



6 October 2020

Ms Kathryn Fagg  
Chair  
Boral Limited

Via email

Dear Kathryn,

### **Boral Agreement with Seven**

It has been pleasing to see the beginning of the turnaround in Boral's fortunes in recent times. We believe the Board has made a number of good decisions which we commend.

Four in particular have stood out.

First, while it is early days, the appointment of Zlatko Todorcevski as CEO is shaping up as a good one. We have been impressed by his openness and his commitment to making Boral both a better company and a better investment for shareholders.

Second, the fact that the Board has given Zlatko an unrestricted mandate to lead a strategic review of the portfolio, with no sacred cows and an emphasis on strategic transformation, is encouraging.

Third, we were pleased with your decision not to raise equity earlier this year, unlike many of your ASX 200 peers, at the point of maximum Covid fear when your share price was particularly depressed. This took some courage and a commitment to restoration of shareholder value, rather than taking the easy option.

Fourth, we are aware of the business accomplishments and acumen of your proposed new board members Rob Sindel and Deb O'Toole and think these are good appointments.

This letter canvases questions in relation to the agreement the company has entered into to appoint two directors from the Seven Group to the Boral board. This is not personal in any way – both Ryan Stokes and Richard Richards enjoy strong business reputations, and the Seven Group has made a substantial investment in Boral.

Our issues, as managers of institutional capital on behalf of a very large number of Australians with a substantial investment in Boral, go to principles of corporate governance in one of Australia's best known blue-chip public companies.

We are acting independently and are not associates, but we do have similar issues and concerns relating to the Seven agreement. We represent in aggregate more than 10% of the issued share capital of Boral.

Our issues go to:

- The disproportionate nature of Seven being granted two board seats relative to its shareholding, which gives excessive influence to one shareholder in the company;
- The lack of obvious incremental benefit to the company by entering into these arrangements; and
- The lack of transparency around the contractual arrangements that have been entered into.

We note the following disclosure in the AGM documents, released after the closing date for nominations to the Board:

*'Boral entered into an agreement with SGH and associated entities to agree protocols and other arrangements appropriate to the appointment of a director representing a large shareholder. There is also an agreement with SGH and Mr Stokes [and Mr Richards] to protect the confidential information of the Boral group, and address any potential conflicts of interest that may arise. It has also been agreed that subject to the Board of Boral requesting otherwise, Seven must procure the resignations of its nominee directors from the Boral Board within one month of Seven ceasing to hold at least 15% of the issued share capital of Boral.'*

We would like to understand from you the following:

1. Can you please explain why Seven was awarded two board seats, which represents 25% of the non-executive positions on the board after the 2020 AGM and 29% after the signalled retirement of Paul Rayner – materially greater than its shareholding interest?
2. Can you please explain why has Boral not disclosed the full terms of the agreements with SGH, Mr Stokes and Mr Richards? We believe that details of the terms and effect of these documents are material to Boral shareholders within the meaning of Listing Rule 3.1. The market has a legitimate interest in understanding the detail of these agreements and is arguably not trading on a fully informed basis absent that. It is difficult to understand Boral's reluctance to disclose such a key agreement on a timely basis given its commitment to best practice ASX Corporate Governance Principles. Selective disclosure is poor corporate governance.

There is clear precedent for such disclosure, such as the shareholders agreement between Santos and ENN/Hony Capital in 2017 which provided ENN/Hony with board representation at Santos.

3. Given the agreements did not secure any new capital or commercial relationship for the company, can you please explain what incremental benefit they provide the company? We would expect these to be material and tangible, especially given the disproportionate board representation that has been awarded. Boards negotiating these types of agreements often require standstill provisions that prevent a substantial shareholder creeping to control, or "come-along" provisions that require it to support a takeover proposal recommended by a majority of the board. The objective is to maximise the opportunity for all shareholders to enjoy a future control premium for the company. In these instances, boards have used their negotiating leverage to secure material and tangible benefits for all shareholders. It is particularly important when negotiating with a near-20% shareholder.

In this case, we cannot see from the limited disclosure to date any obvious benefit that appears to have been secured for shareholders in the arrangements with Seven. We would appreciate your explanation as to what they are.

We look forward to hearing from you at your earliest convenience.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Wylie'.

John Wylie  
Principal, Tanarra Capital

A handwritten signature in black ink, appearing to read 'P. Skamvougeras'.

Paul Skamvougeras  
Head of Equities, Perpetual Investments