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**Cc:** [Andrew Bondini](#); [Gary Chapman](#); [Mike Pilcher](#)  
**Subject:** Draft Local Provisions Schedule – Submission by Boral Resources  
**Date:** Tuesday, 11 June 2019 3:56:56 PM  
**Attachments:** [Bridgewater Quarry - Submission on Draft Local Provisions\\_v1 \(11 May 2019\).pdf](#)

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Dear Sir/Madam,

Boral Construction Materials Group Limited (Boral) appreciates the opportunity to provide comment on the Brighton Draft Local Provisions Schedule, which seeks to transition the Brighton Interim Planning Scheme 2015 to new the format Tasmanian Planning Scheme.

A copy of the submission prepared by Boral is attached.

Boral welcomes the opportunity to work with the Tasmania Planning Commission and Brighton Council to undertake a robust review of the buffer areas taking into account full future development of extraction areas.

Please do not hesitate to contact me should you wish to discuss the matters raised within this correspondence in further detail.

Thank you

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## **Draft Local Provisions Schedule – Submission by Boral Resources**

### **1. Introduction**

Boral Construction Materials Group Limited (Boral) appreciates the opportunity to provide comment on the Brighton Draft Local Provisions Schedule, which seeks to transition the Brighton Interim Planning Scheme 2015 to new the format Tasmanian Planning Scheme.

We note that the LPS includes changes to the Bridgewater Quarry Specific Area Plan (SAP) that impact on Borals landholdings.

It is understood that the draft LPS aims to achieve as much consistency as possible with the SPP's and only seeks to include overriding provisions where the Act requirements for compliance with the Schedule 1 Objectives of LUPAA or the STRLUS cannot be met without local provisions.

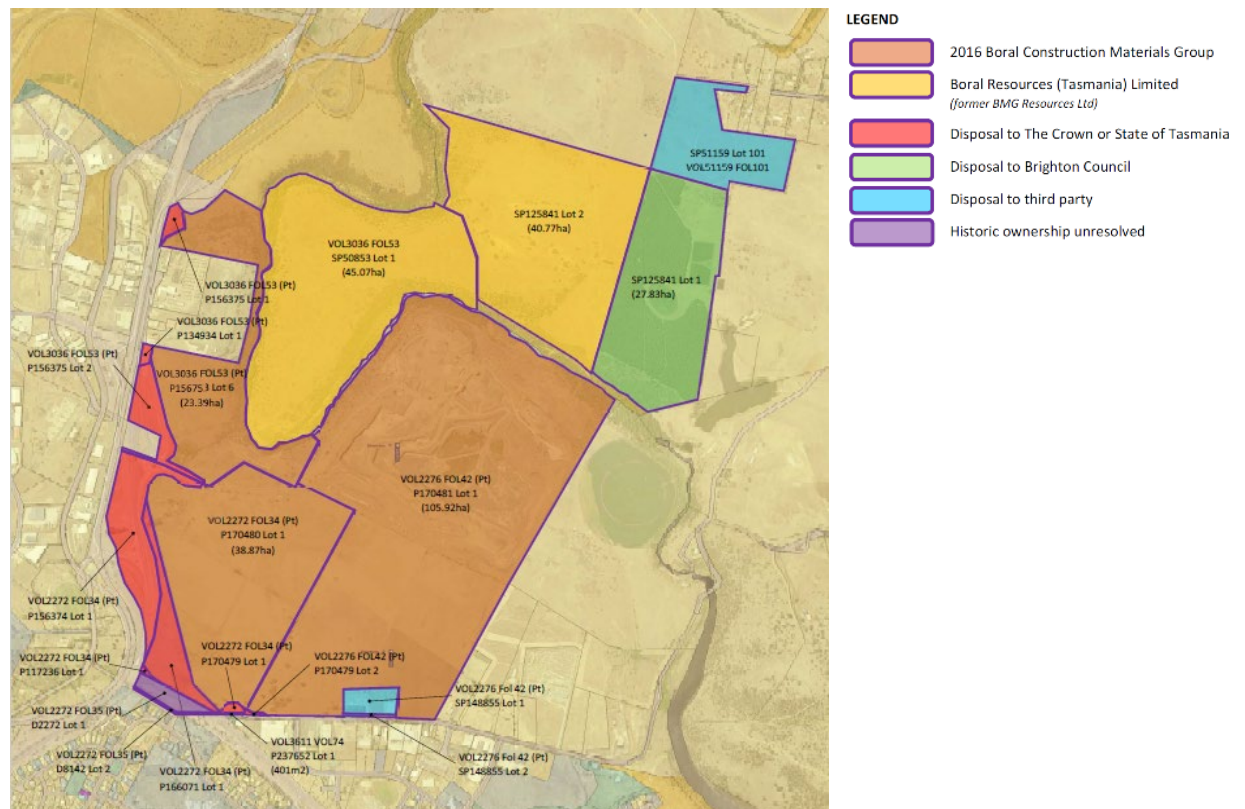
### **2. Boral's Interest in the Amendment**

Boral Australia Pty Ltd (Boral) owns and operates the Bridgewater Quarry, located at 314 Midland Highway, Bridgewater. The quarry operates under Mining Lease 1477P/M which allows for the extraction of Construction Minerals with an expiry date of 1 April 2023. Boral's land holdings are shown in **Figure 1** below.

The subject quarry supplies a major portion of the prime quality crushed hard rock requirement in the Hobart metropolitan area and much of the southern part of the State.

The 'active' area of the quarry is currently located in the northern extent of the site to the north of the main transmission line. Based on present knowledge of the extent remaining rock reserves are estimated at some 75 million tonnes.

**FIGURE 1: BORAL LAND HOLDINGS**



This, at the projected demand and extraction rates, represents a quarry life of some 100 years. Its reserve of raw materials is a columnar basalt and this is the only such available reserve within economic distance of the Hobart metropolitan area.

The quarry is a very cost effective supplier because of the unique quality of the rock reserves, and its geographic location is such that it assures economical transport cost of the products to the various locations of the market which this quarry serves. Alongside this quarry operation, Boral also produces concrete to meet Tasmania's significant building and construction requirements. Boral is therefore an important employer for the State and its operations make a significant contribution to the local and regional economy.

The Brighton Structure Plan further recognises the state significance of the Bridgewater Quarry, and provides the following commentary:

*The Boral Quarry at Bridgewater is one of only two major quarries in southern Tasmania, and has over 100 years of resources left.*

*Protecting the ongoing functioning of these nodes is vital to ensure that the municipality can continue to attract investment and provide local job opportunities. The planning scheme provides attenuation buffers to restrict incompatible land uses. It is noted that over time, the quarrying activity will head south. This will mean that the buffer can be adjusted.*



Boral general support and endorses the aspirations of the BSP.

### 3. The Amendment

Boral have reviewed the existing Brighton Interim Planning Scheme (IPS) provisions against Brighton Council's proposed Local Provisions Schedule (LPS) with respect to Boral's quarry operations at Bridgewater Quarry. The Bridgewater Quarry SAP provides for similar controls to those within the Brighton IPS, albeit in a different format.

The major components (from Boral's perspective) of the amendment to the Brighton Planning Scheme ("the Amendment") are:

1. The introduction of improved controls which prohibit sensitive uses within the Brighton Quarry Specific Area Plan (SAP)
2. The rezoning of Volume 125841 Folio 2 from Rural Resource to Agriculture Land
3. The removal of the industrial precinct attenuation code overlay, and
4. Minor drafting matters in relation to the wording and interpretation of sensitive uses and referral requirements.

These matters are addressed in detail below:

### 4. Sensitive Uses within the Brighton Quarry SAP

The area to which the Brighton Quarry Specific Area Plan (SAP) applies to is the same as the Brighton IPS Brighton Quarry Attenuation area. The proposed SAP provides improved protection from sensitive uses than the Brighton IPS Attenuation Code in that sensitive uses are a prohibited use under clause BRI-S4.6.1. Sensitive use (in the State Planning Provisions) is defined as follows:

*Sensitive use means a residential use or a use involving the presence of people for extended periods except in the course of their employment such as a caravan park, childcare centre, dwelling, hospital or school.*

The proposed SAP is therefore supported by Boral and will provide greater protection from the encroachment of sensitive uses.

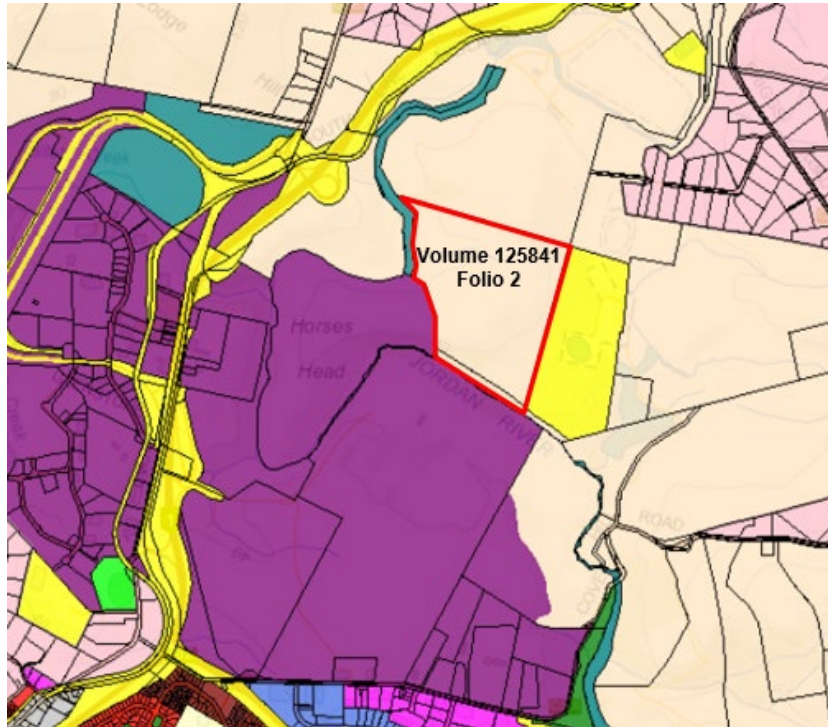
Notwithstanding that, the heading of Clause BRI-S4.6.1 is somewhat misleading or ambiguous in that it refers to 'Residential Use' which is only one component of the sensitive use definition.

We consider this to be somewhat ambiguous and to protect Boral's interests this should be amended to capture all sensitive uses.

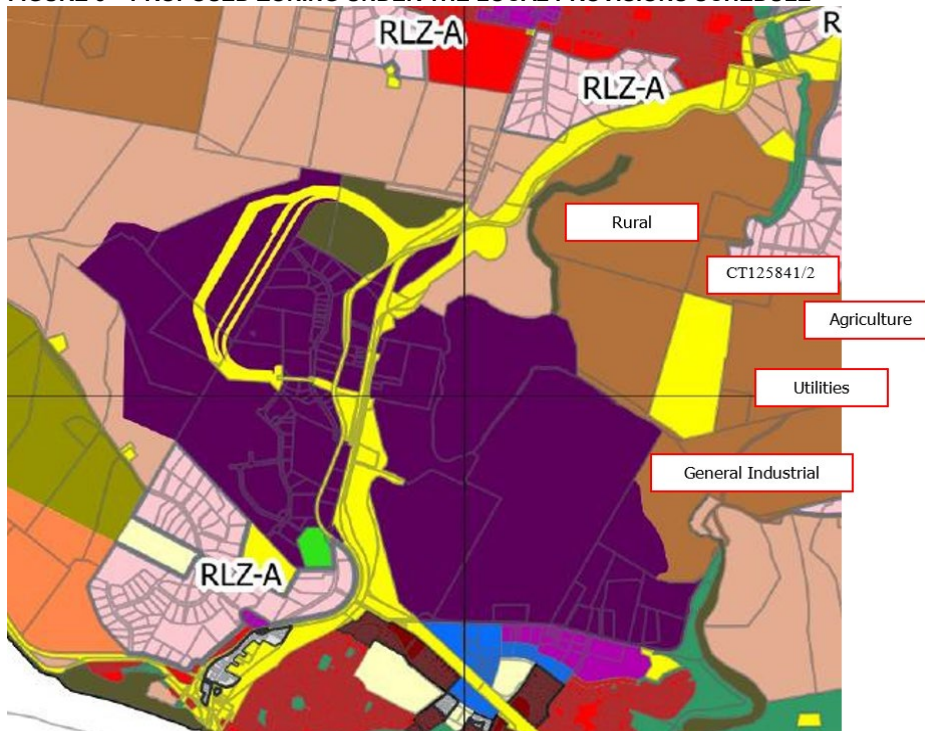
## 5. The rezoning of Boral land from Rural Resource to Agriculture Land

The land at Volume 125841 Folio 2 is currently zoned Rural Resource and is located within the Quarry Attenuation Code Area (refer to **Figure 2**).

**FIGURE 2 – BRIGHTON INTERIM PLANNING SCHEME ZONING**



**FIGURE 3 – PROPOSED ZONING UNDER THE LOCAL PROVISIONS SCHEDULE**





The purpose of the Rural Resource Zone is as follows:

- 26.1.1.1 *To provide for the sustainable use or development of resources for agriculture, aquaculture, forestry, mining and other primary industries, including opportunities for resource processing.*
- 26.1.1.2 *To provide for other use or development that does not constrain or conflict with resource development uses.*
- 26.1.1.3 *To provide for non-agricultural use or development, such as recreation, conservation, tourism and retailing, where it supports existing agriculture, aquaculture, forestry, mining and other primary industries.*
- 26.1.1.4 *To allow for residential and other uses not necessary to support agriculture, aquaculture and other primary industries provided that such uses do not:*
  - (a) *fetter existing or potential rural resource use and development on other land*
  - (b) *add to the need to provide services or infrastructure or to upgrade existing infrastructure;*
  - (c) *contribute to the incremental loss of productive rural resources*
- 26.1.1.5 *To provide for protection of rural land so future resource development opportunities are not lost.*

The application of the Rural Resource Zone is clearly designed to support mining and other primary industries. The proposed amendment seeks to rezone the land to the new 'Agriculture' zone. The Agriculture Zone applies limitations on non-agricultural uses to protect agricultural land from unnecessary conversion and provides for the use of the land for Extractive Industries is a discretionary use. The discretion which would be invoked includes:

*"A use listed as Discretionary, excluding Residential or Resource Development, must be required to locate on the site, for operational or security reasons or the need to contain or minimise impacts arising from the operation such as noise, dust, hours of operation or traffic movements, having regard to:*

- a) *access to a specific naturally occurring resource on the site or on land in the vicinity of the site;*
- b) *access to infrastructure only available on the site or on land in the vicinity of the site;*
- c) *access to a product or material related to an agricultural use;*
- d) *service or support for an agricultural use on the site or on land in the vicinity of the site;*
- e) *the diversification or value adding of an agricultural use on the site or in the vicinity of the site; and*



f) *provision of essential Emergency Services or Utilities”.*

and,

*A use listed as Discretionary, excluding Residential, must minimise the conversion of agricultural land to non-agricultural use, having regard to:*

- a) *the area of land being converted to non-agricultural use;*
- b) *whether the use precludes the land from being returned to an agricultural use;*
- c) *whether the use confines or restrains existing or potential agricultural use on the site or adjoining sites.*

Thus, the move of the use to discretionary on title Volume 125841 Folio 2 is not supported as this significantly abolishes our existing rights and imposes additional burden on Boral to demonstrate to the need to prove the minimisation of agricultural land converted to a non-agricultural use.

The proposed Rural Zone, on the other hand, provides for a range of other uses, in addition to agricultural uses, that may require a rural location for operation purposes. These include Extractive Industry, Resource Processing and a limited range of Manufacturing and Processing, Storage and other uses. We submit that the Rural Resources Zone is more closely aligned with the existing Rural Resource Zone and the underlying tenure.

To support this position, we note that the Southern Tasmania Regional Land Use Strategy 2010-2035 (STRLUS) recognises the importance of protecting productive resources within Tasmania and states:

*Mineral extraction within Southern Tasmania is limited and is concentrated on quarrying operations for hard rock, sand, materials for concrete construction, and blue metal. A number of quarrying operations in the South are of regional significance and particularly important to the construction industry, including the Leslie Vale and Brighton quarries (STRLUS p:64).*

Policies to support this include:

*PR 3: Support and protect regionally significant extractive industries.*

*PR 3.1 Ensure existing regionally significant extractive industry sites are zoned either General Industry or Rural Resource and are protected by appropriate attenuation areas in which the establishment of new sensitive uses, such as dwellings, is restricted.*

We also note that Volume 125841 Folio 2 is referenced in the Use Table to the General Industrial Zone which identifies extractive industry as a ‘permitted’ use class. This reference appears out of date but infers that the land previous has a permitted use right for extractive industry.

Significantly, Boral were not notified of the proposal to rezone this land. It was only through a review of the Brighton Quarry SAP that the proposed to rezone the land was identified.

The proposal to rezone of Volume 125841 Folio 2 from Rural Resource to Agriculture is, therefore, not supported and will imposes the onerous tests applied in converting agricultural land to non-agricultural uses. It is recommended that Volume 125841 Folio 2 be changed to a Rural or Industrial Zone.

## 6. The removal of the Industrial Precinct Attenuation Area

There are two separate attenuation areas that overlap with the Bridgewater Quarry, being the Bridgewater Quarry Attenuation Area and the Industrial Precinct Attenuation Area (**Figures 4 and 5 below**).

**FIGURE 4 - BRIGHTON QUARRY SPECIFIC AREA PLAN**



The industrial precinct attenuation overlay was a continuation of the Environmental Buffer Area at clause 7.6 of the BPS 2000. This itself replaced the earlier Noise Zone (Proposed Alteration No. RZ89/04).

The application of the attenuation code is to protect the industrial area from conflict with other land uses and to protect future residents from noise, dust, fumes, vibration, air blasts, impacts to water, and impacts to views and amenity as these effects are associated with the conduct of an extractive and other industry (refer **Attachment 1**).

Since the creation of the noise zone (under the 1977 Planning Scheme) the Brighton Council has come under pressure from developers, land owners and other vested interests to set aside part, or all, of the planning provisions and limitations related to this noise zone. It is understood that in many cases these landholders purchased the land after the attenuation code was implemented.



FIGURE 5 - INDUSTRIAL PRECINCT ATTENUATION AREA



The removal of the Industrial Precinct Attenuation Zone will allow sensitive uses (dwellings, schools etc.) to locate in the area shown in **Figure 6** more easily. It is suspected that the definition of this area comes from the noise and air quality modelling undertaken for the quarry.

The area is zoned Rural, so there are limitations to the density of sensitive uses, but complaints generated may result in additional operating restrictions to the quarry or more onerous conditions on future permits.

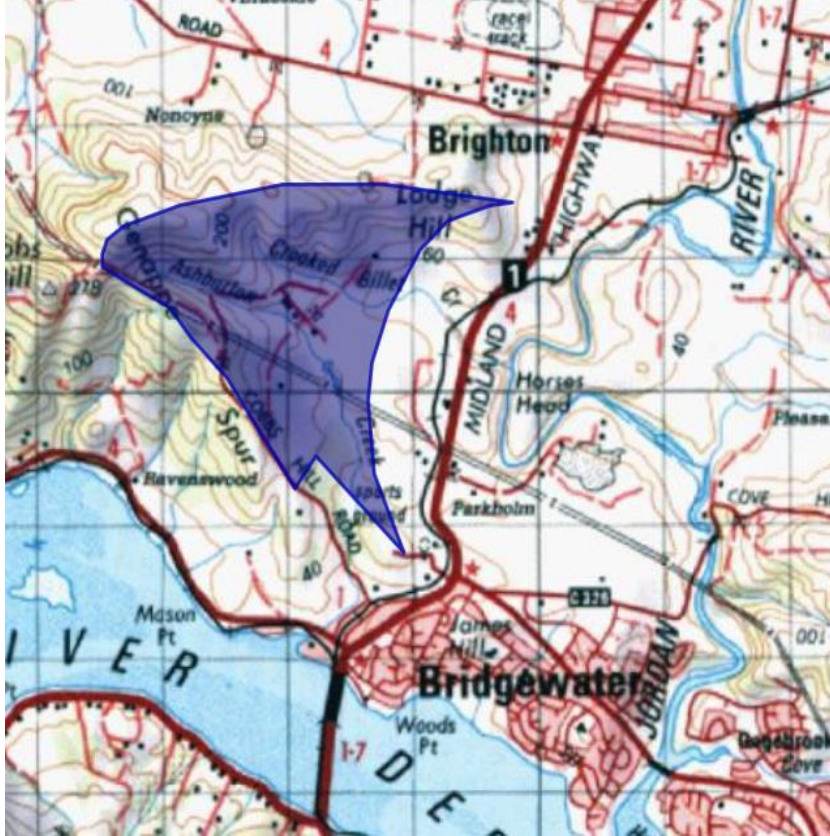
The importance of the attenuation areas was highlighted within the former Brighton Structure Plan, under section 9.6 Buffer Management. The primary objective for buffer management under section 9.6.2 is:

*to protect land uses from adversely impacting on each other and to identify appropriate uses for the land within the buffers. This will be achieved through the inclusion of buffer management policies and statutory requirements in the planning scheme (BPS p:73).*

The purpose of the attenuation area around the Boral Bridgewater Quarry is to protect the quarry operations from residential encroachment and other sensitive uses to ensure that it maintains the right to operate.

Managing community expectations is a key challenge for Boral as residents move into a new development without full understanding of the effects associated with the operations of an extractive industry.

**FIGURE 6 – EXTENT OF AREA OF ATTENUATION AREA REMOVED FROM THE BRIGHTON IPS ORDINANCE**



Section 8.6 (Buffer Management) of the former Brighton Structure Plan recognizes this and states that it is recommended that buffers around quarries are redefined according to accurate testing.

The strategic planning justification for the extent of the buffer distance is, therefore, ill-defined and impacts from the quarry operations may still be experienced beyond the Attenuation Area. With the removal of the Industrial Precinct Attenuation overlay, there is greater potential for land use conflict between the quarry and new development to the east, associated with noise and dust effects.

Any changes to the zoning which allow sensitive uses closer to the quarry would, therefore, increase the likelihood of noise based complaints.

Boral firmly supports the protection of its interests afforded by the attenuation code and asserts that the suitability of the extent of the quarry attenuation area needs to be confirmed before allowing the Industrial Precinct Attenuation code to be lifted or relaxed.

The boundary of the attenuation zone should be informed as a result of careful study and consideration of the impacts arising from the quarry operations include the impacts from noise, dust, fumes, vibration and air blast.



## 7. Boral as a referral party

The performance criteria P1(d) at an BRI-S4.7 (Development Standards for Buildings and Works) requires Council to have regard to any advice from the Bridgewater Quarry Operator.

Boral submits that the performance criteria is unnecessarily vague and should be expanded upon to clarify how this will occur. For example, Clause E9.5.2 of the BIPS states that:

*The planning authority must refer any application within the Bridgewater Quarry Attenuation Area to the Bridgewater Quarry operator for advice on potential conflict between the proposed use or development and the quarry operations. Council must not determine an application until the quarry operator has provided its advice, or until 14 days from the date of referral, whichever occurs first.*

The above requirement provides a clear process to enable the quarry operator (in this case Boral) to provide advice on a planning application. This provides transparency and removes ambiguity about how this is to occur.

## 8. Conclusion

Boral have reviewed the existing Brighton Interim planning scheme (IPS) provisions against Brighton Council's proposed Local Provisions Schedule (LPS) with respect to Boral's quarry operations at Brighton and has identified a number of significant concerns.

The Attenuation Zone and the Industrial Precinct Attenuation Zone perform an important and essential function and encroachment on this zone is bound to place unreasonable limitations on future quarry operations and is certain to incur considerable cost penalties.

If approved, the proposed changes will introduce additional sensitive land uses to the west of the Bridgewater Quarry Attenuation Area. This represents a risk to Boral's right to operate which would have significant implications for the future supply of construction materials within Tasmania.

Furthermore, and perhaps more concerning, the rezoning of CT Volume 125841 Folio 2 from Rural Resource to Agriculture will significantly affect Borals right to use the land and will place significant planning restrictions on any future proposal to quarry this land.

Boral, therefore, wishes to make the following recommendations for consideration:

1. The proposal to rezone of Volume 125841 Folio 2 from Rural Resource to Agriculture is not supported and will imposes the onerous tests applied in converting agricultural land to non-agricultural uses. It is recommended that Volume 125841 Folio2 be changed to a Rural or Industrial Zone.
2. The requirement for planning applications to be formally referred to Boral should be clarified within the Bridgewater Quarry Specific Area Plan.





3. The removal of the Industrial Attenuation Zone would allow for the establishment of sensitive uses within this area and may result in unreasonable limitations on future quarry operations. The Industrial Attenuation Zone should be reinstated and the buffers around quarry, including the Industrial precinct attenuation code should be redefined according to accurate testing.
4. The heading of BRI-S4.6.1 should be amended from 'Residential Use' to 'Sensitive Uses'

Boral welcomes the opportunity to work with the Tasmania Planning Commission and Brighton Council to undertake a robust review of the buffer areas taking into account full future development of extraction areas.

Please do not hesitate to contact me should you wish to discuss the matters raised within this correspondence in further detail.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Blair Mather", written in a cursive style.

**Blair Mather**

Senior Planning and Development Manager - Southern Region  
Boral Property Group  
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Email: [blair.mather@boral.com.au](mailto:blair.mather@boral.com.au)



**Attachment 1:**  
Amended Noise Zone (Environmental Precinct)





BRIGHTON PLANNING SCHEME 1977  
AMENDMENT RZ 89-04

THE COMMON SEAL OF THE HORDEN COUNCILLORS AND ELECTORS OF THE MUNICIPALITY OF BRIGHTON HAS BEEN HERETO AFFIXED IN THE PRESENCE OF US THIS 24th 1990 IN PURSUANCE OF AUTHORIZATION GIVEN AT A MEETING HELD ON THE 16th 1990 DAY OF AUGUST 1990

*R. J. ...* HORDEN  
*S. J. ...* COUNCILLOR  
*...* COUNCIL CLERK  
1990 7.25 PM

righton Planning Scheme 1977

Provisionally Approved  
Proposed Alteration 89/04

*[Signature]*  
Commissioner  
- 3 SEP 1990

•• Existing Boundary  
of Noise Zone

— Proposed Boundary  
of Environmental Precinct



SCALE 1:15 000



BRIGHTON PLANNING SCHEME 1977

PROPOSED ALTERATION No. 89/04

1. To delete Zone 9 Noise Zone from the Ordinance and from Schedules 1 and 3.

2. To insert in place of the Noise Zone the following clause:

'8.5 Environmental Buffer Areas

8.5.1 The purpose of the Environmental Buffer Areas is to protect the Baskerville Speedway and development within the Heavy Industrial and Extractive Industrial zones of the Bridgewater Industrial Estate from encroachment from conflicting land uses and to protect land users in these buffer areas from adverse environmental impacts.

8.5.2 Except as provided under Clause 3.5 the development of temporary or permanent residential accommodation (whether for domestic, commercial or any other purpose), shall be prohibited on land within the Environmental Buffer Areas shown on the Plan.

3. To alter the status of Rural Industry, Shop and Showroom in the Light and General Industry Zones in Schedule 3 Table of Uses as shown below:

SCHEDULE 3 TABLE OF USES

	1. RURAL	2. RESIDENTIAL - RURAL	3. - RESERVED	4. - URBAN	5. BUSINESS/COMMERCIAL	6. INDUSTRY - LIGHT	7. - CONTROLLED	8. - GENERAL	9. - HEAVY	10. - EXTRACTIVE	11. HISTORIC PRECINCT	12. VILLAGE	13. PRIVATE RECREATION	14. HORSE RACING	15. SPECIAL ZONE	15. PRECINCTS
29 Rural Industry																
46 Shop																
47 Showroom																

KEY

'P' Permissible and subject to conditions

'A' Permissible only with Councils consent

'X' Prohibited

BRIGHTON PLANNING SCHEME 1977  
AMENDMENT RZ 89-04

THE COMMON SEAL OF THE WARDEN, COUNCILLORS AND ELECTORS OF THE MUNICIPALITY OF BRIGHTON HAS BEEN HEREUNTO AFFIXED IN THE PRESENCE OF US THIS 24th DAY OF AUGUST 1990 IN PURSUANT OF AUTHORISATION GIVEN AT A MEETING HELD ON THE 16th DAY OF AUGUST 1990

B. J. ... WARDEN  
S. A. ... COUNCILLOR  
... COUNCIL CLERK  
ITEN 7.25 C.C. MTS 16.8.90

Provisionally Approved

*[Signature]*  
Commissioner

- 3 SEP 1990