



9 April 2020

South Australian Productivity Commission
GPO Box 2343
ADELAIDE SA 5001

By email: sapc@sa.gov.au

Boral Resources (SA) Ltd
Level 1, 49 The Parade
Norwood SA 5067
PO Box 2167
Kent Town DC 5071

T: +61 (08) 8425 0400

www.boral.com.au

Dear Sir/Madam

Extractives Supply Chain - Issues Paper - Boral submission

The Commission has released an issues paper, titled "*Review into the Institutional Arrangements to Manage Regulatory Burden – Extractive Supply Chain*". The Commission has invited industry and public comments on the Issues Paper, with submissions to be lodged by 9 April 2020.

Boral is an international building products and construction materials group with three strong divisions: the high-performing, well-positioned construction materials business of Boral Australia; USG Boral, a fast-growing plasterboard joint venture in Asia, Australia and the Middle East; and Boral North America, a scaled and growing building products and fly ash business. Employing more than 26,000 employees and contractors, Boral's operations span 826 building and construction materials operating and distribution sites globally.

Within South Australia, Boral has 11 quarry sites with a range of ancillary land uses within these quarry sites plus a number of complementary sites, comprising landfill sites, concrete and asphalt plants, service trade premises, retail sales and showrooms.

All our quarry sites are active, lawfully operating and have life expectancies in the range of 50 to 100+ years based on the life of the resource and current extraction rates. In short, they are long term existing land uses with no changes into the foreseeable future.

The quarries produce aggregates, rail ballast, pre-mix concrete and road materials as well as limestone and washed sands for concrete manufacturing.

Notably, Boral's Kapunda, Linwood, Lobethal, Reynella, Salisbury and Whyalla Quarries are identified as strategic mineral resource areas in South Australia (Department of State Development 2015. Identification of strategic mineral resource areas in South Australia: Greater Adelaide region and major regional centres, Report Book 2015/00017. Mineral Resources Division. V 1.1. Department of State Development, Adelaide.)

Boral clearly understands and appreciates the regulatory role of state government and enjoys an excellent working relationship with the Department for Energy and Mining (DEM). Notwithstanding that, the primary issue for Boral is the costly and lengthy approvals process. This point and others are summarised below:

- Excessive DEM approval timeframes. Examples are provided in the table below. Boral recommends the introduction of Industry benchmarking for mine approvals.



Project	Submission date	DEM RFI request date	DEM RFI response due date	DEM approval date	Comment
Stonyfell Quarry Mine Operations Plan	20/8/18	DEM yet to respond	-	-	Time taken for DEM to respond
Linwood Quarry Mining Lease Proposal – Haul Road risk assessment	6/9/19	DEM yet to respond	-	-	Time taken for DEM to respond

- Excessive multiple requests for information. Examples are provided in the table below. Boral notes that other legislation such as the Planning, Infrastructure and Development Act/Regulations limits planning authorities to only make one request for information.

Project	Submission date	DEM RFI request date	DEM RFI response due date	DEM approval date	Comment
Lobethal Quarry PEPR for Miscellaneous Purposes Licence Application	19/12/19	RFI1 29/1/20 RFI2 6/3/20 (EPA)	-	-	Multiple requests for information
Lobethal Quarry Miscellaneous Purposes Licence Application	6/12/18	RFI1 19/3/19 RFI2 16/9/19	RFI2 16/10/19	10/12/19	Multiple requests for information

Excessive timeframes lead to inefficiencies and costs along the supply chain and lost opportunities to the Business.

Major costs are associated with DEM multiple requests for information (RFI). Boral typically engages consultants to prepare lease applications/Mine Operations Plans/Program for Environment Protection and Rehabilitation (PEPR).

Consultants are unable to provide fee estimates at the commencement of the project to account for RFI's due to inconsistencies in the review process.

- Post closure arrangements are becoming excessive and at times, impractical. For example, it is extremely difficult (if at all) to predict a specific land use in 30 to 50 years. The focus should be on a range of intended/envisaged land uses, not dissimilar to Development Plan/Planning and Design Code zones. In addition, triggers for forward planning end-use e.g. 30/20/10 years to end of life could be regulated.



- Better alignment with the planning and quarry approval process is required. For instance, it is often inappropriate/inefficient for DEM to request that a quarry reverts to its former land use.

Boral raised a number of matters in its recent submission to the State Government's Phase 3 Planning and Design Code consultation which are of relevance to the Commission's Issues Paper. A copy of Boral's submission is attached for the Commission's reference.

- Specifically relevant to State significant infrastructure projects, quarry sites require flexibility to manage their hours of operation and activities to ensure the supply chain and delivery of infrastructure projects remain efficient.
- Boral also advocates for a fast track approval process (or self-regulation subject to criteria) for high performing operations. Victoria, for example, has prepared a Code of Practices for small quarries which, subject to certain mandatory minimum requirements, are exempt from the requirement to work to an approved Work Plan (the PEPR equivalent). The opportunity to set specific conditions for performance (e.g. hazard or harm) or other requirements relating to operational activities and rehabilitation would also provide flexibility to adjust operational plans, where appropriate.
- There appears to be an inconsistency in the level of detail required by DEM depending on the size of the operator e.g. for PEPR's as evidenced in a review of approved PEPR'S on the DEM website http://www.energymining.sa.gov.au/minerals/mining/approved_peprs. Information requirements should be clear, consistent and proportionate.
- Given the increased complexity and costs associated with the information requirements of preparing mine operations plans, Boral recommends the legislated time within which to review a mine operations plan be extended from seven years to ten years.
- Boral notes that there appears to be ambiguity in respect of our ability to access the Extractive Areas Rehabilitation Fund (EARF). While Boral has contributed substantial amounts to the EARF, Boral has not used all of its contributions and would appreciate transparency on our future ability to draw down on the EARF contributions. Clarification of the Government's intentions of the EARF into the future would also be appreciated.
- Boral would also refer the Commission to the Victorian Red Tape Commission Submissions and Report.

Thank you for the opportunity to provide this submission on the Issues Paper. Boral would be pleased to meet with the Commission to discuss any aspects as appropriate.

Yours faithfully

Rodney Kazem
State Manager (SA)

Encl.

Ref: 2019-0589



URPS

Suite 12
154 Fullarton Road
ROSE PARK SA 5067

08 8333 7999
www.urps.com.au
ABN 55 640 546 010

26 February 2020

Mr Jason Bailey
Team Leader – Planning and Design Code
Department of Planning, Transport and Infrastructure
GPO Box 1815
ADELAIDE SA 5001

By email: dpti.planningreformsubmissions@sa.gov.au

Dear Jason

Phase 3 Planning and Design Code Submission – Boral

Boral is an international building products and construction materials group with three strong divisions: the high-performing, well-positioned construction materials business of Boral Australia; USG Boral, a fast-growing plasterboard joint venture in Asia, Australia and the Middle East; and Boral North America, a scaled and growing building products and fly ash business. Employing more than 26,000 employees and contractors, Boral's operations span 826 building and construction materials operating and distribution sites globally.

Within South Australia, Boral has some 25 sites within areas affected by the draft Planning and Design Code for Phase Three. These assets cover a range of land uses including quarries, landfill sites, concrete and asphalt plants, service trade premises, retail sales and showrooms.

Affected Boral Sites

The following table identifies the 25 selected Boral sites that are affected by the Phase 3 consultation.

	Asset	Address	Current Zoning	Proposed PD Code Zone	Local Government Areas
1	Edwardstown Masonry Sales Outlet	1044-1046 South Road, Edwardstown, South Australia, 5039	Industry Policy: 5	Employment	City of Marion

	Asset	Address	Current Zoning	Proposed PD Code Zone	Local Government Areas
2	Gepps Cross Asphalt Plant	612-616 Prospect Road, Gepps Cross, South Australia, 5094	Industry	Employment	Port Adelaide Enfield
3	Kapunda Quarry	455 The Gap Road, Fords, South Australia, 5737	Primary Production Policy: 3	Rural	Light Regional Council
4	Linwood Quarry (Concrete Plant)	1 Clubhouse Road, Seacliff Park, South Australia, 5049	Mineral Extraction, Hills Face	Resource Extraction, Hills Face	Corporation of the City of Marion
5	Littlehampton Concrete Plant	8 (Lot 113) Mount Barker Road, Littlehampton, South Australia, 5250	Light Industry	Suburban Employment	Mount Barker Council
6	Lobethal Quarry	Lot 8 (#212) Staffords Road, Lobethal, South Australia, 5241	Watershed (Primary Production) zone Policy: 11	Peri-Urban	Adelaide Hills Council
7	Murray Bridge Concrete Plant	102 Rocky Gully Road, Murray Bridge, South Australia, 5253	Primary Production Policy: 5	Rural	The Rural City of Murray Bridge
8	Murray Bridge Quarry	Lot 18 Maurice Road, Rocky Gully, South Australia, 5253	Primary Production Policy: 3	Rural	The Rural City of Murray Bridge
9	NAWMA Encumbrance	191 Medlow Road, Uleybury, South Australia, 5114	Hills Face	Hills Face	City of Playford
10	Noarlunga Concrete Plant	Lot 99 Seaford Road, Seaford Meadows, South Australia, 5169	Urban Employment	Employment	City of Onkaparinga
11	Norwood Timber	176-178 Magill Road, Norwood, South Australia, 5067	Business Policy: 6.6	Suburban Business and Innovation	City of Norwood, Payneham and St Peters

	Asset	Address	Current Zoning	Proposed PD Code Zone	Local Government Areas
12	Para Hills Quarry (Concrete Plant)	35 Barker Road, Gulfview Heights, South Australia, 5096	Mineral Extraction	Resource Extraction	City of Salisbury Council
13	Pooraka Masonry Manufacture	1161 -1171 Main North Road, Pooraka, South Australia, 5095	Industry	Employment	City of Salisbury
14	Port Augusta Concrete Plant	Lot 102 Footner Road, Port Augusta, South Australia, 5700	Industry	Employment	Port Augusta City Council
15	Port Augusta Masonry	2-26 Addison Road, Port Augusta, South Australia, 5700	Residential	Suburban Neighbourhood	Port Augusta City Council
16	Regency Park Bulk Cement Depot (Rail Siding)	22 Pedder Crescent, Regency Park, South Australia, 5010	Industry	Employment	City of Port Adelaide Enfield
17	Reynella Quarry	Lot 80 & 81 Moore Road, Reynella, South Australia, 5161	Mineral Extraction, Urban Employment	Resource Extraction, Employment	City of Onkaparinga City of Marion
18	Salisbury Quarry	199 Black Top Road, Gould Creek, South Australia, 5114	Hills Face	Hills Face	City of Salisbury Council
19	Seaford Meadows Plasterboard	1 Seaford Road,, Seaford Meadows, South Australia, 5169	Bulky Goods	Suburban Employment	City of Onkaparinga
20	Stirling North Quarry	SEC 889 Government Road, Stirling North, South Australia, 5710	Rural Landscape Protection, Primary Industry	Rural	Port Augusta City Council
21	Stonyfell Quarry (Concrete Plant)	53 Stonyfell Road, Stonyfell, South Australia, 5066	Residential Policy: R17, Hills Face	Suburban Neighbourhood, Hills Face	Burnside Council Adelaide Hills Council
22	Thebarton Plasterboard	5 West Thebarton Road, Thebarton, South Australia, 5031	Industry	Employment	City of West Torrens

	Asset	Address	Current Zoning	Proposed PD Code Zone	Local Government Areas
23	Whyalla Quarry (Concrete Plant, Asphalt Plant)	Iron Knob Road / Norrie Avenue Extension, Whyalla, South Australia, 5600	Infrastructure	Resource Extraction	Corporation of the City of Whyalla
24	Wingfield Concrete Plant	30 Wingfield Road, Wingfield, South Australia, 5013	Industry	Employment	City of Port Adelaide Enfield
25	Woodville North Plasterboard	33-37 Burleigh Ave, Woodville North 5012, Woodville North, South Australia, 5012	Urban Employment Policy: 26	Employment	City of Charles Sturt

Effect of the draft Planning and Design Code

The introduction of the Planning and Design Code (in the draft Phase 3 consultation version) impacts each of Boral's assets in different ways. A number of sites will experience a negligible or neutral impact as a consequence of the proposed zoning. Other sites, however, will be seriously and negatively impacted as a consequence of the draft Planning and Design Code which must be amended prior to the Code being introduced.

For brevity, we have grouped the sites together for the following discussion:

Sites not impacted by the draft Planning and Design Code

Boral has identified that the following 15 sites are considered to be largely unaffected by the Code. This is generally due to the proposed new zoning being a translation of the existing zoning or the introduction of a zone that is nevertheless appropriate for the existing uses.

- Edwardstown Masonry Sales Outlet – 1044-1046 South Road, Edwardstown
- Gepps Cross Asphalt Plant – 612-616 Prospect Road, Gepps Cross
- NAWMA Encumbrance – 191 Medlow Road, Ulebury
- Noarlunga Concrete Plant – Lot 99 Seaford Road, Seaford Meadows
- Norwood Timber – 176-178 Magill Road, Norwood
- Para Hills Quarry (Concrete Plant) – 35 Barker Road, Gulfview Heights
- Pooraka Masonry Manufacture – 1161-1171 Main North Road, Pooraka
- Port Augusta Concrete Plant – Lot 102 Footner Road, Port Augusta
- Port Augusta Masonry – 2-26 Addison Road, Port Augusta
- Regency Park Bulk Cement Depot – 22 Pedder Crescent, Regency Park
- Reynella Quarry – Lots 80/81 Moore Road, Reynella

- Seaford Meadows Plasterboard – 1 Seaford Road, Seaford Meadows
- Thebarton Plasterboard – 5 West Thebarton Road, Thebarton
- Wingfield Concrete Plant – 30 Wingfield Road, Wingfield
- Woodville North Plasterboard – 33-37 Burleigh Avenue, Woodville North

For each of these sites Boral seeks no specific amendments to the draft Planning and Design Code, however Boral seeks to reiterate its support for the proposed zoning and wishes to be advised if any changes to the proposed zoning are contemplated.

Sites Requiring Amendments

Littlehampton Concrete Plant – 8 Mount Barker Road, Littlehampton

It is considered preferable for the proposed zoning to be replaced with the Employment Zone rather than Suburban Employment Zone.

Within the Suburban Employment Zone, light industry is performance assessed, however industry remains restricted development.

The existing approved use on the site must rely on its existing use rights as the proposed zoning only supports light industrial activities where the off-site impacts do not produce objectionable emissions to meet the light industry definition.

Within the Employment Zone, the existing use is both envisaged and supported within the Zone.

Murray Bridge Concrete Plant – 102 Rocky Gully Road, Rocky Gully

The Rural Zone remains unsuitable for the existing use of the land and entrenches similar zoning and land use conflicts that exist under the current zoning.

The new zone seeks to support, protect and maintain primary production and horticultural activities and associated value adding of primary produce and fails to recognise the approved and lawful activities on the site. This focus of the zone presents significant conflict to ongoing resource processing activities on the subject land, which are not in association with farming activities.

The zoning for the site should instead be replaced with the Employment Zone.

Out of an abundance of caution, it is a requirement that any zoning applicable to these sites that have a current resource extraction and/or processing facility should ensure that 'special industry' is not listed as a restricted use. Whilst concrete and asphalt batching are not generally classed as special industry, Boral seeks absolute clarity around this issue to protect its ongoing operations.

Quarry Sites

The following eight quarry sites stand to be particularly affected by the proposed zoning in the draft Planning and Design Code:

- Kapunda Quarry – 455 The Gap Road, Fords
- Linwood Quarry – 1 Clubhouse Road, Seacliff Park
- Lobethal Quarry – Lot 8 Staffords Road, Lobethal

- Murray Bridge Quarry – Lot 18 Maurice Road, Rocky Gully
- Salisbury Quarry – 199 Black Top Road, Gould Creek
- Stirling North Quarry – Sec 889 Government Road, Stirling North
- Stonyfell Quarry – 53 Stonyfell Road, Stonyfell
- Whyalla Quarry – Iron Knob Road/Norrie Ave Expansion, Whyalla

Each of these quarries is active, lawfully operating, on-going and have life expectancies in the range of 50 to 100+ years based on current extraction rates. In short, they are long term existing land uses with no changes into the foreseeable future.

The quarries produce aggregates, rail ballast, pre-mix concrete and road materials as well as limestone and washed sands for concrete manufacturing.

Notably, Boral's Kapunda, Linwood, Lobethal, Reynella, Salisbury and Whyalla Quarries are identified as strategic mineral resource areas in South Australia (Department of State Development 2015. Identification of strategic mineral resource areas in South Australia: Greater Adelaide region and major regional centres, Report Book 2015/00017. Mineral Resources Division. V 1.1. Department of State Development, Adelaide.)

The draft Planning and Design Code includes a new **Resource Extraction Zone**. The Desired Outcome for this zone includes the provision and protection of land for the extraction, production or processing of a mineral, extractive or petroleum resource. Notwithstanding this, each quarry (with the exception of the Whyalla Quarry and part of Linwood) is proposed to be located within the Hills Face Zone, Rural Zone, Peri-Urban Zone or a combination thereof.

Development associated with or ancillary to resource extraction and processing is also envisaged within the Resource Extraction Zone (and includes necessary uses such as concrete batching, asphalt manufacturing, construction materials recycling, operations of pugmills and other blending plant). Resource extraction operation and resource processing facilities are specifically envisaged activities.

Given the existing quarrying uses at these sites and the very long-term futures anticipated for each site, it is Boral's submission that these sites should unquestionably be located wholly within the Resource Extraction Zone. This Zone appears to be specifically tailored to facilitate the existing and future activities at each of these identified sites.

The proposed zoning in the draft Planning and Design Code fails to recognise these important State assets and moreover introduces an unnecessary barrier to the continued operation of each quarry.

The Productive Economy Policy Discussion Paper (November 2018) specifically observed the following:

Increased urban growth, the impacts of infrastructure projects, larger house sizes and longer development horizons have seen an increased demand for resources (particularly extractive) and more intensive mining operations (including night works, blasting, processing and heavy vehicle traffic).

Land use planning generally, and the Code in particular, must adapt to increasing exploration and production in the energy and resources industries, while also being mindful of environmental concerns. Policies in the Code must consider interactions with other regulatory levers, such as environmental impact statements

The placement of each identified quarry site wholly into the **Resource Extraction Zone** would appropriately recognise these uses and create a policy solution entirely consistent with the Productive Economy Policy Discussion Paper and the blueprint for South Australia's Planning and Design Code.

Furthermore, the Resource Extraction Zone should be amended to specifically include a range of uses compatible with extractive industry including, but not limited to, renewable energy facilities as desired land uses in DTS/DPF 1.1.

In addition to the proposed rezoning of the quarry sites, each must be supported with a buffer consisting of the **Resource Extraction Protection Area Overlay**.

The **Resource Extraction Protection Area Overlay** is established in the draft Planning and Design Code, however it appears to apply only to limited number of sites in the State's mid-north, Yorke Peninsula Eyre Peninsular, the Riverland, a site in the South East and a site at Taillem Bend.

Of the sites reviewed as part of this submission, only the Whyalla Quarry site is affected by the Overlay.

The Overlay provides protection of current and future state significant resource extraction activities by ensuring development has regard to potential environmental and amenity impacts generated by the lawful operation of proximate mines and quarries.

Within the Overlay:

- Long-term availability of and ability to extract resources is maintained by ensuring development involving sensitive receivers is:
 - (a) located away from areas which may be subject to unacceptable noise, dust or vibration emissions generated by current or future resource extraction activities; or
 - (b) able to adequately mitigate impacts of noise, dust or vibration emissions through design techniques such as:
 - (i) locating residential accommodation the greatest distance practicable from the resource extraction activity;
 - (ii) placing buildings containing non-sensitive receivers between the resource extraction activity and sensitive receivers;
 - (iii) placing rooms more sensitive to air, noise and vibration impacts (e.g. bedrooms) further away from the resource extraction activity; and / or
 - (iv) providing private or common open space adjacent a building facade that shields the space from impacts of the resource extraction activity.
- Development does not incorporate:
 - (a) a sensitive receiver;
 - (b) alterations or additions to a sensitive receiver which increase the floor area of such buildings by 10% or more; or
 - (c) land division for the purposes of accommodating a sensitive receiver.

For land located outside of the Resource Extraction Zone but within the Overlay, development (including land division creating additional allotments or alterations and additions which increase the floor area of buildings by 10% or more) is required to be referred to the Minister responsible for administering the Mining Acts. The referral enables the provision of expert assessment and direction to the relevant authority

on the potential for sensitive receivers to adversely impact upon the lawful continued operation of resource extraction operations.

The introduction of the **Resource Extraction Protection Area Overlay** around each identified quarry site is critical to support the ongoing extractive industries and must occur, irrespective of whether the proposed rezoning of the quarry sites is supported. It is Boral's submission that a 1,000m radius around each site would provide for an appropriate buffer.

Failure to apply the Resource Extraction Zone and the Resource Extraction Protection Area Overlay is inconsistent with the strategic context of these sites. It is also inconsistent with the objectives of the draft Planning and Design Code review which seeks to utilise the full suite of planning tools available to ensure integrated decision making and to improve certainty over decision making. The proposed Overlay will preserve the extractive industry uses for future generations while also ensure that any reserve sensitivity issues on neighbouring sites are appropriately addressed.

This is a once in a generation opportunity to address an existing policy gap and put extractive industry uses on the planning map - literally and figuratively.

Resource Extraction Zone Proposed Amendments

Boral has reviewed the draft Resource Extraction Zone and whilst it is generally a well-considered and flexible zone, a number of changes should be adopted in its final version.

Works within water courses

There are a number of Overlays identified that are proposed to apply to various quarry sites. Whilst these are State-wide in their application and generally appropriate, the Resource Extraction Zone must include provisions that relate to the relocation and/or works within water courses.

Such activities are fundamental for safe and modern quarrying and a provision that envisages these activities will occur is critical to deal with any perceived conflicts with provisions listed in the Overlays. It is appropriate for this to be listed in the Zone as these works are ancillary and associated with resource extraction works.

Native Vegetation

The removal of vegetation is part of resource extraction activities. A provision within the Zone should be included to avoid any conflict with provisions to the contrary elsewhere in the Planning and Design Code.

Office floor space cap

DTS/DPF 1.3 of the Resource Extraction Zone includes the following

Office:

- (a) ancillary to and located on the same allotment as resource extraction and / or processing operations; and*
- (b) with a gross leasable floor area up to 50m².*

Boral identifies two issues with this provision.

Firstly, the wording should be amended to refer to the same 'site' rather than the same allotment as a number of its sites are comprised of more than one allotment. This wording has the potential to create a

significant assessment conflict where the office is not located on the same allotment as the extractive industry, notwithstanding that together they form part of a single overall site.

Secondly, the floor area cap of 50 square metres should be removed. Depending on the site operations and requirements for compliance with OHS&W regulations, a 50 square metre facility is likely to be inadequate. Such a provision will create an unnecessary conflict where greater floorspace is required by the operator to comply with its legislative obligations.

Conclusion

The draft Planning and Design Code makes a number of changes that affect Boral's multiple land holdings in South Australia. Whilst the proposed zoning is supported for a majority of sites, the changes proposed for the remaining sites significantly impact the ability for Boral to continue to operate in accordance with the current Development Plan policy intent for the land or indeed, with their existing use rights. In this regard, the transition is not "policy neutral" and for the reasons outlined herein, it is considered that further changes are required. In particular, the eight quarry sites could be easily and appropriately addressed by placing the sites within the Resource Extraction Zone and providing a buffer of 1km surrounding each site in the Resource Extraction Protection Area Overlay.

Thank you for the opportunity to provide this submission on the draft Planning and Design Code. URPS and Boral representatives will appreciate the opportunity to meet with you to discuss this submission. As part of these discussions, Boral would be pleased to provide DPTI with the relevant Certificate of Title details for each of the sites to assist DPTI in applying the zone(s) to the correct land.

Please call me if you have any questions on (08) 8333 7999.

Yours sincerely



David Bills RPIA
Associate Director