



Brighton Council

MINUTES OF THE **PLANNING AUTHORITY MEETING**
OF THE BRIGHTON COUNCIL HELD
IN THE COUNCIL CHAMBER, COUNCIL OFFICES
OLD BEACH AT 5.40PM ON TUESDAY,
9TH MAY, 2017

PRESENT: Cr Gray (Chairperson); Cr Curran; Cr Garlick; Cr Geard; Cr Jeffries; Cr Owen and Cr Williams.

IN ATTENDANCE: Mrs J Banks (Governance Manager); Mr D Allingham (Acting Manager Development Services) and Mr H Macpherson (Municipal Engineer).

1. APOLOGIES:

Cr Foster had requested leave of absence as he was overseas.

Cr Owen moved, Cr Curran seconded that Cr Foster be granted leave of absence.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Williams	

2. QUESTION TIME & DEPUTATIONS:

There was no requirement for question time.

3. DECLARATION OF INTEREST:

In accordance with Part 5, Section 48 of the *Local Government Act 1993*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have an interest in any item on the agenda; and

Part 2 Regulation 8 (7) of the *Local Government (Meeting Procedures) Regulations 2015*, the Chairman of a meeting is to request Councillors to indicate whether they have, or are likely to have, a pecuniary interest in any item on the agenda.

Accordingly, Councillors are requested to advise of any interest they may have in respect to any matter appearing on the agenda, or any supplementary item to the agenda, which the Council has resolved to deal with, in accordance with Part 2 Regulation 8 (6) of the Local Government (Meeting Procedures) Regulations 2015.

There were no declarations of interest.

4. COUNCIL ACTING AS PLANNING AUTHORITY:

In accordance with the provisions of Part 2 Regulation 25 of the Local Government (Meeting Procedures) Regulations 2015, the intention of the Council to act as a planning authority pursuant to the *Land Use Planning and Approvals Act 1993* is to be noted. In accordance with Regulation 25, the Council will act as a planning authority in respect to those matters appearing under Item 4. on this agenda, inclusive of any supplementary items.

4.1 APPLICATION UNDER BRIGHTON INTERIM PLANNING SCHEME 2015 - DA2016/00045 – 13 & 15 HURST STREET, BRIDGEWATER – CHILD CARE CENTRE:

Type of Report	Planning Authority - For Decision
Application No:	DA 2016 / 00045
Address:	13 & 15 Hurst Street, Bridgewater
Applicant:	L Walsh (Discovery Early Learning Centres)
Proposal:	Child Care Centre
Zone:	General Business Zone
Representations:	One (1)
Discretion:	Use Setback Design Passive Surveillance Landscaping Development for Sensitive Use in Proximity to Use with Potential to Cause Environmental Harm Development within Bridgewater Quarry Attenuation Area Development Standards for Signs Existing Road Accesses and Junctions Number of Car Parking Spaces Number of Bicycle Parking Spaces Lighting of Parking Areas Design of Bicycle Parking Facilities Siting of Car Parking

1. Executive Summary

- 1.1. Planning approval is sought for a Child Care Centre at 13 & 15 Hurst Street, Bridgewater.
- 1.2. The application is discretionary due to the reliance on 14 Performance Criteria within the Brighton Interim Planning Scheme 2015 (the Interim Scheme).
- 1.3. One statutory representation was received from Boral Quarry, which opposed the proposed development.
- 1.4. The key planning issues relate to the Attenuation Code, Design and Parking.
- 1.5. As statutory representations were received, objecting to the proposal, delegation is a matter for the Planning Authority.

Legislative & Policy Content

- 1.6. The purpose of this report is to enable the Planning Authority to determine application DA 2016/00045.
- 1.7. This determination must be made no later than 9 May 2017, which has been extended beyond the statutory timeframe with the consent of the applicant.
- 1.8. The relevant legislation is the Land Use Planning and Approvals Act 1993 (LUPAA). The provisions of LUPAA require a planning authority to take all reasonable steps to ensure compliance with the planning scheme.
- 1.9. This report details the reasons for the officer recommendation. The Planning Authority must consider this report but is not bound to adopt the recommendation. Broadly, the Planning Authority can either: (1) adopt the recommendation, or (2) vary the recommendation by adding, modifying or removing recommended reasons and conditions or replacing an approval with a refusal (or vice versa). Any alternative decision requires a full statement of reasons to comply with the Judicial Review Act 2000 and the Local Government (Meeting Procedures) Regulations 2005.
- 1.10. This report has been prepared with appropriate regard to the State Policies that apply under the State Policies and Projects Act 1993.
- 1.11. This report has been prepared with appropriate regard to Council's Strategic Plan and other Council policies, and the application is not found to be inconsistent with these. Nevertheless, it must be recognised that the planning scheme is a regulatory document that provides the overriding consideration for this application. Matters of policy and strategy are primarily a matter for preparing or amending the planning scheme.

2. Risk & Implications

- 2.1. Approval or refusal of this application will have no direct financial implications for the Planning Authority.

3. Relevant Background and Past Applications

- 3.1. Past Applications
 - 3.1.1. None relevant
- 3.2. Relevant Background
 - 3.2.1. None relevant

4. Site Detail

- 4.1. The subject site comprises of two vacant blocks that, combined, measure 5,667m² in area. The site is within the General Business Zone and covered by the Attenuation Area in relation to the Bridgewater Quarry.
- 4.2. The site is bounded by industrial development to the north, north-west and north-east. Immediately to the west, the subject site is developed by a medical centre. Adjacent to the subject site, a primary school is located to the south. Hurst Street is south of the site.



Figure 1. Aerial image of the subject site, which is delineated in red.

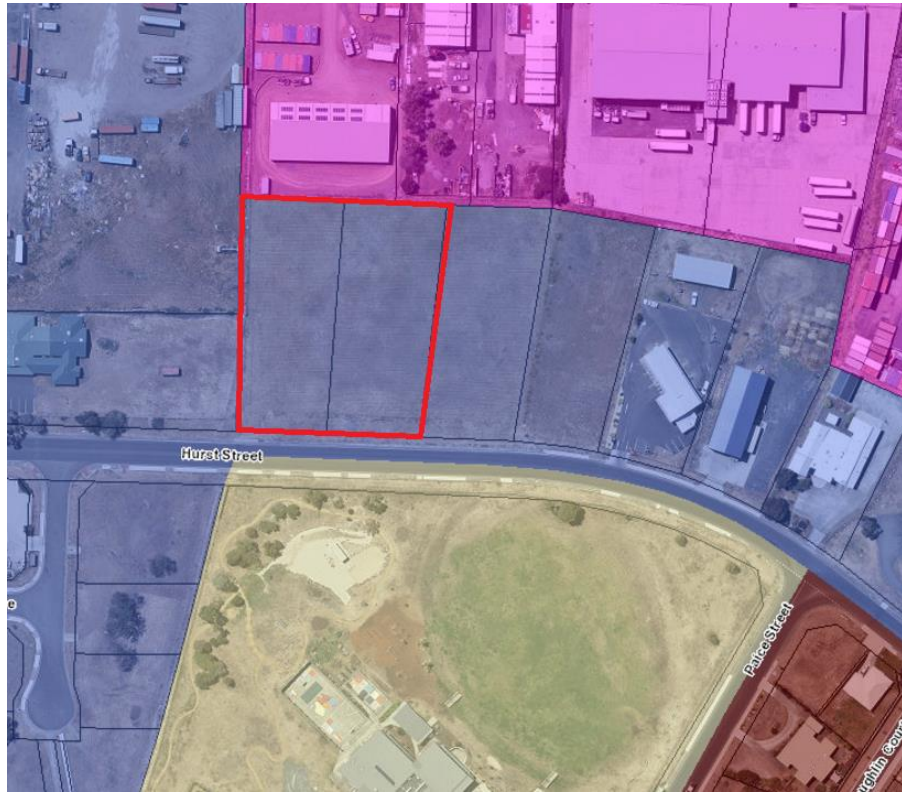


Figure 2. The General Business Zone is coloured blue, with the subject site delineated in red. The Light Industrial Zone is coloured pink. The Community Purpose Zone is coloured yellow. The Inner Residential Zone is coloured maroon.

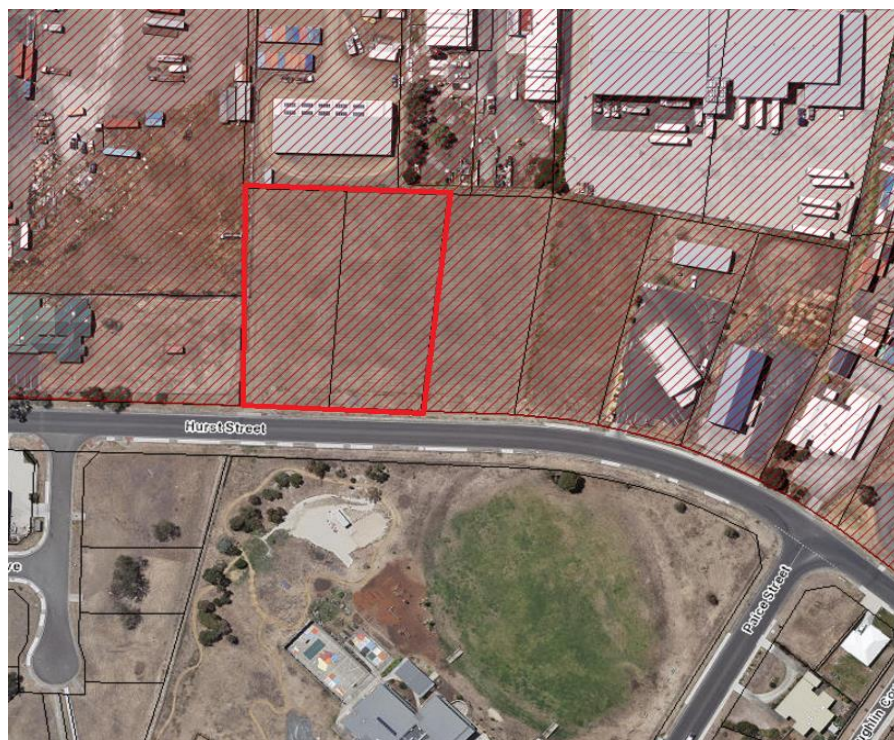


Figure 3. Overlays that affect the subject site. The red hatching denotes the Attenuation Area.

5. Proposal

- 5.1. The applicant has sought approval for the development of Child Care Centre at 13 & 15 Hurst Street, Bridgewater.
- 5.2. The proposed development consists of two main buildings, a shed, landscaping, signage and a car parking area.
- 5.3. Building 1 measures approximately 50 metres by 26 metres, and has a maximum height of 6.10 metres. Building 1 will be sited approximately 27m from the frontage and will be near the western boundary.
- 5.4. Building 2 measures approximately 18 metres by 21 metres, and has a maximum height of approximately 4.50 metres. Building 2 will be sited approximately 29m from the frontage and will be near the eastern boundary.
- 5.5. The proposed shed measures 7.00 metres by 4.00 metres, and has an apex height of 2.75 metres. The proposed shed is proposed to be located in the north-west corner of the site.
- 5.6. The applicant has proposed a ground based sign. The face of the sign measures 1.00 metre by 1.70 metres, and will be constructed on posts. The maximum height of the sign will be 2.50 metres above ground level.

6. Assessment against planning scheme provisions

- 6.1. The Brighton Interim Planning Scheme 2015 is a performance based planning scheme. To meet an applicable standard, a proposal must demonstrate compliance with either the Acceptable Solution or the Performance Criterion.

Where a proposal complies with a standard by relying on one or more performance criteria, the Council may approve or refuse the proposal on that basis. The ability to approve or refuse the proposal relates only to the performance criteria relied upon.

- 6.2. The following provisions are relevant to the proposed use and development;
 - D21.0 - General Business Zone
 - E5.0 - Road and Railway Assets Code
 - E6.0 - Parking and Access Code
 - E7.0 - Stormwater Management Code
 - E9.0 - Attenuation Code
 - E17.0 - Signs Code
- 6.3. The following discretions are invoked:

		Acceptable Solution under Brighton Interim Planning Scheme 2015	Proposed
1	Use	'Educational and Occasional Care' is a discretionary use within the General Business Zone when provided at ground level.	'Educational and Occasional Care' is proposed at ground level.
2	Setback	Section 21.4.2 A1 states that building setback from a frontage must be parallel to the frontage and no more than 3m from Hurst Street.	The proposed setback is approximately 27m.
3	Design	Amongst other design considerations, Section 21.4.3 A1 requires that the façade of a new building must have windows and door openings at ground level no less than 40% of the surface area of the ground floor level façade.	The windows and door openings total less than 40% of the ground floor façade.
4	Passive Surveillance	<p>Amongst other design considerations, Section 21.4.4 A1 requires:</p> <p>a) That the façade of a new building must have windows and door openings at ground level no less than 40% of the ground floor level façade; and</p> <p>b) Provides external illumination to car parking areas and pathways; and</p> <p>c) Provides well-lit public access to the ground floor level from external car parking areas.</p>	<p>The façade of the proposed development has windows and door openings that total less than 40% of the ground floor façade.</p> <p>No details of external illumination of car parking areas and pathways are shown.</p>

5	Landscaping	Landscaping of frontages is not required only if: a) The building extends across the frontage; and b) Is setback no more than 1m.	Landscaping is required.
6	Development for Sensitive Use in Proximity to Use with Potential to Cause Environmental Harm	For Section E9.7.2, there is no Acceptable Solution.	The application is for a new sensitive use, which is in proximity to an existing use with potential to cause environmental harm.
7	Development within the Bridgewater Quarry Attenuation Area.	For Section E9.7.3, there is no Acceptable Solution.	The application is within the Bridgewater Quarry Attenuation Area, as shown on the Planning Scheme maps.
8	Development Standards for Signs	Section E17.7.1 A1 states that a sign must comply with the standards in Table E17.2. Table E17.2 states that a Ground Based Sign must be no taller than 2.40m above ground level.	The proposed Ground Based Sign is 2.50m above ground level.
9	Existing Road Accesses and Junctions	Section E5.5.1 A3 states that the annual average daily traffic to and from a site that accesses a road with a speed limit of less than 60km/h must not increase by more than 40 movements per day.	The AADT will increase by more than 40 movements per day.
10	Number of Car Parking Spaces	Table E6.1 requires 33 car parking spaces	24 car parking spaces have been proposed, with the possibility to expand to 32 car parking

			spaces at a future date, if required.
11	Number of Bicycle Parking Spaces	Table E6.2 requires 1 space per 20 staff and 1 space per 20 children.	None are proposed.
12	Lighting of Car Parking Areas	Section E6.7.7 requires that car parking areas, used outside daylight hours, require lighting.	No lighting of car parking areas is proposed.
13	Design of Bicycle Parking Facilities	Table E6.2 requires 1 bicycle parking space per 20 employees and 1 per 20 children	None are proposed.
14	Siting of Car Parking	Section E6.7.12 states that car parking areas in the General Business Zone must be located behind the building line.	The proposed car parking area is in front of the building line.

6.3.1. **Discretion 1 - Use**

- As per the Use Class definitions in Section 8.2 of the Interim Scheme, 'Educational and Occasional Care' is defined as:

Use of land for educational or short-term care purposes. Examples include a childcare centre, day respite facility, employment training centre, kindergarten, primary school, secondary school and tertiary institution.
- A Child Care Centre falls within the definition of 'Educational and Occasional Care'.
- Within the General Business Zone, 'Educational and Occasional Care' is a discretionary use (if developed at ground level).
- The proposed use does not conflict with the Zone Purpose Statements provided for in Section 21.1.1 of the Interim Scheme.
- The proposed use does not conflict with the Local Area Objectives or the Desired Future Character Statements, provided for in Section 21.1.2 and Section 21.1.3 respectively of the Interim Scheme.
- The proposed use is considered appropriate within the General Business Zone.

6.3.2. Discretion 2 - Setback

- The proposed development does not comply with the permitted setback in Section 21.4.2 A1. As such, the application is discretionary.
- The relevant Performance Criteria states:
Building setback from frontage must satisfy all of the following:
 - a) *Be consistent with any Desired Future Character Statements provided for the area;*
 - b) *Be compatible with the setback of adjoining buildings, generally maintaining a continuous building line if evident in the streetscape;*
 - c) *Enhance the characteristics of the site, adjoining lots and the streetscape;*
 - d) *Provide for small variations in the building alignment, only where appropriate to break up long building facades, provided that no potential concealment or entrapment opportunity is created;*
 - e) *Provide for large variations in building alignment only where appropriate to provide for a forecourt for space for public use, such as outdoor dining or landscaping, provided that no potential concealment or entrapment opportunity is created and the forecourt is afforded very good passive surveillance.*
- The proposed development does not conflict with the Desired Future Character Statements of the General Business Zone.
- The setback of the adjoining property to the west (i.e. the land at 9-11 Hurst Street) also has a frontage setback of more than 3m. The land to the east (i.e. the land at 17 Hurst Street) is currently vacant. The proposed setback is compatible with the existing setbacks of properties that adjoin the site.
- The site will be landscaped, which will enhance the characteristics of the lot and the overall streetscape of Hurst Street.
- The design provides for small variations in building alignment, which are used to break up the bulk of the proposal, and enhance the architectural appeal from the street. No significant entrapment or concealment spaces are created in the building design.
- As such, the proposed development is considered to satisfy the Performance Criteria in Section 21.4.2 P3 of the Interim Scheme.

6.3.3. Discretion 3 - Design

- The proposed development does not comply with the permitted design criteria, as specified in Section 21.4.3 A1. As such, the application is discretionary.
- The relevant Performance Criteria states:

Building design must enhance the streetscape by satisfying all of the following:

- a) provide the main access to the building in a way that addresses the street or other public space boundary*
- b) provide windows in the front façade in a way that enhances the streetscape and provides for passive surveillance of public spaces;*
- c) treat large expanses of blank wall in the front façade and facing other public space boundaries with architectural detail or public art so as to contribute positively to the streetscape and public space;*
- d) ensure the visual impact of mechanical plant and miscellaneous equipment, such as heat pumps, air conditioning units, switchboards, hot water units or similar, is insignificant when viewed from the street;*
- e) ensure roof-top service infrastructure, including service plants and lift structures, is screened so as to have insignificant visual impact;*
- f) not provide awnings over the public footpath only if there is no benefit to the streetscape or pedestrian amenity or if not possible due to physical constraints;*
- g) only provide shutters where essential for the security of the premises and other alternatives for ensuring security are not feasible;*
- h) be consistent with any Desired Future Character Statements provided for the area.*

- The proposed development includes a main access that is visible from both public areas of the site (i.e. car parking areas) and Hurst Street.
- The design of the building includes numerous windows that both enhances the streetscape and provides for mutual passive surveillance. The building has been designed with architectural detail, so as to positively contribute to the streetscape.
- Mechanical plant and miscellaneous equipment are not visible from the street elevation.
- No roof top infrastructure is proposed.
- There are no awnings in the area, and the building is setback considerably from the property boundary. Providing awnings would provide no benefit to the streetscape.
- No security shutters are proposed.
- The development does not conflict with the Desired Future Character Statements for the area.
- As such, the proposed development is considered to satisfy the Performance Criteria in Section 21.4.3 P1 of the Interim Scheme.

6.3.4. Discretion 4 – Passive Surveillance

- The proposed development does not comply with the permitted passive surveillance criteria, as specified in Section 21.4.4 A1. As such, the application is discretionary.
- The relevant Performance Criteria states:
Building design must provide for passive surveillance of public spaces by satisfying all of the following:
 - a) *provide the main entrance or entrances to a building so that they are clearly visible from nearby buildings and public spaces;*
 - b) *locate windows to adequately overlook the street and adjoining public spaces;*
 - c) *incorporate shop front windows and doors for ground floor shops and offices, so that pedestrians can see into the building and vice versa;*
 - d) *locate external lighting to illuminate any entrapment spaces around the building site;*
 - e) *provide external lighting to illuminate car parking areas and pathways;*
 - f) *design and locate public access to provide high visibility for users and provide clear sight lines between the entrance and adjacent properties and public spaces;*
 - g) *provide for sight lines to other buildings and public spaces.*
- The proposed development provides for a main entrance that is visible from both public spaces on the site (i.e. car parking areas) and from the street.
- The façade of the proposed development also features windows that overlook the street. The windows are on the ground level, so do provide for a level of mutual passive surveillance from pedestrians to the site, and vice versa.
- It is recommended that adequate exterior lighting should be conditioned for, should the Planning Authority grant approval.
- The proposed design provides for adequate sight lines to public spaces.
- As such, the proposed development is considered to satisfy the Performance Criteria in Section 21.4.4 P1 of the Interim Scheme.

6.3.5. Discretion 5 – Landscaping

- The proposed development does not comply with the permitted landscaping criteria, as specified in Section 21.4.5 A1. As such, the application is discretionary.

- The relevant Performance Criteria states:
Landscaping must be provided to satisfy all of the following:
 - a) *enhance the appearance of the development;*
 - b) *provide a range of plant height and forms to create diversity, interest and amenity;*
 - c) *not create concealed entrapment spaces;*
 - d) *be consistent with any Desired Future Character Statements provided for the area.*
 - The applicant has submitted a landscape plan (DWG A005C, Job 1574, dated February 2016), which is considered to satisfy the Performance Criteria in Section 21.4.5 P1 of the Interim Scheme.
- 6.3.6. **Discretion 6 – Development for Sensitive Use in Proximity to Use with Potential to Cause Environmental Harm**
- There is no Acceptable Solution in Section E9.7.2 A1. As such, the application is discretionary.
 - The relevant Performance Criteria states:
Development for sensitive use, including subdivision of lots within a sensitive zone, must not result in potential to be impacted by environmental harm from use with potential to cause environmental harm, having regard to all of the following:
 - a) *the nature of the use with potential to cause environmental harm; including:*
 - i. *operational characteristics;*
 - ii. *scale and intensity;*
 - iii. *degree of hazard or pollution that may emitted from the activity;*
 - b) *the degree of encroachment by the sensitive use into the Attenuation Area or the attenuation distance;*
 - c) *measures in the design, layout and construction of the development for the sensitive use to eliminate, mitigate or manage effects of emissions.*
 - Section 4.1 of the Interim Scheme defines a ‘sensitive use’ as:
A residential use or a use involving the presence of people for extended periods except in the course of their employment, such as in a caravan park, childcare centre, dwelling, hospital or school.
 - The proposed development meets the definition of a sensitive use. It is in proximity to a use which as the potential to cause environmental harm, being the nearby Bridgewater Quarry.

- The Bridgewater Quarry is a large, intensive quarry. Potential hazards that emit from the quarry site include noise emissions, dust emissions and vibrations. The noise, dust and vibrations generally result from blasting and extraction that occurs at the quarry site.
- However, the site is on the periphery of the Attenuation Area for the Bridgewater Quarry site, as mapped in the Interim Scheme. Uses that exist closer to the mining lease for the quarry than the proposed development include commercial uses, retail uses, food services uses, and uses such as a medical centre, and gymnasiums.
- Furthermore, the site is in proximity to other sensitive uses. Directly adjacent to the site is a primary school. A newly developed medium density residential area exists approximately 150m from the site. However, it is acknowledged that both the primary school and nearby residential area are outside the Attenuation Area.
- It is considered that there may be some impact to the site from noise, dust and vibrations that result from the nearby quarry operation. No specific design measures (e.g. double glazed windows or sound insulation) have been proposed by the applicant. However, any potential impacts to the sensitive use are considered to be of low impact, and are unlikely to cause significant environmental harm to the users of the childcare centre. The child care centre operators are aware of the potential impacts from the quarry operations and considered this as part of their due diligence for selecting the site.
- Nevertheless, should the Planning Authority choose to grant approval for the development, it is recommended that a condition be imposed that requires a Part V Agreement to be placed on the title. The Part V Agreement will make the owner of the proposed childcare centre, and future owners/operators, aware that the users of the site are potentially prone to environmental nuisances, such as noise, dust and vibration. The terms of the Part V Agreement will be carried forward to any future owner of the site, should the site be sold.
- As such, it is considered that any impacts relating to environmental emissions of the quarry to the proposed development are relatively low impact in nature, and are of an acceptable level. The proposed development is considered to satisfy the Performance Criteria in Section E9.7.2. P1 of the Interim Scheme.

6.3.7. Discretion 7 - Development within the Bridgewater Quarry Attenuation Area

- There is no Acceptable Solution in Section E9.7.3 A1. As such, the application is discretionary.
- The relevant Performance Criteria states:

Development, including subdivision, must not result in potential to be impacted by quarry operations having regard to all of the following:

- a) the nature of the quarry; including:
 - i. operational characteristics;*
 - ii. scale and intensity;*
 - iii. degree of hazard or pollution that may be emitted from the activity;**
- b) the degree of encroachment or development or use into the Bridgewater Quarry Attenuation Area;*
- c) measures in the design, layout and construction of the development or use to eliminated, mitigate or manage effects of the quarry.*

- As noted, the development is within the Bridgewater Quarry Attenuation Area. Please refer to the discussion in Section 7.3.6 of this report, which addresses the Performance Criteria.
- The proposed development is considered to satisfy the Performance Criteria in Section E9.7.3 P1 of the Interim Scheme.

6.3.8. Discretion 8 – Development Standards for Signs

- The proposed sign does not comply with the standards listed in Table E17.2 As such, the application does not comply with the Acceptably Solution in Section E17.7.1 A1, and the application is discretionary.
- The relevant Performance Criteria states:

A sign not complying with the standards in Table E17.2 or has discretionary status in Table E17.3 must satisfy all of the following:

- a) be integrated into the design of the premises and streetscape so as to be attractive and informative without dominating the building or streetscape;*
- b) be of appropriate dimensions so as not to dominate the streetscape or premises on which it is located;*
- c) be constructed of materials which are able to be maintained in a satisfactory manner at all times;*
- d) not result in loss of amenity to neighbouring properties;*
- e) not involve the repetition of messages or information on the same street frontage;*
- f) not contribute to or exacerbate visual clutter;*
- g) not cause a safety hazard.*

- The proposed signage is integrated into the design of the child care centre, and will not dominate either the proposed building or the streetscape. The dimensions are considered appropriate.
- The materials of the sign can be maintained in a satisfactory manner. However, it is recommended that a condition be imposed that the sign be maintained.
- It is not considered that the signage will result in a loss of amenity to adjoining sites, nor will it exacerbate visual clutter or create a safety hazard.
- The signage does not cause a repetition of messages on the street frontage.
- The proposed signage is considered to satisfy the Performance Criteria in Section E17.7.1 P1.

6.3.9. **Discretion 9 – Existing Road Accesses and Junctions**

- The proposed development will have an Annual Average Daily Traffic (AADT) of more than 40 vehicle movements per day. As such, the proposed development does not comply with the Acceptable Solution in Section E5.5.1 A3.
- The relevant Performance Criteria states:

Any increase in vehicle traffic at an existing access or junction in an area subject to a speed limit of 60km/h or less, must be safe and not unreasonably impact on the efficiency of the road, having regard to:

 - a) *the increase in traffic caused by the use;*
 - b) *the nature of the traffic generated by the use;*
 - c) *the nature and efficiency of the access or the junction;*
 - d) *the nature and category of the road;*
 - e) *the speed limit and traffic flow of the road;*
 - f) *any alternative access to a road;*
 - g) *the need for the use;*
 - h) *any traffic impact assessment; and*
 - i) *any written advice received from the road authority.*
- The application was supported by a Traffic Impact Assessment (TIA) prepared by a suitably qualified individual. The TIA assessed predicted traffic movement at various times throughout the day, the nature of traffic, and the speed limit and nature of the road. The TIA concluded that the access and impact on the road was safe, and did not impact upon the efficiency of the road.

- The matter was also assessed by Council's Senior Technical Officer, who determined that the proposed access to the road asset was acceptable.
- The proposed development satisfies the Performance Criteria in Section E5.5.1 A3.

6.3.10. Discretion 10 - Number of Car Parking Spaces

- The application proposes the development of 24 car parking spaces. As such, the proposed development does not comply with the Acceptable Solution in Section E6.6.1 A1.
- The relevant Performance Criteria states:

The number of on-site car parking spaces must be sufficient to meet the reasonable needs of users, having regard to all of the following:

- a) car parking demand;*
- b) the availability of on-street and public car parking in the locality;*
- c) the availability and frequency of public transport within a 400m walking distance of the site;*
- d) the availability and likely use of other modes of transport;*
- e) the availability and suitability of alternative arrangements for car parking provision;*
- f) any reduction in car parking demand due to the sharing of car parking spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces;*
- g) any car parking deficiency or surplus associated with the existing use of the land;*
- h) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement, except in the case of substantial redevelopment of a site;*
- i) the appropriateness of a financial contribution in lieu of parking towards the cost of parking facilities or other transport facilities, where such facilities exist or are planned in the vicinity;*
- j) any verified prior payment of a financial contribution in lieu of parking for the land;*
- k) any relevant parking plan for the area adopted by Council;*
- l) the impact on the historic cultural heritage significance of the site if subject to the Local Heritage Code;*

- The application was supported by a TIA, which assessed vehicular movements and parking on the site. The TIA concluded that the design of the parking area was satisfactory to cater for the demand of the proposed use.
- Furthermore, the parking demand has been assessed by Council's Senior Technical Officer, who has deemed the proposed car parking area (including spaces provided) as satisfactory.
- It should also be noted that the submitted plans include an area for the car park to be expanded, should the need arise in the future. If expanded, this would provide an additional 8 car parking spaces.
- Should the Planning Authority vote to approve the development, it is recommended that the permit be conditioned for a parking plan to be provided, which has been certified by a qualified civil engineer.
- The proposed development is considered to satisfy the relevant Performance Criteria contained in Section E6.6.1 P1.

6.3.11. Discretion 11 – Number of Bicycle Parking Spaces

- No bicycle parking spaces are proposed. As such, the proposed development does not comply with the Acceptable Solution in Section E6.6.4 A1.
- The relevant Performance Criteria states:
The number of on-site bicycle parking spaces provided must have regard to all of the following:
 - a) *the nature of the use and its operations;*
 - b) *the location of the use and its accessibility by cyclists;*
 - c) *the balance of the potential need of both those working on a site and clients or other visitors coming to the site.*
- It is recommended that a condition be imposed on the permit requiring four bicycle parking spaces. This is less than the seven spaces required under Table E6.2, but is considered more than adequate for the site to meet the demand of users.
- With the four bicycle parking spaces, the proposed development will satisfy the Performance Criteria in Section E6.6.4 P1.

6.3.12. Discretion 12 – Lighting of Parking Areas

- The applicant has not proposed external lighting of car parking areas. As such, the application does not comply with the Acceptable Solution in Section E6.7.7 A1, and is considered discretionary.
- The relevant Performance Criteria states:

Parking and vehicle circulation roadways and pedestrian paths used outside daylight hours must be provided with lighting to a standard which satisfies all of the following:

- a) *enables easy and efficient use of the area;*
 - b) *minimises potential for conflicts involving pedestrians, cyclists and vehicles;*
 - c) *reduces opportunities for crime or anti-social behaviour by supporting passive surveillance and clear sight lines and treating the risk from concealment or entrapment points;*
 - d) *prevents unreasonable impact on the amenity of adjoining users through light overspill;*
 - e) *is appropriate to the hours of operation of the use.*
- It is recommended that a condition be imposed that requires the developer to provide lighting for car parking areas.
 - The condition will satisfy the requirements of the Performance Criteria contained in Section E6.7.7 P1.

6.3.13. Discretion 13 – Design of Bicycle Parking Facilities

- The applicant has not proposed bicycle parking facilities. However, as per the discussion in Section 7.3.11 above, it is recommended that a condition be imposed that requires the developer to install four bicycle parking spaces. Nevertheless, the application does not comply with the Acceptable Solution in Section E6.7.10 A1, and is considered discretionary.
- The relevant Performance Criteria states:

The design of bicycle parking facilities must provide safe, obvious and easy access for cyclists, having regard to all of the following:

 - a) *minimising the distance from the street to the bicycle parking area;*
 - b) *providing clear sightlines from the building or the public road to provide adequate passive surveillance of the parking facility and the route from the parking facility to the building;*
 - c) *avoiding creation of concealment points to minimise the risk.*
- The condition for bicycle parking areas will satisfy the requirements of the Performance Criteria contained in Section E6.7.10 P1.

6.3.14. Discretion 14 – Siting of Car Parking

- The applicant has proposed that the car parking area be located in front of the building line of the development. As such, the application does not comply with the Acceptable Solution in Section E6.7.12 A1, and is considered discretionary.

- The relevant Performance Criteria states:
Parking spaces and vehicle turning areas, including garages or covered parking areas in the Inner Residential Zone, Urban Mixed Use Zone, Village Zone, Local Business Zone and General Business Zone may be located in front of the building line where topographical or other site constraints dictate that this is the only practical solution because of one or more of the following:
 - a) *there is a lack of space behind the building line to enable compliance with A1;*
 - b) *it is not reasonably possible to provide vehicular access to the side or rear of the property;*
 - c) *the gradient between the front and the rear of existing or proposed buildings is more than 1 in 5;*
 - d) *the length of access or shared access required to service the car parking would constitute more than 75% of the depth of the relevant lot;*
 - e) *the access driveway cannot be located at least 2.5 m from a habitable room window of a building defined as a residential building in the Building Code of Australia;*
 - f) *the provision of the parking behind the building line would result in the loss of landscaped open space and gardens essential to the values or character of a Heritage Place or Precinct listed in the Heritage Code in this planning scheme;**and only if designed and located to satisfy all of the following:*
 - i. *does not visually dominate the site;*
 - ii. *maintains streetscape character and amenity;*
 - iii. *does not result in a poor quality of visual or audio amenity for the occupants of immediately adjoining properties, having regard to the nature of the zone in which the site is located and its preferred uses;*
 - iv. *allows passive surveillance of the street.*
- It is considered that it is impractical to require the car parking area to be located behind the building line for the proposed childcare centre. This is due to the land behind the building being required for adequate play areas for the children.
- A car parking area behind the building line would encroach on the amenity of the childcare centre, and would result in an unreasonably small play area.
- It is also considered that the proposed car parking area does not visually dominate the site, and maintains or improves streetscape character. Passive surveillance is maintained.
- It is unlikely that the car parking area will impact on the amenity of adjoining lots.

- The proposed car parking area will satisfy the Performance Criteria in Section E6.7.12 P1(a), and satisfies (i) to (iv) above.

7. Referrals

7.1. TasWater

The application was referred to TasWater. Please refer to TasWater's Submission to Planning Authority Notice, TasWater Ref. No. TWDA 2016/00283-BTN.

7.2. Council's Senior Technical Officer

The application was referred to Council's Senior Technical Officer, who has provided comments and conditions.

8. Representations

8.1. One (1) statutory representation was received during the public advertising period. This representation objected to the proposed development.

8.2. The following table outlines the issues raised by the representor.

Concerns raised	Planning response
<p>On behalf of the representor, I would like to lodge an objection to the above Application for Development Approval.</p> <p>As you would be aware, the representor owns and operates a major Extractive Industry Operation at Bridgewater. A quarry of this size has amenity impacts that affect surrounding areas. This is acknowledged in the planning scheme through the application of the Bridgewater Quarry Attenuation Area.</p> <p>Under Clause E9.5.2, the representor provides the following advice and objection:-</p> <ul style="list-style-type: none"> • The proposed development is located within the Attenuation Area, the purpose of which is to protect the quarry from inappropriate development. We believe that the development is incompatible with the purpose of the zone and the proximity to the quarry. • We believe that the proposed Child Care Centre will introduce children attending sessions and playing within close proximity to the quarry and amenity impacts that would have the potential to cause concern to the parents and children. The centre would experience affects from blasting that could cause concern. • The location of potentially sensitive uses, including child care centre in close proximity to the quarry is contrary to the Council Planning Scheme, which recognises that it is desirable to avoid the development 	<p>Section E9.5.2 of the Interim Scheme requires that, prior to the Planning Authority determining any application within the Bridgewater Quarry Attenuation Area, it must refer the application to the quarry operator.</p> <p>It is accepted that the site is within the Attenuation Area for the Bridgewater Quarry. However, the proposed childcare centre development is on the periphery of the quarry protection area.</p> <p>It is also accepted that there will be environmental emissions from the quarry site, such as noise, dust and vibrations, due to the nature of the approved quarry operations. There is also the possibility of these emissions may affect the site at 13-15 Hurst Street.</p> <p>The applicant for the childcare centre has not proposed any noise mitigation measures, such as double glazing of windows or noise insulation. However, as the encroachment of the proposed development is relatively minor, these were options that were not deemed necessary for Council to impose.</p> <p>It is recommended that a condition be imposed requiring that the developers of the proposed child care centre enter a Part V Agreement with Council that they are aware that the site is within the Bridgewater Quarry Attenuation Area, and may be subject to</p>

<p>of incompatible uses within 1000 metres of extractive industries. Amenity impacts such as blasting vibration, noise, and dust can cause concern and nuisance to surrounding areas.</p>	<p>environmental emissions that result from the approved quarry operation. This agreement will remain on the title, and will be passed on to any future purchaser of the site.</p>
<p>The quarry is a long term resource for the area, the development of the quarry will gradually be moving closer to the proposed application as the resource is developed in accordance with its current approvals.</p>	<p>For further discussion and assessment against the relevant Performance Criteria, please refer to Sections 6.3.6 and 6.3.7 of this report.</p>
<p>In addition, approvals of this nature have the potential to erode the protection that the current attenuation zone provides to the approved quarry operations if allowed. It is the representor's experience that the encroachment of potentially incompatible uses, close to an existing long term quarry inevitably leads to complaints about the legitimate activities and effects associated with ongoing extraction.</p>	

9. Conclusion

- 9.1. The proposed use and development of Child Care Centre at 13 & 15 Hurst Street Bridgewater satisfies the relevant provisions of the Brighton Interim Planning Scheme 2015, and as such is recommend for approval.

RECOMMENDATION:

That pursuant to the Brighton Interim Planning Scheme 2015, Council approve application DA 2016 /00045 for use and development of Child Care Centre at 13 & 15 Hurst Street Bridgewater, for the reasons outlined in the officer's report and a permit containing the following conditions be issued:

General

- (1) The use or development must be carried out substantially in accordance with the application for planning approval, the endorsed drawings and with the conditions of this permit and must not be altered or extended without the further written approval of Council.

- (2) This permit shall not take effect and must not be acted on until 15 days after the date of receipt of this permit or the date of the last letter to any representor, whichever is later, in accordance with section 53 of the Land Use Planning and Approvals Act 1993.

TasWater

- (3) The use and/or development must comply with the requirements of TasWater as detailed in the form Submission to Planning Authority Notice, Reference No. TWDA 2016/00283-BTN, dated 22 March 2016, as attached to the permit.

Amenity

- (4) All external metal building surfaces must be clad in non-reflective pre-coated metal sheeting or painted to the satisfaction of the Manager Development Services.

Part 5 Agreements

- (5) Prior to the first use of the building, the owner(s) of the property must enter into an agreement with the Council pursuant to Part V of the Land Use Planning and Approvals Act 1993 with respect that the site is within an established Attenuation Area for the Bridgewater Quarry, and may be subject to noise emissions, odour emissions, dust emissions and/or vibrations resulting from the nearby approved quarry operations.
- (6) Agreement(s) made pursuant to Part 5 of the Land Use Planning and Approvals Act 1993 must bind the current owner and his/her successors in title and must be prepared on a blank instrument form and registered with the Recorder of Titles in accordance with Section 78 of the Land Use Planning and Approvals Act 1993 by the applicant at no cost to Council.

Adhesion of Titles

- (7) The titles comprising the development site are to be adhered in accordance with the provisions of Section 110 of the Local Government (Building and Miscellaneous Provisions) Act 1993, to the satisfaction of the Manager Development Services prior to any building consent, building permit and/or plumbing permit pursuant to the Building Act 2016 (if applicable), or the commencement of works on site (whichever occurs first).

Signage

- (8) The approved sign is not to be flashing or otherwise intermittently illuminated.
- (9) The approved sign must be maintained to the satisfaction of Council's Manager Development Services.

- (10) Only one sign (being the sign shown on DWG A002C, Job No 1574, dated February 2016) is approved by this permit. Any additional signage requiring planning approval must be the subject of a separate Development Application, submitted to and approved by Brighton Council.

Landscaping

- (11) The site must be landscaped by trees, shrubs, fences or other means approved by Council's Manager Development Services. Planting must bear a suitable relationship to the proposed height of the buildings and must not use species listed as noxious weeds within Tasmania, displaying invasive characteristics or unsuitable for fire prone areas.
- (12) The landscaping works must be completed in accordance with the endorsed landscape plan (DWG A005C, Job No. 1574, dated February 2016) and to the satisfaction of Council's Manager Development Services within one (1) month of the first use of the development or prior to the sealing of a stratum plan. All landscaping must continue to be maintained to the satisfaction of Council.

Services

- (13) The developer must pay the cost of any alterations and/or reinstatement to existing services, Council infrastructure or private property incurred as a result of the development. Any work required is to be specified or undertaken by the authority concerned.

Parking and Access

- (14) At least twenty four (24) car parking spaces must be provided on the land at all times for the use of the development, in accordance with Standards Australia (2004) Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney.
- (15) At least four (4) bicycle parking spaces must be provided for employees/patrons at the proposed takeaway, unless approved otherwise by Council's General Manager. The spaces must be provided within 30 metres of the entrance and to the class specified in table 1.1 of AS2890.3-1993 Parking facilities Part 3: Bicycle parking facilities in compliance with section 2 "Design of Parking Facilities" and clauses 3.1 "Security" and 3.3 "Ease of Use" of the same Standard.
- (16) The internal driveway and areas set-aside for parking and associated access and turning must be provided in accordance with Standards Australia (2004): Australian Standard AS 2890.1 - 2004 - Parking Facilities Part 1: Off Street Car Parking; Standards Australia, Sydney and to the satisfaction of Council's Municipal Engineer, and must include all of the following;
- (a) Constructed with a durable all weather pavement.

- (b) Drained to an approved stormwater system.
 - (c) Surfaced with a material to resist abrasion from traffic and to minimise the entry of water. The surfacing material must be concrete, pavers or other material approved by Council's Municipal Engineer.
 - (d) Vehicular passing areas. Vehicular passing areas must be a minimum of 6m long, 5.5m wide and taper to the width of the driveway. Passing areas must be provided at intervals of no more than 30m along the access, with the first passing area constructed at the road kerb.
 - (e) On site turning.
- (17) A vehicular access must be provided, from the road carriageway to the property boundary, to comply with Standard Drawings TSD-R09-v1 Urban Roads Driveways and TSD-RF01-v1 Guide to Intersection and Domestic Access Sight Distance Requirements prepared by the IPWE Aust. (Tasmania Division) and the satisfaction of Council's Municipal Engineer.
- (18) Parking and vehicle circulation roadways and pedestrian paths serving 5 or more car parking spaces, used outside daylight hours, must be provided with lighting in accordance with clause 3.1 "Basis of Design" and clause 3.6 "Car Parks" in AS/NZS 1158.3.1:2005 Lighting for roads and public spaces Part 3.1: Pedestrian area (Category P) lighting, or as otherwise approved by Council's General Manager.
- (19) A parking plan prepared and certified by a qualified civil engineer or other person approved by Council's Municipal Engineer must be submitted to Council prior to or in conjunction with lodgement of Building Application. The parking plan is to include:
- pavement details,
 - design surface levels and gradients,
 - drainage,
 - turning paths,
 - dimensions,
 - line marking,
 - signage,
 - pedestrian access,
- and shall form part of the permit when approved.

- (20) The completed parking and associated turning areas and access must be certified by a practicing civil engineer to the effect that they have been constructed in accordance with the endorsed drawings and specifications approved by Council before the use commences.
- (21) All areas set-aside for parking and associated turning, and access must be completed before the use commences or the building is occupied and must continue to be maintained to the satisfaction of the Council's Municipal Engineer.

Access to Public Road

- (22) No works on or affecting any Council road reservation is to be commenced until the Brighton Council has issued a WORKS IN ROAD RESERVATION PERMIT. Application for the issue of the necessary works permit is to be made to the Brighton Council's Asset Services department prior to the proposed date of commencement of any works.

Stormwater

- (23) Drainage from the proposed development must drain to a legal discharge point to the satisfaction of Council's Municipal Engineer and in accordance with a Plumbing permit issued by the Permit Authority in accordance with the Building Act 2016.
- (24) The Developer is to incorporate Water Sensitive Urban Design Principles into the development for the treatment and disposal of stormwater. These Principles will be in accordance with the Water Sensitive Urban Design Procedures for Stormwater Management in Southern Tasmania or The Model for Urban Stormwater Improvement Conceptualisation (MUSIC) and to the satisfaction of the Council's Municipal Engineer.
- (25) The driveway must be drained to minimise surface runoff over the footpath or to the adjoining road in accordance with the requirements of the Municipal Engineer and a Plumbing Permit issued by the Permit Authority in accordance with the Building Act 2016.

Soil and Water Management

- (26) Before any work commences a soil and water management plan (SWMP) prepared in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South, must be approved by Council's General Manager before development of the land commences. The SWMP shall form part of this permit when approved.

- (27) Before any work commences install temporary run-off, erosion and sediment controls in accordance with the recommendations of the approved SWMP and maintain these controls at full operational capacity until the land is effectively rehabilitated and stabilised after completion of the development in accordance with the guidelines Soil and Water Management on Building and Construction Sites, by the Derwent Estuary Programme and NRM South and to the satisfaction of Council's General Manager.

Construction amenity

- (28) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Strategic Planning:
- Monday to Friday 7:00 a.m. to 6:00 p.m.
 - Saturday 8:00 a.m. to 6:00 p.m.
 - Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.
- (29) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
- (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
 - (b) The transportation of materials, goods and commodities to and from the land.
 - (c) Obstruction of any public footway or highway.
 - (d) Appearance of any building, works or materials.
- (30) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Strategic Planning.
- (31) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.
- (32) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

Construction amenity

- (33) The development must only be carried out between the following hours unless otherwise approved by the Council's Manager Development Services:
- Monday to Friday 7:00 a.m. to 6:00 p.m.
 - Saturday 8:00 a.m. to 6:00 p.m.

- Sunday and State-wide public holidays 10:00 a.m. to 6:00 p.m.
- (34) All works associated with the development of the land shall be carried out in such a manner so as not to unreasonably cause injury to, or prejudice or affect the amenity, function and safety of any adjoining or adjacent land, and of any person therein or in the vicinity thereof, by reason of:
- (a) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or otherwise.
 - (b) The transportation of materials, goods and commodities to and from the land.
 - (c) Obstruction of any public footway or highway.
 - (d) Appearance of any building, works or materials.
- (35) Any accumulation of vegetation, building debris or other unwanted material must be disposed of by removal from the site in an approved manner. No burning of such materials on site will be permitted unless approved in writing by the Council's Manager Development Services.
- (36) Public roadways or footpaths must not be used for the storage of any construction materials or wastes, for the loading/unloading of any vehicle or equipment; or for the carrying out of any work, process or tasks associated with the project during the construction period.
- (37) The developer must make good and/or clean any footpath, road surface or other element damaged or soiled by the development to the satisfaction of the Council's Municipal Engineer.

THE FOLLOWING ADVICE APPLIES TO THIS PERMIT:

- A. Please consult your private building surveyor to ascertain whether any additional approvals or notifications are required under the *Building Act 2016* or the *Tasmanian Plumbing Regulations 2014*.
- B. This permit does not imply that any other approval required under any other legislation or by-law has been granted.
- C. A separate permit is required for any signs unless otherwise exempt under Council's planning scheme.

D. The issue of this permit does not ensure compliance with the provisions of the Commonwealth *Disability Discrimination Act 1992* in relation to access to or use of premises that the public can enter or use. Building access issues may also arise under other *Disability Discrimination Act 1992* provisions relating to employment, access to services and accommodation provisions. The operator may be liable to complaints in relation to any non-compliance with the *Disability Discrimination Act 1992*.

There are currently no standards prescribed for compliance with the Disability Discrimination Act 1992, however, Australian Standards associated with the Act, including AS 1428.1-2001 - Design for access and mobility - General requirements for access - New building work and the Building Code of Australia (BCA) may apply to occupants of the building. It is recommended that you obtain further information concerning the Disability Discrimination Act 1992 from the Office of the Human Rights and Equal Opportunities Commission or the Tasmanian Anti-Discrimination Commission.

E. **This planning approval shall lapse at the expiration of two (2) years from the date of the commencement of planning approval if the development for which the approval was given has not been substantially commenced. Where a planning approval for a development has lapsed, an application for renewal of a planning approval for that development shall be treated as a new application.**

DECISION:

Cr Jeffries moved, Cr Geard seconded that the recommendation be adopted.

CARRIED

VOTING RECORD

In favour	Against
Cr Curran	
Cr Garlick	
Cr Geard	
Cr Gray	
Cr Jeffries	
Cr Owen	
Cr Williams	

The meeting closed at 5.50pm

Confirmed: _____
(Mayor)

Date: _____
16th May 2017