

11 July 2008

Mr Robin Stewart-Crompton
Chair
National OHS Review Secretariat
Department of Education, Employment and Workplace Relations
64N1 GPO Box 9880
CANBERRA ACT 2600

Dear Sir,

National Review into Model Occupational Health and Safety Laws

I write in regard to the Federal Government's National Review into Model Occupational Health and Safety (OHS) Laws. Boulderstone Hornibrook welcomes the Review and the great opportunity it provides to further improve the safety of Australian workplaces.

Our Company has participated in the Review in a number of ways. As members of the Australian Constructor's Association (ACA) we have participated in the development of their submission. At state level, many of our safety professionals have been involved in various forums (Construction Safety Alliances, etc) which have also provided detailed submissions.

Although we operate across all states, we wanted to particularly highlight the issues that have arisen for management as a result of the current NSW OHS legislation. The four areas that adversely impact performance are:

- 1) The absolute duty of care imposed on employers.
- 2) The consequences of s.26 that mean if a corporation is found guilty, company officers (directors and management) are also guilty.
- 3) The absence of a judicial appeal mechanism.
- 4) The ability of industrial organisations, to launch OHS prosecutions.

These four provisions lead to a real sense of inequity and helplessness when it comes to the management of companies in that state.

We ourselves have had supervisors, managers and young engineers with leadership potential, state openly that they are reluctant to accept people management responsibility in NSW because of the feared consequences of the OHS Act.

We have heard lawyer's advice not to print or share learning from incidents because this will be held against "us" in the future.

Such psychology is not healthy, it creates stress and the wrong behaviours. In our view it actively works against the very objective that we are all trying to achieve, a safe and healthy workplace.

It is interesting to observe that this angst does not occur in any other state.

Our people, our managers, accept their responsibilities, they understand the benefits of having a safe workplace, and diligently go about their jobs everyday, working hard to constantly improve how we work, and making it safe.

People putting in their best efforts should not feel threatened by the law, they should feel fully protected.

We trust that you will take these real and legitimate concerns into consideration as you undertake this extremely important review of OHS legislation.

Yours faithfully,

Boulderstone Hornibrook Pty Ltd



Chris Reynolds
General Manager HR, Safety & Corporate Relations