

11 May 2009

Ms Sue Holmes
Regulation Benchmarking Study: OH&S
Productivity Commission
GPO Box 1428
Canberra City ACT 2601

Dear Ms Holmes

**Submission on Performance Benchmarking of Australian Business Regulation:
Occupational Health and Safety**

Master Builders supports the development of a nationally consistent regulatory framework for OH&S and welcomes the Productivity Commission study on the burdens on business arising from OH&S regulation. In responding to the Productivity Commission inquiry Master Builders notes the separate work of the Government relating to Occupational Health and Safety (OH&S) harmonisation.

The cost of inconsistency in OH&S regulation across Australia is significant in the construction industry because of the number of companies that operate across state borders. The 2004 Productivity Commission report on National Worker's Compensation and Occupational Health and Safety Frameworks¹ estimated the number of businesses operating across jurisdictions at 1 per cent of all businesses but representing about 30 per cent of all employees. Businesses employing more than 200 employees accounted for 99 per cent of all businesses operating across jurisdictions. The employee dimension exacerbates the costs and the risks.

The Australian Business Register² shows the operating locations of multi-state businesses. For example, in Victoria there are 4121 multi-state businesses and those businesses have 3096 locations in NSW and 1744 locations in Queensland. These figures are not disaggregated by industry, but if the proportion of construction companies in each State is applied to these multi-state businesses, then in Victoria there would be an estimated 412 construction companies operating in New South Wales and an estimated 232 construction companies operating in Queensland.

Master Builders' OH&S Policy Blueprint 2009-2015, which was updated and re-released earlier this year, contains a number of recommendations for improvements to the OH&S regulatory framework and in particular:

¹ Productivity Commission, National Worker's Compensation and Occupational Health and Safety Frameworks, Report number 27, 2004.

² *ibid.*

The case for regulation should not only consider costs and benefits but also evidence about the impact of the proposed regulation in achieving reductions in risk (whether new or being remade) and evidence about how the most effective outcomes can be achieved.

Regulatory review should take into account the impact of regulation on organisations that operate across adjacent jurisdictions and there should be a cross border “no disadvantage test” that the initiating jurisdiction should satisfy.

There should be nationally consistent hazard based standards instead of industry based OH&S standards to reduce compliance costs and increase certainty about what is required of construction companies, no matter where they undertake projects.

The significant body of administrative and welfare regulation should be subject to a national consistency review and a national approach should be taken to key matters such as reporting and recording of incidents and injury.

The current range of approved codes of practice should be considered as a national database of risk control solutions and should be able to be adopted in any jurisdiction to the extent they address a relevant duty. Deemed to comply provisions mirrored across legislation, would be one means of achieving this goal; this option should be examined by the successor to the Australian Safety and Compensation Council in the context of harmonised laws.

I have pleasure in attaching a copy of the OH&S Blueprint.

Master Builders OH&S Policy Blueprint is an articulation of its public commitment to improving the OH&S outcomes in the building and construction industry. Master Builders believes that the best way to achieve this objective is through better, rather than greater, regulation which includes national consistency. From the industry’s perspective this is a key issue when considering the merits of the recommendations in the 2 reports of the national review into model OH&S laws: whether they address fragmentation without leading to a red tape burden that increases administration or which favours particular sectors of the economy.

Master Builders believes that in most cases the review panel has struck an appropriate balance when framing its recommendations for the model OH&S laws. However, there are a number of areas which Master Builders recommends need further consideration before they become law to ensure that the model OH&S Act is fair and reasonable. These are discussed in the attached submission to the Deputy Prime Minister.

Master Builders looks forward to the release of the draft report and would welcome the opportunity to participate in further consultations on the performance benchmarking of OH&S regulation.

Yours sincerely,

Wilhelm Harnisch
Chief Executive Officer