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**Formwork &
Scaffolding**



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Standing Committee on Social Issue
Parliament House
Macquarie Street
SYDNEY NSW 2000

Friday, 1 September 2006

Attention: Ms Merrin Thompson, Acting Director

Subject: Inquiry into the Impact of the Commonwealth Workchoices Legislation

Dear Madam:

Further to your letter dated 4 August, 2006 we write to respond to the comments made during the public hearing, into the subject matter, conducted on Friday 28 July 2006. The information below outlines historical and factual information in relation to events and circumstances documented in the uncorrupted transcript.

The Brookvale Branch

The Boral Formwork and Scaffolding Brookvale Branch ("the Branch") is located at 34 Orchard Road, Brookvale, in New South Wales, and may process by way of hire deliveries, hire returns, stock transfers to other depots, or sales of equipment to customers in any given week. These levels can vary depending upon order levels and market fluctuations. The Branch currently employs seven employees, three are employed in the scaffolding yard, one is an Administrator, two Project Managers and a Branch Manager ("the Branch Manager").

The Branch had shown good growth since 2000 with a peak in 2003-2004. Since 2003-2004, however, it has seen a severe and significant decrease in revenue. This is mainly because of the number of competitors and the levels of imports into the Sydney market. Within the market there has been a tripling in the number of competitors since 2003. This has resulted in a huge influx of imported scaffold, which is creating considerable pressure on the market through both volume and price.

The Engagement of David Halls

Mr David Halls, commenced employment at the Branch on 27 October 2004 and had been transferred from Boral's Revesby Branch to prevent a redundancy from occurring at the Revesby Branch.

To accommodate Mr Halls, a casual employee who was then engaged at the Branch had to be terminated. At that time there were only three yard employees at the Branch, which reflected the operational requirements and needs for Yard staffing levels.

The Manning Levels at Brookvale Branch

In May 2005 a full time yard employee at the Branch returned to work after taking time off due to an injury he had sustained from playing touch football, and for the first time the yard at the Branch had four permanent yard employees.

During May 2005, discussions were held between the Branch Manager, Boral's then General Manager NSW/ACT and Boral's NSW Commercial Analyst, about the manning levels at the Branch and other branches throughout Sydney. It was indicated that current budgetary requirements for the Brookvale Yard only provided for three yard employees and that there were negative financial implications of having four permanent yard employees and maintaining those numbers given our market position.

In August 2005, the Branch Manager approached other managers of Boral's NSW branches to ascertain whether any other yards required additional labour. The Branch Manager was informed by all the branch managers that they did not require additional labour.

On or around 16 September 2005, all four Branch yard employees were approached by the Branch Manager to offer voluntary redundancies and to discuss what other options could be considered. The Branch Manager explained to all four yard employees that we had only budgeted for three full time positions and that we currently had four. All four employees were asked for suggestions as to how we could address the overmanning issue.

All four Yard employees indicated they wanted to remain at the Branch and presented no alternative options to the overmanning issue.

The Branch Manager then reviewed the BFS enterprise bargaining agreement dealing with the issue of redundancy which identified that a redundancy matrix was required to be formulated. As at September 2005, there was no matrix in existence, so the development of a matrix started through consultation and involvement of the employees and their union the Construction, Forestry, Mining Energy Union ("CFMEU").

The Development of the Redundancy Matrix

The development of the draft matrix involved the input of all four Yard employees at the Branch, including David Halls. The employees were given an opportunity to provide and did provide input as to the components to be included in the matrix. Once a draft matrix had been completed, the Branch Manager then provided the draft to Mr Col Large, the Revesby Branch Manager and to the members of the Group Consultative Committee at Revesby for consideration.

During the meeting it was resolved that the matrix was to be determined by the Group Consultative Committee and that all redundancies were to be site specific, and that the matrix was to be used for all future redundancies within the Company's NSW/ACT operations.

The negotiating of the matrix and its components was then handled by the Group Consultative Committee over the next two months and was finalised in the beginning of December 2005.

Implementation of First Round Redundancies

In early December 2005, the Branch Manager again asked the four yard employees at the Branch if they were interested in taking a voluntary redundancy. No one indicated that they would be prepared to accept a voluntary redundancy package. The Branch Manager then informed them the matrix was now available and was being applied at the Revesby Yard with redundancies occurring at that yard. The Branch Manager informed the four yard employees at the Branch that as no voluntary redundancy had been forthcoming, a forced redundancy would then be occurring at the Branch.

As no employee indicated that they would accept voluntary redundancy, the Branch Manager started to apply the matrix by interviewing each of the four yard employees individually. On the 7th

December 2005, the Branch Manager discussed with each yard employee at the Branch the ranking that had been formulated and sought their views and opinions as to the ranking taking into account their feedback and where appropriate, adjusted the ratings.

Following the completion of the interviews and upon finalisation of the matrix, Mr Halls score of 41, was the lowest of the four yard employees at the Branch by a considerable margin. The Branch Manager then implemented the forced redundancy on the afternoon of the 7th December 2005 and informed Mr Halls that he had been made redundant.

Mr Halls challenged the redundancy. The application was heard before the Australian Industrial Relations Commission U2005/6846. Mr Halls' application was successful and he was ordered to be reinstated by Commissioner Larkin on 17 May 2006.

On the 23 May 2006 a meeting with the Branch Manager, Dave Halls, Col Large (Revesby Manager), Richard Amatagi (CFMEU Rep) and Guy Hillsley (CFMEU Rep) was held to discuss Mr Halls reinstatement. In this meeting Mr Halls was offered a position in the yard at Revesby which he declined. It was explained to Mr Halls that on his return to the Branch, the yard would once again be overmanned and the matrix would have to be applied once again. Mr Halls returned to the Brookvale yard on 1st June 2006.

The Brookvale Branch has sustained losses for the months of December 2005 and January 2006 and while we showed a small profit in February the Branch sustained more losses in March. The profit forecast does not anticipate any substantial increases in profit for the next two years, primarily as a direct result of the market demand for our product and number of new entrants.

As identified earlier, the Brookvale Yard cannot substantiate four yard employees to run its operation given the volume and the actual size of the Yard. The function can best be performed by three yard employees whereby you have two employees performing the return and deliveries function and one handling customers. Where there are four yard employees, the Yard runs less effectively as there is simply not the workload to justify the number, and labour costs of manning a four yard team cannot be sustainable.

Implementation of Second Round Redundancies at Brookvale

The Brookvale Yard is continuing to trade in what can be described as a soft market. Orders have remained stable for the yard and there are no large orders currently on the books. This is reflective of the present general downturn in the building and construction industry. Competitor discounts continue to impact our profit margin for the Yard.

The second redundancy was initiated in accordance with the previously agreed redundancy matrix as outlined in the EBA. It was discussed with all employees that a redundancy was needed, as there was currently an extra yard employee. This was raised at a tool box meeting in early June 2006. Present were all staff members, Tony Asmis (subcontractor) and the then State Manager. The Branch Manager again called for voluntary redundancies from the four yard employees. No one indicated a desire to accept a voluntary redundancy, so the State Manager then informed everyone that the Company needed then to implement a forced redundancy.

The Branch Manager again contacted all other branches in NSW to see if there were any available positions in the other yards. None were available. The Branch Manager also contacted the consultative committee in regards to the redundancy which they discussed and it was decided that another manager should be present for the second application of a redundancy at Brookvale.

Mr Col Large, Manager from the Revesby Yard, was nominated and assisted in applying the matrix for the four yard employees at Brookvale. The application of the matrix was a joint effort between the yard staff, the Branch Manager and Col Large, Revesby Branch Manager.

On Thursday 22nd June 2006 Mr Large and the Branch Manager conducted preliminary interviews with the four yard staff and discussed their first scores on the matrix at the Branch. Each employee was given their first run matrix scores and second meeting date for Wednesday 28th June 2006 was set, but due to unforeseeable circumstances was postponed until Friday 30th June 2006.

On the 30th June 2006, both Col Large and the Branch Manager again discussed with each yard employee at the Branch the application of the matrix and sought their views and opinions as to the ranking that should be applied. They took into account their feedback and where appropriate adjusted the ratings.

Following the completion of the interviews and upon finalisation of the matrix, Mr Hall's score of 55 was again the lowest of the four yard employees at Brookvale. The Company then implemented the forced redundancy on the afternoon of the 30 June 2006 and informed Mr Halls he had been made redundant.

The Operation of the Brookvale Yard following the Redundancies of June 2006

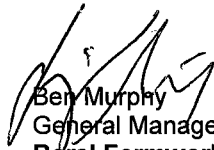
The Company has not since the forced redundancy engaged any direct labour and presently there are three yard employees at Brookvale and there are no foreseeable needs or requirements that additional labour will be needed.

The Brookvale Yard is continuing to trade in what can be described as a soft market which is a reflection of the present general downturn in the building and construction industry. There is no real forecasted improvement for the industry and the industry remains very tight regarding securing work and being able to generate profit margin.

Labour costs are also impacting upon our profit margin as we pay our employees pursuant to an enterprise agreement that was negotiated with the CFMEU. This agreement provides benefits that are in excess to that which new entrants and our competitors are paying their employees. Our costs base is proving difficult to compete in an increasingly more competitive market which is seeing not only new entrants but cheaper imported products from overseas. The Brookvale Yard presently can not economically sustain 4 yard employees on a permanent basis.

We thank you for this opportunity to correct the errors in fact.

Yours sincerely,



Ben Murphy
General Manager, NSW / ACT
Boral Formwork & Scaffolding Pty Ltd