPMENT.....	33
CLAUSE 18 TRANSPORT	34
CLAUSE 19 INFRASTRUCTURE	34
CLAUSE 22.04 HIGHWAY DEVELOPMENT.....	34
CLAUSE 22.09 SIGNS	35
PLAN MELBOURNE 2017 - 2050.....	36
8. RELEVANT INCORPORATED DOCUMENTS.....	37
9. PARTICULAR PROVISIONS	39
CLAUSE 52.05 SIGNS	39
CLAUSE 52.06 CAR PARKING	41
CLAUSE 52.29 LAND ADJACENT TO THE PRINCIPAL ROAD NETWORK.....	42
CLAUSE 52.34 BICYCLE FACILITIES	43
10. GENERAL PROVISIONS	44
CLAUSE 64.01 LAND USED FOR MORE THAN ONE USE	44
CLAUSE 65 DECISION GUIDELINES	44

CLAUSE 71.02-3 INTEGRATED DECISION MAKING	45
11. CONCLUSION	46

1. PRELIMINARY

ADDRESS	Lot AA PS 814723, Cotswold Crescent, Officer 3809
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	Yes. Please refer to PS814723 for easement details.
RESTRICTIONS	No
PROPOSAL	S96a application to amend the schedule to the Heritage Overlay to allow a prohibited use to be considered, and a planning permit application seeking council approval to: ☐ Develop & use the land for an office, café, restaurant/wine bar and associated car parking. ☐ Buildings and works associated with the above uses. ☐ Construct and display signage associated with the development. ☐ Reduce the number of carparks and bicycle spaces required to be provided. ☐ Use the land to sell or consume liquor. ☐ Create access to the Princes Highway (TRZ2).
PERMIT TRIGGERS	☐ Pursuant to Clause 32.08-1 a permit is required for Use of the land for a food and drink premises (section 2 use) and office use (section 2 use with conditions that the proposal does not meet). ☐ Pursuant to Clause 32.08-10 Buildings and works associated with a Section 2 use, a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-2. ☐ Pursuant to Clause 43.01-1 Permit requirement, a permit is required to construct a building or construct or carry out works. ☐ Pursuant to Clause 52.05 Signs, a permit is required for business identification signage (category 3 – high amenity areas). ☐ Pursuant to Clause 52.06 Car Parking a permit is required to reduce the number of car parks required under Clause 52.06-5. ☐ Pursuant to Clause 52.29 Permit Requirement a permit is required to create or alter access to a road in a Transport Zone 2.
RELEVANT PLANNING CONTROLS AND INCORPORATED DOCUMENTS	Clause 11 Settlement Clause 13 Environmental Risks & Amenity Clause 15 Built Environment & Heritage Clause 16 Housing Clause 17 Economic Development Clause 19 Infrastructure Clause 21 Municipal Strategic Statement Clause 22.04 Highway Development Clause 22.09 Signs Clause 32.08 General Residential Zone Clause 43.01 Heritage Overlay Clause 45.06 Development Contributions Plan Overlay

	Clause 52.05 Signs Clause 52.06 Car Parking Clause 52.29 Land Adjacent to the Principal Road Network Clause 52.34 Bicycle Facilities Clause 64.01 Land used for more than one use Clause 65.01 Approval of an application or plan Clause 71.03 Integrated decision making <i>Officer Precinct Structure Plan</i> <i>Plan Melbourne 2050</i>			
SUBMITTED DOCUMENTS	Current copy of title and plan Town Planning Report (Nobelius Land Surveyors) Planning Scheme Amendment Request Report (Nobelius Land Surveyors) Feature & Level Survey (Nobelius Land Surveyors) Development Plans (UXD Group) Heritage Impact Assessment (Anthemion Consultancies) Traffic Impact Assessment (TTM Consultants) Waste Management Plan (One Mile Grid) Economic Assessment (Ethos Urban) Cultural Management Plan (Heritage Victoria) Letter of Support (Annette Aldersea) Preliminary Environmental & Hydrogeological Site Investigation (Taylor Tonkin)			
NLS QUALITY CONTROL	AUTHOR	DATE ISSUED	CHECKED BY	REVISION
	RO	January 2025	JB	2
	RO	November 2025	JB	3

The report is copyright of Nobelius Land Surveyors. The intellectual property contained in this document remains the property of Nobelius Land Surveyors or is used with permission of the owner. No intellectual property transfers. This report has been prepared on behalf of and for the exclusive use of Nobelius Land Surveyors Town Planning clients. The report relies on information provided by the client, engaged consultants and searches of registers. Nobelius Land Surveyors employs reliable sources though we give no warranty – express or implied – as to accuracy, completeness. Nobelius Land Surveyors, its directors, principals or employees be liable to the recipient, the client or any third party for any decisions made or actions taken in reliance on this report (or any information in or referred to in it) or for any consequential loss, special or similar damages, even if advised of the possibility of such damages.

2. INTRODUCTION

INTRODUCTION

This application has been prepared as part of a combined planning scheme amendment and permit application under Section 96A of the *Planning and Environment Act 1987* to be considered concurrently. The amendment is being proposed at the request of Nobelius Land Surveyors on behalf of James Hicks Pottery Site Pty Ltd. The Cardinia Shire Council is the relevant planning authority.

SUBJECT SITE

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.

PLANNING SCHEME AMENDMENT

A planning scheme amendment under Section 96a of the *Planning and Environment Act 1987* is sought to amend the schedule to Clause 43.01 Heritage Overlay in the Cardinia Planning Scheme. 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 which is a prohibited use under the zone. The table of uses contained in Clause 32.08-1 (General Residential Zone) was recently revised in Amendment VC232, and revised '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.

PROPOSAL

The planning permit application seeks approval to:

- Use the land for office and food and beverage premises;
- Buildings and works associated with the above uses;
- Develop the land with an office building, café, restaurant/wine bar and associated car parking;
- Construct and display signage associated with the development;
- Reduce the number of carparks and bicycle spaces required to be provided;
- Use the land to sell or consume liquor; and
- Create access to the Princes Highway (TR22).

PERMIT REQUIREMENT

A planning permit is required pursuant to the following clauses of the Cardinia Planning Scheme:

- Clause 32.08-1 (General Residential Zone), a permit is required to use the land for food and beverage premises (Section 2 Use) and Office use prohibited (Section 3 use).

- Clause 32.08-5 (General Residential Zone), a permit is required to construct a building or carry out works for a use in Section 2 of Clause 32.08-2.
- Clause 43.01-1 (Heritage Overlay), a permit is required to construct a building or construct or carry out works.
- Clause 52.05 (Signs), a permit is required for business identification signage (Category 3 – High amenity areas).
- Clause 52.06 (Car Parking), a permit is required to reduce the number of car parking spaces required under Clause 52.06-5.
- Clause 52.29 (Land Adjacent to the Principal Road Network), a permit is required to create or alter access to a road in a Transport Zone 2 (Princess Highway).

AIM

This town planning report seeks to demonstrate that the proposal is:

- Consistent with the Municipal Strategic Statement and the State and Local Planning Policy Framework;
- Consistent with the General Residential Zone – the applied zone under the Urban Growth Zone – Schedule 3, and appropriately responds to the Officer Precinct Structure Plan (PSP);
- Consistent with the objectives of the Heritage Overlay and relevant Heritage Policy;
- Compatible with and appropriately responds to the surrounding residential neighbourhood; and
- An excellent opportunity for Council to support development that will provide net benefit to local residents and the wider community.

BACKGROUND REPORTS

The suite of technical reports that have informed the proposal are summarised below:

- ***Traffic Impact Assessment - TTM Consulting (March 2024)***

TTM outline that a planning permit is warranted from a traffic engineering perspective. The Traffic Impact Assessment identifies that 23 on-site parking spaces are proposed to be provided, and Council approval is sought for the reduction of 20 spaces against the statutory requirements set out in Clause 52.06-5. This reduction is considered appropriate when assessing the proposal against the decision guidelines of Clause 52.06. Swept path diagrams have been provided to demonstrate that a B85 vehicle can successfully enter and exit the proposed car parking spaces in a forward direction and the car parking spaces, accessways and gradients are all considered to comply with Clause 52.06-9. The adjacent road network can accommodate the level of additional traffic generated by the proposed development.

- ***Heritage Impact Statement (HIS) - Anthemion Consultancies (August 2023)***

Anthemion Consultancies consider that there is no heritage reason not to grant a planning permit and that the proposed planning scheme amendment to allow a prohibited use (office) is appropriate and will not adversely impact on the significance of the site. The HIS outlines that the proposal has complied with all Heritage Policy, the *Burra Charter* as relevant, and the Officer Precinct Structure Plan (PSP). The HIS details how the significance of the heritage place has formed the basis of the proposed design, and that the location, bulk, form and appearance of the proposed buildings is not anticipated to adversely affect the significance, character or appearance of the heritage place. The proposal is considered to contribute to the conservation of the heritage structures by introducing a steel framed glazed structure over the kiln, and conservation works to facilitate the readaptive use of the kiln and chimney structures.

- ***Waste Management Plan (WMP) - One Mile Grid (August 2023)***

The WMP outlines that a private contractor will manage the collection and disposal of all waste streams associated with the development. Information relating to the bin storage areas, who will use the bins, and how waste will be collected and transferred to the bins is contained within the report. Swept path diagrams have been provided that demonstrate that a waste collection vehicle can access the proposed waste storage and collection location and manoeuvre within the development and street network. The WMP also provides an assessment of the proposal against Best Practice Waste Management, and

outlines how the proposed restaurant can minimise waste, how the bins are proposed to be used, the responsibilities of the owners corporation relating to common property litter, the appropriate signage for bins, noise control and the like.

- ***Economic Assessment – Ethos Urban (June 2024)***

The Economic Assessment finds that the proposed development represents an appropriate economic response to the subject site having regard for the limited scale of the subject site, the location of the subject site, the need to refurbish and incorporate the kiln into any development outcome and provide for its ongoing preservation and maintenance, and the need to provide connection to the Kiln and the former clay pit to the west. The proposed uses are considered appropriate when having regard for the need to ensure a built form outcome that minimises at-grade parking and minimises building footprints. An office outcome is particularly important in this regard due to the ability to realise vertical scale and incorporate car parking within the building footprint through the use of undercroft parking.

- ***Conservation Management Plan (CMP) - Heritage Victoria (January 2015)***

The CMP for the subject site was prepared as a supporting document for previous planning permit application T170233 in which former owners *Parklea* were the applicant. The report was prepared to identify non-Aboriginal cultural heritage issues and to consider strategies for managing these issues in accordance with the requirements of Local, State and Commonwealth legislation. The kiln and chimney structures were assessed as being in relatively well-preserved condition due to the protection provided by the shed¹. The CMP required the retention of the structural remains of the kiln and chimney and that all structural instability be rectified in accordance with Heritage Policy.

- ***Structural Scope of Works Report, Engineering Assessment – G&P Consulting Engineers (February 2023)***

The report provides a detailed scope of works for the proposed restoration of the Kiln and Chimney structures to enable use by the general public. The scope of works details the further investigations, preliminaries, temporary propping measures for the kiln, demolition and construction works required.

- ***Preliminary Environmental & Hydrogeological Site Investigation 365 Princes Highway, Officer – Taylor & Tonkin (May 2014)***

The report found concentrations of measured contaminants below the adopted Health Investigation Levels for residential sites and an absence of contaminants that were considered likely to impact on the buildings and a structures beneficial use.



¹ The shed has since been demolished and is no longer sited on the land.

3. SUBJECT SITE AND SURROUNDING LOCALITY

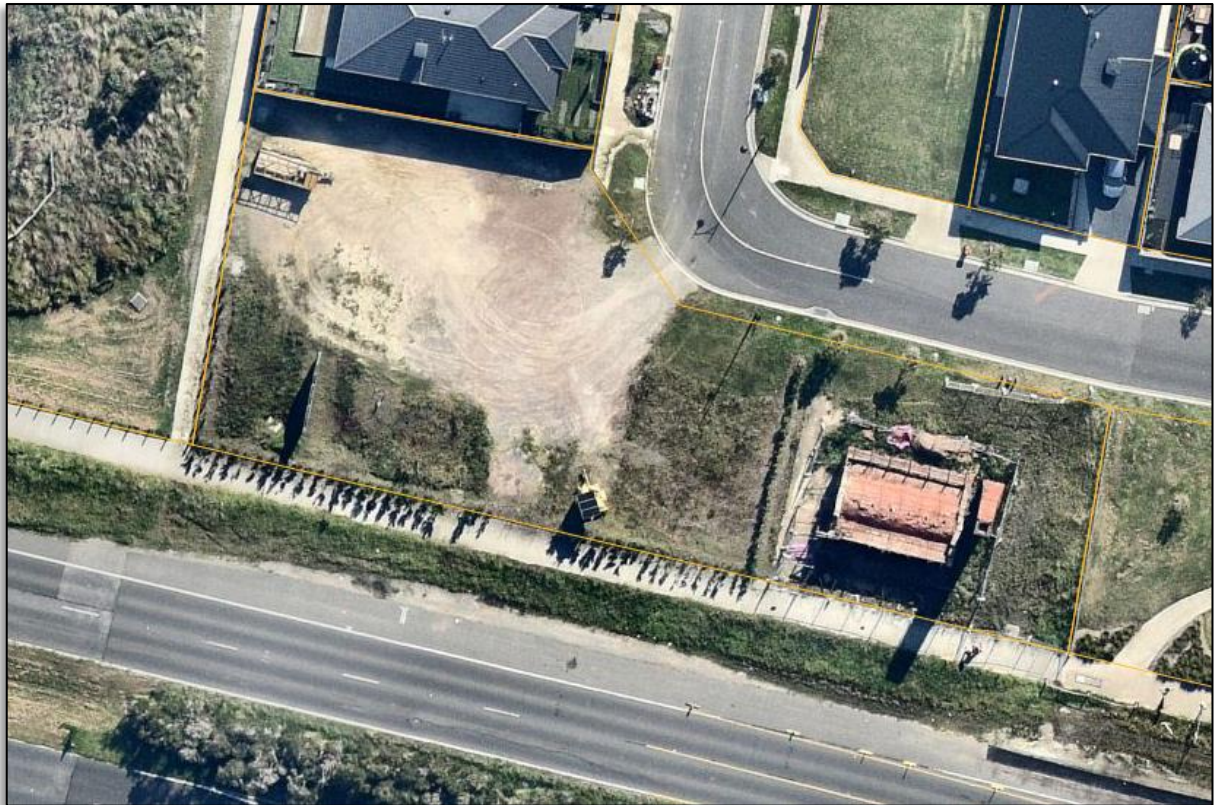
SITE ANALYSIS

The land is formally described as Lot AA PS814723U, Volume 11898 Folio 127, Cotswold Crescent, Officer 3809. The subject site is located to the north of the Princes Highway and is an irregular shaped lot with an area of 1,759m².

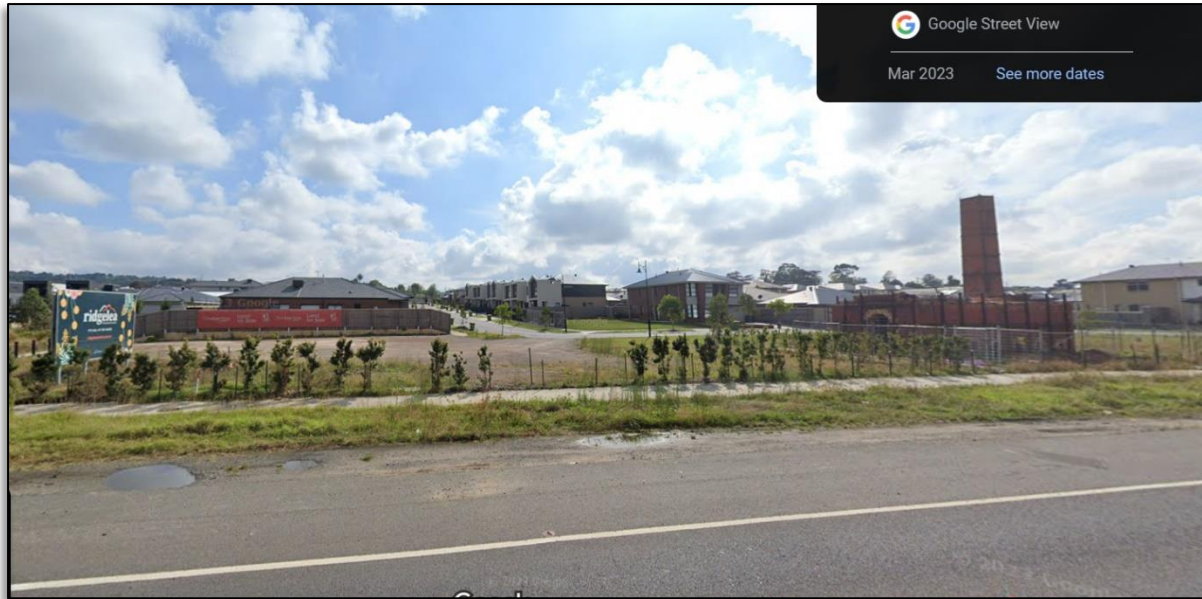
The site has dual road frontages with interfaces to the Princes Highway to the south for approximately 72.5 metres and Grace Street to the north for approximately 48.71 metres. The site's western boundary abuts an open space reserve that contains a former clay pit which has been incorporated into the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

A recent aerial image of the site is provided below:



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



ABOVE: VIEW LOOKING NORTH TO THE SITE FROM THE PRINCES HWY (GOOGLE MAPS STREETVIEW, MARCH 2023)



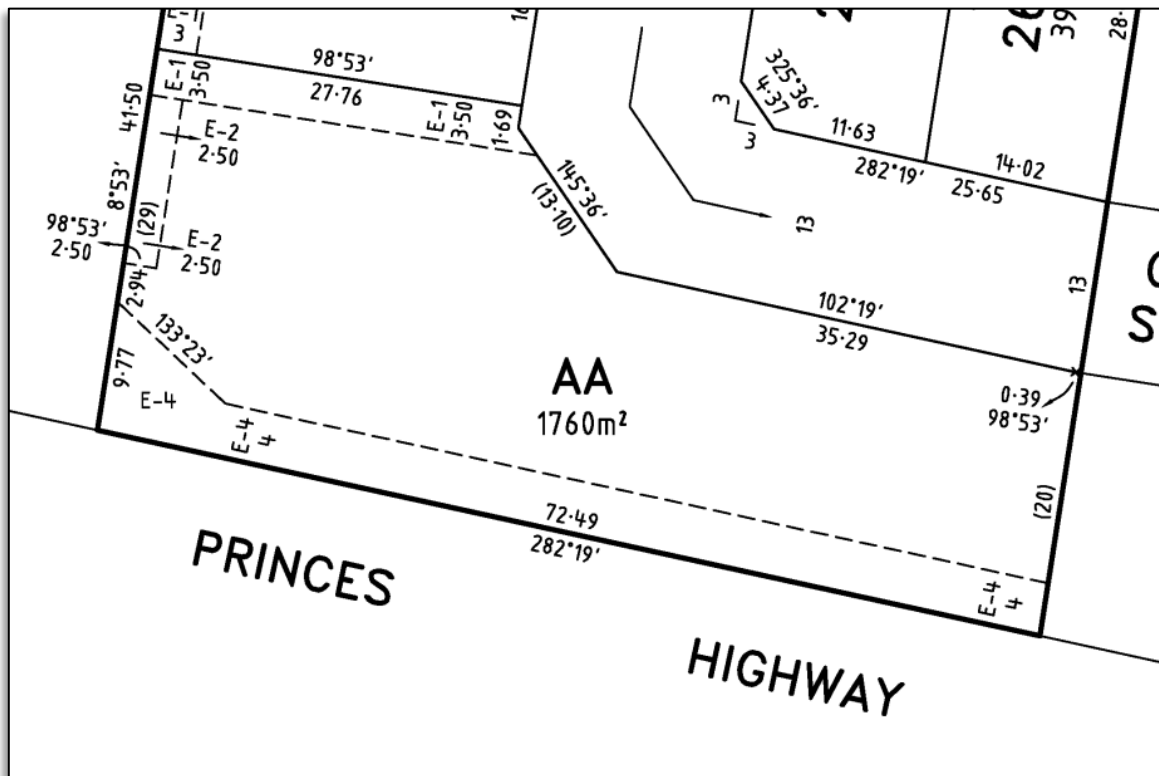
ABOVE LEFT: PHOTO OF BRICK CHIMNEY AND KILN STRUCTURES TAKEN FROM THE SITE LOOKING SOUTH - EAST & NORTH (NLS)

RESTRICTIONS, ENCUMBERANCES

The subject site (Lot AA on PS81473U) is not benefited or burdened by any restrictions imposed by covenant PS814723U.

The subject site is encumbered by several easements:

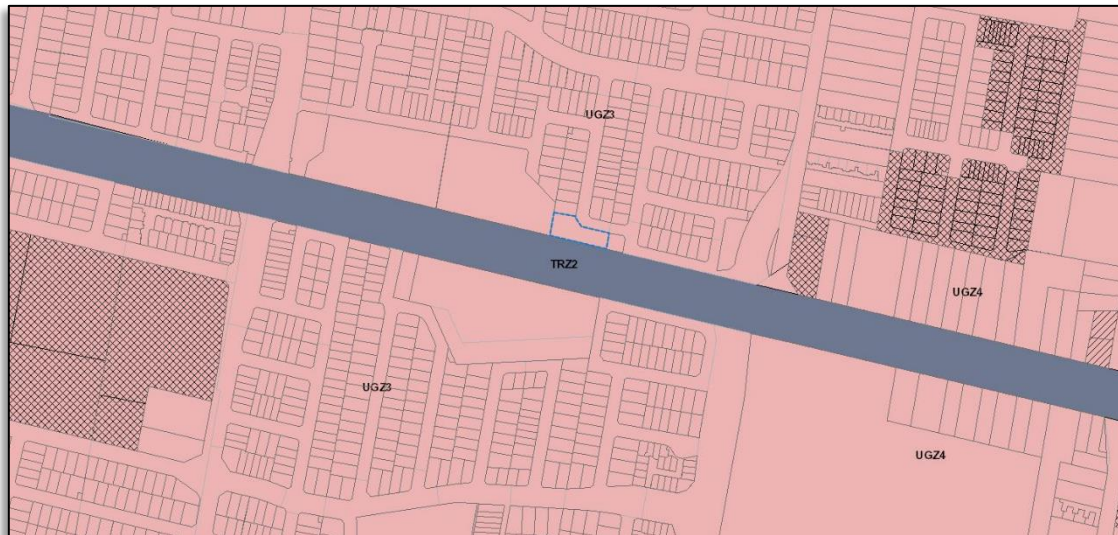
- A 3.5 metre wide drainage and sewerage easement (E-1) extends across the northwestern boundary of the site in favour of Cardinia Shire Council (drainage) and South East Water Corporation (sewerage).
- A 2.5 metre wide drainage easement (E-2) extends north to south along the western boundary in favour of Cardinia Shire Council.
- An additional drainage easement (E-4) with a maximum width of 9.77 metres in the south-west corner and 4 metres in width for the remainder extends the length of the southern boundary.



ABOVE: LOT AA PS81473U & EASEMENT LOCATIONS

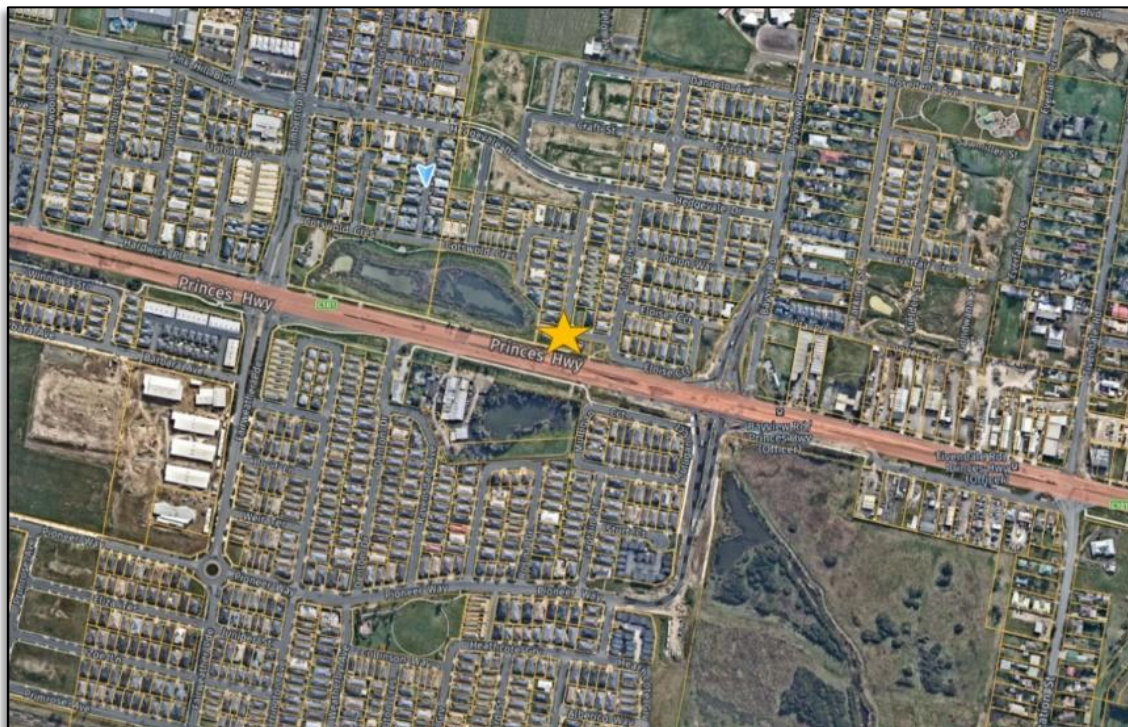
SURROUNDS

The subject site is located to the north of the Princes Highway within the Timbertop Estate, a residential estate that forms part of the Officer Precinct in the western part of the Cardinia Shire, between Beaconsfield and Pakenham. Development in this precinct is guided by the *Officer Precinct Structure Plan (PSP)*. A map identifying the zoning controls of the subject site and its surrounds is provided below:



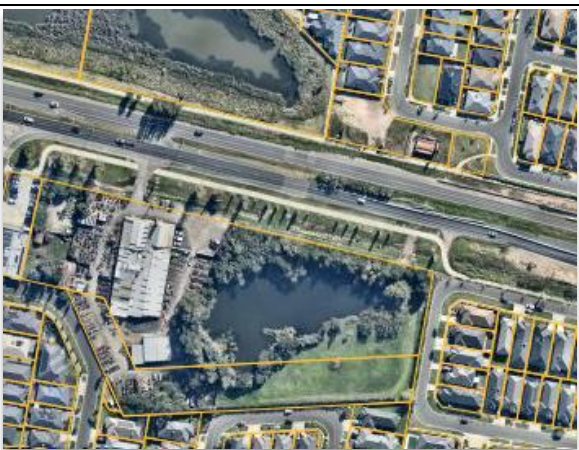
ZONING MAP (VICPLAN, 2024)

The subject site (yellow star) is also identified within the wider locality on the aerial map below:



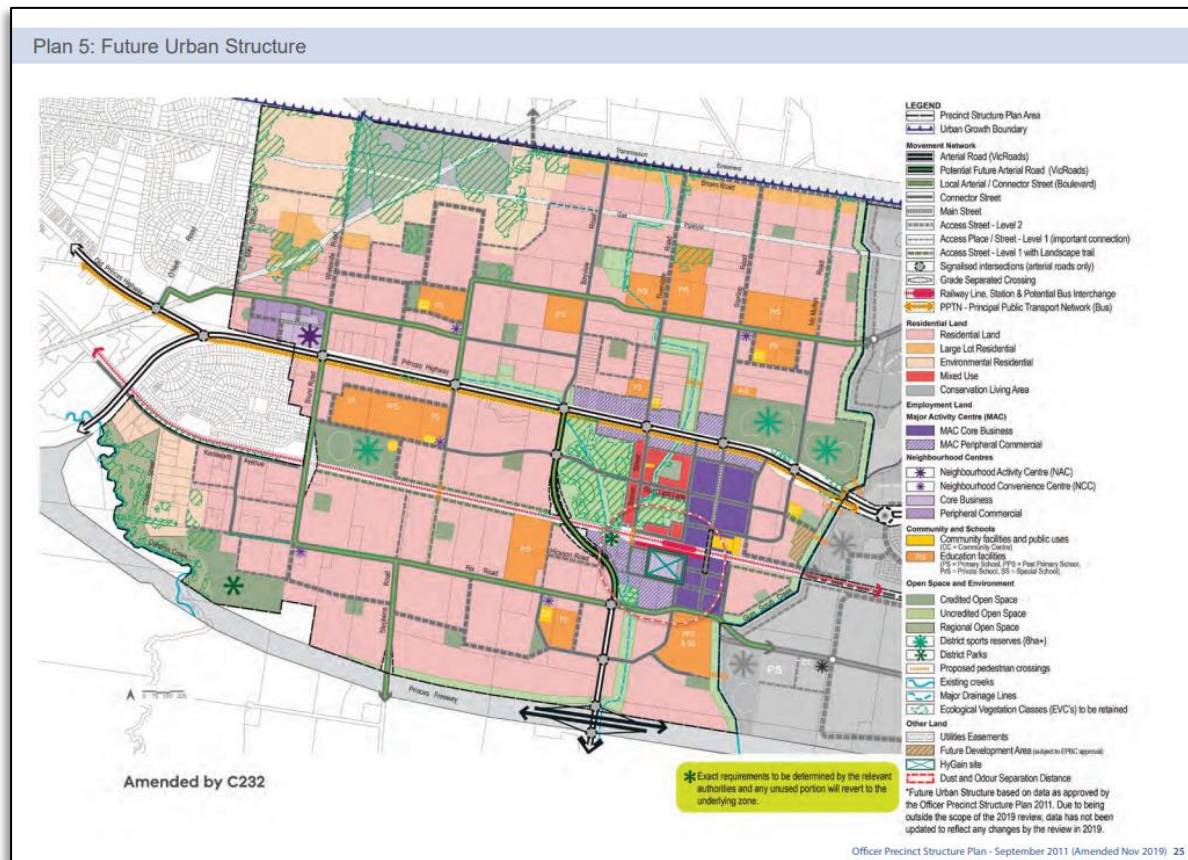
SUBJECT SITE WITHIN WIDER LOCALITY (NEARMAP, 2024)

The land immediately adjoining the subject site is summarised below:

NORTH		Interface with residential lots along Grace Street. 13 Grace Street is developed with a single storey brick dwelling and has a side setback of 3.4m from the subject site. 6 Grace Street is a vacant allotment. 4 Grace Street is developed with a double storey rendered brick and v/board dwelling with a front setback of 6.2m.
EAST		Frontage to a municipal open space reserve.
SOUTH		Frontage to Princes Highway. To the south of the Princes Highway is 350 Princes Highway, Officer – the Berwick Pottery Site. The Heritage Overlay HO105 applies to this site, with heritage significance attributed to the site's associations with the origins and development of the brick, pipe and pottery industries.
WEST		Frontage to the open space reserve containing the disused clay pit. The Heritage Overlay HO104 also applies to this area as it comprises part of the heritage place associated with the James Hicks Brick & Pipe Works.

In terms of strategic plans for land use within the wider area, *Plan 5: Future Urban Structure* in the Officer PSP designates predominately residential uses for the surrounding land. The constructed drainage reserve to the west of the subject site incorporates the former clay pits associated with the subject site and provides stormwater mitigation for urban purposes. The land to the east of Bayview Road fronting the Princes Highway

(on the periphery of the Officer Major Activity Centre (MAC)) is developed for commercial purposes in accordance with the PSP:



PLAN 5: FUTURE URBAN STRUCTURE (OFFICER PRECINCT STRUCTURE PLAN, AMENDED 2019)

ENVIRONMENTAL CONSIDERATIONS

TOPOGRAPHY	Topographically, the land does not pose constraints - the land is relatively flat and falls less than 0.4 metres from the north to the south.
VEGETATION	The subject site is devoid of native vegetation. The landscape has been significantly modified to facilitate residential development in accordance with the Officer PSP. No vegetation controls apply.
BUSHFIRE PRONE AREA	The subject site is not within a designated bushfire prone area.
CULTURAL HERITAGE	The land is not mapped within an area of potential Aboriginal cultural heritage significance. The site has post-colonial heritage associated with the site's former industrial use and controls apply under the Heritage Overlay (HO104). The relevant heritage considerations have been addressed in this town planning report and the <i>Heritage Impact Statement</i> prepared by Anthemion Consultancies.
MELBOURNE STRATEGIC ASSESSMENT	The land is mapped within the Melbourne Strategic Assessment program area, and urban development in this area is subject to the requirements of the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> . The subject site does not contain any area of native vegetation, scattered trees or the habitat of an EPBC listed species. As such, the levy liable is nil.

PERMIT HISTORY

The subject site was created by Instrument PS814723U (31/01/2020) and was previously part of 365 Princes Highway. The site has an extensive permit history, as tabled below:

365 PRINCES HWY, OFFICER

Application No.	Lodged	Decision	Reason for Permit	Status
T060442	03.07.06	06.11.06	Removal of non-native vegetation	Complete
T060681	29.09.06	12.02.07	Removal of an existing building	Complete
T070177	15.03.07	18.07.07	Market Place	Withdrawn
T120401	06.07.12	22.11.12	The subdivision of the land into two (2) lots	Withdrawn
T130742	12.12.13	03.11.16	Subdivision of the land and creation of a reserve	Complete
T140447	08.08.14	04.05.15	Demolition of a building (kiln and associated structures) in a Heritage Overlay	Refused
T170128	01.03.17	07.09.17	Demolition of part of a building (associated structure) in a Heritage Overlay	Permit issued
T130742-1	24.04.17	15.09.17	Amendment to conditions of planning permit T130742	Amendment issued
T170233**	01.05.17	14.09.17	Use of the land for a restaurant and alteration of access from a Road Zone Category 1	Application complete
T130742-PC1	09.10.17	16.07.18	Condition 8 – Subdivision of the land and creation of a reserve	Withdrawn
T130742-2	19.12.17	20.08.18	Subdivision of the land and creation of a reserve	Appeal complete
T130742-PC2	02.02.18	25.06.18	Subdivision of the land and creation of a reserve	Plans to comply issued
T180562	28.08.18	01.11.18	Promotion signage (land sales)	Application complete
T130742 – PC3	11.09.18	01.11.18	Subdivision of the land and creation of a reserve	Plans to comply issued
T130742 – PC4	24.09.18	28.11.18	Subdivision of the land and creation of a reserve	Plans to comply issued
T130742 – PC5	24.04.19	25.02.19	Subdivision of the land and creation of a reserve	Plans to comply issued

COTSWOLD CRESCENT, OFFICER

Application No.	Lodged	Decision	Reason for Permit	Status
T200214	23.04.20	25.09.20	Subdivision of the land into two lots	Notice of Decision

Planning application T200214 sought Council approval to subdivide the land into two lots. The Council issued a Notice of Refusal to Grant a Permit on the grounds that:

- a. *The proposal is contrary to the strategies of Clause 15.03-1S Heritage conservation as it does not ensure an appropriate setting and context for the heritage place is maintained or enhanced and does not support the adaptive reuse of the heritage buildings.*
- b. *The proposal is contrary to the purpose and decision guidelines of Clause 43.01 Heritage Overlay as the subdivision does not conserve and enhance the significance of the heritage place and will adversely affect the significance of the heritage place.*
- c. *The proposal is contrary to the Planning and Design Guidelines for Image and Character (Table 5, CA3) in the Officer Precinct Structure Plan and the subdivision does not:*
 - i. *Integrate heritage sites with adjacent subdivision design.*

- ii. *Ensure view lines to the front of heritage buildings from existing roads is maintained.*

An appeal was lodged by the applicant to have Council's decision reviewed by the Tribunal at VCAT:

TIMBERTOP EAST PTY LTD V CARDINIA SC [2021] VCAT 558

VCAT Ref.	Hearing Date	Reason for review	Decision
P1685/2020	April, 2021	Review of Council's Notice of Refusal to Grant a Permit re: T200214	Notice of Decision

In **Timbertop East Pty Ltd v Cardinia SC [2021]** Council's grounds of refusal, in particular, the proposed two lot subdivision's potential impact on the heritage significance of the site, were reviewed by the Tribunal. The member found that maintaining the connection between the brick structures and the former clay pit was essential, and that:

... the proposed subdivision and subsequent development of the larger of the two lots will adversely affect the significance of the heritage place by diminishing the physical setting of the kiln and chimney and disrupting the visual connection between the kiln and the former clay pit. This will occur by inserting a lot on which development will be undertaken between the kiln and the former clay pit. That outcome has a significant effect on the heritage place by disrupting the association between the former clay pit and the kiln. The significance of the former clay pit's association with the kiln and to the kiln's spatial setting is reflected in the application of HO104 to the former clay pit.

The permit history and Tribunal findings have been considered in this proposal. The landowner has worked closely with Robyn Riddett from Anthemion Consultancies to ensure all heritage considerations, policies and objectives have been considered as part of the design process.

4. THE PROPOSAL

This application has been prepared as part of a combined planning scheme amendment and permit application under Section 96A of the *Planning and Environment Act 1987* to be considered concurrently.

PLANNING SCHEME AMENDMENT

A planning scheme amendment under Section 96a of the *Planning and Environment Act 1987* is sought to amend the schedule to **Clause 43.01 Heritage Overlay** in the Cardinia Planning Scheme. 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 revised 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.
- Food and Beverage Premises is a prohibited use under the Urban Growth Zone where the applied zone is the General Residential Zone.

PLANNING PERMIT APPLICATION

The planning permit application seeks approval to:

- Use the land for office and food and beverage premises;
- Buildings and works associated with the above uses;
- Develop the land with an office building, café, restaurant/wine bar and associated car parking;
- Construct and display signage associated with the development;
- Reduce the number of carparks and bicycle spaces required to be provided;
- Use the land to sell or consume liquor; and
- Create access to the Princes Highway (TR22).

PERMIT REQUIREMENT

A planning permit is required pursuant to the following clauses of the Cardinia Planning Scheme:

- Clause 32.08-1 (General Residential Zone), a permit is required to use the land for food and beverage premises (Section 2 Use) and Office use prohibited (Section 3 use).
- Clause 32.08-5 (General Residential Zone), a permit is required to construct a building or carry out works for a use in Section 2 of Clause 32.08-2.
- Clause 43.01-1 (Heritage Overlay), a permit is required to construct a building or construct or carry out works.
- Clause 52.05 (Signs), a permit is required for business identification signage (Category 3 – High amenity areas).
- Clause 52.06 (Car Parking), a permit is required to reduce the number of car parking spaces required under Clause 52.06-5.
- Clause 52.29 (Land Adjacent to the Principal Road Network), a permit is required to create or alter access to a road in a Transport Zone 2 (Princess Highway).

PROHIBITED USES & COMMERCIAL DEVELOPMENT WITHIN THE PSP

The proposed mixed-use development includes uses that are prohibited under the applicable zone and the amendment is sought to enable these prohibited uses to be considered for the subject site.

An Economic Assessment (Ethos Urban) of the proposed development provides justification for allowing prohibited uses for the site and details the likelihood of various permitted uses as well as the proposed development to achieve a practical and commercial development outcome for the subject land. The permissible uses for the site are determined to be insufficient to provide for the future conservation of the heritage place, and the proposed Office use is considered to represent a reasonable use that provides several distinct advantages, as reverberated below:

- *Subject to design and location, it can provide a higher built form quality than alternative uses where significant signage and at-grade parking represent critical success factors.*
- *Office development can take on a vertical scale that other uses are unlikely to in an outer suburban location.*
- *With considerably fewer traffic movements per day, an office development is more easily able to accommodate parking within the building's footprint (e.g. basement or undercroft parking).*
- *An office development is more able to generate a scale of development able to subsidise ongoing costs associated with the Kiln and/or site-specific and heritage related landscaping.*

The normally available range of permissible uses for the subject land are insufficient to provide for the future conservation of the heritage buildings given:

- It is unlikely that the most obvious permissible uses for the site (such as medical, child care) could incorporate and readapt the heritage structures within these types of developments in a meaningful way.
- The scale of development associated with permissible uses would be insufficient to generate the return required to subsidise the refurbishment of the Kiln and any ongoing costs associated with its preservation and maintenance.
- The land remains underutilised, and the heritage structures are in significant decline despite the site's extensive planning permit history. Council's previous decision to refuse an application to subdivide the land into smaller residential lots was upheld by the Tribunal as it did not provide for the future conservation of the heritage structures or enhance the heritage significance of the site. The Ethos Urban report considers that *any conventional residential development of the subject site for detached housing or townhouses/units is not practical as the development would 'overwhelm' the subject site and physically limit any redevelopment of the kiln building itself; and that a higher density development is unlikely to be commercially viable in a growth area setting.*
- The need to ensure a built form outcome that minimises at-grade parking and minimises building footprints. An office outcome is particularly important in this regard due to the ability to realise vertical scale and incorporate car parking within the building's footprint through the use of undercroft parking.

The amendment will enable prohibited uses to be considered for the site. The Office use (prohibited use under the GRZ (the applied zone)) and Food and Beverage Premises use (other than Restaurant) (prohibited use in the UGZ where the applied zone is GRZ) are both proposed for the site and are considered an appropriate planning outcome when having regard for the below:

- The site attributes support commercial development given its location within a high population growth area and the benefits the site derives from significant levels of exposure and accessibility associated with the Princes Highway frontage.
- The proposed commercial uses are consistent with existing development along the Princes Highway which are predominately retail and commercial in nature.
- The prohibited uses have been proposed as they are the most reasonable and compatible uses for the site.
- As per the Ethos Urban report, the permissible uses for the site are unlikely to provide practical or commercially viable outcomes for the site, whereas the proposed prohibited uses can ensure the future

restoration, preservation and ongoing maintenance of the Kiln and Chimney, retain the visual link to the original clay pit to the west and complement the amenity and attraction of these heritage elements.

- The proposed uses promote community engagement and allow members of the public to visit and enjoy the reinvented spaces.
- The proposed uses will create social and economic benefits for the community, including local employment and trade opportunities within a new residential estate the wider Officer community.

Under the Officer PSP, the site is not located within an area designated as either Core Business or Peripheral Commercial. The proposed Office use is justified and in keeping with the Officer PSP when having regard for the below:

- The Officer PSP designates the subject land for residential development, however, the previous planning permit application and subsequent VCAT hearing highlighted the incompatibility of residential subdivision/development for this site.
- The Officer PSP does not recognise the unique attributes of the subject site and the proposed Office use enables the viable development of the site and makes best use of the site's excellent exposure, access and amenity.
- The Office use enables development that gives good effect to the Image and Character objectives (4.1.1), Heritage objectives (4.5.8), and Transport objectives (3.2.5) and Employment objectives (4.3.1) of the Officer PSP, as well as the planning and design guidelines for historical and cultural characteristics.

The proposed café (Food and Beverage Premises (Other than Restaurant)) is appropriate for an urban growth area, and as part of a mixed-use development will enhance the vitality of the development and bring people to the site during the day. The café complements surrounding residential uses and is supported by the subject site's location along a regionally significant walking/cycling network. The proposed café will provide a local meeting place for local residents in the absence of village style shopping and café strips observed in more established neighbourhoods and will further enhance opportunities for social interactions and the liveability and walkability of a new residential estate.

PARTICULARS

The proposal provides for a mixed-use development across three levels and the particulars of each of the proposed uses are tabled below:

USE	DETAILS	AREA
Restaurant & Wine Bar	60 patrons Incorporates the existing kiln floor area & kitchen	188sqm
Café		39sqm
Office	Level 1: 332m ² Level 2: 205m ² Balcony: 96m ²	537sqm

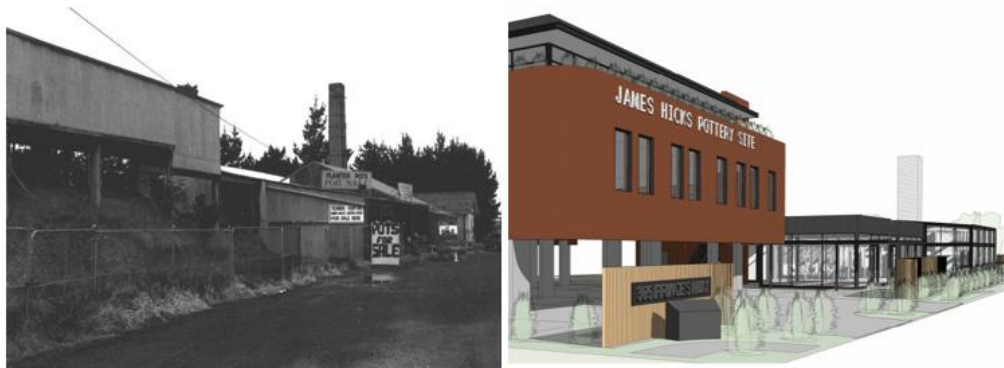
HOURS OF OPERATION							
USE	MON	TUES	WED	THUR	FRI	SAT	SUN
Restaurant	4-9pm	4-9pm	4-10pm	4-11pm	4-11pm	11am-11pm	11am – 10pm
Café	6am – 3pm	6am – 3pm	6am – 3pm	6am – 3pm	6am – 3pm	6am – 3pm	6am – 3pm
Office	7am – 5pm	7am – 5pm	7am – 5pm	7am – 5pm	7am – 5pm		

DESIGN RESPONSE

The proposed built form includes a three-storey office building with undercroft parking and lift stack, a detached single storey building for the cafe, a detached single storey building for the restaurant and a steel framed glazed structure to encase the brick kiln structure. The design incorporates the brick kiln and chimney into the development and proposes new readaptive uses for the structures.

The built form has taken design cues from the brick kiln and chimney structures to ensure new buildings respond and contribute to the heritage setting:

- The proposed new buildings borrow on the industrial aesthetic provided by the heritage structures in terms of materials, form, colours etc.
- The restaurant, café and wine bar buildings are modular and industrial in appearance with steel frames and clear glazing. These buildings are a subtle nod to the former structures on the site that have since been demolished:



- The heritage elements have been incorporated into the proposed design which provides a strong visual reminder of the site's former use and celebrates Officer's industrial history. The chimney structure has guided the height of new buildings and balances the scale of built form across the site. The low height of the café and restaurant buildings ensures the heritage structures are not overwhelmed within the development and remain a visually dominant feature of the site.
- The siting of new buildings has maintained the visual connection between the disused clay pits to the west and the kiln and chimney structures, recognising that this connection contributes to the overall heritage setting. The provision of landscaping, pathways and interpretive signage further reinforces this connection.
- A steel framed glazed structure will encase the brick kiln and provides assurances as to the protection and ongoing conservation of the heritage structure. The clear glazing provides a high level of visual permeability from the public domain and feature lighting will further highlight the existence of the kiln:



Interface treatments have sought to integrate the development within the existing residential neighbourhood and open space/walking path network adjacent to the Princes Highway. The existing Grace Street footpath is proposed to be extended to provide connection to the Grace Street entry to the site and bicycle facilities have been incorporated into this frontage.

The proposed fencing treatment:

- Is engaging and innovative with a high level of visual permeability;
- Complements the industrial aesthetic sought for the development and is integrated within the development with high-quality landscaping;
- Is curvilinear in sections to help facilitate the movement of pedestrians and vehicles within the site and guide visitors to site access points, interpretive signage etc; and
- Does not contribute to or create unsafe environments, disrupt the visual link to the former clay pits, detrimentally impact on the wider heritage setting or obstruct passive surveillance to or from the site.

The proposed landscaping:

- Features low height planting along the western and southern interfaces to maintain the visual connection to the former clay pits to the west and enhance views to the site from the public realm and the Princes Highway;
- Incorporates seating to the front of the café to encourage visitors to rest and appreciate the heritage buildings;
- Employs ground level planting and third storey balcony planting to screen the development from adjoining residential land to the north.
- Includes paths within the development that facilitate the movement of people across the site and provide opportunities for the provision of interpretive signage.

Potential amenity impacts to residential land to the north of the site have been identified and responded to throughout the design process:

- The subject land is lower than the adjoining lot to the north which helps to lower the overall height of the proposed office building and increases the height of the boundary fence from the carpark;
- Screen planting is proposed along the northern boundary of the carpark;
- The proposed third storey is tiered with a balcony design that incorporates planter boxes to prevent overlooking to adjoining residential lots;
- The restaurant and café buildings have been treated with a high standard of design finishes along the Grace Street interface to create visual interest and enhance views to the site from the street and nearby residential lots.

ACCESS, CARPARKING & WASTE MANAGEMENT

Pre-application advice from the Department of Transport and Planning (DTP) has informed the proposed vehicle access and car parking provisions.

In response to DTP advice, the proposed access and car parking design:

- Ensures that a B85 vehicle can successfully enter and exit the critical parking space in a single manoeuvre and up to a three point turn whilst entering and existing the site in a forward direction;
- Enables vehicles to circulate in a one-way direction using the 'u' shaped carriageway within the carpark;
- Prevents vehicles entering Grace Street from the Princes Highway via the proposed car park; and
- Provides for left in/left out ingress and egress from the site to the Princess Highway, which will be enforced by the existing central median passing the site.

The creation of access to the Princes Highway will be to the satisfaction of the Head, Department Transport and Planning. It is anticipated that mitigation measures to prevent informal car parking along the Princes Highway gravel shoulder will be conditioned as part of any permit granted.

A Traffic Impact Assessment report and swept path diagrams have been prepared by TTM Consulting Pty Ltd (March 2024) in support of the proposed development and confirm the adequacy of the proposed vehicle access and car parking provisions, and the ability of the adjacent road network to accommodate the level of additional traffic generated by the proposal.

The statutory car parking requirements of Clause 52.06-5 have been addressed in subsection 8 of this report. The car parking spaces, accessways and gradients have been designed in accordance with the design criteria outlined in Clause 52.06-9.

The loading bay and waste storage and collection area is proposed to be accessed from Grace Street. The Waste Management Plan (WMP) prepared by *One Mile Grid* includes swept path diagrams which demonstrate that a 6.4 metre rear-lift waste collection vehicle (mini-loader) can successfully enter the site from Grace Street, prop within the bin storage area, and transfer the bins to a waiting truck for emptying.

It is anticipated that any planning permit, should one be granted, will include standard engineering conditions including building and site drainage approval, construction (sealing) of all access, circulation, loading and parking areas, waste management, and requirements for environmental management during construction.

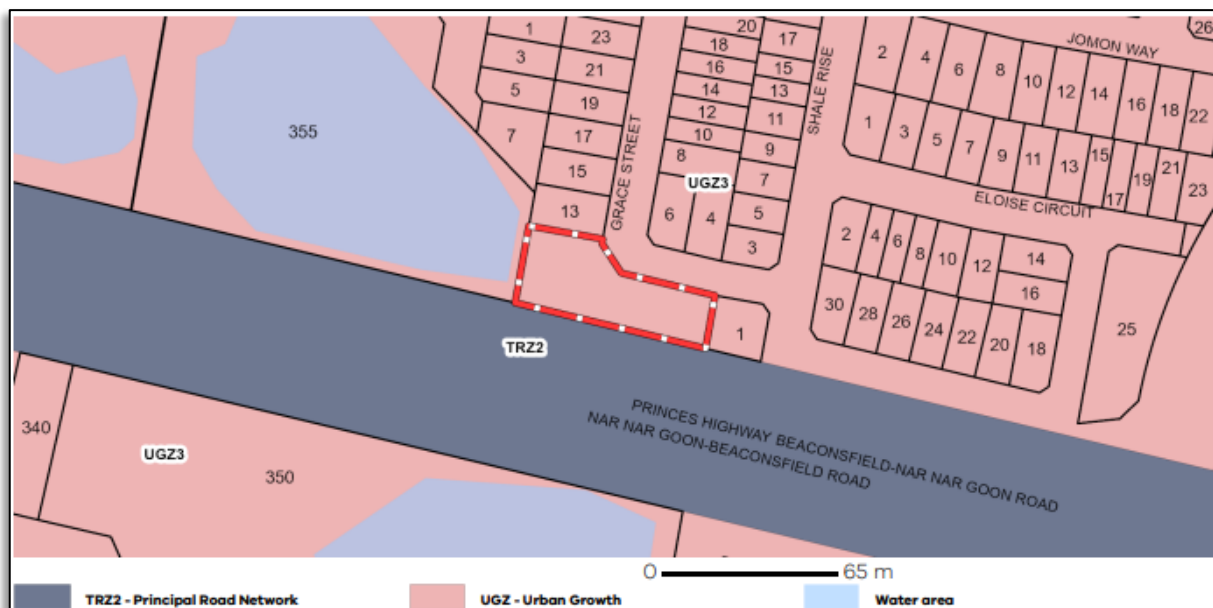
5. RELEVANT PLANNING CONTROLS

The following section addresses the objectives and requirements of the zoning and overlay controls relevant to the subject site identifying how these planning controls relate to the proposal, trigger an assessment and how we have addressed the requirements of planning provisions.

ZONING CONTROLS

CLAUSE 37.07 URBAN GROWTH ZONE - SCHEDULE 3

The subject site and all surrounding land is mapped within the Urban Growth Zone – Schedule 3 (UGZ3) in the Cardinia Planning Scheme:



ZONING MAP (VICPLAN)

Schedule 3 applies to residential land included in the Officer Precinct Structure Plan (September 2011, Amended November 2019). The applied zone provisions of the schedule to the zone include the land in the General Residential Zone. An assessment of the proposal against the relevant purposes, requirements and decision guidelines of the GRZ is provided below.

APPLIED ZONE - CLAUSE 32.08 GENERAL RESIDENTIAL ZONE

The General Residential Zone (GRZ) seeks to:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth, particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Neighbourhood character objectives

- No neighbourhood character objectives are contained within the schedule to the zone.

Requirement for a permit

- The use of the land for a food and drink premises is a section 2 use (permit required) in the GRZ however, food and drink premises (other than restaurant) is a prohibited use under the UGZ3 where the applied zone is GRZ.
- Amendment VC232 amended the table of uses in Clause 32.08-1 and consequentially, Office use was revised from a Section 3 (prohibited) use 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 office use is by virtue a prohibited use for the site because it does not meet the requirements of the zone.
- The planning scheme amendment to be assessed concurrently with this planning permit application seeks to amend the schedule to the Heritage Overlay to allow Council to consider a prohibited use for the site which would enable the proposed Office and Food and Beverage Premises uses to be considered for the site where they can demonstrably contribute to the ongoing conservation of the heritage place.
- A permit is required to construct a building or construct or carry out works for a Section 2 use in Clause 32.08-2.

Maximum building height

Clause 32.08-10 has regard for the maximum building height requirement for a dwelling or residential building. No dwellings or residential buildings are proposed as part of the development.

An assessment of the proposed built form (including building height) is provided within subsection 4 of this report.

Application requirements

The site features have been accurately described as per the site and surrounds response within subsection 2 of this town planning report, *TP-01 Neighbourhood Context Plan* (UXD Group) and the *Feature & Level Plan* (Nobelius Land Surveyors).

Assessment of the proposal against the decision guidelines

The relevant considerations for non-residential use and development, as outlined in the decision guidelines contained in Clause 32.08-13 are:

General

- *The Municipal Planning Strategy and the Planning Policy Framework.*
The proposal is consistent with the Municipal Planning Strategy, the relevant policies and provisions of the State and Local Planning Policy Framework and the Officer Precinct Structure Plan. Please refer to subsections 5-8 of this planning report for an assessment of the proposal against the relevant planning considerations.
- *The purpose of this zone.*
- *The objectives set out in a schedule to this zone.*
The proposed mixed-use development is consistent with the purpose of the GRZ, particularly the purpose to 'allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations'. No specific objectives are contained in the schedule to the zone. The subject site shares a common boundary with a single residential lot, and the balance of the title boundaries are demarcated spatially from residential uses by existing open space or road abutments. As such, the potential for adverse residential amenity impacts

can be mitigated through design and sensitive interface treatments. Given the above, the development of the site for non-residential uses is considered appropriate as it will provide social and economic benefits to the community and will provide for the restoration, readaptative use and long-term conservation of a heritage place.

- *The impact of overshadowing on existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Mixed Use Zone, Neighbourhood Residential Zone, Residential Growth Zone or Township Zone.*
The proposed buildings do not overshadow any existing rooftop solar energy systems on dwellings on adjoining lots. Please refer to the 9am, 12pm and 3pm shadow diagrams in *TP-12*, *TP-13* and *TP-14*.

Non-residential use and development

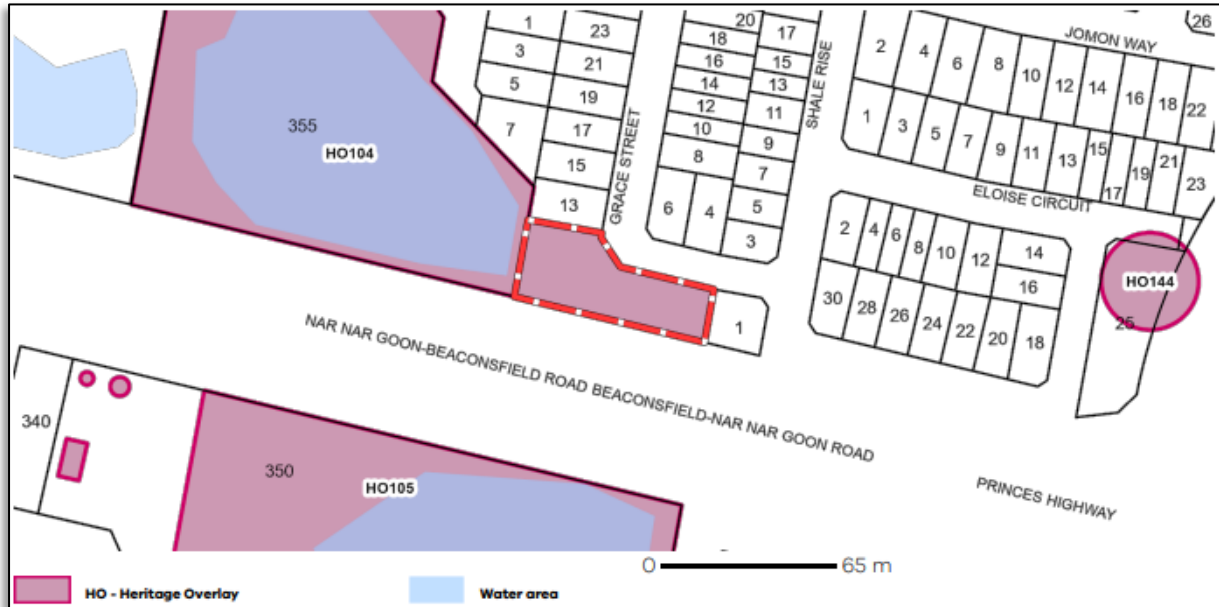
- *Whether the use or development is compatible with residential use.*
- *Whether the use generally serves local community needs.*
As per previous responses.
- *The scale and intensity of the use and development.*
- *The design, height, setback and appearance of the proposed buildings and works.*
Please refer to subsection 4 of this report for a detailed design response that describes how the height, setback and appearance of the proposed built form responds to the site and surrounds.
- *The proposed landscaping.*
Landscaping plans have been prepared and provided for Council's review as part of this submission.
- *The provision of car and bicycle parking and associated accessways.*
The development plans prepared by UXD Group and provided for Council's review have made provisions for car parking and bicycle parking that promote safe and convenient use and access.
- *Any proposed loading and refuse collection facilities.*
Loading and waste storage areas have been designated in 'dead' areas of the development that can be accessed by delivery and waste collection vehicles. Please refer to the Waste Management Plan prepared by One Mile Grid.
- *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*

Comments from the Department of Transport and Planning (DTP) have been addressed in the design response and the Traffic Impact Assessment prepared by TTM Group details all relevant traffic and car parking considerations.

OVERLAYS

CLAUSE 43.01 HERITAGE OVERLAY - SCHEDULE (HO104)

The Heritage Overlay (HO104) applies to the subject land and the land immediately to the west containing the former clay pits associated with the James Hicks Pottery Pty Ltd site:



HERITAGE OVERLAY MAP (VICPLAN, 2024)

The Heritage Overlay contains the following purposes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To conserve and enhance heritage places of natural or cultural significance.
- To conserve and enhance those elements which contribute to the significance of heritage places.
- To ensure that development does not adversely affect the significance of heritage places.
- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Requirement for a permit

Pursuant to **Clause 43.01-1 Permit requirement**, a permit is required to construct a building or construct or carry out works.

Schedule to the overlay

The schedule to Clause 43.01 identifies the subject site as HO104, James Hicks Pty. Ltd. Pottery, 365 Princes Highway, Office. External paint controls, internal alteration controls, and solar energy controls apply. Outbuildings and fences are not exempt under Clause 43.01-4. The site is not listed on the Victorian Heritage Register under the Heritage Act 2017. Prohibited uses are not currently permitted for the site.

Heritage significance

The heritage citation for the subject site is contained within the Cardinia Shire Heritage Study Vol. 3 Heritage Places. The citation for the James Hicks Pty Ltd Pottery site details the following:

This industrial complex with its collection of brick and iron structures on north side of the Princes Highway has historical significance for its associations with the origins and development of the important district brick, pipe and pottery industries. It has rarity not only within the region but within the State as a relatively intact and still operating pottery with some early kiln remains.

The heritage significance of this site is described below:

James Hicks Pty Ltd. Pottery (kiln, early clay sheds, office) is significant to the Cardinia Shire as one of the Shire's two early terra-cotta manufacturing complexes which still retains notable early elements and highlights the development of extractive and secondary industries in the district. This pottery is an important district industrial site with remaining brick kilns and other structures associated with brick-making, pipe-making and pottery production from the post-First World War era. The site is also linked with the locally important family, Hicks.

Decision Guidelines

The following decision guidelines are relevant to the proposal and have been considered in the design response:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.*
- *Any applicable statement of significance (whether or not specified in the schedule to this overlay), heritage study and any applicable conservation policy.*
- *Any applicable heritage design guideline specified in the schedule to this overlay.*
- *Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.*
- *Whether location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.*
- *Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.*
- *Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.*
- *Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.*

Assessment of the proposal against the Heritage Overlay

The Heritage Impact Statement (hereafter HIS) prepared by Anthemion Consultancies (August, 2023) in support of the proposal informed the proposed design and overall development in terms of land use and built form typologies, signage, interface treatments and landscaping. The HIS has regard for the heritage significance of the site and reaffirms the view of the Tribunal in **Timbertop East Pty Ltd v Cardinia SC [2021] VCAT 558** that any development of the site must maintain the visual and physical connection between the clay pits and the kiln and chimney.

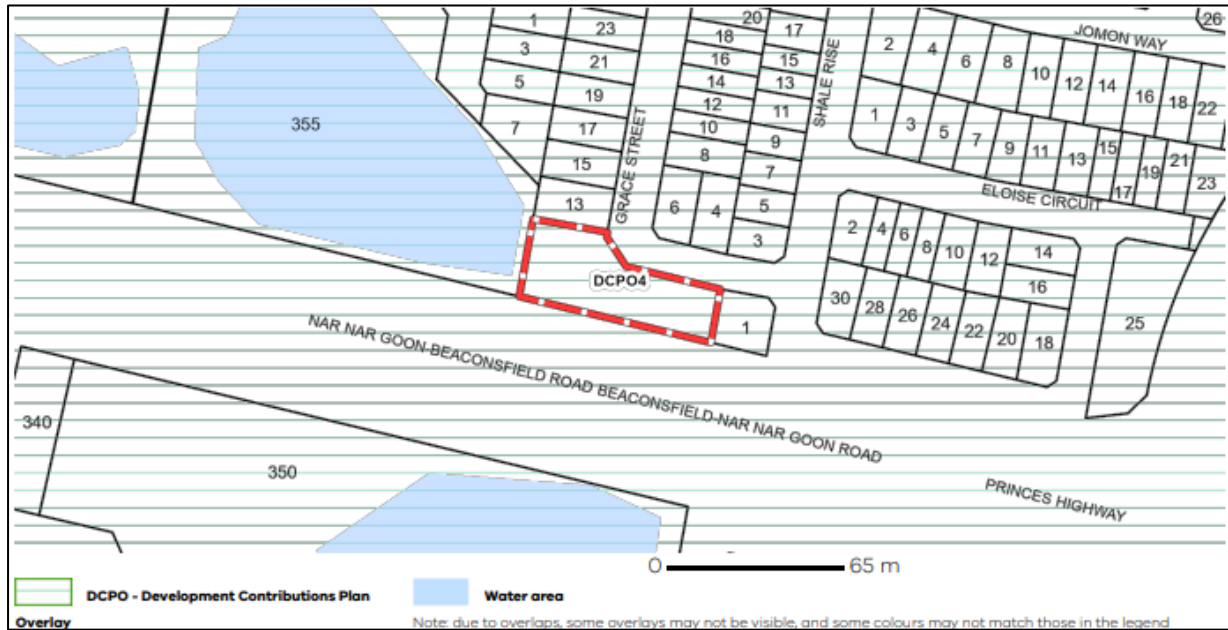
Whilst the historic use of the kiln and chimney is now redundant, the proposal seeks to restore and readapt the heritage structures which will result in their long-term conservation. The proposed office, restaurant, café and wine bar uses all benefit from the modern industrial aesthetic that the chimney and kiln provide, and the steel framed and glazed structure will help to conserve the structural integrity of the brickwork comprising the kiln. The proposed uses all promote community engagement and allow members of the public to visit and enjoy the reinvented spaces. The proposed office building is to include large letter signage that will be visible from the Princes Highway that pays homage to the sites former use and provision has also been made for interpretive signage throughout the site.

The HIS provides a detailed assessment of the proposal against all relevant heritage considerations and concludes in points 45-48 that the proposal is considered an appropriate outcome for the James Hicks Pottery Site (HO104), is consistent with all relevant Heritage Policy and that there is no heritage reason not to grant a permit.

In summary, the proposal presents an excellent opportunity for development that promotes and celebrates a heritage place in Officer.

CLAUSE 45.06 DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY - SCHEDULE 4

The DCPO4 applies to the subject site and all surrounding land:



DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY MAP (VICPLAN, 2024)

The purpose of the Development Contributions Plan Overlay is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

Pursuant to Clause 45.06-1 a permit must not be granted to subdivide land, construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme. This does not apply to the construction of a building, the construction or carrying out of works or a subdivision specifically excluded by a schedule to this overlay.

A permit granted must:

- Be consistent with the provisions of the relevant development contributions plan.
- Include any conditions required to give effect to any contributions or levies imposed, conditions or requirements set out in the relevant schedule to this overlay.

Schedule 4 (Officer Development Contributions Plan, September 2011, amended November 2019) applies to the subject site. The Community Infrastructure Levy (CIL) payable under this Development Contributions Plan (DCP) is subject to Section 46L of the *Planning and Environment Act 1987*, which sets the maximum CIL amount that can be collected under an approved DCP. It is anticipated that any applicable CIL will be included as a Planning Permit condition should a Planning Permit be issued.

6. MUNICIPAL PLANNING STRATEGY & VISION

CLAUSE 21.01 CARDINIA SHIRE KEY ISSUES AND STRATEGIC VISION

The snapshot of the Cardinia Shire as outlined in **Clause 21.01-1** describes how *the majority of the Cardinia Shire's population is located within the urban areas of Beaconsfield, Officer and Pakenham. These areas are within the Casey-Cardinia South-east Growth Corridor and will accommodate the majority of future residential and commercial growth.*

The key issues facing Cardinia are outlined in **Clause 21.01-3** and are categorised into five strategic themes – environment, settlement and housing, economic development, infrastructure and particular use and development. The following key issues are considered to be particularly relevant to this proposal:

- *Environment: The protection and enhancement of areas and places of heritage significance*
- *Economic development: The development of a balanced local economy and local employment opportunities for residents.*
- *Particular use and development: Encouraging an attractive, functional and sustainable built form in existing and future development.*

The proposal provides for the readaptation and conservation of a heritage place within the Cardinia Shire, and the proposed built form is responsive to the heritage setting. The proposed design borrows on the form, scale, materials and finishes of the heritage structures and incorporates these elements into the new buildings to tie the old to the new. The proposed uses create local employment opportunities close to where people live and supports economic growth within the local economy. The movement of vehicles and pedestrians within the development and the provision of adequate and useable car parking has been considered in the design.

The proposal is consistent with the strategic vision for Cardinia, as outlined in **Clause 21.01-4**:

'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 proposal is responsive to the Strategic Framework Plan (**Clause 21.01-5**), which designates Officer as being within the Urban Growth Zone and a location where residential development should be encouraged. The proposed development does not provide for residential development, however, the proposed mix of uses are complementary with residential development and support the service and employment needs of people who live within the precinct.

CLAUSE 21.02 ENVIRONMENT

Clause 21.02-6 Post-contact heritage outlines that:

The rich and diverse cultural heritage of Cardinia Shire illustrates the historic use, development and occupation of the land. This history is demonstrated by a wide range of heritage places that include buildings and structures, monuments, trees, landscapes and archaeological sites. These places give Cardinia a sense of historic continuity as well as demonstrating the economic, social and political circumstances of the time.

The proposal is consistent with the post contact heritage objectives contained within **Clause 21.02-6** as it:

- Protects a site of regional and local heritage significance.
- Promotes the conservation of a site with local heritage interest.
- Proposes a mixed-use development that reuses an existing heritage place. The food and beverage premises are section 2 uses in the GRZ1, and the inclusion of a prohibited use (office) is considered appropriate as it will assist in the conservation of the heritage place (by ensuring the development is

financially viable and can generate consistent income to fund the conservation and ongoing maintenance of the heritage structures).

- Highlights the significance of the heritage buildings within the development. The proposal provides for interpretive signage and new buildings have been sited to enhance the visual link to the former clay pits to the west. A steel and glass structure over the kiln with feature lighting highlights its presence on the site.
- A Heritage Impact Statement has been prepared in support of the proposal by Anthemion Consulting and the developer has worked closely with Robyn Riddett to ensure the proposal responds to all relevant heritage considerations and is compatible with its heritage setting.

CLAUSE 21.03 SETTLEMENT AND HOUSING

The proposal is consistent with the key principles for the development of precincts within the Urban Growth Areas of the municipality (**Clause 21.03-3 Urban Growth Area**), particularly:

- *To attract commercial investment and create diverse employment opportunities.*
- *To achieve good urban design outcomes with a strong urban character.*

The proposal helps to address key issues associated with environment, settlement, economic development and particular use and development by facilitating the sustainable development of land in the Urban Growth Zone, enabling the development of a balanced local economy and local employment opportunities for residents, and by protecting and enhancing a place of heritage significance. The proposal will enable a use and development outcome with attractive, functional and sustainable built form that will integrate within its heritage setting and the wider residential neighbourhood.

CLAUSE 21.04 ECONOMIC DEVELOPMENT

The proposal provides an excellent opportunity to create diverse employment opportunities within close distance to where people live. This is consistent with the objective of Clause 21.04-1 Employment, which seeks to *develop diverse local employment opportunities to meet the needs of a growing residential population.*

CLAUSE 21.06 PARTICULAR USES AND DEVELOPMENT

Clause 21.06-1 Urban Design has regard for the long-term benefits associated with good design, and recognises the good design is site responsive and considers the character and constraints of the site and its context. The proposal is consistent with the urban design objectives. The proposed development provides high quality architectural design that responds to the heritage setting as well as the residential, open space and Princes Highway/Grace Street interfaces. The development provides architecturally designed built form in a prominent location that contributes to a strong character and identity for Officer. The development is further enhanced through the provision of extensive landscaping and connection to the existing pedestrian/cycling network.

The proposed development provides for good passive surveillance of the public realm and adjoining areas of open space, and safe and convenient access for pedestrians and vehicles in keeping with the community safety objectives of **Clause 21.06-2**.

7. STATE AND LOCAL PLANNING POLICY FRAMEWORK

This part of the report assesses and responds to the legislative and policy requirements for the project outlined in the Cardinia Planning Scheme and in accordance with the Planning and Environment Act 1897. The relevant clauses of the Planning Policy Framework for developments of the type presented in this report are largely contained in Clauses 11, 13, 15, 17, 18 and 19. The Local Planning Policies that are relevant include Clauses 22.04 and 22.09.

An assessment against the relevant clauses of the Cardinia Planning Scheme is provided below.

CLAUSE 11 SETTLEMENT

Clause 11 heralds that planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning should contribute toward such elements as health, wellbeing and safety; Diversity of choice; Economic viability; A high standard of environmental sustainability, urban design and amenity; Accessibility; Land use and transport integration and also facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

Clause 11.01-1S Settlement seeks to *facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements*. The proposal is consistent with this objective and the strategies contained within Clause 11.01-1S, particularly those that have regard for the promotion and capitalisation of opportunities for urban renewal and infill redevelopment. The strategy *ensure retail, office-based employment, community facilities and services are concentrated in central locations* has been considered in the proposal. The development provides for office-based employment within an existing residential precinct, and this use is considered appropriate for the subject site given the site's frontage to the Princes Highway and that the additional uses proposed in this development will operate in symbiosis with the office use. The proposal is consistent with the strategy to *create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal projects, that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities* as contained in **Clause 11.01-1R Settlement – Metropolitan Melbourne**.

Clause 11.03-2S Growth areas seeks to *locate urban growth close to transport corridors and services and provide efficient and effective infrastructure to create sustainability benefits while protecting primary production, major sources of raw materials and valued environmental areas*. The subject site is within an urban growth zone, and any development of the subject site and the wider Officer precinct is guided by and must be in accordance with the Officer Precinct Structure Plan (PSP). The proposal is consistent with the requirements of the Officer PSP, and the proposed use and development of the site is further supported by the strategies of **Clause 11.03-2S**, including the need to provide for significant amounts of local employment opportunities, and the need to protect areas of heritage significance.

CLAUSE 13 ENVIRONMENTAL RISKS AND AMENITY

The proposal has been informed by detailed site investigations which aligns with the objective of **Clause 13.04-1S** to ensure contaminated and potentially contaminated land is used and developed appropriately and safely.

CLAUSE 15 BUILT ENVIRONMENT AND HERITAGE

Clause 15 is particularly relevant to this development proposal and the subject site given its heritage significance, and outlines among many objectives, that:

- *Planning is to recognise the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods.*
- *Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context.*
- *Planning should protect places and sites with significant heritage, architectural, aesthetic, natural, scientific and cultural value.*
- *Planning must support the establishment and maintenance of communities by delivering functional, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban design.*
- *Planning should promote excellence in the built environment and create places that:*
 - *Are enjoyable, engaging, and comfortable to be in.*
 - *Support human health and community wellbeing.*
 - *Accommodate people of all abilities, ages and cultures.*
 - *Contribute positively to local character and sense of place.*
 - *Reflect the particular characteristics and cultural identity of the community.*
 - *Enhance the function, amenity and safety of the public realm.*

CLAUSE 15.01 BUILT ENVIRONMENT

Clause 15.01-1S Urban design has the objective *to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.* The proposed built form is responsive to its context and the heritage significance of the structures on the site and their wider setting. The proposal provides high quality urban design that responds to its prominent location within the Officer precinct and interface with the principal road network. The proposed design has considered the need to maintain sight lines and enhance the visual connection between the former clay pits to the west of the site and the kiln and chimney structures on the site. The proposed design has incorporated design elements that guide the viewers eye from the former clay pit to the kiln and chimney to reinforce the connection between these elements on the site, such as building setbacks, curvilinear walls and fences, low level landscaping and connective paths with opportunities for interactive signage. The kiln is proposed to be encased within a steel and glazed structure that enables the kiln to remain visible from the street. The built form has taken design cues from the materials, height, and form of the heritage structures on the site and incorporated these elements into the design, resulting in a cohesive contemporary industrial aesthetic. The letter signage provides an insight into the heritage significance of the site from the public domain and is of contemporary design that complements the proposed built form.

The development contributes to community and cultural life by improving access to quality living and working environments. The buildings can be accessed by and accommodate people of all abilities, ages and cultures. The design and location of publicly accessible spaces are of a high standard, useable and safe. The development, including the proposed signage, is not considered to detrimentally impact on the amenity of surrounding land uses or the natural or built environment.

The proposed design has considered the safety of users within and surrounding the development. The development is not considered to detrimentally impact on the safety or efficiency of the existing road network. An assessment of traffic generated by the proposal on the adjoining road network, vehicle movements within the development and the provision of car parking has been provided for Council's review (please refer the *Traffic Impact Assessment* prepared by TTM Consulting Pty Ltd).

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 proposed built form is consistent with this objective, and a comprehensive site analysis has formed the basis for the proposed design. The subject site's location within a residential estate, Princes Highway interface, the heritage considerations (including the findings of the Tribunal in *Timbertop East Pty Ltd v Cardinia SC* [2021]) have all influenced the siting, height, scale and massing of the new buildings. The kiln and chimney structures are visually distinctive as utilitarian industrial structures, and design cues from each have been incorporated into the proposed new buildings. The proposed design has ensured that the new buildings do not overwhelm or detract from the heritage structures within the development. The architecturally designed new buildings are complementary to the existing built form and serve to reinforce the role of the the kiln and chimney structures as a landmark within the Officer precinct.

The proposed design has considered the potential for detrimental impacts on neighbouring properties and incorporated the following measures into the design:

- The northern interface has been treated with landscaping to minimise the potential for adverse impacts to the residential amenity of the dwellings to the north.
- The potential for overlooking from the proposed office building has been mitigated through the provision of a balcony on the second floor with planter boxes that screen views to the secluded private open space of residential lots to the north. It is proposed that the 0.7m site cut combined with the 2.0m high fence will obscure any potential for overlooking from the first floor. Please refer to the overlooking diagram in *TP-08* for further clarification.
- The northern wall of the restaurant will be clad with an acoustic treatment to minimise the potential for detriment to the residential amenity of land to the north.
- The orientation of the subject site ensures that the proposed buildings do not cast shadows on residential land to the north.
- The siting of the built form on the land has considered the benefits of passive solar gains when having regard for building energy performance. The reuse of rainwater, stormwater and recycled water will be facilitated where practical.
- The proposed loading bay and refuge provision area is not foreseen to detrimentally affect any surrounding land and the separation, storage and collection of waste has been provided for within the development. Please refer to the *Waste Management Plan* prepared by One Mile Grid.
- Interfaces with the public realm have been considered in the proposed design and the buildings are not foreseen to adversely impact on the function or amenity of public spaces or contribute to any unsafe environments. The under-croft car park is visible from all elevations and will be well lit.

The kiln structure is proposed to be incorporated into the development and used as a wine bar which is consistent with strategies which have regard for the reuse of materials and readaptive use of buildings. Built form and impermeable surfaces are proposed to cover 40.9 per cent of the site and the proposed design has incorporated measures that support on-site infiltration such as permeable paving and the provision of extensive landscaping throughout the site (please refer to the *Landscape Plan* prepared by Zenith Consulting). The landscape plan responds to the sites opportunities and constraints, and has incorporated low-level planting along the Princes Highway interface to maintain and enhance views to the site. Screen planting has been incorporated as a buffer along the residential interfaces and is not considered to contribute to the creation of any unsafe spaces. The landscape plan proposes planter boxes on the second level balcony to soften the visual bulk and height of the building and connect the office building to the balance of the open spaces throughout the site.

The subject site is located within an existing residential estate (the Timbertop Estate) which features a high level of pedestrian and cyclist connectivity throughout the street network. The proposed design has incorporated the provision of bicycle parking spaces within the development and proposes internal paths that will connect to the existing shared user path along the Princes Highway and footpath on Grace Street. These measures are in keeping the objective to achieve neighbourhoods that foster healthy and active living and community wellbeing as contained in **Clause 15.01-4S Healthy neighbourhoods** and the strategy to create 20 minute neighbourhoods where people can meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home (**Clause 15.01-4R Healthy neighbourhoods – Metropolitan Melbourne**).

Clause 15.01-5S Neighbourhood character seeks to *recognise, support and protect neighbourhood character, cultural identity, and sense of place*. The proposed design is responsive to its context and is considered an appropriate planning outcome when having regard for its location within a residential estate, the heritage significance of the wider setting (the former clay pits to the west) and the Princes Highway frontage. The proposed design contributes high quality urban design to the Officer Precinct and facilitates the preservation and readaptive use of the existing structures on the site. The kiln and chimney stack are landmark features within the Officer landscape and the proposed built form does not detract from this, rather, the proposal highlights their presence on the site. The proposal is complementary to the Berwick Pottery Site to the south of the highway and protects and enhances the valued character attributed to the structures associated with the historical manufacture of clay building products.

CLAUSE 15.03 HERITAGE

The Heritage Overlay (HO104) applies to the subject site and the place citation for HO104 is contained in the *Cardinia Shire (North) Heritage Study Heritage Places* (Butler, 1996). As such, **Clause 15.03-1S Heritage conservation** is of relevance to this proposal and has the objective to *ensure the conservation of places of heritage significance*.

The proposed design has considered the strategies outlined to achieve this objective, including:

- *Provide for the protection of natural heritage sites and man-made resources.*
- *Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.*
- *Encourage appropriate development that respects places with identified heritage values.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements of a heritage place.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- *Support adaptive reuse of heritage buildings where their use has become redundant.*

The proposed mixed-use development incorporates the site's heritage features into the design, and ultimately provides for the conservation and enhancement of the heritage listed structures and the contributory elements of the heritage place. The proposed design has considered the need to integrate the proposed mixed-use development with the disused clay pit to the west and recognises that the two elements are interlinked. Maintaining sight lines from the west to the kiln and chimney structures has been a key design consideration in the siting and design of buildings within the proposed development. Furthermore, the proposal provides for conservation works on the kiln and chimney structures and the interpretation of the site's original function, both of which are described as being good conservation practice in the supporting HIS (Anthemion Consultancies).

CLAUSE 17 ECONOMIC DEVELOPMENT

Clause 17 has regard for economic development and outlines that:

- *Planning is to provide for a strong and innovative economy, where all sectors are critical to economic prosperity.*
- *Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.*

Clause 17.01-1S Diversified economy seeks to strengthen and diversify the economy, and the proposed mixed-use development is consistent with this objective. The subject site's location adjacent to a residential precinct and frontage to the Princes Highway (TR22 – Principal Road Network) also improves access to jobs closer to where people live. This is a salient element discussed at length in our planning scheme amendment (under section 96a) that has been lodged in conjunction with this planning application.

Clause 17.02-1S Business outlines that development that meets the community's needs for retail, entertainment, office and other commercial services should be encouraged. The proposed development is economically viable, highly accessible and makes best use of the site's frontage to the Princes Highway. The mixed-use development will provide net community benefits including the creation of employment opportunities within close proximity to where people live, strengthening of the local economy, providing local residents and visitors to the area with a place to meet, and bolstering a sense of place and community through the preservation and celebration of a heritage site in a prominent place within Officer. This is consistent with **Clause 17.02-2S Out-of-centre development** which outlines that Planning should *ensure that out-of-centre proposals are only considered where the proposed use or development is of net benefit to the community in the region served by the proposal.*

CLAUSE 18 TRANSPORT

Clause 18 has regard for the provision of a safe, integrated and sustainable transport system. The strategies of **Clause 18.01-1S Land use and transport integration** are relevant as the proposed development adjoins the Princes Highway (TR22 - Principal Road Network). The proposed development does not encroach or cause detriment to the current or future function of the Princes Highway. The Traffic Impact Assessment prepared by *TTM Consulting* considers the additional traffic generated by the proposal negligible and easily accommodated within the existing road network. The Princes Highway interface has been treated with appropriate landscaping and signage that are not foreseen to contribute to unsafe conditions.

The proposed development is also consistent with the strategy to *support urban development that makes jobs and services more accessible*. The subject site is well serviced in terms of vehicular access, and several bus stops are within walking distance providing access to the site via public transport. The proposed development connects to the existing footpaths within the Timbertop Estate and along the Princes Highway, which promotes the objectives of **Clause 18.02-1S Walking** and **Clause 18.02-2S Cycling**.

CLAUSE 19 INFRASTRUCTURE

Clause 19 has regard for the provision of social and physical infrastructure, and the proposal is consistent with the strategy to *integrate development with infrastructure and services, whether they are in existing suburbs, growth areas or regional towns (Clause 19.03-2S Infrastructure design and provision)*. The subject site offers good connection to all services, including electricity, water, and telecommunications. **Clause 19.03-5S Waste and resource recovery** seeks to *reduce waste and maximise resource recovery to reduce reliance on landfills and minimise environmental, amenity and public health impacts*. A *Waste Management Plan (WMP)* has been prepared by One Mile Grid that demonstrates that the proposal can satisfactorily manage all waste generated on-site and an acceptable waste collection strategy can be implemented.

CLAUSE 22.04 HIGHWAY DEVELOPMENT

Clause 22.04 seeks to implement the objectives and strategies of the Municipal Strategic Statement when having regard for the use and development of land along the highways in the Shire, including the Princes Highway. The proposed use and development of the site is considered appropriate to front the Princes Highway and a *Traffic Impact Assessment* is provided in support of the proposed creation of access to the highway. Whilst the policies at Clause 22.04-3 promote limiting highway development to a limited number of strategically located service nodes, the subject site is considered an appropriate location for a mixed -use development with access via the Princes Highway.

The heritage setting constrains any further residential subdivision (as per the Tribunal's finding in *Timbertop East Pty Ltd v Cardinia SC [2021] VCAT 558*) and whilst the site is not in a nominated service node, the proposed

use and development of the site provides for the better utilisation of existing urban land and is appropriate when taking into consideration the net community benefit the development will provide in terms of employment, economic growth, and heritage conservation.

CLAUSE 22.09 SIGNS

Clause 22.09 Signs has the objective to *facilitate signs that allow for the reasonable identification and marketing of businesses in Cardinia while enhancing the character of a building, site and area.*

The proposed letter signage identifies the site and pays homage to its former use and heritage significance within the region. The proposed signage is consistent with the general strategies outlined in **Clause 22.09-1**, particularly:

- *Design signs to integrate with heritage buildings or objects to ensure the buildings and architectural features and detailing are not obscured.*
- *Design signs to complement the architectural design, form and scale of the host building or land and avoid signs that:*
 - *Obscure a building's architectural form, features or glazed surfaces.*
 - *Protrude above rooflines or parapets, or beyond the edges of fascia or walls of the host building.*

A detailed assessment of the proposed signage against **Clause 52.05 Signs** is provided in subsection 8 of this report.

PLAN MELBOURNE 2017 - 2050

Plan Melbourne is a metropolitan planning strategy that provides the framework for the future shape of the city and state over the next 35 years. *Plan Melbourne* provides strategies to support growth and jobs that ensure that the distinctiveness, liveability and sustainability of Melbourne is maintained and further built upon. The proposed mixed-use development is supported by many policies and directions contained within *Plan Melbourne*, including:

- **Direction 1.2 Improve access to jobs across Melbourne and close to where people live.**
 - *Policy 1.2.2 Facilitate investment in Melbourne's outer areas to increase local access to employment.*
- **Direction 1.3 Create development opportunities at urban renewal precincts across Melbourne.**
 - *Policy 1.3.1 Plan for and facilitate the development of urban renewal precincts.*
 - *Policy 1.3.2 Plan for new development and investment opportunities on the existing and planned transport network.*
- **Direction 4.4 Respect Melbourne's heritage as we build for the future.**
 - **Policy 4.4.3 Stimulate economic growth through heritage conservation.**
- **Direction 5.1 Create a city of 20-minute neighbourhoods**

The proposal provides for the better utilisation of a former industrial site in Officer, which is consistent with **Policy 1.3.1** which outlines that:

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.

The heritage significance of the site has been sympathetically incorporated into the proposed development, and the readaptive use of the former brick tunnel kiln as a wine bar is consistent with **Direction 1.3** which states:

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.

Along with **Policy 4.4.3**:

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.

The provision of food and beverage premises and offices within a predominately residential neighbourhood promotes the creation of 20-minute neighbourhoods, which is consistent with **Direction 5.1** in *Plan Melbourne* which states that:

A 20-minute neighbourhood must:

- *Be safe, accessible and well connected for pedestrians and cyclists to optimise active transport*
- *Offer high-quality public realm and open space*
- *Provide services and destinations that support local living*
- *Facilitate access to quality public transport that connects people to jobs and higher-order services*
- *Deliver housing/population at densities that make local services and transport viable.*
- *Facilitate thriving local economies.*

The subject site is accessible via walking and cycling paths, public transport (bus), and via motor vehicle on the Princes Highway. The proposal provides employment opportunities and social infrastructure within close proximity to where people live which reduces reliance on private vehicles and promotes sustainability and liveability.

8. RELEVANT INCORPORATED DOCUMENTS

OFFICER PRECINCT STRUCTURE PLAN (PSP) (AMENDED NOVEMBER 2019)

The Officer Precinct Structure Plan (PSP) provides a strategic framework to guide future urban development within the Officer precinct. The subject site is identified as one of several sites in the precinct where the Heritage Overlay applies. The subject site is identified as 365 Princes Highway (James Hicks Pty. Ltd. Pottery) (HO104) in the PSP, and is described as containing a brick kiln, chimney and former clay pit. External paint and internal alteration controls apply. The site is attributed as having regional significance.

The Officer precinct's European heritage is derived from the *development of early small-scale farming, dairying and orchards as well as industrial activities such as brick making* (2.3.1b) which reinforces the heritage significance of the site and its former use within the local area. The Officer PSP outlines a number of objectives that relate to heritage within the precinct in **4.1.1 Image and Character Objectives** and **4.5.8 Heritage Objectives**, including:

- *Conserve and enhance recognised heritage places (4.1.1);*
- *Protect significant sites identified in the area; and (4.5.8); and*
- *Integrate significant sites with the open space network and surrounding development. (4.5.8)*

In addition to these objectives, the following planning and design guidelines for historical and cultural characteristics are outlined (p. 38):

Must:

- *Integrate heritage sites with adjacent subdivision design.*
- *Respond to key features of identified heritage sites.*
- *Ensure view lines to the front of heritage buildings from existing roads is maintained by:*
 - *Siting new development and buildings to the side and rear;*
 - *Ensuring the land between the front of heritage buildings and existing road reserves is used for public open space, private open space or a road.*

Should:

- *Integrate existing heritage elements as a design feature of new development, including:*
 - *Reusing clay pits as part of the drainage system;*
 - *Ensuring new buildings maintain the prominence of kilns and chimneys in the landscape;*
 - *Locating heritage trees in open space or other public reserves, where possible.*
- *Front new development onto heritage sites, to create an active interface between heritage features and new development.*

The proposal responds appropriately to the above-mentioned planning and design guidelines. The heritage structures are an important and visually dominant element of the proposed design and new buildings have been sited to maintain views to the front of the heritage buildings and the former clay pits to the west. The proposed new buildings appropriately respond to all interfaces and integrate well with the surrounds. The HIS (Anthemion Consultancies, August, 2023) considers the proposal to be consistent with all heritage policy and the heritage requirements of the *Officer Precinct Structure Plan*.

The proposal is consistent with the PSP objectives to “to provide for the employment needs of the future population within the Precinct, while also providing access to employment opportunities near the Precinct” (sections **3.2.5 To provide better transport choices** and **4.3.1 Employment and Activity Centres**). The economic benefits associated with additional trade and the employment opportunities generated by the development are consistent with the objectives to:

- *Strengthen the local and regional economy by creating opportunities for new business;*

- *Facilitate the delivery of a wider range of employment opportunities within the Shire, thus reducing the number of residents who out-commute for work; and*
- *Boost access to local employment opportunities in an area that is serviced by public transport and cycling/walking tracks.*

Additional economic and social benefits of the proposal are further discussed throughout this report and supporting documentation.

9. PARTICULAR PROVISIONS

The relevant particular provisions/documents that will be addressed are identified below:

- Clause 52.05 Signs
- Clause 52.06 Car Parking
- Clause 52.27 Licensed Premises
- Clause 52.29 Land Adjacent to the Principal Road Network
- Clause 52.34 Bicycle Facilities

CLAUSE 52.05 SIGNS

Clause 52.05 applies to the development of land for signs and has the following purposes:

- *To regulate the development of land for signs and associated structures.*
- *To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

Clause 52.05 applies to the development of land for signs, and **Clause 52.05-2 Requirements** outlines that there are different categories of sign control, and that the zone provisions specify which category of sign control applies to the site. The General Residential Zone is the applied zone for the subject site. Pursuant to **Clause 32.08-14 Signs**, Category 3 applies.

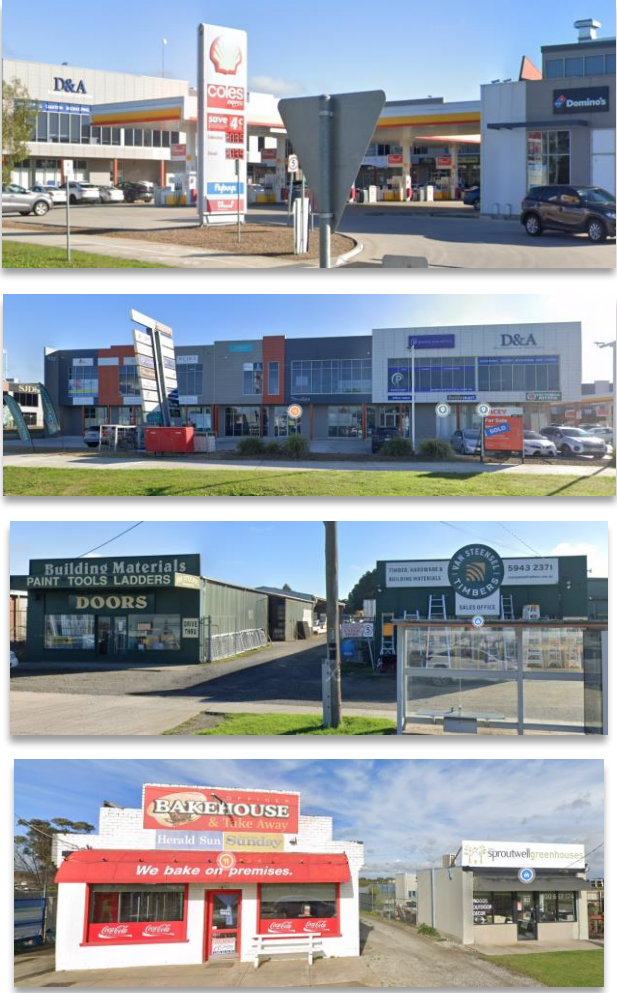
The purpose of **Category 3 – High amenity areas**, as described in **Clause 52.05-13**, is *to ensure that signs in high amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.*

A permit is required to construct or put up for display a *Business identification sign* (section 2 sign) in Category 3. No specific conditions apply. Signage is proposed as part of this planning permit application, please refer to the signage plans prepared by UXD Group Pty Ltd for further details.

An assessment against the decision guidelines contained in **Clause 52.05-8** identifies that the proposed signage:

- Appropriately responds to the site's frontage to the Princes Highway and is consistent with the character of nearby highway development.
- Does not obscure or compromise important views from the public realm.
- Is appropriate in terms of proportion, scale and form relative to the streetscape.
- Does not adversely affect the heritage significance of the site or obstruct the visual connection between the kiln and chimney and the former clay pits to the west.
- Is responsive to the site and built form within the development. The scale and form of the proposed signage is appropriate and responsive to the height and materials of the proposed host building. The proposed typography of the signage is contemporary and complements the industrial aesthetic provided by the heritage structures and materials and finishes of the proposed new buildings. The signage pays homage to the site's former use and heritage significance to the local community and wider region.
- The illumination of the proposed signage does not adversely impact on the safety of pedestrians and vehicles, the amenity of nearby residents or the amenity of the area.
- Provides an excellent opportunity to promote and celebrate the former use of the site, Officer's industrial past, and the significance of the Hicks family within the locality.

- Is not foreseen to contribute to any safety hazards or unsafe road conditions. The size of the type is large and can be easily read at a distance.
- Does not contribute to any visual disorder or clutter of signs and is consistent with the typology, construction methods, materials and colours of advertising signage in the wider area (below):

EAST		The Shell Service centre to the east features monopole signs and those fixed to the built form. Other business signs to the east of the subject site employ contrasting colours and large type to attract attention.
SOUTH		To the south of the Princes Highway is 350 Princes Highway, Officer – the Berwick Pottery Site. The signage employed on this site is affixed to the built form and employs yellow and blue tones.
WEST		Signs to the west that are associated with the 'gateway' to Timbertop estate are setback from the Princes Highway and employ modest materials and finishes to avoid distracting drivers.

VARIOUS EXAMPLES OF SIGNAGE IN THE SURROUNDING AREAS

CLAUSE 52.06 CAR PARKING

Clause 52.06 Car Parking has the following objectives:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of high standard, creates a safe environment for users and enables easy and efficient use.

Pursuant to **Clause 52.06-5** a permit is required to reduce the number of car parks required under Clause 52.06-5.

A *Traffic Impact Assessment* (TIA) prepared by TTM Consulting (March 2024) is provided in support of this application and should be read in conjunction with this response. Please note that this report was prepared prior to the gazettal of VC277 (18 December 2025) and does not reflect amended car parking rates.

The car parking requirements for the proposed land uses outlined in Clause 52.06-5 (recently amended under VC277) of the Planning Scheme are tabled below:

Land use	Car parking rate required	Inventory	Parking required	Car parking provision
Restaurant/Wine Bar	4 to each 100sqm of net floor area	112sqm + 57sqm	7	23
Café	4 to each 100sqm of net floor area	39sqm	1	
Office	3.5 to each 100sqm of net floor area	537sqm	18	
TOTAL			26	23

The site is not located within the PPTN and the Category 1 (minimum requirement) rate applies. The applicant is seeking a parking reduction of 3 spaces against the statutory car parking requirements of Clause 52.06-5 of the Planning Scheme. It is submitted that the reduction is an appropriate planning outcome as not all of the proposed uses will operate concurrently. To justify the reduction in car parking spaces provided, an assessment has been undertaken by TTM Consulting to determine the likely car parking demand generated by the proposed development. The peak parking demand was determined to be up to 25 spaces on the weekend between 9.00am – 3.00pm, thus generating a spillover of up to 2 on-street spaces. This on-street carparking can be provided along Grace Street, which will enable the peak parking demands of the proposal to be met.

It is submitted that the proposed parking reduction is an appropriate planning outcome when having regards to the Car Parking Demand Assessment prepared by TTM Consulting, the purpose of Clause 52.06 in the Cardinia Planning Scheme, the availability of on-street car parking along Grace Street, and the site's proximity to several bus stops and opportunities for pedestrianism facilitated by the interconnected footpaths that connect the subject site to the surrounding growth area suburbs. The car parking reduction is not foreseen to adversely impact on pedestrian amenity or the amenity of surrounding residential areas.

CLAUSE 52.29 LAND ADJACENT TO THE PRINCIPAL ROAD NETWORK

Clause 52.29 has the following purposes:

- *To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.*
- *To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.*

The proposal is seeking approval to create access to the Princes Highway (TRZ2 – Principal Road Network). Pursuant to **Clause 52.29-2**, a permit is required to create or alter access to a road in a Transport Zone 2.

It is proposed to create access from the Princes Highway via separate entry and exit crossovers, both of which are proposed to be 6.0 metres wide. As per preliminary advice provided by the Department of Transport in April, 2023, no opportunity is provided for vehicles to enter Grace Street from the Princes Highway via the subject site and vice versa.

Currently, a live planning permit (T170233 – Use of the land for a restaurant and alteration of access from a Road Zone Category 1) for the subject site permits the creation of access to the Princes Highway.

Please refer to the *Traffic Impact Assessment* prepared by TTM Consulting in March 2024 for further details regarding the proposed access to the Princes Highway, the traffic generated by the proposed development, and the provision of car parking, including swept path diagrams. It is anticipated that a condition will be included on the planning permit, should one be granted, requiring a detailed Functional Layout Plan (FLP) be prepared with details of the access points to the Princes Highway from the subject site.

CLAUSE 52.34 BICYCLE FACILITIES

The proposal seeks approval for a commercial development on a regionally significant pedestrian and cycling trail, and as such, is required under Clause 52.34 to provide secure and weatherproof bicycle parking.

Clause 52.34 has the following purposes:

- *To encourage cycling as a mode of transport.*
- *To provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.*

Pursuant to **Clause 52.34-1 Provision of bicycle facilities**, a new use must not commence or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land.

Table 1 to Clause 52.34-5 Bicycle spaces outlines the required number and type of bicycle facilities required.

A summary of the proposed uses and relevant bicycle facility requirements are detailed below:

Use	Statutory bicycle facility requirement		Use area	Bicycle spaces required	Bicycle spaces provided
	Employee/Resident	Visitor/Shopper/Student			
Office other than specified in this table	1 to each 300sqm of net floor area if the net floor area exceeds 1000sqm.	1 to each 1000sqm of net floor area if the net floor area exceeds 1000sqm	559m ²	0	0
Restaurant	1 to each 100sqm of floor area available to the public	2 plus 1 to each 200sqm of floor area available to the public if the floor area available to the public exceeds 400sqm	112m ²	3	3

Clause 52.34-6 Design of bicycle spaces specifies that bicycle spaces should:

- *Provide a space for a bicycle of minimum dimensions of 1.7 metres in length, 1.2 metres in height and 0.7 metres in width at the handlebars.*
- *Be located to allow a bicycle to be ridden to within 30 metres of the bicycle parking space.*
- *Be located to provide convenient access from surrounding bicycle routes and main building entrances.*
- *Not interfere with reasonable access to doorways, loading areas, access covers, furniture, services and infrastructure.*
- *Not cause a hazard.*
- *Be adequately lit during periods of use.*

Pursuant to **Clause 52.34-2 Permit requirement**, a permit may be granted to vary, reduce or waive any requirement of Clause 52.34-5 and Clause 52.34-6. The required number of bicycle facilities will be provided to the satisfaction of the Responsible Authority. No reduction in the number of bicycle spaces is sought. Signage will be provided to direct cyclists to the bicycle facilities to the satisfaction of the responsible authority (pursuant to **Clause 52.34-7 Bicycle signage**).

10. GENERAL PROVISIONS

The relevant general provisions that will be addressed in this section are identified below:

- Clause 64.01 Land used for more than one use
- Clause 65 Decision Guidelines
- Clause 65.01 Approval of an Application or Plan
- Clause 71.02-3 Integrated Decision Making

CLAUSE 64.01 LAND USED FOR MORE THAN ONE USE

Clause 64.01 requires that *if land is used for more than one use and is not ancillary to the other, each use must comply with this scheme.*

A planning scheme amendment is sought in conjunction with this planning permit application to enable prohibited uses to be considered for the subject land under the schedule to the Heritage Overlay (HO104). This amendment is sought to ensure that all proposed uses comply with the Scheme, noting that:

- The proposed food and beverage use is a section 2 use (permit required) under the GRZ but is a prohibited use under the UGZ where the applied zone is GRZ.
- The proposed office use is a section 2 (permit required) use with conditions in the General Residential Zone (the applied zoned for the subject site) noting that the proposal does not meet the conditions and therefore the office use is prohibited for the site.
- All other proposed uses are permissible under the relevant provisions of the Cardinia Planning Scheme.

CLAUSE 65 DECISION GUIDELINES

Clause 65 states that the Responsible Authority must decide whether the proposal will provide acceptable outcomes in terms of the decision guidelines of this Clause.

CLAUSE 65.01 APPROVAL OF AN APPLICATION OR PLAN

The decision guidelines of **Clause 65.01** which have regard for the approval of an application or plan have been addressed below:

- *The matters set out in Section 60 of the Act.*
- *Any significant effects the environment, including the contamination of the land, may have on the use or development.*

The land is not identified as being contaminated. The site constraints and considerations of the land have been responded to throughout the design process.

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*

The planning considerations have been adequately addressed within this report in sections 4-6.

- *The effect on the environment, human health and amenity of the area.*

The proposed mixed-use development does not pose any foreseeable adverse impacts to the environment, human health or the amenity of the area. Any potential adverse impacts have been identified and responded to throughout the design process.

- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

The loading bay is sited appropriately within the development and is not foreseen to contribute to any amenity, traffic flow or road safety impacts.

- *The impact the use or development will have on the current and future development and operation of the transport system.*

The proposed development, including the creation of access to the Princes Highway, is not foreseen to adversely impact on the current and future development and operation of the transport system.

CLAUSE 71.02-3 INTEGRATED DECISION MAKING

Clause 71.02-3 Integrated decision making 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. **Clause 71.02-3** aims to balance these needs and expectations through the employment of the Planning Scheme to ensure conflicting objectives are balanced in favour of net community benefit and sustainable development for the benefit of present and future generations.

The proposed development provides net community benefits, particularly social and economic benefits, through the conservation of a heritage place with local and regional significance, the creation of local employment opportunities and the promotion of economic growth within the Shire. The redundancy of the former uses of the heritage structures and the incompatibility of the site for residential purposes has seen the land devoid of any activity for a lengthy period of time. The proposal provides an excellent opportunity for Council to support development that will provide economic and social benefits to the wider community and contribute to the community's sense of place and belonging through the preservation and celebration of their local heritage.

11. CONCLUSION

This town planning report has sought to demonstrate that the proposal warrants Council's full support on the grounds that:

- The proposal is consistent with the Municipal Strategic Statement and helps to give effect to the relevant policies and provisions of the State and Local Planning Policy Framework;
- The proposed uses are appropriate for the subject site and will satisfactorily integrate with all surrounding land uses;
- Allowing prohibited uses for the site is justified as the normally available range of permissible uses are insufficient to provide for the future conservation of the heritage structures;
- The proposal is consistent with the relevant requirements and design guidelines of the *Officer Precinct Structure Plan*;
- The proposal is consistent with the objectives of the Heritage Overlay and all relevant Heritage policy;
- The proposed built form is site responsive, of a high standard of architectural design and incorporates high quality landscaping and appropriate interface treatments into the design;
- The proposal provides numerous social and economic benefits to the wider community;
- The proposal promotes the liveability and walkability of the new residential neighbourhood and the wider Officer locality; and
- A suite of technical reports have informed the proposed design, and careful consideration has been given to ensure that any potential for adverse impacts have been appropriately responded to throughout the design process.

The subject site currently presents as underutilised land in the urban growth zone where permissible uses for the site are generally noncompatible with heritage outcomes sought for the site. The former uses of the kiln and chimney structures are redundant, and over time the structures have weathered under the elements. The proposal incorporates readaptive use and conservation works for the kiln and chimney as an integral component of the overall development, which is considered best practice in heritage policy.

As such, this proposal presents an excellent opportunity for Council to support development that will provide for the preservation of a regionally significant heritage place and significant net community benefits.