



Boral Submission to the Productivity Commission Review
Performance Benchmarking of Australian Business Regulation: OH&S

Boral Limited is an ASX100 listed Australian integrated resource based manufacturing company with strong upstream and downstream positions in building and construction materials markets in Australia, Asia and the USA.

Boral has some 717 operating sites and a further 148 distribution sites and offices across 12 countries. It employs some 16,000 full time equivalent employees, 5,700 contractor employees and 3,400 people working in joint ventures.

Boral is organised on a product stream basis in Australia with its 6 Divisions covering:

- Australian Construction Materials (asphalt, quarries, concrete, transport)
- Plasterboard (wall, ceiling, cornice)
- Clay and Concrete (bricks, masonry, tiles including associated mining activities)
- Timber (plywood, softwood, hardwood, and associated products)
- Construction Related Businesses (formwork and scaffolding, windows, concrete placement, concrete wall panels)
- Cement (cement manufacture including associated mining activities).

Boral utilises a “federation model” to address the complexities which arise from such a diverse set of business operations. In this model there is a strong central body which sets and governs whole of business issues whilst enabling Divisions to retain responsibility for their own internal operation.

Whilst the federation model allows many of the business issues to be addressed, system effectiveness is complicated by the differences and difficulties caused by the multitude of different Regulations which apply because Boral operates across all Australian States and Territories.

By virtue of operating in all States and Territories of Australia, Boral is impacted by more than 450 regulatory and advisory instruments including 8 principal OH&S Acts, 25 principal Regulations, 45 other relevant Acts, 49 other relevant Regulations, 144 Codes of Practice/Advisory Standards, and more than 200 other guidelines. These cover all areas including general OH&S, mining, dangerous goods, electrical safety, explosives, maritime, radiation, petroleum, rail safety, transport, workers compensation, gas, etc.

At the concept level, differences between States and Territories with regard to OH&S are not significant for Boral, however harmonisation of legislation and supporting processes should allow for more effective management from a systems and a practical point of view.

Whilst we have not responded to the specific issues raised in the Issues Paper, the following points are made for information:

- A. OH&S Regulation and burden has increased over the last several years. Chain of Responsibility is an example of legislation which grew from a model to enactment in various but not all States and not covering a common content, over a period of years.
- B. We consider the first and second Reports to the Workplace Relations Ministers' Council on the National Review into Model Occupational Health and Safety Laws which also include detailed relevant references, as being particularly relevant.
- C. Any review of this type should also include Regulations which primarily relate to other subject areas but which "call up" OH&S including mining, rail, transport, maritime, workers compensation, etc.
- D. There are many differences between State workers compensation schemes however scheme costs generally dictate scheme premiums. Boral's workers compensation costs as a percentage of payroll vary considerably between States. Some State schemes are privately underwritten but others not, and the former appear to be increasingly using their workers compensation schemes as "revenue streams". Different States have different benefits and access to other processes e.g. direct linking to common law. Boral's experience with self insurance in South Australia would tend to indicate increased burden as a result of the related processes.
- E. Costs to Boral are incurred in a number of areas:
 - 1. Cost of developing and maintaining parallel business OH&S systems which reflect the different State requirements mean that there cannot be a one size fits all approach.
 - 2. Even if there could be a single system the cost would be high because the system and supporting processes would need to be at the highest level required by the most onerous State.
 - 3. When changes to Regulations are foreshadowed there is usually a call for submissions from interested businesses. Whilst we support this involvement and consultation process, it is costly and time consuming when the activity needs to be carried out across all States sometimes for the same Regulation, Codes of Practice, etc.
 - 4. There are costs associated with operating in locations where work is done in different States on a regular basis eg cross border protocols have had to be developed for employees based at Albury working in NSW and Vic, at Murray Bridge for NSW and SA, and Tweed Heads for NSW and QLD. These cover a number of issues including medical certificates, notifications, workers compensation coverage, etc.

5. There are different costs associated with different State licencing and permitting requirements e.g. Queensland is the only State to require a licence for the operation of scrapers or loaders, and NSW the only State for explosive powered hand tools and formwork. Movement between States can therefore result in additional costs for permits where they would otherwise not be required.
6. Similarly there are differences in costs between States associated with in house activities e.g. OH&S Representatives selection, training including refresher training, and range of responsibilities which impact on time on the job, etc.
7. There are also differences including costs associated with litigation including pleading, mitigation, timeframes for activity, right to silence, right to immunity, involvement of lawyers, training of staff, development of processes and documentation, etc.
8. Transfers of staff have cost implications when they take place across State boundaries, including retraining where requirements differ e.g. incident notification timeframes, preservation of incident site, documentation, Codes of Practice, etc. This is particularly important for OH&S personnel and for supervisors and managers especially where working environments may be industrially sensitive.

Overall, Boral regards the plethora of current Regulation and guidance which applies to it because of the various State and Territory jurisdictions as being unhelpful, costly and unnecessary.

I would be happy to expand on these comments as appropriate.

Yours sincerely

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