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**Address by Mike Kane, CEO & Managing Director, Boral Limited to  
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**'THE REAL THREAT TO AUSTRALIA'S ECONOMIC PRODUCTIVITY –  
*FACING UP TO REALITIES IN THE CONSTRUCTION SECTOR*'**

**Introduction**

Thank you for your invitation to address the 2014 Construction Materials Indus8si8.412 Of TwIGCTI064

It is a responsibility I don't take lightly and backed up by over 16,000 Australians, Asians and Americans – both employees and contractors – I intend to leave this company in better shape than I found it. That journey has been underway for two years now.

My background is over 40 years in construction materials and building products across a half a dozen global majors – USG, Pioneer, Hanson, Johns-Manville, Holcim and Boral – running businesses in the US, Asia, Europe and Australia.

Today I have been asked to provide my views on the productivity challenges faced by Australian industry and the construction industry in particular.

It is a big topic. It requires context to understand the trends, the dangers



In Melbourne, there are 26 rostered days off or RDOs per year – a relatively new term for me – where the CFMEU controlled sites shut down. Most other sites are operational because they have built-in flexibility with their RDOs – if they have them – to ensure the entire job doesn't shut down.

But because all work stops on the CFMEU controlled sites, demand from our affected metro concrete plants is approximately 50% less on RDOs than other Mondays ( at least this impacts us when Boral is allowed onto these sites). This is the equivalent of an enforced inefficiency at affected operations of over 5% per annum compared to what is possible.

Weekend lock downs impact in a similar way. There are five lockdown weekends each year outside the Easter and Christmas breaks. Demand on the Friday before and Tuesday after the lock down is 50% less than normal Fridays and Tuesdays. This is the equivalent of an enforced inefficiency at Boral's affected operations of over 2% in any year compared to what is possible.

There are eight additional days taken after 4 January and between Easter and the following weekend in an average year. This results in an enforced inefficiency of a further 2% compared to what's possible.

All up, our concrete operations in metro Melbourne are almost 10% less efficient than they would otherwise be because of the extra days that the major construction industry doesn't work.

The embedded practices in Melbourne are worse than other cities but still in Sydney there are 14 RDOs per year where the CFMEU controlled sites shut down because everyone is taking a coordinated rostered day off. This is the equivalent of an enforced inefficiency at Boral's concrete operations of between 2 and 3% per annum compared to what's possible. And there are still the five lockdown weekends each year outside the Christmas and Easter shut downs in Sydney – so that brings it up to 5% per annum of lost productivity for affected operations in the Sydney metro market.

Remember these are all days off which everyone must take at the same – a system that takes no account of the individual personal or family circumstances of an employee and completely shuts down the construction site.

And these are practices that appear to exist nowhere else in Australian industry.

Some of these practices or 'entitlements' are embedded into enterprise bargaining agreements and awards. And let's not shy away from the fact that many of these 'entitlements' have been signed off and agreed to by employers and embedded into EBAs as a way of buying industrial peace.

These practices are impacting the productivity of construction materials suppliers, lorry owner-drivers and other building contractors. They are costing builders, driving developers offshore and they are costing Australian jobs.

## **REGULATORY FRAMEWORK AND INDUSTRIAL RELATIONS CLIMATE**

So what characterises the regulatory and industrial relations framework in which investors, contractors and suppliers are able to efficiently execute their work bringing projects in safely, on time and on budget?

My experience across four continents running manufacturing plants, quarries and trucking fleets tells me that safe and productive outcomes require strong employee and management engagement at the 'coal face'.

Clear communications, disciplined execution, and a work environment where cooperation and enthusiasm are contagious – not fear and division. A work environment where the requirements of the customer are balanced with genuine requirements of site safety, environmental compliance, product and service quality – all coming together to deliver on our mutual commitments that assure our integrity as a business.

Most of my experience in Australia confirms that our workforce and operating teams get it – people want to work in this environment.

But, since February 2013 – for over 18 months – on high-rise projects in the Melbourne CBD, we have encountered something quite different – an orchestrated campaign of intimidation and interference by the Construction branch of the CFMEU, which does not represent our employees.

This group of rogue union officials has elected itse

With up to 3,000 company-owned and contracted heavy vehicles delivering our products and materials around the nation, Boral runs one of the largest truck fleets in Australia. And we genuinely focus our efforts on managing safety for our employees, contractors, their families and the public. We continue to develop and install state of the art safety features on our trucks, train our drivers, refresh that training and constantly revisit safe work practices and equipment inspections.

Like many global industrialised economies, highway safety is a challenge, and sadly, about 1,300 people lose their lives on Australian roads and highways every year. Regrettably we have lost drivers over the years when trucks have collided with other vehicles or ran off the road. But we, like you, accept our responsibility and we are sickened by this union's use of safety as a pretext to manipulate the media, general public and our workplaces.

Let me give you another example. Does anyone in this room really believe that the CFMEU campaign to insist that its officials be appointed as site safety officers rather than qualified business officers – believe that their motivation is truly to improve safety?

This union's cynical use of safety as a control mechanism with which they can then disrupt a construction site to pressure contractors should be called out for what it is. The consequence of this manipulation – which is less certainty of safe site practices and conditions – should be presented to the membership they claim to represent for what it is – a betrayal.

Go back and look at the facts around the Myer Emporium dispute with Grocon and at its core you will find this same battle for control of the job site. Boral believes that using safety



As I detailed in my evidence before the Royal Commission, the union made clear to us that they see it as the union's right to determine the allocation of work among industry participants, and that such allocation would reflect whether or not we play by the union's rules, rather than normal market dynamics. If any company said that it would rightly be accused of criminal cartel conduct.

While Boral may have the resources to assert its legal rights and the commitment to pursue its enforcement options, the same is not true for many participants in the construction industry.

For many of our customers, positive cash flow is a project-to-project proposition, making them vulnerable to illegal tactics of the union that threaten to cut them off from workflow. Small operators don't feel they have the ability to stand up to the CFMEU, and often capitulate without realising that in doing so they may be violating the law themselves.

When all is said and done, the fact is that for the union's unlawful bans to work, they require the acquiescence of a customer. Others in the industry have to be willing to benefit from the illegal ban, sometimes even assisting the CFMEU's illegal ban in order to obtain that benefit.

These cultural hurdles to productivity we find in our industry may be the work of the CFMEU but let's be clear about this – they are in place because we, as an industry, have for far too long gone along with the union's demands.

In my view, no participant in the industry should be able to reach an agreement or understanding with the union to give effect to an illegal ban or assist the CFMEU to affect an illegal ban, without legal consequences.

The CFMEU's illegal tactics only work if our direct customers and competitors comply with the union's illegal inducements or turn a blind eye to their complicity by taking work that is effectively controlled by the CFMEU.

As I made it clear in my evidence to the Royal Commission, regulators have to tackle these other participants, too, if they ever hope to stop these tactics.

I believe we need to stand up for our rights – and that is what I am doing.

## **OPPORTUNITY FOR CHANGE**

Now, I said at the beginning that while there are plenty of challenges ahead, there is hope on the horizon that impediments to real productivity improvements are showing promise of being addressed.

These issues are now out into the open. And like it or not, change is coming in the form of a more aggressive enforcement of existing regulations and court orders and, while pushed back some because of the logjam in the Senate, we see it as inevitable that the ABCC will be returned to bring law and order to the construction sites.

There is a national conversation taking place about our industry, partly through the media



And we can use our public voice to support and assist the ACCC investigation – and support moves by the Federal Government to make legislative changes in this area.

As an industry, we have a responsibility to speak up.

We have a responsibility to act within the law – and behave lawfully.

We have the right to operate our business freely and transparently, within the boundaries of the law, on behalf of our shareholders.

We have a legislative requirement – and a moral requirement – to protect our employees from intimidation and harassment, and to provide a safe working environment.

And we have a duty to ensure our industry is productive, so it survives and prospers – for the benefit of all Australians.

A fully productive construction industry is necessary to the overall health of the Australian economy and to rising standards of living. Without ongoing reform, Australians will always be worse off compared to what is possible.

Thank you.