

SUBMISSION:

To the -

Strategic Review of the Workplace Health and Safety System

Kerry McDonald Company Director July 2012

Introduction

These views reflect my experience as a senior executive/managing director and as a company director/chairman, in New Zealand, Australia and elsewhere over many years. This experience (see attached brief outline) includes a deep interest in the performance of organisations, in the interests of all stake holders, and including industrial health and safety. This experience made the objective of ZERO accidents and incidents credible - there is no alternative, and included millions of man hours without any - but few organisations actually achieve that.

I recently chaired the Government's Savings Working Group, which undertook a thorough assessment of New Zealand's recent economic performance, current position, serious problems and preferred solutions - which is relevant to your task.

If the current "system" for workplace health and safety was ever "fit for purpose" it is definitely not now. And, the nature and extent of the economic, social and environmental problems now facing New Zealand, and it's political system and processes, make an efficient and effective solution - substance not symbols, a real challenge.

However, I think that simple, effective solutions are readily attainable.

Key Perspectives

Business Organisations

An excellent workplace health and safety (WHS) performance requires committed leadership, especially from the top and knowledge of how to do it. It is generally really hard work. However, an organisation that can succeed with WHS, typically also succeeds more widely, in lifting the overall performance of the organisation, it's competitiveness, profitability and ability to innovate and grow. The leadership and culture to achieve one is an excellent platform for the business generally, for the potential benefit of all stakeholders - but particularly employees.

New Zealand's approach to WHS to me reflects a lack of capability and commitment. Really committed and capable top down leadership is rare and tokenism is widespread - safety stats first item on the (board? exco?) agendas but little/no focus

on systems and processes. If the trend shows improvement all is well. Yes, discussion on doing better but deep scepticism and resistance to really meaningful hard goals.

New Zealand has a high proportion of small and medium enterprises, which often lack the corporate capability for proper training, systems and processes. Doing the basics to keep the business afloat is a challenge and “unproductive” overheads are strenuously avoided. While businesses do wish/seek to avoid harm, there is a lack of systematic capability. Nor do I see compelling evidence that even larger firms are really and generally committed to WHS, though there are standout exceptions.

Traditionally, multinational companies have played a major role in training New Zealanders, often to a high standard and successful careers, but there has been a real “hollowing out” of their presence here over the last decade or so - fewer jobs, especially senior jobs and less investment in training and development here. So, there is an increasing shortage of people who have benefitted from their training and development processes, and who really understand organisation change, high performance and requisite safety systems and cultures.

The NZ Institute of Management in the late 1990s concluded that the quality of management in New Zealand was “plateaued at a level of mediocrity”. While many New Zealanders may be very capable people the evidence is that not enough are. Basically, the vital economic indicators - productivity, exports per capita, living standards generally, have been trending the wrong way since at least the early 1970s, in contrast to Australia, the OECD average and especially Emerging Economies.

Recent work on trans-Tasman productivity comparisons has highlighted poor management in New Zealand as a major factor in it’s poor relative performance.

Consequently, New Zealand’s future is now going to be very challenging. We are on the wrong road (refer Savings Working Group Report or Treasury’s Report to the Incoming Government) and politicians, over some decades, have lacked the courage/leadership to make the required changes. On the other hand, the electorate has got what it voted for!

Furthermore, I am not persuaded that New Zealand businesses are committed to concepts such as “continuous improvement” in any meaningful, effective way.

At the governance level, I don’t see New Zealand boards generally providing the committed, knowledgeable top down leadership on WHS. There is a dearth of directors who have done the hard yards and developed the requisite passion, commitment and capability, and too many for whom WHS is a “tick the box” compliance matter instead of a deep, passionate commitment to avoiding risk and

harm. This is also reflected in attitudes to continuous improvement and high performance.

Consequently, NZ businesses are poor at empowerment and people development, including “bottom up” leadership. In a good organisation this is a powerful complement to “top down” leadership in all aspects of business performance, including WHS.

In a good organisation this means, amongst many other things, that anyone can stop any process for safety reasons, without fear.

Regulation

The best companies will pursue “ZERO” as a matter of deep philosophy and passionate commitment. Most won’t, making regulation essential.

Regulation must not only be “fit for purpose” but also effectively and efficiently enforced.

Over at least the some decades WHS regulation has been a major failure. Pike River is simply a particularly tragic example of the New Zealand WHS system, again, failing.

At the core of the failure is the performance of the Public Service and the highly critical comments of many drawing attention to the failure, including the State Sector Standards Board (which I chaired) reports in the early 2000s. It drew attention to many areas of serious concern including the often poor quality of leadership, poor selection and succession planning, inadequate attention to personal improvement and completely inadequate performance management. Poor performance was readily accepted, consequence for it were rare and poor performers were, more often than not, reappointed rather than terminated. I note that I also chaired a Government-appointed oversight committee for the Department of Conservation after Cave Creek and was closely involved in a major and very successful reform of DOC over the following 2 years, the benefits of which have now been largely eroded!

At the heart of the problem is the State Services Commission, and there is still little evidence of meaningful improvement - although the PIF reports over the last couple of years (a much needed initiative) have provided ample evidence of the widespread inadequacies - just read the executive summaries. What is still missing is any evidence of a sound, systematic response to the long standing, deep seated problems.

Unfortunately, this is the context for government regulation of WHS.

My judgement is that the regulatory process is basically incompetent and continued to be over many years, with serious consequences on the ground and without any

effective response either at the political level or from the SSC or elsewhere in the Public Service. The Department of Labour is, in my judgement, a particular problem, and has been for many years.

Recommendations

The government regulatory framework - policies, regulation, oversight and enforcement are the highest priority.

I would start with oversight and enforcement, make sure the organisation is fit for purpose, make sure the right people are "on the bus" and ensure a high standard of performance, on the ground, with serious consequences for inadequate performance - starting at the top.

Regulation will not work unless it is credible and making a constructive contribution and without regulation there is no WHS system.

I doubt that it is a matter of more resources - it's having the right resources and using it effectively.

If you don't get this step right you may as well give up.

Reviewing the regulations, under existing policies, should follow, just focussing on important matters and improving the regulations as appropriate.

A policy review will take years and is not the most critical element.

An improved regulatory system and processes will get an immediate response from people and organisations with a responsibility for WHS, via prosecutions and imprisonment for serious cases - the example of incompetent finance company directors is relevant! In this sense "the market", across all organisations and people, in the private and public sectors, will be an efficient transmission mechanism.

Policies and regulations should be clear, simple and effective, with real bite for those who are negligent or don't take sufficient care.

Kerry McDonald

My background, briefly:

Economist, Director NZ Institute of Economic Research

Rio Tinto (CRA, Comalco) 25 years, an MD for 12years - mining, mineral processing and heavy manufacturing in Aus, NZ and other countries.

Director: BNZ(Chairman); Carter Holt Harvey - Aus & NZ, forestry, logging, sawmills, pulp, paper, packaging, etc; Owens - road haulage; DUX - manufacturing; GRDMacraes(Chairman) - gold mining; OceanaGold(Chairman)open pit and underground gold; National Australia Bank; Leighton Contractors Pty Ltd Australia and NZ - construction, mining, broadband, telecoms - open pit iron ore, coal and gold, underground coal; and many other private and public sector organisations/activities.

I have been deeply involved in developing safety policies, adopting and implementing systems and showing leadership on safety. I was/am onsite frequently, including underground, and frequently undertook STOP and SMAT safety activities, in which I had been trained.

As an executive in Rio Tinto about 40% of remuneration was performance based. Often there was a safety gate - if you did not achieve your safety targets you lost all of your remuneration at risk. This was understood and accepted.