

Terms of Reference

For the

Building and Construction Industry Training Fund and Levy Collection Act 1990

Section 32 of the Act establishes broad terms of reference for the review, each of which should include specific areas of interest or consideration which are listed below:

- a) Effectiveness of the Board
 - 1) Relationship with industry and effectiveness of communication.
 - 2) Structure of the Board and its effectiveness in meeting the needs of different sectors of the industry.
 - 3) Operation of the Board in strategic management of the Construction Training Fund.
 - 4) Efficiency of the Board in collection of levy and administration of programs.

- b) Attainment of the objectives of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* including:
 - 1) To improve the quality of training.
 - 2) To increase the number of skilled persons in the building and construction industry.

- c) The need for this Act to continue in operation.

- d) Review the operation of the Act with respect to the resources sector, including four recommendations referred from the 2019 statutory review to this review.

- e) Test six recommendations from the 2019 statutory review noted and for further consideration (Stage 2 legislative change), including three recommendations arising from the 2014 statutory review.

- f) Consider the benefits of a more diverse construction workforce and assess whether First Nations people participation and gender imbalances in training are being adequately addressed under the Act.

The Terms of Reference for the 2024 Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* include to:

- Review the operation of the Act with respect to the resources sector, including four recommendations referred from the 2019 statutory review to this review.
- Test six recommendations from the 2019 statutory review noted and for further consideration (Stage 2 legislative change), including three recommendations arising from the 2014 statutory review.

RECOMMENDATIONS FROM THE 2019 REVIEW FOR ANALYSIS

The four recommendations from the 2019 statutory review with respect to the resources sector include:

Recommendation from 2019 Statutory Review
<p>Recommendation 10 – Introduce a capital value cap. Consider introducing a cap on the capital value of any single building and construction project for the purposes of calculating the levy to prevent the policy intent of the Levy from being undermined by large capital value projects, where the capital value of the project is driven solely by the high value of imported capital equipment.</p>
<p>Recommendation 12 - Increase threshold at which the Levy applies.* Increase the following thresholds in line with an appropriate indexation factor (such as the Consumer Price Index or Construction Cost Index) and introduce an annual indexation process to adjust them:</p> <ul style="list-style-type: none"> • the threshold at which the Levy applies; and <p>the threshold for application of adjustments to the value of construction projects on completion.</p>
<p>Recommendation 21 – Resources integration. Carry forward the review of any legislative implications of the Levy on the resources sector, including those matters raised by them relating to the operation of the Act to the next statutory review to provide a longer timeframe over which the operation of the new policy can be assessed.</p>
<p>Recommendation 22 – Review of levy revenue and CTF expenditure. Review the amount of revenue raised by the levy and the demand for CTFs programs in light of the removal of the exemption on resources engineering construction work undertaken by or on behalf of the resources industry as part of the next statutory review.</p>

The six recommendations from the 2019 Review include:

Recommendation from 2019 Statutory Review
<p>Recommendation 13 – Review of concessional expenditure threshold.</p> <ul style="list-style-type: none"> • Review the concessional expenditure threshold of \$10 million for alterations and additions to resources facilities prior to the next statutory review to ensure it is operating as intended.
<p>Recommendation 16 - Consider pursuing the following legislative changes in the medium to long term to address issues with the current definition of construction.</p> <ul style="list-style-type: none"> • <i>The Building and Construction Industry Training Fund and Levy Collection Act 1990</i> is amended to include a definition of construction without reference to other legislation. • The definition adopted in the Act is made more general and all-encompassing, rather than the current approach of seeking to define what is construction in great detail.

- The *Building and Construction Industry Training Fund and Levy Collection Regulations 1991* be the instrument which is used to define any and all exclusions from the Levy. Any reference to the difference between work being done on-site (and by implication off-site) is removed, with matters of applicability to be addressed by the current clause within the regulations of a person being engaged by an employer “whose primary activity is not related to the building and construction industry” being deemed not part of the construction industry.

The current definition of construction industry as referred to in S3 of the Act is taken from the *Construction Industry Portable Paid Long Service Leave Act 1985*.

Recommendation 17 - Streamlined definition of resources construction.

Explore amending the definition of ‘resources operational work’ to imply that all work which does not meet the definition of construction on what is defined as a resources facility is considered operational work and so does not attract a levy liability

Recommendation 18 - Exemption for government work

Consider removing the current exemption for “government work” in the regulations as there does not appear to be a rationale for why government work undertaken by government employees should be exempt from the Levy

Recommendation 19 - Specify levy adjustments in regulations.*

That Sections 21, 22 and 30 of the Act, providing for adjustment of amounts paid after completion of construction work, are amended by removing reference to the specific threshold value for adjustment of the Levy and that the threshold value be specified within the *Building and Construction Industry Training Fund and Levy Collection Regulations 1991*.

Recommendation 20 - Remove ‘improve the quality of training’ from the Act*

*Refers to recommendations remaining from the 2014 review