



**BLUESCOPE  
STEEL**

Response to the Productivity Commission Report on  
Executive Remuneration

November 2009



6 November 2009

Dear Sirs

**EXECUTIVE REMUNERATION INQUIRY**

On behalf of the Board of BlueScope Steel, I congratulate The Productivity Commission on its excellent report on executive remuneration in Australia. The report is a comprehensive objective analysis of the remuneration practices of corporate Australia and will be a valuable input to informed discussion on this important subject in future. It is to be welcomed that the Commission has established that:

- There is no systemic breakdown in the remuneration practices of listed Australian companies;
- Directors act in a responsible manner and in the interests of all shareholders when exercising governance responsibilities on remuneration matters; and
- The proper responsibility for managing remuneration practices is with each company board and that it is not appropriate to impose 'caps' on remuneration levels.

I am pleased to attach our response to the recommendations. We are supportive of the recommendations to enhance the governance practices on remuneration matters while at the same time urging the Commission to reconsider two recommendations that we consider will have a detrimental impact on the ability for boards to operate effectively. We urge the commission to reconsider the appropriateness of these recommendations. These are:

- The two vote test
- End the non executive director vacancy rule

We also provide comments in regards to other draft recommendations, which we believe will enhance the benefits from implementation of those recommendations. I will be pleased to provide any further information the Commission may find useful in its deliberations

Yours faithfully

A handwritten signature in black ink, appearing to read "Graham Kraehe".

Graham Kraehe  
**CHAIRMAN**  
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# Response to Productivity Commission Draft Recommendations

Recommendation	BSL position	BSL comment
Ensure Remuneration Committee independence – ASX 300 - <i>All ASX 300 companies must have a Rem Com of at least 3 people. All members must be non-exec directors</i>	Fully support	<ul style="list-style-type: none"> <li>• BSL has an independent committee and is supportive of this recommendation</li> </ul>
Promote Remuneration Committee independence – 'comply or explain'	Fully support	<ul style="list-style-type: none"> <li>• BSL has an independent committee and is supportive of this recommendation</li> </ul>
Prohibit KMP and directors voting on remuneration - <i>Prevent KMP and directors from voting on remuneration reports and other remuneration related resolutions</i>	Fully support	<ul style="list-style-type: none"> <li>• BSL is supportive of this recommendation.</li> </ul>
Prohibit executives hedging equity - <i>Prohibit hedging of unvested equity</i>	Fully support	<ul style="list-style-type: none"> <li>• BSL is supportive of this recommendation</li> </ul>
Require remuneration advisors to be independent of management – ASX 300 - <i>Where expert advisors are used by a board, they must report and be commissioned by the Board independent of management</i>	Fully support	<ul style="list-style-type: none"> <li>• BSL is supportive of this recommendation on the basis that it encourages remuneration committee independence</li> </ul>
Require remuneration advisors to be disclosed	Fully support	<ul style="list-style-type: none"> <li>• BSL is supportive of this recommendation on the basis that it encourages remuneration committee independence</li> </ul>

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Recommendation	BSL position	BSL comment
Remove termination of employment as a taxing point under the employee share scheme income tax rules	Fully support	<ul style="list-style-type: none"><li>• BSL is supportive of this recommendation on the basis that it encourages long term remuneration practices</li></ul>
Confirm the allowance of electronic voting	Fully support	<ul style="list-style-type: none"><li>• BSL is supportive of this recommendation on the basis that it encourages accountability to shareholders</li><li>• Ensure there is sufficient time to amend systems</li></ul>

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Recommendation	BSL position	BSL comment
<p>Remove superfluous disclosure – KMP only</p> <p><i>- Remove requirement to disclose top 5 executive remuneration levels. Instead only CEO and 'top' KMP required. Others to be reported collectively</i></p>	<p>Support with amendment</p>	<ul style="list-style-type: none"> <li>• BSL supports the elimination of the concept of the Top 5 in the interests of simpler reporting</li> <li>• Disclosure relating to CEO and KMP ought to be sufficient to give true insight to the company's remuneration practices for the following reasons:               <ul style="list-style-type: none"> <li>– The Introduction of the concept of two layers of KMP (Top KMP and other KMP) for reporting will lead to more complexity and should not proceed</li> <li>– The collective disclosure of 'other KMP' will create confusion and will require detailed explanations to make the disclosure meaningful</li> </ul> </li> </ul>
<p>Oblige all directed proxies to be cast on remuneration matters</p>	<p>Support with amendment</p>	<ul style="list-style-type: none"> <li>• BSL considers this recommendation is good in theory, however,</li> <li>• The practical application of the recommendation requires further analysis to address the following:               <ul style="list-style-type: none"> <li>– It is unclear how this will be enforced as proxies can only be exercised by attendance of the proxy holder at the meeting</li> <li>– What penalties should apply if not directed and how will they be enforced</li> <li>– The same arrangements should apply to votes on all matters</li> <li>– May be largely superfluous if electronic voting is introduced</li> </ul> </li> </ul>

# Response to Productivity Commission Draft Recommendations

Recommendation	BSL position	BSL comment
<p>Improve content and accessibility of remuneration reports to include:</p> <ul style="list-style-type: none"> <li>- <i>plain English summary of remuneration policies</i></li> <li>- <i>actual levels of remuneration received by executives</i></li> <li>- <i>total company shareholdings of individuals named in report</i></li> <li>- <i>accounting value of equity disclosed in financial statements, with actual realised value of equity in remuneration report</i></li> </ul>	<p>Support with amendment</p>	<ul style="list-style-type: none"> <li>• BSL supports greater transparency and accountability to shareholders. The following matters should be considered in formulating the changes</li> <li>• Current complexity due to need for remuneration reports to satisfy too many requirements – accounting, corporations law, ASX listing rules, governance body expectations and company governance and disclosure practices</li> <li>• Not easy to make simpler. Remuneration practices have become complex as companies seek to align remuneration with business strategy, stay competitive as an employer and respond to good governance expectations while complying with legal and regulatory environment</li> <li>• Disclosure of individual remuneration details should be restricted to the CEO with disclosure of the remuneration of other KMP as a group normalised on the basis of being in their roles for a full year. This will lead to more meaningful disclosure and provide a more effective means of assessing if the remuneration of the senior management team is reasonable</li> <li>• The detailed disclosures under the current regulatory requirements have been a contributory factor in the upward pressure on remuneration</li> <li>• Consider separating accounting requirement and not insisting on remuneration report disclosure based on accounting definitions.</li> <li>• Definitional problems will continue in relation to equity grants</li> <li>• Accounting rules require the expensing and disclosure of equity values in the year of grant. As the amount received on realisation will only be known some years later, there will be disclosure on a prospective basis and on a retrospective basis – often occurring in the same year</li> <li>• Need to be clear as to when do you measure the realised value – is it on vesting, exercise and what is the impact of holding locks and other similar requirements that may result a different value on ultimate disposal</li> </ul>

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Recommendation	BSL position	BSL comment
Prohibit KMP and directors voting undirected proxies on remuneration matters	Disagree	<ul style="list-style-type: none"> <li>• BSL recognises the need to ensure the perception of objectivity and independence is maintained on all governance matters especially relating to remuneration</li> <li>• BSL supports the current approach. Under the current system, shareholders can direct their proxy on how to vote.</li> <li>• If a change is warranted we consider it should apply to all matters . This would result in the elimination of the facility for shareholders to give undirected proxies on any issues and to any proxy holder be removed</li> <li>• Electronic voting will assist in eliminating the undirected proxies</li> </ul>
Institutional investors to disclose their voting on remuneration reports and other remuneration related issues	Disagree	<ul style="list-style-type: none"> <li>• BSL does not support a requirement for institutional investors to disclose how they vote on remuneration related matters</li> <li>• Eliminates basic tenant of democracy the right to a confidential vote</li> <li>• The changes recommended above in relation to electronic voting and if implemented, undirected proxies on remuneration matters will be sufficient to improve governance</li> <li>• Compulsory disclosure will transfer power to governance advisory bodies (not elected by shareholders) which can have differing approaches and views that may not always align with a company's needs</li> <li>• Unclear how compulsory disclosure of voting practices will improve corporate governance on remuneration matters</li> </ul>

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Recommendation	BSL position	BSL comment
<p>Two Vote Test</p> <p><i>- A 25% or higher 'no' vote on remuneration report for two years running triggers Board re-election vote</i></p>	<p>Oppose</p>	<ul style="list-style-type: none"> <li>• BSL supports, without reservation, accountability to shareholders on remuneration matters – the right approach is required</li> <li>• A spill of all directors or a board is not appropriate as it creates instability and is impractical – a vacuum created by a successful board spill will not be in shareholders interests</li> <li>• High no votes on remuneration reports generally arise in relation to single (albeit important) issues rather than rejection of overall remuneration policies – makes a spill of all directors an excessive response</li> <li>• There is no evidence that shareholders wish to remove directors for remuneration decisions in those companies where no votes have been high. The votes for election of directors are generally not impacted when there is a high no vote on a remuneration report</li> <li>• If a change is required, this could be to amend the Corporations Act to require companies to explain how they have amended their remuneration policies to make them acceptable and address the concerns that lead to the protest vote</li> </ul>



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Recommendation	BSL position	BSL comment
<p>End of non-exec directors 'no vacancy' rule</p> <p>- <i>Rule allows Board to limit new nominations even if the max number of positions have not been filled</i></p>	Oppose	<ul style="list-style-type: none"> <li>• BSL does not support this recommendation for the reasons below. A board should have flexibility to determine the appropriate board size based on the needs of the Company at a given time.</li> <li>• Makes director transition more complex as it eliminates the ability to increase board size temporarily to manage handover</li> <li>• Removes flexibility to introduce additional directors on a needs basis for temporary periods</li> <li>• The most effective boards are those where there are members with complementary backgrounds and skills. The removal of the 'no vacancy' rule will not support the best composition of boards and may disrupt the proper operation of the board</li> <li>• No evidence that this leads to inappropriate pay practices</li> <li>• Will not remove perceived barriers to entry, improve diversity and will in practice inhibit effective renewal of boards</li> </ul>