



23 August 2013

Mr Roger Bailey  
General Manager  
Lithgow City Council  
PO Box 19  
Lithgow NSW 2790

By email: lep@lithgow.nsw.gov.au

Attention: Mrs Sherilyn Hanrahan (Strategic Planner)

Dear Mr Bailey,

## **DRAFT LITHGOW LOCAL ENVIRONMENTAL PLAN 2013**

### **1.0 INTRODUCTION**

We are writing on behalf of Boral Property Group (Boral) in relation to the exhibition of Draft Lithgow Local Environmental Plan 2013 (Draft LEP 2013). We would like to thank Council staff for giving the opportunity to submit this submission following the formal end of the Draft LEP 2013 exhibition period.

Boral own two sites within Lithgow local government area (LGA), namely:

- Former Portland Cement Works and Limestone Mine, Williwa Street, Portland (hereafter known as Portland); and
- Lots 47 and 50 in DP 751655 and Lot 1 in DP 576152, Clarence Sand Quarry, Old Bells Line of Road (hereafter known as Clarence Quarry).

Boral endorses the aims, objectives and majority of provisions contained with Draft LEP 2013. There is, however, a critical issue relating to the proposed zonings under the draft Instrument that Boral wishes to bring to Council's attention.

In short, the proposed RU2 Rural Landscape zoning of the Clarence Quarry site severely compromises the long-term economic viability and efficient use of the site as it relates to the significant indigenous resource, namely high quality sands. Similarly, the application of an E3 Environmental Management and B4 Mixed Use zoning on the majority of the Portland site, limits the potential for the future use of the site generally and to achieve adaptive reuse of the State listed heritage items within the site.

A suggestion of alternative zones and extension of current proposed zones is shown in a marked-up graphic of the current Draft Land Use Zoning Map attached to this submission (refer to **Attachment A**). Also attached is an extract of the current Draft Land Use Zone Map for your information (Refer to **Attachment B**).

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## **2.0 BACKGROUND**

### **2.1 Boral**

Boral Limited is Australia's largest building and construction materials supplier with operations in all States and Territories. The company operates two divisions in all Australian States which comprises Boral Construction and Materials and Cement and Boral Building Products. Boral has leading industry positions in each of these divisions producing a wide range of building products. Boral is a significant employer within Australia and provides significant local employment opportunities within Australia's cities and rural communities. One of Boral's corporate objectives is to create sustainable solutions for a worldwide building and construction industry. Through their corporate values of excellence, integrity, collaboration and endurance, Boral is working to "build something great" for their customers, shareholders, employees and ultimately the wider community.

Boral's businesses in NSW employ around 4,500 people at more than 200 sites. Every part of the Boral portfolio is represented in NSW.

With this in mind, Boral Property Group's corporate objective is to ensure that the Boral property portfolio has the capacity, from cradle to grave, to produce sustainable outcomes for not only the company but the communities, both local and regional, that Boral works in.

### **2.2 Portland**

The Portland site is located in the township of Portland and is generally bound by Williwa Street to the south, High Street to the east, Blush Street, Carlon Street and Forest Street to the north, and Kiln Street to the west. The site is legally described as :

- Lot 104 DP755769;
- Lot 174 DP755769;
- Lot 1 DP 109592;
- Auto Consol 5461-163 (Schedule of Parcels Lot 53 DP 755769 and Lot 1 DP 1130700);
- Lot 1 DP 842890;
- Lot 6 DP 749908;
- Lot 7 DP 749909;
- Lot 5 DP 749907; and
- Lot 24 Sec 46 DP 758855.

The site is currently occupied by the former Portland cement works buildings and structures and flooded limestone mines. Manufacturing and plant structures (including power house, silo, bath house, boiler room and warehouses) are located predominately within the south-eastern corner of the site. Administration buildings, former workers cottages and associated amenities are located within the central section of the site's Williwa Street frontage. Four (4) flooded limestone quarries are located across the site. Historic bottle kilns and other associated structures are also located on the site.

The site is currently zoned Zone No 2(v) Village under Lithgow Local Environmental Plan 1994 (LEP 1994). Within the Zone No 2(v) Village, development for the purposes of 'extractive industries', 'mines' and 'offensive or hazardous industries' is prohibited, along with 'intensive livestock keeping establishments', 'junk yards' and 'sex services'. All other development, except that permitted without consent (i.e. single dwellings that are serviced by a sewer), is permissible, including retail, community, tourism and short-term accommodation, and recreational uses.

### **2.3 Clarence Sand Quarry, Old Bells Line of Road**

The Clarence Quarry site is in an isolated area surrounded by forestry. The site is bisected by the Old Bells Line of Road, which provides direct access to the Zig Zag Railway Line and Station (approximately 4.8 km south of the site) and the Lithgow township (approximately 7.4 km south-west of the site).

Approximately half the site is currently occupied by sand quarries with a portion of the site containing vegetation and regrowth. The ecological and retention value of this vegetation is unknown and would need to be examined when formulating any future proposal for a change of use.

The site is zoned Zone No 1(f) Rural (Forestry) under Lithgow LEP 1994. Development for the purposes of 'extractive industries' and 'mining' is currently permissible within the Zone No 1 (f) Rural (Forestry).

The site represents a valuable resource as it contains a significant quantum of construction sand, which is a valuable resource for the construction industry in not only the local region but metropolitan Sydney and western NSW.

### 3.0 PROPOSED AMENDED DRAFT ZONING

#### 3.1 Portland

The site is proposed to be zoned under Draft LEP 2013 as follows:

- Part B4 Mixed Use (generally the southern portion of the site, fronting Williwa Street);
- Part R1 General Residential (south-western corner of the site, fronting Lime Street to the east, Laurie Street to the south and Kiln Street to the west);
- Part R2 Low Density Residential (north-western corner of the site, fronting Carlon Road);
- Part IN2 Light Industrial (south-east corner of the site, fronting Williwa Street); and
- Part E3 Environmental Management (the majority of the site).

It is understood that the objective of Council in proposing the mix of zonings across the site is to provide for a range of future land uses, protection of the heritage items on the site and the erection of a small scale heritage/arts/retail precinct fronting Williwa Street.

Boral generally supports these objectives, however, Boral considers that an alternative mix of land use zones would be more appropriate to achieve these objectives as well as facilitate the interim use of the site for low intensity and low impact uses until a long-term redevelopment proposal is formulated. An alternative mix of land use zones would further allow for the logical extension of adjacent residential zones to parts of the site that are capable in the short-term of accommodating residential development.

APP, in conjunction with Boral, has prepared an alternative zoning layout presented as a 'mark-up' of the Draft Land Use Zoning Map (see **Attachment A**) together with a Schedule 1 notation that would apply to the Boral site or could equally apply to the adjoining Crown land if considered appropriate.

These suggested modifications (**Attachment A**) to the current draft Land Use Zoning Map seek to encompass a broader range of uses that directly relate to the special characteristics of particular portions/aspects of the site, in order to enable greater opportunities for its future development, and where practical, the adaptive reuse of existing buildings and structures. The suggestions are as follows:

- Extend the current R1 General Residential zone within the south-western corner of the site to cover land presently proposed to be zoned E3 Environmental Management (northern area) and B4 Mixed Use (eastern area). The B4 Mixed Use zoned portion of the site currently comprises dwelling houses that front onto Williwa Street. The B4 Mixed Use zone would prohibit any alterations and additions or rebuilding of dwelling houses. The adoption of the R1 General Residential Zone would permit low density residential development, including the retention of the existing houses, while permitting neighbourhood shops, recreational and community uses, and home businesses. A mix of land uses or work/home spaces would achieve better street activation of Williwa Street and not compromise the adjacent residential localities or current town centre.
- Adopt R2 Low Density Residential zone within the far northern portion of the site to cover land presently proposed to be zoned E3 Environmental Management. The north-western corner of this portion of the site is currently subdivided into conventionally sized residential lots. The adoption of the R2 Low Density Residential zone would therefore be suited to this portion of the site. It would also encourage the continuation of single dwelling houses from existing precinct/localities immediately east and west of the site. Importantly, it would enable development of current residential allotments on the site.

- Extend current B4 Mixed Use zone to replace the IN2 Light Industrial zone that is proposed to apply to the land within the south-eastern corner of the site. The continuation of the B4 zone would assist with the activation of Williwa Street. Alternatively, should Council consider there is a strong market demand for light industrial development in the Portland area, the IN2 Light Industrial zone on that part of the site could remain. This could however present land use conflicts with the adjacent B4 Mixed Use zoned land.
- Extend the B4 Mixed Use zone northward into the site over that land that is capable of development outside of the limestone pits. This would reduce the extent of the E3 Environmental Management zoning on the site.
- Retain E3 Environmental Management zone within part of the central portion of the site. This zone allows for various uses ranging from low density residential development to recreational and eco-tourism uses, which would be congruent with the natural features (i.e. geology and topography) of the central portion of the site.
- There is merit in the inclusion of low impact interim uses, such as animal training facilities, animal adjustment and aquaculture and further recreational uses, prior to the site being redeveloped for permanent uses envisaged under the E3 zone. These uses could utilise existing structures on the site and/or construct light weight facilities that can be easily dismantled following cessation. These interim uses could be a potential boon to tourism and recreation in Portland, particularly with regards to horse riding and agistment and water-based activities (e.g. kayaking).

As discussed above, the E3 Environmental Management zone prohibits certain kinds of recreational and tourism uses that would be considered beneficial to tourism in Portland. Boral requests that Council include a list of interim uses as a specific clause under Part 7 (Additional Local Provisions) under Draft LEP 2013. The interim uses that Boral is exploring are as follows:

- aquaculture;
- boat launching ramp;
- boat shed;
- camping ground;
- caravan park;
- jetty;
- mooring;
- recreation facility (outdoor); and
- animal training, agistment and boarding.

The notation of the suggested clause read as follows:

*(1) This clause applies to the land known as Williwa Street, Portland occupying Lot 104 DP755769, Lot 174 DP755769, Lot 1 DP 109592, Auto Consol 5461-163 (Schedule of Parcels Lot 53 DP 755769 and Lot 1 DP 1130700), Lot 1 DP 842890, Lot 6 DP 749908, Lot 7 DP 749909, Lot 5 DP 749907, Lot 24 Sec 46 DP 758855.*

*(2) Development for the purpose of the following are permitted with development consent:*

- (i) aquaculture,*
- (ii) boat launching ramp,*
- (iii) boat shed,*
- (iv) camping ground,*
- (v) caravan park,*
- (vi) jetty,*
- (vii) mooring,*
- (viii) recreation facility (outdoor), or*

(ix) *animal training, agistment and boarding.*

### **3.2 Clarence Sand Quarry, Old Bells Line of Road**

The Clarence Quarry is proposed to be zoned RU2 Rural Landscape under Draft LEP 2013. Development for the purposes of 'mining' and 'extractive industries' are prohibited within the RU2 Rural Landscape zone under Draft LEP 2013. The current use of the site, as an 'extractive industry', would be a prohibited use within the RU2 Rural Landscape zone under Draft LEP 2013. Boral would need to rely on existing use rights for continuing operation and any future upgrades. As Council is aware, there are now limitations on 'existing uses' in relation to alterations, expansion and intensification. Restricting the ongoing operation and economic and efficient use of each site is a critical issue for Boral and it compromises the long term viability of long-term use of the site for extractive industry, limiting the potential supply of a valuable resource.

The RU2 Rural Landscape zone, as set out in the Department of Planning and Infrastructure's LEP Practice Note (PN 11-002), is intended to be applied to rural land used for commercial primary production that is compatible with ecological or scenic landscape qualities that have been conserved, often due to topography. One of the objectives of the RU2 zone is to protect significant environmental attributes of land. Further, Council's LEP fact sheet suggests the zone is applied to land that is identified as having high environmental sensitivity and biodiversity connectivity and scenic quality due to topographical features (e.g. steep slopes, escarpment and heavy vegetated areas) while allowing low impact commercial primary production.

Given sand extraction activities and kaolin mining have been carried out over much of the site, the site cannot be said to have significant environmental attributes or scenic qualities that would require retention. It is submitted that the RU2 Rural Landscape zoning should not apply to the site.

Conversely, the RU1 Primary Production zone is appropriate for the site. According to the Department of Planning and Infrastructure's LEP Practice Note (PN 11-002), the intent of the RU1 Primary Production zone covers land used for most kinds of commercial primary industry production (including mining and extractive industries), aimed to utilising the natural resource base in a sustainable manner. The objectives of the RU1 Primary Production zone under Draft LEP 2013 are more akin to the current and anticipated future uses of the site, having regard to the characteristics of the site and its immediate surrounds. This RU1 zone allows for 'extractive industries', as well as a flexible range of uses, such as low density residential, eco-tourism, recreational and community uses, that would enable the site to be adapted for reuse following future cessation of current sand mining/extraction activities. The RU1 zone is appropriate for the site as it aims to minimise the environmental and visual impact of development on rural landscapes, while at the same time, encourages diversity in primary industry activities appropriate to the locality.

We note the site's current zoning permits 'mining' and 'extractive industries', and as such, the RU1 Primary Production zone is arguably a logical translation from the current land use zone and permitted uses under LEP 1994 relative to the site.

#### **4.0 CONCLUSION**

This submission has discussed the implications of the current land use zoning of the Portland and Clarence Sand Quarry sites under Draft LEP 2013 on the long-term viability of these sites. APP, in conjunction with Boral, has suggested alternative zonings for each site and this submission, including a zoning layout, presents alternative land use zones as a 'mark-up' of the current Draft Land Use Zoning Map for the Portland site.

We look forward to meeting with Council to discuss this submission. Should you have any queries in relation to this matter, please do not hesitate to contact me on 9963 9943 or Rebecca Bestic at Boral on 9033 5535 about any aspect of this proposal.

Yours sincerely

**APP CORPORATION PTY LIMITED**

A handwritten signature in blue ink that reads "Clare Brown". The signature is written in a cursive, flowing style.

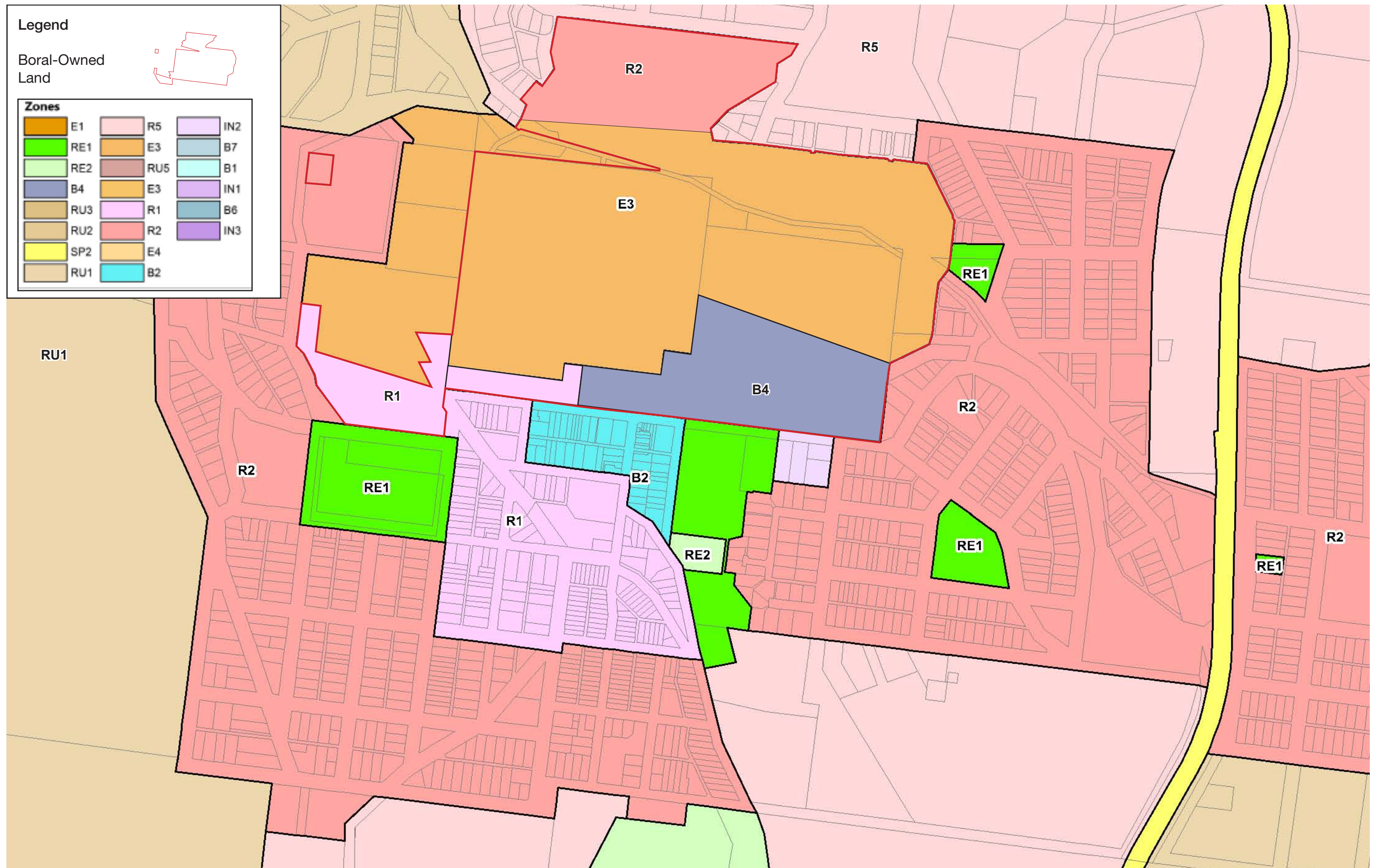
**Clare Brown**  
NSW Principal Planner

## **ATTACHMENT A**

Boral's Requested Amendments to Draft Land Use Zoning Map



# Boral's requested amendments to Draft Land Use Zoning Map and Draft Lithgow Local Environmental Plan 2013



**ATTACHMENT B**

Extract of Current Draft Land Use Zoning Map



Extract from Draft Land Use Zoning Map and Draft Lithgow Local Environmental Plan 2013

