



BORAL COUNTRY - CONCRETE AND QUARRIES CONTRACT DETERMINATION

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BORAL COUNTRY - CONCRETE AND QUARRIES CONTRACT DETERMINATION

DETERMINATION

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2. Preamble

2.1 Boral's intent in operating under this Contract Determination is to:

- (i) apply the benefits of utilisation based competitive rates to competitive advantage to maintain Boral's market share in country NSW and in key regional markets more specifically; and
- (ii) not reduce the available volume of cartage to Carriers as a consequence of this Contract Determination.

3. Definitions

For the purposes of this Contract Determination the following terms shall bear the meanings:

- 3.1 "The Act" shall mean the Industrial Relations Act 1996.
- 3.2 "Carrier" shall mean a company engaged by Boral to perform contracts of carriage as defined in section 309 of the Act.
- 3.3 "Boral" shall mean Boral Resources (Country) Pty Limited its successors, assignees and transmitters.
- 3.4 "Union" shall mean the Transport Workers' Union of New South Wales (registered under the Act as an Association of Contract Carriers).
- 3.5 "Product" shall mean pre-mixed concrete or batched materials.
- 3.6 "Cartage work" shall mean the mixing and carriage of product in the mixer (and everything connected with it) by the Carrier as and when required by Boral.
- 3.7 "Communication equipment" shall mean a two-way radio, satellite tracking equipment etc.
- 3.8 "Such terms" (refer clause 23.1) shall mean that:
 - (a) each insurance policy covers such risks and contains such conditions, endorsements and exclusions as are reasonably acceptable to or reasonably required by Boral; and
 - (b) (unless Boral agrees otherwise or unless any relevant law precludes this) Boral is named as principal for its respective rights and interests and for the purposes of a cross liabilities clause as permitted by law.
- 3.9 "Total working days" means all days (Monday to Saturday) that a Carrier is required to perform cartage work in accordance with this Contract Determination.

4. Cartage Rates

4.1

- (a) Carriers shall be paid:
- (i) (A) per cubic metre regional flag fall up to 3km; and
 - (ii) (B) per cubic metre per kilometre thereafter (part kilometres rounded up to the nearest whole kilometre) that the load is carried.
- (b) The rates set out in this Contract Determination shall be varied in accordance with the provisions of Schedule "A" and "B".

Notation: refer to clause 26 for the amounts referred to in this clause by way of a capital letter.

Notation: the cartage rates arising from this clause are exclusive of GST.

4.2 Minimum Load - A Carrier shall be guaranteed a minimum load of 3 cubic metres or a minimum payment on the basis of 3 cubic metres.

4.3 Mixing in the Yard - A fee of (A) shall be paid to mix and discharge product into a customer's vehicle for transport from the plant. A Carrier shall be guaranteed a minimum load of 3 cubic metres or a minimum payment on the basis of 3 cubic metres.

4.4 Penalty Rates and Stand By -

- (a) Surcharges per load shall be payable in respect of product delivered which is loaded:

Between 4.30pm to 5.59am Monday to Friday inclusive	(D)
On a Saturday outside of the spread of 6.00am to 1.00pm inclusive	(D)
On a Sunday	(E)
On a Public Holiday	(E)

- (b) Whenever a Carrier is required to attend at a plant during the times set out in (a) above they shall be paid 50% of (D) for each completed half hour after the initial half hour where no load is received or after the Carrier returns to the plant from the preceding load.

4.5 Hourly Hire - where a Carrier is requested by Boral (and the Carrier agrees) to perform cartage work on site on hourly hire, (C) per minute which will be payable from the requested start time to finish time calculated to the nearest whole minute.

4.6 Boral shall reimburse a Carrier on provision of a receipt (which may include an e-tag receipt or monthly account statement) for all road and bridge tolls paid when performing the cartage work on the route directed by Boral.

4.7 Diverted Loads -

- (a) Direct Diversion - Where a load is diverted enroute a Carrier shall be paid normal cartage rates covering the total distance travelled from initial departure from the plant to the ultimate delivery point of the load.
- (i) Return to Plant and Divert - It is thereafter treated as a new load.

- (ii) Return to Plant and Subsequently Dumped Outside Plant - where Boral directs any quantity of left over product that has been agitated in the yard to be taken to another site and dumped, payment shall be made at the rate of (B) per kilometre with a minimum of 3 cubic metres and a 3 kilometre minimum.

4.8 Multiple Discharge Points -

- (a) Same Customer - Payment for haulage covers the total distance travelled until delivery is completed. Unloading time will commence from the start of unloading at the first point and will continue until the final completion of unloading when drops are within one kilometre. Over one kilometre, the total of the additional kilometres travelled will be added to the ticket and paid as if the original load was carried for the entire distance.
- (b) Multiple Customers - Each delivery will be treated for the purpose of payment of cartage as if a separate delivery had been made from the plant to each delivery point.

4.9 Left Over Product -

- (a) All product remains the property of Boral and accordingly Boral reserves the right to direct where product is to be taken or if and where it is to be dumped. The Carrier shall contact the plant for instructions as soon as possible.
- (b) No payment shall be made when product is dumped in the vicinity of the job site.
- (c) When 1 cubic metres or more of product are left over from a job, return cartage shall be paid at the rate of (B) per kilometre per cubic metre.

When less than 1 cubic metre is returned in one and only one of the following circumstances:

- (i) where the load is rejected because of product fault;
- (ii) where the load taken out is not required;
- (iii) when a truck is used to dispose of left over product, such as a result of a pump line blow-back; or
- (iv) when the product is not returned to the "source" plant, a 3 cubic minimum shall apply.

4.10 Subject to the Carrier using their best endeavours to comply with any procedure provided to them by Boral for the recording of waiting time the Carrier will be paid at the rate of (C) per minute in excess of 30 minutes waiting to complete the discharge of the load calculated as the time between the Carrier arriving at the delivery site set out on the delivery docket and the time taken to complete the discharge of the load.

4.11 If a Carrier is:

- (a) recalled to perform cartage work after being rostered off for the day (whether notified before or after leaving); or
 - (b) called in on a Sunday or Public Holiday; and
 - (c) fails to cart at least four loads,
- they shall be paid a call out fee of (G) and paid for any loads carted.

5. Payments Provided for in the Rates

- 5.1 All benefits and entitlements however arising in law are provided for in the rates and surcharges set out in this Contract Determination.

6. Haulage Area, Cartage Zones and Transfer Fees

- 6.1 Subject to clause 6.2, 6.3 and 6.5 hereof a Carrier shall haul product as required from Boral's plants. A Carrier shall normally perform cartage work for a period of time from a nominated plant or other plants in accordance with the requirements of Boral.
- 6.2 When a Carrier is transferred to a plant:
- (a) with a load carried for at least half the distance no transfer fee shall apply; or
 - (b) without a load a transfer fee shall apply at the rate in (F) per kilometre travelled.
- Notation: for the purpose of payment under this clause the transfer and any return transfer shall be treated separately.
- 6.3 The right referred to in 6.1 shall not extend to a situation where a Carrier would need to change their residential domicile as a consequence of changing their nominated plant.
- 6.4 Subject to Boral's approval:
- (a) (which shall not be unreasonably withheld having regard to its commercial needs) a Carrier may agree to swap their nominated plant with another Carrier; or
 - (b) (which may be withheld in Boral's complete discretion) a Carrier may agree to swap their nominated plant with a driver of a company vehicle.
- 6.5 Boral may direct a Carrier to haul product from a plant other than the Carrier's nominated plant (referred to in clause 6.1 as "other plants") in circumstances where clause 7 applies provided that:
- (a) such direction cannot require the Carrier to haul product from the other plant for a continuous period in excess of one month (the transfer period) without the consent of the Carrier;
 - (b) the Carrier is paid a transfer fee to and from the other plant (once only for the transfer period); and
 - (c) (if the transfer period includes weekends) the Carrier may return home (and then return to the other plant) on weekends at times when they are not required to perform cartage work at their own expense and in their own time.

7. Living Away from Home Allowance

- 7.1 A Carrier engaged on cartage work which precludes them from reaching their usual place of residence at night shall upon presentation of receipts be reimbursed for reasonable expenses incurred at approved motel style accommodation. Reasonable expenses are:
- (a) a room, breakfast and an evening meal; or
 - (b) a room with kitchen facilities.

8. Loading

- 8.1 Despite anything else in this Contract Determination, Boral may preferentially load Carrier vehicles and/or its own vehicles in order to meet customer preferences or requests associated with the carrying capacity of a vehicle. For the avoidance of doubt, Boral's ability to preferentially load Carrier vehicles and/or its own vehicles may be exercised in circumstances including (but not limited to):
- (a) the cartage of a single load;
 - (b) vehicles with returned concrete (where it is impractical due to facility or time constraints to transfer the returned concrete to the next vehicle in line);
 - (c) where a load or series of loads may exceed the legal carrying capacity of particular vehicles; or
 - (d) where customers have requested cartage work to be undertaken by particular vehicles in order to satisfy their requirements, restrictions or limitations.

9. Haulage Accounts

- 9.1 A Carrier shall prepare their accounts according to the requirements of Boral.
- 9.2 Haulage accounts shall be paid on the following basis:
- (a) cartage earnings shall be calculated twice monthly and paid within ten days of the last day of the period;
and
 - (b) payment will be by electronic funds transfer into a Carriers nominated bank account.
- 9.3 Account discrepancies relating to the immediately preceding pay period shall be settled promptly and in no case later than 14 days from the date of submission by a Carrier. Account discrepancies relating to other than the immediately preceding pay period shall be settled as soon as practicable. Where following settlement of an account discrepancy an adjustment to payments is required, such adjustment shall be made in the pay period following settlement.

10. Loading and Delivery of Products

- 10.1 Subject to clause 8, a Carrier shall report ready, willing and able (with their vehicle) at the times and plants that Boral directs and shall:
- (a) receive their first load on the basis of a rotating start roster; and
 - (b) be loaded in the sequence of their return to the plant.
- Notation: Subject to clause 8, and to avoid any doubt Boral will load its own vehicles in accordance with this clause.
- 10.2 A Carrier shall ensure that the load is properly mixed according to Boral's practice and that the slump of the product on arrival at the discharge point is in accordance with limits of the appropriate Australian Standard Specification as provided to a Carrier by Boral. The mixer drum must be kept turning at all times when it contains product.
- 10.3 A Carrier shall visually inspect each load prior to leaving the yard and shall advise Boral of any apparent unusual features of the load which may have occurred due to batching error, plant failure or contamination.
- 10.4 When a load is rejected at a job site because of failure to slump correctly and/or failure to visually inspect the load prior to leaving the yard, a Carrier will not be paid the cartage.
- 10.5 At the job site a Carrier shall make every reasonable endeavour to obtain signatures from the customer as required by Boral.
- 10.6 A Carrier shall make every endeavour to collect money from COD customers for all product charges, including waiting time. All monies collected shall be submitted in full (as soon as possible) to the Plant Manager or Allocator, who shall issue a Carrier with a receipt.
- 10.7 A Carrier shall immediately advise Boral where practicable by the two-way radio or telephone, where a two-way radio is not provided, when a COD payment is not collected or dispute arises between a Carrier and the customer.
- 10.8 Where a load is dumped, a Carrier shall not be liable to compensate Boral unless the loss occurred as a direct result of his negligence or misconduct. Where such a liability does exist, Boral shall charge a Carrier for the product at material cost and cartage shall not be paid.
- 10.9 Boral may direct a Carrier to load out of a plant other than a Boral plant (e.g. a related body corporate of Boral, Hanson, Holcim etc) then:
- (a) where relevant in this clause, a reference in this clause to "Boral" shall be taken to be a reference to the company that operates the other plant;
 - (b) a Carrier shall satisfactorily complete any additional paper work required; and
 - (c) a Carrier shall be paid by Boral according to the rates in this Contract Determination.
- 10.10 The initial starting time and plant (and whether no cartage work is available) shall be notified to each Carrier by Boral before the close of business on the previous working day.
- 10.11 A Carrier shall take all care with but shall not have ultimate responsibility for the slump of 'kerb mix' if carted as batched without any water added. If such 'kerb mix' is then rejected by the customer a Carrier shall still be paid for the load at the rate of (B) per cubic metre per kilometre travelled with a 3 kilometre minimum back to the plant.

- 10.12 When, during a working day, Boral assess that they have more vehicles at a plant than are required to finish the cartage work on that day Boral will:
- (a) roster off any vehicles transferred into that plant; and then
 - (b) allow any further excess vehicles to cease performing cartage work.
- 10.13 Boral will use its reasonable endeavours to accurately assess the number of vehicles it requires for cartage work at a plant on a Sunday or Public Holiday and only call that number of vehicles in and only retain them as needed.

11. Breakdowns

- 11.1 Boral shall not be responsible for any loss resulting from breakdowns of plant (unless caused by Boral's negligence), mixers (unless caused by Boral's negligence) or vehicles.
- 11.2 A Carrier shall initially assist in every possible way to remove the product from the mixer when a breakdown of the mixer or Carrier's vehicle occurs under load.

12. Size of Load

- 12.1 Boral has the right to nominate the load size and a Carrier has the right to refuse a load that is beyond the legal capacity of their vehicle or the rated capacity of the mixer.
- 12.2 Each Carrier shall be loaded to the maximum legal capacity whenever operationally practicable.

13. Hazardous Approach to Job Site

- 13.1 If the discharging of the load at any delivery site is unsafe for any reason, a Carrier shall immediately notify Boral prior to discharging the load.
- 13.2 A Carrier shall have the right to refuse to enter upon ground which he considers unsafe. Boral shall have the right to refuse payment for cartage where the option is used without reasonable justification.
- 13.3 Where a Carrier goes "beyond the kerb" to complete a delivery and their vehicle becomes bogged or is otherwise rendered inoperative as a consequence of such attempted delivery he shall be given every reasonable assistance by Boral, who shall compensate a Carrier for any costs the Carrier has reasonably incurred in engaging outside equipment to extricate the vehicle.

Provided further that the reimbursement provision shall not apply where the vehicle becomes inoperative as a direct result of a Carrier's negligence.

- 13.4 Boral will ensure that any salvage contractor they select is covered by appropriate insurance policies to rectify any damage that the salvage contractor may cause a Carrier's vehicle during the extraction process.

14. Availability of a Suitable Vehicle

- 14.1 A Carrier shall on each working day (unless Boral advises that cartage work is not available) supply, 'man', operate and keep serviceable a prime mover that meets the requirements of any vehicle specification set out in the Carrier's Head Contract.
- 14.2 No vehicle shall be brought into service without the prior consent of Boral.
- 14.3 A defective vehicle shall be repaired as soon as practicable.
- 14.4 Where a Carrier is unable to report for work with their vehicle they shall arrange for Boral to be immediately informed of the reason and the anticipated period of absence.
- 14.5 A Carrier shall keep their vehicle clean and tidy and in presentable condition to the reasonable satisfaction of Boral.

15. Communication Equipment

- 15.1 A Carrier shall agree to the installation of communication equipment on their vehicle. All such equipment shall be installed by Boral's approved technician and such installation shall be of a professional standard. The installation shall include all necessary equipment, and the complete installation shall be undertaken at no cost to a Carrier. When such communication equipment is removed (while the Carrier continues to be engaged by Boral) Boral will make good the bodywork.
- 15.2 A Carrier shall take due care to ensure adequate protection of the equipment.
- 15.3 The equipment is to be operated and appropriate procedures are to be followed as laid down by Boral.
- 15.4 Boral shall be responsible for the maintenance of the communication equipment.

16. Mixer Care and Maintenance

- 16.1 Boral's mixer is in the care of a Carrier who shall keep the unit clean and tidy to the reasonable satisfaction of Boral.
- 16.2 A Carrier undertakes to exercise all possible care for the mixer. The mixer shall be thoroughly washed out and cleaned down during and after each day's cartage work and surfaces treated as required in preparation for the next day's cartage work. All cleaning materials shall be supplied by Boral.
- 16.3 A Carrier shall report all repair or maintenance requirements following the procedures laid down by Boral.
- 16.4 A Carrier shall convey the mixer to the workshop for repair or maintenance as requested by Boral. The Carrier shall be paid the rate (F) per kilometre for transfer to the workshop and return.
- 16.5 A Carrier shall be responsible for all minor maintenance to the satisfaction of Boral, such as topping up oil and greasing.
- 16.6 Boral shall be responsible for major maintenance.
- 16.7 A Carrier is responsible for the provision of fuel.
- 16.8 Boral is responsible for the provision of oil and grease for the mixer.
- 16.9 Boral's equipment is to be parked only in places approved by Boral. A Carrier is not responsible for any loss or damage to Boral's equipment when so parked.
- 16.10 (a) It is the Carrier's responsibility to inform Boral if concrete build up impedes the carrying capacity and/or mixing efficiency.
- (b) Subject to clause 16.10 (a), Boral shall be responsible for the removal of hardened concrete build up from the inside of the mixer (a process commonly known as de-dagging) for the first two occasions in a calendar year, provided that if a Carrier's mixer requires de-dagging more than twice in a calendar year, the Carrier shall be responsible for such de-dagging unless in the period since the last de-dagging the Carrier carted more than 30% of their loads in low slump concrete, kerb mix and/or no fines, in which case Boral shall be responsible for the de-dagging on a further two occasions per year.
- (c) A Carrier shall receive a transfer fee per kilometre at the rate of (F) per kilometre travelled to and from the place where the de-dagging is performed in accordance with clause 16.10 (b)

17. Provision of a Mixer

- 17.1 Boral shall be responsible for the provision of a mixer and its safe and proper initial fitting to a Carrier's vehicle in accordance with the specifications of the respective manufacturers, including the supply of U bolts, clearance lights and mud flaps.
- 17.2 After the initial fitting referred to in 17.1 above:
- (a) A Carrier shall be responsible for the mixer being properly secured to their vehicle
 - (b) Boral shall be responsible for the maintenance and replacement of any clearance lights and mud flaps fitted to the mixer as long as such maintenance / replacement is not required as a result of an operators negligence.
- 17.3 A Carrier, in their discretion, may have the U bolts adjusted by a qualified mechanic and the reasonable costs incurred shall be met by Boral.
- 17.4 The mixer shall remain the property of Boral and shall be returned to Boral's nearest appropriate workshop facilities on completion of use.
- 17.5 Subject to its then current capital budget, Boral will use its reasonable endeavours to optimise the carrying capacity of a Carrier's vehicle by fitting a mixer driven from the prime mover engine.
- 17.6 If a Carrier requires the mixer to be removed to affect repairs that cannot be otherwise completed without the removal of the mixer, then the costs of the mixer removal and replacement shall be borne by Boral provided that such repairs are not for the purpose of painting, inspection, sandblasting or modifying the prime mover chassis.

18. Painting and/or Sign Writing of Mobile Unit

18.1 Boral To Periodically Paint

Boral shall periodically paint and/or signwrite the vehicle to its specification.

18.2 Quality Of Painting

Paint used will be of a quality that is acid resistant and capable of withstanding the arduous conditions of the industry. The painting shall be undertaken by a recognised truck painting contractor and the standard of finish shall be not less than that provided by tradesmen specialising in this field.

18.3 Preparation For Painting

All necessary surface preparations and procedures recommended by the paint manufacturers shall be adhered to. A Carrier shall be responsible for the provision of a sound painting surface of the vehicle, including but not limited to the rectification of corrosion, prior to presentation for painting.

18.4 Period Of Painting

A vehicle shall be painted every 5 years or a longer or shorter period by mutual agreement.

18.5 Meaning Of Vehicle

To avoid any doubt, for the purposes of this clause "vehicle" shall mean the complete prime mover and mixer including all their components and external surfaces without exception. The mixer shall be removed from the prime mover for painting.

18.6 Time Of Painting

(a) All painting is to be done, weather permitting, within the estimated time for the following situations:

- (i) vehicle - 10 days;
- (ii) prime mover only - 5 days; and
- (iii) prime mover and mixer frame (not including barrel) - 6 days.

(b) If the painting requires a longer period than that set out in clause 18.6 (a), the Carrier shall be paid a payment for each such extra day or a proportional amount for part extra days calculated at the rate of the Carriers daily average earnings for total working days averaged over the preceding 12 months.

18.7 Removal Of Logos

The Carrier will make their vehicle available to Boral for removal of all "stick on logos" from their vehicle whenever their vehicle is permanently removed from Boral's fleet.

19. Renegotiation

- 19.1 If either party request, 12 months prior to the expiry of the nominal term Boral will meet with the Union to discuss whether or not any new Contract Determination should be entered into and if so its terms.

Any such discussions will occur in the context of the Term of the applicable Head Contract for Carriers and the 'package' nature of this Contract Determination and Head Contract.

20. Substitute Driver

- 20.1 If the Carrier's regular driver cannot drive through illness or for other good reason, the Carrier must provide a substitute driver but they must:
- (a) first obtain Boral's approval for the substitute driver (which shall not be unreasonably withheld);
 - (b) comply with any reasonable condition Boral sees fit to impose regarding the substitute driver (including the length of time for use of the substitute driver); and
 - (c) make sure that the substitute driver possesses an appropriate current driver's license.

21. Uniforms, Protective Equipment, and Storage

- 21.1 An approved driver shall maintain an acceptable neatness of dress and appearance.
- 21.2 Boral shall issue each Carrier with a standard uniform (the same and on the same terms as issued to a Boral employee undertaking cartage work) issue and the driver shall wear the uniform when performing cartage work.
- 21.3 Boral shall issue each Carrier with a standard protective equipment issue (the same and on the same terms as issued to a Boral employee undertaking cartage work) and the driver shall use the equipment as directed.
- 21.4 Unless impracticable given the constraints in the plant area, Boral shall provide sufficient space for the secure storage of Operator equipment (such as spare tyres and oil) at their nominated plant that is reasonably necessary to assist in the efficient and effective running of their vehicles.

22. Purchase of Product Or Goods

- 22.1 Carriers shall not use Boral's accounts for the purchase of product except as in clause 22.3.
- 22.2 Where Boral agrees to purchase product or goods at the request of a Carrier, the cost of such purchases may be deducted from a Carrier's haulage payments.
- 22.3 Boral shall issue to each Carrier, if requested, a credit card for the purchase of diesel fuel (to take advantage of any available Boral discounted price) for their prime mover. Payment for fuel purchased in this manner shall be deducted from the Carrier's monthly retainer payment.
- 22.4 Where a Carrier purchases fuel and other goods from Boral the cost of such purchases may be deducted from the Carrier's haulage payments.
- 22.5 Authorisation for Deduction - With the exception of 22.2 and 22.3, no other deductions may be made from a Carrier's haulage payment without the written permission of a Carrier.

23. Insurance

- 23.1 A Carrier shall arrange and keep current insurance cover whilst working under this Contract Determination in respect to:
- (a) motor vehicle comprehensive including third party property (\$20 million);
 - (b) motor vehicle compulsory third party;
 - (c) workers compensation for all employees including casual employees; and
 - (d) public liability:
 - (i) general cover to the value of \$20 million;
 - (ii) for mixer damage (extension) \$50,000 limit; and
 - (iii) for wrong delivery (extension) \$500,000 limit.
- 23.2 Unless otherwise agreed by Boral, each policy of insurance held by the Carrier must indemnify Boral as principal for principal's liability.
- 23.3 All insurance policies are to be submitted to Boral for perusal and returned prior to commencement of the Carrier's engagement (or this Contract Determination whichever comes first) operation. Thereafter such policies and proof of currency shall be produced annually.

24. Amenities

- 24.1 All amenities are to comply with any applicable legislative requirements. Carriers shall be responsible for the cleanliness and tidiness of all amenities arising from their personal use of them.

25. Dispute Procedure

- 25.1 The parties shall in the event of a dispute or grievance follow the procedure set out below:
- 25.1.1 When there is a disagreement the Carrier shall attempt to resolve the matter by negotiating with Boral's Area Manager.
 - 25.1.2 Where the matter is not resolved the yard delegate shall attempt to resolve the matter by negotiating with Boral's Regional Manager.
 - 25.1.3 If the matter remains unresolved an official of the Union may be party to continued negotiations with Boral's General Manager.
 - 25.1.4 If the matter remains unresolved, notification may be made to the Industrial Relations Commission by either party under the terms of the Industrial Relations Act 1996.
- 25.2 Work shall continue normally while the dispute or grievance is being dealt with in accordance with this clause.

26. Rates and Other Monetary Amounts

Ref	Description	Paid	Rate
A	Loading flag fall to 3km	per cubic metre;	calculated in accordance with Schedule A
B	Kilometre rate after 3km	per cubic metres per kilometre;	\$0.94
C	Waiting Time	per minute;	\$1.62
D	Out of hours Monday - Saturday	per load;	\$43.98
E	Out of Hours - Sundays and Public Holidays	per load;	\$52.77
F	Transfer	per kilometre;	\$1.50
G	Call Out Fee	per instance;	\$175.44
H	Original Retainer Payment		\$71,867
I	Original Flag Fall Payment		\$7.34
J	Minimum Earnings	per annum;	\$100,000
K	Productivity Bonus	per cubic metre.	calculated in accordance with Schedule C

27. Minimum Earnings Guarantee

27.1 If in any financial year (1 July to 30 June) a Carrier:

- (a) is an entitled Carrier; and
- (b) earns (pursuant to clause 4 and 18.6 (b) and Schedule C of this Contract Determination) less than the minimum earning guarantee,

Boral shall pay the entitled Carrier the difference between the minimum earnings guarantee and what they actually earned on 1 August in the following financial year.

"Minimum earnings guarantee" means the amount set out in (J) of clause 26 as varied from time.

"Entitled Carrier" means a Carrier who subject to clause 14.1 performs cartage work for no less than 95% of the total working days in the financial year concerned determined from relevant Boral management records.

27.2 Every quarter (as defined in clause 1.4 of Schedule A), Boral will review the volume of cartage work performed by each Carrier within a region. Where a Carrier is performing less than 85% of the average volume of cartage work (for the Carrier's configuration of vehicle) within the Carrier's region for reasons not within the Carrier's control, Boral will review the pattern of cartage work within the region to determine whether the Carrier's productivity can be increased.

28. Union and Delegates

- 28.1 Boral recognises the Transport Workers Union of NSW as the relevant Union for the Carriers and their drivers to be members of.
- 28.2 A Carrier appointed as yard delegate shall, upon notification thereof to Boral by the Branch or Sub-Branch Secretary of the Union, be recognised as the accredited representative of the Union.

29. Meetings

29.1 If a Carrier is required to attend a meeting by Boral:

- (a) and they are required to use their personal vehicle (car etc) to do this they shall be reimbursed per kilometre at the rate arising from the Road Transport and Distribution Award 2010 for an employee required to use their personal vehicle in that situation; and/or
- (b) outside of the hours 6.00am to 4.30pm Monday to Friday, after 1.00 pm on a Saturday, on a Sunday or on a public holiday, they shall be paid the appropriate hourly rate that would otherwise apply to an employee in that situation arising from the Road Transport and Distribution Award 2010 as varied from time to time.

29.2 Despite anything else in this clause where a Carrier is required to attend a site/project induction training session they shall be paid the appropriate hourly rate that would otherwise apply to an employee in that situation arising from the Road Transport and Distribution Award 2010 as varied from time to time. This payment is in substitution for any payment that might otherwise arise under clause 29.1 (b).

30. Sunday and Public Holiday Work

- 30.1 Despite clause 14.1 and subject to clause 30.2, Boral may require a Carrier to perform cartage work on Sundays and/or Public Holidays.
- 30.2 To avoid any doubt, Boral will firstly call for volunteers to perform work on a Sunday or public holiday and if sufficient volunteers are not available, Boral will then utilise an after hours roster for each plant which shall include Carrier vehicles and vehicles owned by Boral.

31. Area Incidence and Duration

- 31.1 This Contract Determination shall apply to Boral Resources (Country) Pty Limited and Carriers engaged by them within the State of New South Wales and operates to the exclusion of all other contract determinations except the Transport Industry - Redundancy (State) Contract Determination serial C5924 published 28 September 2007 (Vol. 363 IG 853). Note: The Transport Industry - Redundancy (State) Contract Determination contains a "set-off" relevant to this Contract Determination.
- 31.2 This Contract Determination rescinds and replaces the Boral Country - Concrete and Quarries Contract Determination published 17 February 2006 (357 I.G. 214).
- 31.3 This Contract Determination shall commence to operate on the first full pay period on or after 18 September 2014 and shall have a nominal term of three years.
- 31.4 The provisions of this Contract Determination are not to be used in negotiations or proceedings concerning Boral or company's related to Boral and are not to be regarded as a precedent and are based on the particular facts and circumstances affecting Boral and its Carriers.

SCHEDULE A

Regional Flag Fall

1. Calculation of Regional Flag Fall

1.1 Principle

The Regional Flag Fall payment is calculated on a Regional basis as set out in this Schedule.

To avoid any doubt a reference in this Schedule to vehicles is a reference to Carrier vehicles and does not include vehicles owned by Boral.

1.2 Establishment of Regions

Boral shall establish operational regions for the purposes of calculating Regional Flag Falls. The establishment of such regions should be based on grouping geographically close plants that have similar vehicle utilisation.

Boral may change the regions once established and if any dispute arises in relation to this then the procedure set out in clause 25 of this Contract Determination shall be applied.

At the commencement of this Contract Determination the regions are:

	Region Name	Plants included in Region
1	Central Coast	Gosford, Berkley Vale, Kincumber, Doyalson
2	Hunter 1	Seaham, Rathmines, Kooragang, Jesmond, Gateshead, Boolaroo, Thornton
3	Hunter 2	Maitland, Kurri, Singleton, Musselbrook
4	Far North	Ballina, Lismore, Casino, Evans Head, Alstonville, Grafton, Maclean
5	Coffs Harbour	Coffs Harbour, Macksville, Woolgoolga
6	Mid North	Kempsey, Laurieton, Port Macquarie, Taree, South West Rocks, Wauchope
7	North West	Armidale, Inverell, Tamworth, Quirindi
8	Illawarra	Dunmore, Port Kembla, Maldon
9	Shoalhaven	Nowra, Huskinson, Sussex Inlet, Milton
10	South Coast	Batemans Bay, Moruya, Narooma
11	Wagga	Wagga
12	Far South	Bermagui, Bega, Pambula, Bombala, Jindabyne
13	Highlands	Goulburn, Marulan, Moss Vale & Mittagong
14	Western	Dubbo, Mudgee, Orange

1.3 Regional Flag Fall Calculation

The Flag Fall for a region is calculated using the following formula:

$(\text{Original Retainer Payment} / \text{Regional Utilisation}) + \text{Original Flag Fall Payment} + \text{Regional Productivity Bonus}$

"Original Retainer Payment" means the amount set out in (H) of clause 26 as varied from time to time in accordance with clause 1.5.

"Regional Productivity Bonus" means the amount set out in (K) of clause 26 as varied from time to time in accordance with clause 1.5.

"Regional Utilisation: means the average paid m3 utilisation for a region determined by the following formula:

$$\frac{\text{(Paid m3 carried by valid Carrier vehicles in the region in the preceding 12 months)}}{\text{(the number of valid Carrier vehicles in the region in the preceding 12 months)}}$$

"Paid m3" means the m3 paid for on the docket inclusive of minimum payments etc not the m3 actually carried as determined from relevant Boral management records.

"Valid Carrier vehicles" means the number of Carrier vehicles in a region that have been ready, willing and able, to perform cartage work for no less than 95% of the total working days in the quarter determined by Boral from relevant Boral management records.

1.4 Quarterly Recalculation of Regional Flag Fall

Regional Flag Falls will be recalculated by Boral utilising the formulas in clause 1.3 on and as at the last day of each quarter and the new Regional Flag Fall will operate from the relevant commencement date.

For the purposes of this Schedule "quarter" and "relevant commencement date" shall be as set out in the table below:

Quarter	Relevant Commencement Date
July to September	1 November
October to December	1 February
January to March	1 May
April to June	1 August

1.5 Annual Review

The Original Retainer Payment and the Original Flag Fall Payment shall be varied by (and when) any percentage change if any arises from Schedule B Clause 1.1 - General Variation Of Cartage Rates.

SCHEDULE B

VARIATION OF RATES

1. Formula

1.1 General Variation Of Cartage Rates

- (a) At the commencement of each new financial year, the rates set out in the following clauses shall be adjusted in accordance with this clause:
- (i) clause 26 (B) to (G) inclusive;
 - (ii) the Original Retainer Payment in clause 26 (H);
 - (iii) the Original Flag Fall Payment in clause 26 (I); and
 - (iv) the Minimum Earnings Guarantee in clause 26 (J).
- (b) The percentage variation (if any) to items set out in clause 1.1 (a) above shall be calculated as the percentage variation ascertained for the preceding:
- (i) financial year (July 1 to June 30) for all elements of the general variation formula contained in clause 1.2 except the fuel element; and
 - (ii) quarter (April to June) for the fuel element.
- (c) Rates varied in accordance with this clause shall be calculated to the nearest whole cent and paid on and from 1 August.

1.2 General Variation Formula

The general variation formula is:

$[LP \times APV] + [FP \times BPV] + [MP \times MPCPI] + [TP \times TPCPI] + [INS \times INSCPI] + [Rego \times RegoCPI] + [ACP \times CPIV] = \text{percentage variation.}$

The fuel element is:

$[FP \times BPV]$

For the purposes of clause 1.2, the following definitions apply:

Abbreviation	Meaning
LP (Labour Proportion)	51.5%;
APV (Award Percentage Variation)	The percentage variation in Grade 5 of the Road Transport and Distribution Award 2010 in the cartage year;
FP (Fuel Proportion)	10%;
BPV (Bowser Price Variation)	The average of the monthly percentage variations in the price of distillate that Boral makes available in accordance with clause 22.3 to Carriers in the preceding quarter of the cartage year.
MP (Maintenance Proportion)	9%;
MPCPI (Maintenance Variation)	The percentage variation in the ABS CPI Transportation Private Motoring Motor Vehicle Repair and Servicing Index in the cartage year;

TP (Tyre Proportion)	2.3%;
TPCPI (Tyre Variation)	The percentage variation in the ABS CPI Transportation Private Motoring Motor Vehicle Parts and Accessories Index in the cartage year;
INS (Insurance Portion)	8.7%;
INSCPI (Insurance Variation)	The average percentage variation determined by Boral (in consultation with the Carrier's Senior Delegate) from such inquiries of Carriers and other persons as Boral considers appropriate to ascertain the best price of a supplier in NSW of the insurances required by clause 23 on terms which might reasonably be accepted by a Carrier;
Rego (Registration Cost Portion)	1.3%;
RegoCPI (Registration Variation)	The percentage variation in the ABS CPI Transportation Private Motoring Motor Vehicle Other Motoring Charges Index in the cartage year;
ACP (Administration Cost Portion)	3.9%;
CPIV (Consumer Price Index Variation)	The percentage variation in the ABS Sydney All Groups Index in the cartage year;
Cartage year	Preceding financial year (July 1 to June 30)
Quarter	July to September, October to December, January to March, April to June

1.3 Fuel Variation Of Cartage Rates

- (a) At the end of each quarter, the rates in clause 26 (B) to (G) inclusive, the Original Retainer Payment in clause 26 (H), the Original Flag Fall Payment in clause 26 (I) and the Minimum Earnings Guarantee in clause 26 (J), shall be adjusted in accordance with this clause to account for any change in the price of fuel only.
- (b) The percentage variation (if any) to items set out in clause 1.3 (a) above shall be calculated as the percentage variation ascertained by adjusting the fuel element of the general variation formula only and then recalculating the general variation formula.
- (c) Rates varied in accordance with this clause shall be calculated to the nearest whole cent and paid on and from the relevant commencement date.

For the purposes of this clause 1.3 "quarter" and "relevant commencement date" shall be as set out in the table below:

Quarter	Relevant Commencement Date
July to September	1 November
October to December	1 February
January to March	1 May

SCHEDULE C

Productivity Bonus

Boral recognises the benefits that Boral derives from the productive performance of cartage work by Carriers. Boral is accordingly willing to provide an opportunity for Carriers to share in the benefits derived from increased productivity.

For this reason, Boral offers a productivity bonus to the Carrier, calculated by reference to the total cartage work undertaken by the Carrier's region as a whole. The productivity bonus consists of a payment to the Carrier per cubic metre carted in the region as a whole, on the following basis:

Regional	< 3999	4000 to	4500 to	5000 to	5500 to	6000	6500	> 7000
Productivity		4499	4999	5499m3	5999	6499	6999	
\$ per Carrier per m3	\$0.75	\$0.75	\$0.75	\$1.00	\$1.25	\$1.50	\$1.75	\$2.00