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The Executive Director
Resource Assessments & Business Systems
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

**Re: Revised Community Consultative Committee Guidelines for
State Significant Developments**

On behalf of Boral, I would like to thank the Department for the opportunity to comment on the revised Community Consultative Committee (CCC) guidelines for State Significant Developments (SSD) as recently exhibited.

The Department is aware that Boral is Australia's leading producer and supplier of materials for the building and construction industry. In NSW, our business operates from more than 200 production and industrial sites, each with its own range of planning and other legislated approvals and permits.

Obtaining approvals for these operations has allowed us great exposure to the successes and challenges of community consultation and public education. This has included the use of the CCC model as a primary channel for maintaining communications with all stakeholders.

During the past five years, Boral has supported seven CCCs in NSW both as a voluntarily organised forum, and as a consequence of an approval condition (one has now concluded following the sale of the associated site). This is in addition to a further three in Victoria and one in South Australia.

The employment of these CCCs and other communication mechanisms on behalf of our day-to-day operational activities has allowed us to build experience and ability in relation to community engagement.

Our industry leading position in this discipline has been acknowledged by our stakeholders, peers and regulators alike. It is therefore from this position we submit the following comments so that they may be of assistance to the Department in finalising the revised guidelines.

In offering this feedback, we would like to commend the Department for reaffirming the increasingly important role community consultation plays in the effective management of resources on behalf of the people of our state.



1. Involvement of the 'Company' in identification and selection of CCC members

Given Boral holds several SSD approvals which require the arrangement of a CCC as a condition of consent, our business is very familiar with the need for such Committees to be operated independently. Three of the CCCs currently supported by our business have independent Chairs.

While we are generally supportive of this approach, we do have strong concerns about what appears to be the complete removal of 'Companies' from the process of establishing a CCC, other than the administrative and cost-bearing activities.

We are particularly concerned about the exclusion of 'Companies' from the selection of community representatives for eventual involvement in the CCC, as outlined on page 5 of the revised guidelines.

For the CCC to be effective in its responsibilities toward advising the business on relevant matters, the business must be in a position to see the CCC as more than just a condition which merely needs to be met. Meaningful engagement cannot be achieved if it is seen as a 'tick the box' exercise.

Requiring prospective CCC members to apply directly to the Department for membership via the independent Chair disenfranchises the business to which the CCC is attached. Similarly, requiring the business to undertake the associated administration activities and bear the costs, without the ability to have a say in the end result, also disenfranchises the business.

The message to the business is that, while it must conduct the necessary tasks to establish the CCC, its own ability to actively participate is muted. The process unfairly suggests all businesses cannot be effectively trusted to transparently and openly manage their affairs before the public.

Accordingly, we would like to suggest that the guidelines be changed to allow for the Company to receive applications for CCC membership in addition to the independent Chair, and for all applications to be subject to discussion between the independent Chair and the Company ahead of recommendations being forwarded to the Department.

In addition to allowing the Company a sense of ownership toward the final make-up of the Committee, and therefore a stronger commitment to its purpose, the business is usually in a better position to advise the independent Chair on its history with each applicant.

Using our example, virtually all current community members of our obligatory and voluntary CCCs were previously contacts made through the course of day-to-day activity or in the preparation of SSD-like projects. The mix of members includes those who were both supportive and against our operations and initiatives.

Having prior contact with these members allowed us, in the instance of the CCCs required by consent condition, to offer each independent Chair our view of whether a prospective member would likely make a valuable contribution, or simply act vexatiously and defeat the purpose of the CCC.

Conversely, our input has been valuable in circumstances where a CCC has been difficult to form due to lack of interest or remoteness of the location of operations. We have been able to advise of potential members who could be followed up by the independent Chair for consideration.

In our view, exclusion of the business from the selection of community representatives works to undermine the first point made under *Purpose of the Committee* (page 2) within the guidelines. It would be extremely important to re-consider this stance as a result.

2. Process for community membership application

In securing community representatives for a CCC, Boral acknowledges and supports the need for a structured process of some kind to justify each selection made. However, we would like to urge caution on making the process for advertising and application counterproductive to the outcome.

The recruitment for our CCCs involved advertising across a range of channels, not just newspaper advertising. Direct letterbox 'drops', newsletters, website updates and community meetings were all used to identify and confirm community CCC representatives.

In our experience, not everyone now associated with our CCCs saw the original advertisement in their respective newspaper where used. More informal means such as word-of-mouth were often far more successful in raising the interest of those who wished to be involved.

We would suggest that rather than restricting Companies to unnecessary further costs likely to draw a low result, as per the procedure on page 5 of the guidelines, approval should be granted to use other means as determined appropriate to the location of the subject site.

Companies would be required to submit a report on the communication methods used to advertise for community CCC representatives, as well as the timeframes over which they were implemented, and the number of enquiries and responses. This in turn would form the basis of the Department's determination of whether adequate efforts were made to secure community representation.

The process of application for membership to the CCC is also a very important factor toward its eventual establishment. We have found that if the process is made too formal or complex, both supportive and opposing contacts will generally not make an effort to apply.

Further, in some areas in which we operate, levels of literacy are below average. The process of application as suggested would accordingly exclude those potential members who might otherwise have a very valuable contribution to make.

We accordingly suggest that applications for membership which are more informal in nature should be allowed. For example, a short email expressing interest in the CCC and providing phone contact details for a follow up discussion with the independent Chair should be deemed sufficient.

Noting the points made in section 1 of this submission, allowing the Company an opportunity to discuss potential community representatives with the independent Chair would further assist with supporting such applicants, or identifying those who would have applied but for the process.

3. Involvement of the CCC in planning process

Where a CCC, either voluntary or by reason of consent condition, is supported by Boral, members have always been considered primary stakeholders of the associated operation. Accordingly, communication in relation to any aspect of the business is made to them at the earliest point.

In revising the guidelines, we note that on page 9 there is a requirement that Companies will consult with the relevant CCC **prior to** seeking approval to modify the subject operation's consent, changing operational requirements or to expand operations.

While we acknowledge that information about any of these activities needs to be shared with all stakeholders at the earliest opportunity, Boral holds concerns about any requirement to discuss such matters **before** beginning each process.

A requirement to discuss such details prior to undertaking preparations for any of these processes presents several risks. The first and highest concern we have is the divulging of information about Boral's activities which speak to our competitive interests.

As a publicly listed organisation, any release of information has the potential to influence the share price of our business and therefore the Australian stock market. Such information therefore needs to have a high degree of accuracy once communicated.

The Department is very well aware that the planning process is one which evolves as progress is made from initiation to application and then assessment.

It is our strong view that communication with any stakeholder group, including the CCC, should therefore only commence once supporting studies and plans for the proposal have sufficiently progressed. We further add that **all** stakeholders should receive communication when this point is reached.

4. Public communication by the CCC

As stated earlier in this submission, our own experience with implementing the CCC model as an avenue of communication with stakeholders has led our business to be supportive of its use.

This support, however, is given recognising the role of community engagement as a part of successfully doing business. We have never viewed any of the CCCs which we support as entirely external to our activities, but rather as a part of our integrated communications practices.

As a result, we have seen it as the role of our business to present matters which have been discussed by the CCCs to the wider community through our regular communications and engagement channels.

From our observation, community representatives on the CCCs we presently operate accept that as the Committees exist because of our business, it should be the business' role to communicate publicly on its own affairs.

We therefore have strong concerns at the suggestion on page 9 of the guidelines that the independent Chair of any CCC may offer briefings to external organisations on matters concerning the business.

Allowing this to occur introduces an extremely high risk of the subject business being misrepresented, inadvertently or otherwise, through the distribution of inaccurate information or, at worst, the sharing of confidential or commercial-in-confidence information discussed with the CCC.

We submit that the Department would not allow someone not employed by it to speak on its behalf. Creating a situation where something similar can occur with non-Government private entities is highly unfair and, in some cases, could raise the risk of legal challenge.

Our suggestion is that the guidelines be amended so that the independent Chair should at least consult with the Company before any invitation to speak externally on behalf of the CCC is accepted, especially where matters of Company business is concerned.

Similarly, we take the position that allowing the independent Chair to make the sole determination on whether a matter discussed by the CCC should remain confidential is also unfair and fraught with risk.

As we are sure is the case with the Department, our organisation has clear policies on what constitutes confidential and commercial-in-confidence information. It is an expectation that any person accessing information about our business complies with the provisions of these policies.

These policies have been in place for a considerable period of time and have been verified by our legal representatives as being appropriate and acceptable for implementation.

By divesting the ability to determine the confidentiality of information to the independent Chair, we again risk inaccuracy and inadvertent misrepresentation, as well as the potential undermining of our competitive position.

5. Safeguarding of competitive position

As a continuation of the previous point, it is important that safeguards be put in place which compel all participants to affirm their commitment to confidentiality where it applies to information presented to the CCC.

At both our obligatory and compulsory CCCs, the way we have chosen to manage this is through the development of Terms of Reference (ToRs) for each Committee. Using input from and review by CCC participants, the ToRs have been written as guidance for members' involvement.

The ToRs in use at our CCC meetings parallel the majority of the topic areas included in the guidelines. We suggest that it would be a simple matter to include clauses relating to confidentiality in such ToRs which can then be signed by each participant to confirm their commitment.

An alternative to this would be to develop 'stand-alone' confidentiality agreements for participants to sign before being permitted to join the CCC. Either approach provides Companies an assurance that in meeting their planning consent obligations, their competitive positions are not placed at risk.

The issue of information considered commercial-in-confidence is also relevant to the suggestion on page 6 of the guidelines that regional CCCs could be established if there are multiple like projects within the same Council area or locality.

Our view is that it is not reasonable to expect our business to put its commercial-in-confidence business at risk and meaningfully engage in a forum where competitors may be present.

We further believe that it would not be in our business' interest, nor is it necessary, to comply with an obligation applying to our individual operations by assisting others with compliance toward theirs. Compliance should and must be a matter for individual consent holders at all times.

6. Training for CCC participants

As the supporter of six active CCCs, both obligatory and voluntary, our business is actively demonstrating its commitment toward this method of community engagement and communication. Our CCCs involve a variety of people from all walks of life, all of whom make valuable contributions.

We believe the value we take from each member is through the benefit of their general experience with the location and community connected to the site with which they are associated. From our observation, the majority of community representatives on our CCC have been able to make this contribution freely and without the benefit of formal training.

We acknowledge that the costs associated with establishing and administering a CCC has become a necessary cost of doing business. However, the suggestion on page 8 of the guidelines that Companies should meet the costs of additional training is unwarranted in our view.

It is our belief that during the selection of the independent Chair and, subsequently, the community participants, issues such as experience in or exposure to techniques in areas such as facilitation, mediation and conflict resolution should be tested and explored.

Final selections should be made based on evidence of skills or aptitude for these particular disciplines. In fairness and to be reasonable, a Company's training budget should be rightfully reserved for its own employees rather than being directed toward external parties.

We absolutely support, however, the appropriate induction of all CCC participants to the purpose, activities and procedures of the site to which the Committee is connected. It is standard Boral practice to ensure this occurs at all community meetings held at its sites.

7. Participation of Local Government

We note on page 3 of the guidelines that CCCs should include a representative of the local Council in which the subject site is located. Our experience with inviting Council representatives to our various CCCs has been, on the whole, unsuccessful.

The point is not made as an objection, but rather to inform the Department that attempts to put Council membership of CCCs into practice has not worked in our particular instance. We believe this has been mainly due to a lack of available personnel, as well as a general lack of interest.

We support the Department's belief that Local Government should be more actively involved in 'SSD sites' however, would not like to see Companies held to account if, as in our experience, Local Government involvement continues to be haphazard.

8. Accommodation of requests to inspect sites

Page 9 of the guidelines includes a section which requires the Company to accommodate any reasonable request by the CCC to inspect the subject site provided appropriate notice has been given.

We submit that any such request would be declined by our organisation should circumstances of safety come into question. Further, we believe it is inappropriate for CCCs to have the suggested level of access to the site as it is on a par with that of legal authorities, and therefore inappropriate.

Conclusion

Community Consultation Committees have been a part of Boral's way of doing business for many years. We appreciate the need for CCCs and have achieved a number of successful outcomes thanks to the input various CCC members have made during their existence.

With the role of community engagement becoming ever more important for both proponents and regulators, it is important some clear guidelines are set by which CCCs can be established and governed. We again commend the Department on its initiative of seeking to do this.

In doing so, we assert that CCCs must continue to remain just one option within a full community engagement program which Companies should be able to develop using their own knowledge and expertise.

As we have demonstrated, success can be better achieved using the information gathered by Companies about the communities in which they operate. This information, in our instance, has resulted in the development of programs which are fit for location and accessible to all community members, not just CCC participants.

For meaningful engagement to occur, Companies must also retain a sense of ownership over its own communication channels. This cannot occur if the business is disenfranchised by procedures and practices which exclude it, rendering the engagement as a mere 'tick the box' exercise.

Finally, we would again like to thank the Department for the opportunity to provide this submission. We remain interested in and available for further discussions as part of finalising the guidelines at your convenience.

Should this be appropriate, I can be contacted on **9033 5215** or via paul.jackson2@boral.com.au.
Thank you for your consideration and acceptance of this submission and we look forward to consulting with you further as the initiative progresses.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Jackson', followed by a long horizontal flourish.

Paul Jackson
Stakeholder Relations Manager (Southern Region)
Boral Property Group