

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

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.

CTFs Response to the Terms of Reference

Terms of reference	CTF response/comments/observations
<p>a) Effectiveness of the Board</p> <p>1) Relationship with industry and effectiveness of communication.</p> <p>2) Structure of the Board and its effectiveness in meeting the needs of different sectors of the industry.</p> <p>3) Operation of the Board in strategic management of the Construction Training Fund.</p> <p>4) Efficiency of the Board in collection of levy and administration of programs</p>	<p>1) Relationship with industry and effectiveness of communication</p> <ul style="list-style-type: none"> • The Board have a very strong relationship with industry and utilises its networks and stakeholder engagement to continue to promote the benefits of the Construction Training Fund (CTF) and the importance of the levy. • This effectiveness has been evident at several industry events (Perth Metro and Regional WA) where the Board attended to engage with stakeholders and listen to industry concerns. They also assist in celebrating the successes of apprentices in the industry through award presentation events. • The Board provide, through the Chair, key messages from each Board meeting which are made available on the CTF website: <ul style="list-style-type: none"> ○ www.ctf.wa.gov.au/board-meeting-outcomes <p>2) Structure of the Board and its effectiveness in meeting the needs of different sectors of the industry</p> <ul style="list-style-type: none"> • The Board structure provides an adequate number of representatives from across industry. • At present there is no representation on the Board from the commercial sector. There could be consideration to include this in the Act to ensure that all sectors are represented at the Board table. • There is also no Deputy Chair included as part of the structure. This would be a helpful addition to ensure that there is a clear nominated Board member to act as the

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	<p>Chair when they are unable to attend meetings. A Deputy Chair could then be brought closer to the day to day running of the organisation that would provide a backup of knowledge, advice and guidance to the CEO and organisation. The inclusion of a Deputy Chair may also provide succession planning opportunities for the Minister.</p> <p>3) Operation of the Board in strategic management of the CTF</p> <ul style="list-style-type: none"> • The Board provide strong strategic oversight of the CTF through the Executive Management team and directly from the Chair to the CEO. • The Board reviews its Strategic Risk and Risk Appetite on an annual basis providing clear direction to the organisation. • The Board also reviews, through reporting from the CTF, the CTF Strategic Plan 2021-2025 and provides advice and guidance on strategic initiatives and actions to be undertaken. • Through Board Decision Items, the Strategic Plan is referred to ensure that business cases are in line with the strategic direction of the organisation and remains on scope to the intended outcomes. • At each Board meeting, the Board reviews it's Key Priorities, this document highlights the three most important areas of focus under each pillar of the Strategic Plan, however, also captures issues in the current environment that the Board need to draw attention to such as silicosis awareness and training, workforce shortages and the impacts of COVID-19. • The Board is required to provide an annual Operational Plan to the Minister for endorsement. Due to changes in the CTFs requirements under the WA Procurement Rules, the CTF experiences longer procurement timeframes with one recent example exceeding 12 months in planning prior to going to market, which inhibits the delivery of one-year programs. • The Board proactively monitors the financial performance of the CTF, advising on strategies to optimise efficiency and mitigate risks, including funds under management. • Through recent stakeholder engagement it is also evident that one-year programs are hard to market as just when the industry is fully aware the programs are ending.

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	<ul style="list-style-type: none"> • For these reasons the CTF would like the review to consider a three-year operational planning cycle for approval by the Minister. This would support the CTF to remain agile to industry and deliver long term programs and projects that are more proactive to industry needs that reactive. <p><i>4) Efficiency of the Board in collection of levy and administration of programs.</i></p> <ul style="list-style-type: none"> • The Board, through the operations of the Construction Training Fund, has supported the implementation of a Levy Integrity Strategy and Implementation Plan. • The Levy Integrity Strategy provided for additional resources in undertaking levy integrity work. This work has provided the organisation significant additional revenue that would have otherwise not been collected and provides for improved equity across the industry to ensure all levy obligations are met across all the sectors. • Levy compliance has improved through the development of Memorandums of Understanding with industry which supports the capture of data on upcoming projects and information on contractors engaged in construction work. • Levy compliance at times can be frustrated by the lack of clarity of the definition of construction under the Act. An improved and clearer definition of construction, one that is described within the Act rather than that of another Act, would significantly reduce this confusion and frustration and make levy compliance more efficient and effective for industry and the CTF. • The Act is limited in its capacity to provide exemption to levy payment in the event of emergency or for a reason deemed supported by the Board. An example of a levy exemption request came from local government authorities impacted by the Wooroloo Bushfire Disaster event. An amendment to the Act could consider that either the Board or the Minister can exempt levy payment based on a declared state disaster or event requiring support from the Premiers Relief Fund. • Penalties for non-payment of the levy are modest, \$20,000 for an individual and \$50,000 for a body corporate are viewed as not being significant enough of a deterrent particularly in the case of resource sector projects which if they were valued at \$1 billion would be due a levy payment of \$2 million. • Programs administered by the CTF are captured in an annual Operations Plan that is endorsed by the Board and provided to the Minister for approval along with the forward estimate budget.

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	<ul style="list-style-type: none"> • Over the last three years, the Board has had a focus on improving efficiency of program payments through the significant investment in IT infrastructure and programs. This investment has enabled the CTF to develop new programs for industry that provide an agile response to the current market conditions such as the \$500 tool allowance to all apprentices. • Continued marketing and communication of the CTF through an improved website and program information has improved the take up rate of grant programs and the general awareness of industry on the benefits of the CTF and the ways it can support the industry. • Evaluations of the key programs delivered by the CTF have also provided the evidence and support to the Board of the industry’s support for the current structure of the grants programs and that they are effective in providing certainty to the industry of a baseline of support for employing an apprentice or undertaking additional training. • Additional resources have been required over the last three years to undertake the significant increase in workload experienced by the CTF due to the tripling of apprentice numbers in the apprenticeship system. This has also been at the same time as developing new IT infrastructure which at times has put significant pressure on the program’s delivery team and timeliness of delivery. • The CTF and Board do not consider themselves as a service agency, meaning the CTF does not directly provide training and services to industry, all programs are met through funding provided from the CTF and delivered by separate providers. This structure of the CTF is important to maintain to ensure that it remains as a fund and facilitator, rather than broadening its scope to manage services.
<p>b) Attainment of the objectives of the Building and Construction Industry Training Fund and Levy Collection Act 1990 including:</p> <p>1) To improve the quality of training.</p> <p>2) To increase the number of skilled persons in the building and construction industry.</p>	<p><i>1) To improve the quality of training</i></p> <ul style="list-style-type: none"> • The Construction Training Fund has limited levers at its disposal that directly impact the quality of training through the industry. Quality assurance and auditing of the Registered Training Organisations are the responsibility of the Training Accreditation Council and the Australian Skills Quality Authority. • On an annual basis, the CTF survey training recipients to understand their satisfaction with the training they have received, this has predominantly been in

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	<p>supplementary skills. This survey provides the evidence and findings provided through the organisations KPIs and is reported on through the annual report.</p> <ul style="list-style-type: none"> • The Act could lessen the emphasis of the improvement to the quality of training that is currently described. This would ensure that the CTF direct its focus on those aspects that it has control. • The CTF through the Construction Training Council provides evidence where appropriate and holds discussions with the Department of Training and Workforce Development, the regulators and industry bodies should it believe the quality of training provided by an RTO is not meeting industry needs or expectations. <p><i>2) To increase the number of skilled persons in the building and construction industry</i></p> <ul style="list-style-type: none"> • The CTF reports on a regular basis on the number of skilled people in the construction industry. Through funding provided through the supplementary skills program, the CTF can proactively support the workforce to increase skills. • The ongoing support for employers taking on apprentices through the Employer Grant Program, encourages more employers to take on an apprentice. However, apprenticeship numbers can also be influenced by market conditions and additional incentives provided by the Federal Government. • To further increase the number of skilled persons in the building and construction industry, the Act could be broadened through changes to the definition of construction to enable the CTF to fund trades that are associated with more offsite work and entry level training prior to employment. • A further role of the Construction Training Fund is to promote construction as a career of choice broadly throughout the community. This includes school and career expos, trade expos and engagement with industry across the regions. The Act does not prohibit this engagement and is critical to delivering a message to attract more people to the industry.
<p>c) The need for this Act to continue in operation.</p>	<ul style="list-style-type: none"> • The Act provides for a value driven levy to support and help address the workforce requirements of the building and construction industry. • Without the Act and the ability to invest in the future construction workforce, our current skills crisis would be exacerbated.

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	<ul style="list-style-type: none"> • The Act provides industry with the funds to ensure that work, health and safety standards are championed and generally provides for the regulation and improvement of quality standards within the construction industry. • The Act also provides the opportunity for the Construction Training Fund to undertake research work which provides vital information to the industry and the Board to ensure investment is evidenced based and forward looking.
<p>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</p>	<ul style="list-style-type: none"> • The resource sector has contributed significant funds through the application of the levy to resource sector projects. • These additional funds have provided vital revenue that has assisted the CTF to develop meaningful programs that provide support directly to employers, however more importantly, now directly to apprentices and trainees. • The revenue received from these projects is significant, and in the long term, may not be able to be converted into program delivery due to the risk of over subsidizing the industry should grants continue to increase.
<p>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</p>	<ul style="list-style-type: none"> • These are addressed in the following sections.
<p>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</p>	<ul style="list-style-type: none"> • The Construction Training Fund promotes a more diversified workforce at every opportunity. • Through the Board approved Research Strategy, a Workforce Culture and Diversity Research project is being undertaken in 2024. • There are a series of groups that have been, and still are, systemically disadvantaged when seeking employment in the construction industry. • To address this disadvantage, the CTF has historically run a series of programs that seek to encourage diversification, both with positive intent and results. This includes

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	<p>the Women in Non-Traditional Trades Scholarship Program, Employer incentives on top of the Employer Grant for apprentices that are female, or Aboriginal, or Mature Age, or are from the regions.</p> <ul style="list-style-type: none"> • A more prescriptive Act requiring the Board to deliver on a more diversified workforce through programs and initiatives would not drive a different outcome than what is being achieved to date. • The culture of the construction industry is the critical element to driving diversity, without the culture improving significantly, additional programs and incentives do not move the needle in terms of numbers in the workforce.

Responding to recommendations from the 2019 Review for analysis

Recommendation from 2019 Statutory Review	CTF response/comments/observations																														
<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>Of the large projects that the CTF has comprehensive cost breakdowns for, there does not appear to be many where high value imported capital equipment is documented. Therefore, any cap on the value of construction in the resources sector is not likely to address this specific situation/issue. A specific exclusion and cap on the value of imported capital equipment only (rather than whole projects) would be more likely to address this issue when it arises.</p> <p>Sample below with identified equipment listed:</p> <table border="1" data-bbox="943 1043 2078 1412"> <thead> <tr> <th colspan="3" data-bbox="949 1048 2072 1078">Resources Sector - Project Breakdowns</th> </tr> <tr> <th data-bbox="949 1078 1406 1106">Project</th> <th data-bbox="1406 1078 1659 1106">Estimated Value</th> <th data-bbox="1659 1078 2072 1106">Large Capital Equipment</th> </tr> </thead> <tbody> <tr> <td data-bbox="949 1106 1406 1133">Underground Mine Restart Project 2023</td> <td data-bbox="1406 1106 1659 1133">\$ 3,699,422.00</td> <td data-bbox="1659 1106 2072 1133"></td> </tr> <tr> <td data-bbox="949 1133 1406 1160">Gold Project 2022</td> <td data-bbox="1406 1133 1659 1160">\$ 122,770,038.00</td> <td data-bbox="1659 1133 2072 1160"></td> </tr> <tr> <td data-bbox="949 1160 1406 1187">Mineral Sand Plant 2024</td> <td data-bbox="1406 1160 1659 1187">\$ 371,722.00</td> <td data-bbox="1659 1160 2072 1187"></td> </tr> <tr> <td data-bbox="949 1187 1406 1214">Nickel Mine 2022</td> <td data-bbox="1406 1187 1659 1214">\$ 47,678,281.00</td> <td data-bbox="1659 1187 2072 1214"></td> </tr> <tr> <td data-bbox="949 1214 1406 1302">Lithium Plant 2023</td> <td data-bbox="1406 1214 1659 1302">\$ 2,342,281,542.47</td> <td data-bbox="1659 1214 2072 1302">Hydromet Package \$600,803,387.00</td> </tr> <tr> <td data-bbox="949 1302 1406 1329">Underground Gold Mine 2023</td> <td data-bbox="1406 1302 1659 1329">\$ 8,680,767.00</td> <td data-bbox="1659 1302 2072 1329"></td> </tr> <tr> <td data-bbox="949 1329 1406 1356">Gas Field 23023</td> <td data-bbox="1406 1329 1659 1356">\$ 11,600,759.00</td> <td data-bbox="1659 1329 2072 1356">\$689k fabrication was WA based vendors</td> </tr> <tr> <td data-bbox="949 1356 1406 1412">Open Pit Copper and Nickel 2023</td> <td data-bbox="1406 1356 1659 1412">\$ 1,375,807,641.00</td> <td data-bbox="1659 1356 2072 1412">Process Plant Equipment Supply \$342,576,766</td> </tr> </tbody> </table>	Resources Sector - Project Breakdowns			Project	Estimated Value	Large Capital Equipment	Underground Mine Restart Project 2023	\$ 3,699,422.00		Gold Project 2022	\$ 122,770,038.00		Mineral Sand Plant 2024	\$ 371,722.00		Nickel Mine 2022	\$ 47,678,281.00		Lithium Plant 2023	\$ 2,342,281,542.47	Hydromet Package \$600,803,387.00	Underground Gold Mine 2023	\$ 8,680,767.00		Gas Field 23023	\$ 11,600,759.00	\$689k fabrication was WA based vendors	Open Pit Copper and Nickel 2023	\$ 1,375,807,641.00	Process Plant Equipment Supply \$342,576,766
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	<p>The CTF has received significant revenue from the resource sector projects, many of which have large capital equipment imported from overseas.</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 the threshold for application of adjustments to the value of construction projects on completion. 	<p>Levy Threshold: Annual Indexation will require CTF system changes, also local government changes each year. This would be difficult to administer. A suggested alternative would be to set the new value after this review, set up additional terms for review every 5 years when legislation review is due. Keep the threshold values in the regulations to allow changes to be made in a timely way when required.</p> <p>The CTF supports an increased threshold to \$100,000. This would reduce the number of projects by 42.5% that the CTF is collecting on, however estimates would only reduce levy revenue collected by 2.4%. The gain is a significant reduction in administration for project owners (mainly the housing sector) and the CTF team, this in-turn would make the CTF more efficient in its levy collection as it could focus attention on the levy integrity work and any levy compliance enforcement action on larger scale projects.</p> <p>Levy Adjustment Threshold: The CTF supports a possible improvement to require all projects be reported on when completed. Project owners can add in actual values into the CTF Portal and if the threshold is met, automated billing/refund would occur.</p> <p>The current requirement where only projects exceeding threshold value have to be reported means that many projects are left 'In Progress' (over 22,500 with completion date after 01/01/2021 currently).</p> <p>Removing the threshold and making sure that all projects have to be reported on will allow the CTF to follow up and insist that all projects have Final Construction Values and can be marked as completed. This will also assist project owners, who</p>

Recommendation from 2019 Statutory Review	CTF response/comments/observations
	have multiple projects, separate active and completed/closed projects on their account and close off any possible liabilities on the CTF for possible levy refunds.
<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. 	The CTF is unable to determine this data as it requires the resource sector to report on this.
<p>Recommendation 16</p> <p>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"> • 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 	<p>Implementing these changes would allow for a definition that is set up to facilitate the goals of the CTF rather than the CTF having to use a definition from separate legislation that does not always allow this.</p> <ul style="list-style-type: none"> • Being tied to a definition external to the CTF opens the CTF up to having to make unplanned changes if the definition is updated. • It complicates the application of the levy as the CTF must interpret and apply a definition designed for a different purpose. • It also unnecessarily limits the access to workers, employers and apprentices accessing funding in some instances. <p>The regulations should be used to define any and all exclusions, this would allow the CTF to be responsive to the industry and address any required changes in a timely way.</p> <p>The CTF recommends that the definition of construction is broadened to include off-site work to enable the fund to respond and support construction work such as modular homes, cabinet makers and glaziers. The housing crisis is catalysing the need to look at more modern methods of construction, these generally include the manufacturing of housing in a warehouse or workshop and then installed on site as opposed to being built in situ on site.</p>

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S3 of the Act is taken from the Construction Industry Portable Paid Long Service Leave Act 1985	At times the CTF finds it difficult to identify who is the project owner. Inter-agency cooperation is required however, it would be useful if the Act was more prescriptive in requiring agencies to have to report to the CTF on all infrastructure projects. Several agencies already do this through the mechanism of a Memorandum of Understanding; however, this doesn't apply to all agencies such as Western Power, Horizon Power and Synergy.
<p>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</p>	The CTF supports a clearer definition of resources construction work and resources operational work, however, would stress that significant refurbishment and maintenance of resource sector infrastructure is maintained as being resources construction not operations and should have the levy applied.
<p>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.</p>	Nil comment
<p>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.</p>	<p>The CTF suggests instead that there is no threshold for reporting completion of construction and that all completions should be reported.</p> <p>An improvement would be to require that all projects be reported on when completed. Project owners can add in actual values into the CTF Portal and if the threshold is met, automated billing or refund would occur.</p> <p>The current requirement where only projects exceeding threshold value have to be reported means that many projects are left 'In Progress' (currently we have over</p>

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	<p>22,500 projects with completion date after 01/01/2021 'in progress') - CTF have no way to know if a value should be reported and it has not been OR if there was no change in value, so reporting is not required under current Act.</p> <p>The variation threshold cannot be efficiently administered under current act.</p> <p>Removing the threshold and making sure that all projects are reported on will allow the CTF to follow up and insist that all projects have Final Construction Values and can be marked as completed. This will also assist project owners, who have multiple projects, separate active and completed/closed projects on their account.</p>
<p>Recommendation 20 Remove 'improve the quality of training' from the Act</p>	<p>The CTF supports the principle of quality of training for the industry however has limited levers in terms of actions that it may take to improve the quality of training as it is not the VET regulator.</p> <p>The CTF also has no criteria to determine if funding should be refused to employers or organisations based on its view of the quality of training provided.</p> <p>The CTF can however promote the importance of good quality training through its marketing and communication pathways plus in the field through its Industry Training Advisors.</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>In regard to these recommendations and comments from the CME on the 2019 review, the CTF notes:</p> <ul style="list-style-type: none"> • Nine of the 679 resource sector projects where a levy was collected exceeded the \$500 million threshold since 2021. • Reducing the levy to 0.1%, essentially halving the levy collected could reduce the CTF revenue by 14%. • The CTF has not had a project reported for levy payment above the \$5 billion project amount to date.

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	<ul style="list-style-type: none"> • The recommendation by the CME to include a list of specialised high-cost items to be exempt from inclusion in the calculation of the project value on resource sector projects could not be administered by the CTF with the list needing constant updating due to new technologies and process improvements happening throughout the sector on a very regular basis. <p>Resource sector construction projects draw heavily on the building and construction workforce of WA, especially from the residential sector.</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>	<p>The eligibility criteria to access our grants and training subsidies:</p> <ul style="list-style-type: none"> • Employers and/or individuals directly engaged in on-site construction, erection, installation, reconstruction, re- erection, renovation, alteration, or demolition activities under the definition of construction in the resources sector may be eligible. • Employers and or/individuals engaged in operational works in the resources sector are not eligible. <p>The CTF has collected significant revenue through the application of the levy on resource sector projects since 2018. These revenues have provided an increased level of investment by the Board to employers and apprentices and trainees in the building and construction industry. The forward estimate projections based on the new program initiatives shows a significant draw down on the cash reserves of the CTF. These include the increase to the base rate for the Employer Grant and the new Apprentice Support Package which will be delivered over the next four years.</p>