



2024 Statutory Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990*

Submission

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Introduction

This Submission responds to the 2024 Statutory Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990*.

The NFIA is supportive of the Act to continue in operation, with the purpose of increasing the number of skilled workers in the construction industry. This is of particular importance in the current climate, as we experience a nation-wide skills shortage.

The NFIA sees the main barrier to maximising the number of skilled workers as the Act's current drawing of the definition of 'construction' from *the Construction Industry Portable Paid Long Service Leave Act 1985*. The NFIA supports the Recommendations from previous statutory reviews in creating its own definition and expands on this throughout the Submission.

The NFIA has provided response to the Terms of Reference highlighted for consideration and is happy to support the Construction Training Fund (CTF) at any point in the future to help build a larger, skilled construction workforce.

The Australian Fire Protection Industry

Fire Protection in Australia is typically achieved via three means:

1. active fire protection (fire sprinklers, fire hydrants, fire alarm systems and smoke control systems);
2. passive fire protection (fire rated walls, floors and ceilings and fire sealing of penetrations); and
3. education.

The Fire Protection Services industry contributes over \$2.5 billion to the Australian economy every year. Over 2,000 businesses pay nearly \$700 million in wages each year and industry revenue is projected to increase at an annualised rate of 1.5% over the five years through 2025-26, to reach \$2.7 billion.

The IBISWorld Industry Report OD5424 Fire Protection Services in Australia (November 2020) claims that despite the presence of vertically integrated multinational giants, the industry has a low level of market share concentration. The two major companies have a combined market share of only 10% and are both part of large multinational companies operating globally across several related industries. Twenty years ago, the two major companies are estimated to have had 80% of the market.

There are numerous regional and local players that construct, install and service Fire Protection systems to small, medium, and major buildings across the full scope of class 2 to 9 buildings as well as higher risk facilities such as fuel depots, harbours, data centres and similar developments. Over half the industry enterprises employ between one and 19 people. As the minor players have increased their share of the total market, the industry has become more fragmented and diverse, while also growing substantially.

Where twenty years ago, the two major companies offered a form of institutionalised but limited 'industry' training to their people who then performed their duties under close supervision and peer review, it could be argued that the industry was less in need of regulation. However, as the industry has grown substantially and its make-up evolved, it is now predominately made up of many more, smaller independent contracting companies. That market growth and diversification has provided customers with better contractor choices, and better pricing, but not better outcomes, which has raised the need for more overarching regulation.

The National Fire Industry Association (NFIA)

The National Fire Industry Association, Australia (**NFIA**) is an Australia-wide community of commercial fire protection contractors, their people, suppliers, and industry stakeholders representing a wide and varied membership from the smallest sub-contractor through to large Australia-wide construction and service businesses. Our Members work at the frontline of fire protection with an estimated 80 per cent of the fire protection work undertaken in Australia completed by Members of NFIA.

NFIA Members operate across all areas of the Fire Protection sector, including the design, construction, installation, maintenance, inspection, testing, certification and routine performance assessment of the following systems and equipment:

- passive fire protection;
- special hazard systems;
- water-based fire protection systems;
- portable fire protection; and
- electrical fire protection systems (including fire and smoke detection and alarm systems and emergency lighting).

NFIA utilises the resources of other Australian and International industry organisations and associations.

NFIA is a member of The World Fire Emission Reduction Alliance, signing a Memorandum of Understanding with the Dubai Directorate General for Civil Defence, during the opening ceremony of the World Fire Reduction Emission Alliance at the COP 28 World Climate Conference. NFIA attended the Conference as specially invited guests of the UAE Government, demonstrating the role Fire Protection plays in the global conversation on climate change. Through the achievement of shared aims, reduction of global emissions from fire can be achieved through effective Fire Protection. NFIA will continue to work through this alliance to cooperate through the sharing of information and best practice in Fire Prevention and Protection as well as collaboration on education, research, and worldwide awareness to minimise climate change.

NFIA is committed to the delivery of quality fire protection practitioners across all aspects of fire protection safety. To this end, NFIA has sponsored and supported the growth of the world leading fire industry Registered Training Organisation, Fire Industry Training (**FIT**), which now delivers fire industry required training for all of Australia at its campuses in Brisbane, Melbourne, and Sydney.

NFIA believes that an appropriate regulatory framework should be one that protects the safety of the community and property, provides adequate consumer protection, recognises, and accommodates industry practice and standards, requires registration of practitioners, and is linked to the national training package framework.

Submission

ToR (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.*

The NFIA has no examples of ineffectiveness of the Board. The Board's structure and operation functions mirror that of other construction training funds in other states. The NFIA has ongoing interactions with the CTF Executive team, and they have always been collaborative and helpful.

ToR (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.*

The NFIA submits that the Construction Training Fund are achieving the objectives of the Act to the best of their ability within the definition of 'construction' that they are bound to. The NFIA agrees that the objective of the Act should be "to increase the number of skilled persons in the building and construction industry," however, does not see the need for the objective, "to improve the quality of training." The NFIA suggests that this could be replaced with an objective more along of the lines of: "to provide quality of training to the building and construction industry."

Further, the NFIA submits that the objective of the Fund, being to increase the number of skilled persons in the building and construction industry, should be broadened to capture more than just apprentices. Mandatory requirements for Continuing Professional Development hours are becoming increasingly more prevalent within the industry and there should be an opportunity for the CTF to provide funding to help with upskilling.

For example, licensing requirements are being introduced for Fire Systems Designers from the 1 July 2024, through the Commerce Regulations Amendment (Building Services) Regulations 2022. Attached to this license are mandated CPD hours. There will be many Designers who will be affected by this and will require upskilling, and this is a perfect opportunity for the CTF to meaningfully contribute to training of the industry, not just the training of apprentices.

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

The NFIA supports the need for this Act to continue in operation, as its objectives support training for the construction industry, however, some amendments are required. The NFIA submits the Act will be far more effective and beneficial to the industry if the Act's definition is broadened. This will provide industry with greater access to the fund. This is expanded under Terms of Reference (e).

ToR (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:

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.

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:*

- *the threshold at which the Levy applies; and the threshold for application of adjustments to the value of construction projects on completion.*

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.

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.

The NFIA does not wish to submit on this matter.

ToR (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:

Recommendation 13 – Review of concessional expenditure threshold.

- 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.

Recommendation 16 - Consider pursuing the following legislative changes in the medium to long term to address issues with the current definition of construction.

- The Building and Construction Industry Training Fund and Levy Collection Act 1990 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 offsite) 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.

Recommendation 13

The NFIA does not wish to submit on this matter.

Recommendation 16

The NFIA strongly agrees that there should be legislative changes to the definition of 'construction' within the Act. The NFIA supports *the Building and Construction Industry Training Fund and Levy Collection Act 1990* to be amended to include a definition of 'construction' without reference to other legislation. The NFIA also strongly supports that 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 NFIA also agrees that *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 offsite) 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.

Implementing Recommendation 16 will see a more streamlined service to project owners, making the interpretation of the scope of what constitutes 'construction' far clearer. The current definition is extremely limiting, resulting in an uneven contribution by sectors into the Levy, versus what they can draw out.

The NFIA would like to see a broader definition of 'construction' that allows appropriate maintenance and service contracts captured by the Fund. Expanding this definition will see greater attainment of the objectives of the Act, by increasing the number of skilled workers in the industry.

Recommendation 17

The NFIA does not wish to submit on this matter.

Recommendation 18

The NFIA supports the removal of the exemption for government work, as the same means test should be applied to government employees and contribution to the Levy should be necessary if the work falls within the definition.

Recommendation 19

The NFIA supports the removal of reference to the specific threshold value for adjustment of the Levy.

Recommendation 20

The NFIA supports the removal of 'improve the quality of training' from the Act, as outlined above in Terms of Reference (b).

ToR (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 NFIA submits that a more diverse construction workforce will have significant benefits to the industry. Particularly during the current national skills shortage we are experiencing, broadening the scope to access an untapped workforce previously overlooked in construction, will greatly assist. The NFIA suggests that broadening and generalising the definition of 'construction' will also allow and encourage employers to access the fund, which will increase their capacity to take on apprentices. The NFIA recommends also looking at some additional initiatives specifically targeting these minority groups in order to increase diversity of the workforce.



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