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Mr Tom Dixon
Independent Chair
Statutory Review
Email: statutoryreview@ctf.wa.gov.au

UnionsWA Incorporated • ABN 64 950 883 305
Tel: +61 8 6313 6000 • Level 4, 445 Hay St
PERTH WA 6000 • WHADJUK COUNTRY
PO Box Z5380, St Georges Tce PERTH WA 6831
admin@unionswa.com.au • www.unionswa.com.au

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

UnionsWA is the governing peak body of the trade union movement in Western Australia. As a peak body we strengthen WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around thirty affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA welcomes the opportunity to provide a submission for the 2024 Statutory Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990*. The Construction Training Fund is a critical mechanism to support the training of skilled building and construction workers by providing structured programs that reduce the costs of training for eligible industry workers. UnionsWA endorses the comments and recommendations submitted to this review by our affiliate, the CFMEU Construction & General Division WA Branch.

Effectiveness of the Board

UnionsWA notes the findings the 2016 findings of the Office of the Auditor General that identified there was a real risk of non-payment or payment not made in full of the 0.2 per cent levy. In response to this finding, the Construction Training Fund committed to a meeting with all relevant government agencies to agree on a consistent method for exchanging information so the Fund can ensure the BCITF levy is paid on all building and construction contract works that are managed by government agencies.¹

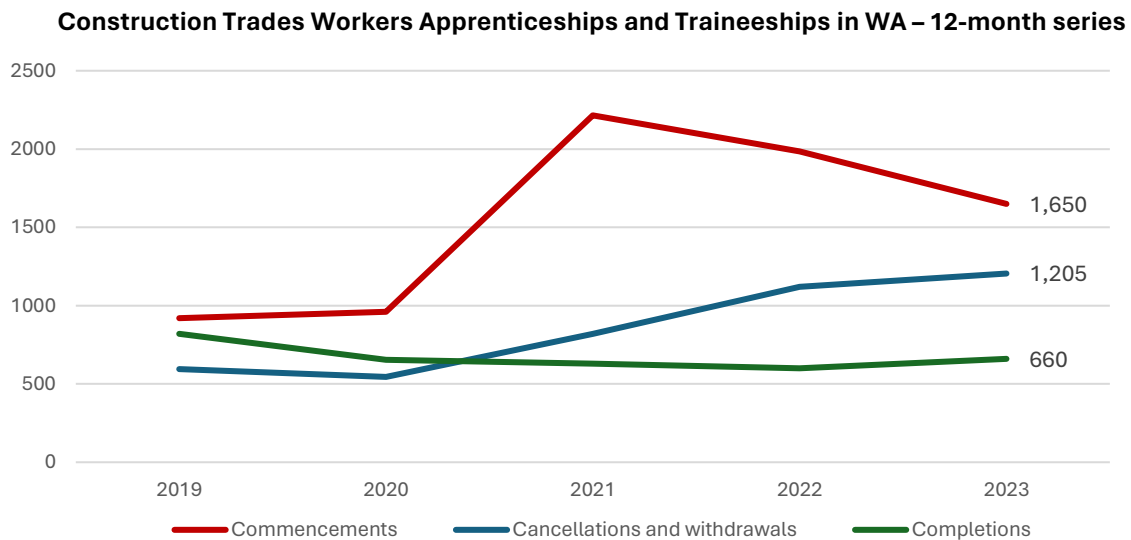
These findings were not discussed in the 2019 Statutory Review, so it is not immediately apparent whether such a method was established and if it has been successful. Further, it is not clear what mechanisms are in place to address the risk of non-payment or payment not being made in full for non-government projects. While the Act does establish a penalties regime, investigation is necessary to determine whether these provisions do genuinely deter non-compliance or whether greater enforcement action is necessary to ensure payments are made.

Attainment of the objectives of the Act

The latest apprenticeships and traineeships data for WA from the National Centre for Vocational Education Research (NCVER) reveals the significant gap that has opened up since

¹ Office of the Auditor General, *Assessment of Progress to Improve Payment Security for Government Subcontractors* (Report 31, 22 December 2016).

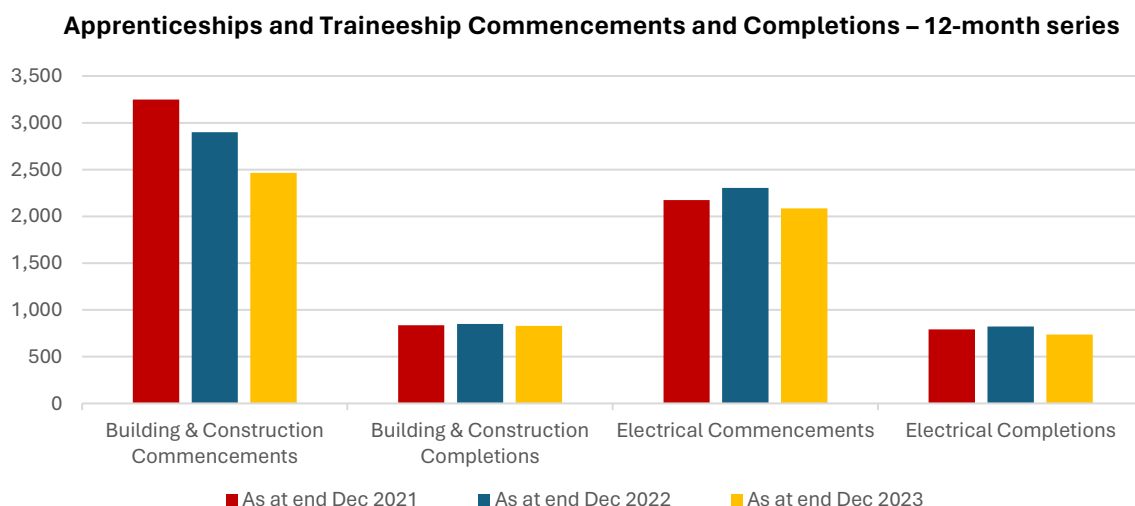
the last statutory review between the number of those commencing construction trades workers apprenticeships and traineeships, and those completing them.



Source: National Centre for Vocational Education and Research

Concerningly, since 2021 the number of workers cancelling or withdrawing from a construction trade apprenticeship or traineeship has exceeded the number of those who successfully completed them. As of September 2023, the number of workers who cancelled or withdrew over the past 12 months was more than 45 per cent greater than completed a construction trade apprenticeship or traineeship.²

This data set reflects that published by the WA Department of Training and Workforce Development, which likewise shows a decline in commencement numbers for constructions trades apprenticeships and traineeships, as well as the significant gap between commencements and completions.³



Source: Department of Training and Workforce Development

² National Centre for Vocational Education and Research, *Apprentices and trainees 2023: September Quarter* (Statistical Report, 28 March 2024).

³ Department of Training and Workforce Development, *Apprenticeship and Trainee Statistics – Completion by region* (Report, 22 April 2024).

The relatively low pay rates for apprentices during a cost-of-living crisis places a substantial barrier in front of those who would otherwise be interested in undertaking an apprenticeship or traineeship. Further, the demand for non-construction workers in the mining industry can see prospective or current apprentices and trainees leave construction for significantly higher paid entry-level roles.

This data demonstrates why it is so important to have a mechanism like the Construction Training Fund that is able to channel revenue generated from the levy into structured programs that reduce the costs of training for eligible industry workers and build a skilled workforce. It also reveals, however, that at the present moment the objective of the Act to increase the number of skilled persons in the building and construction industry may not be being met.

2019 Recommendations

Recommendation 10 - Capital Value Cap

UnionsWA strongly opposes the recommendation to introduce a capital value cap. It is not at all apparent that there is any meaningful risk of the policy intent of the Levy being undermined by large capital projects.

UnionsWA contends that there are no reasonable grounds to interpret the policy intent of the Levy to be such that a project's contribution to the Levy should be equal or even close to matching their utilisation of the construction workforce. If that were the case, a profoundly different method of estimating the value of construction work that weighted the different relevant components would have been developed for the Act. Instead, labour is just one of the relevant components that goes towards estimating the value of construction work for the purposes of calculating the levy. UnionsWA notes the comments by Hon. Sue Ellery, the Minister for Education and Training during the debate on the removal of the resource industry exemption:

It is about recognising that for that particular bit of the industry's work around engineering construction in particular, it currently does not contribute to formal qualifications, and when the economy is at its peak, it takes the best workers out of the construction industry, which the civil construction industry has paid and committed its training dollars to, and those people do not come back once they have gone to the resources industry.⁴

UnionsWA suggests that it would be a mistake to interpret the Minister's statement on the removal of the resource exemption as suggesting that large capital value projects should in any way contribute less to the Levy than if the project had a more sizeable labour component.

Instead, the policy intent is to ensure that when the resource industry does have projects with high construction labour requirements and so are taking workers out of the construction industry, that they have already contributed to the formal qualifications of that workforce, rather than the civil construction industry carrying that responsibility. The introduction of a capital value cap would undermine the achievement of that outcome.

⁴ Western Australia, *Building and Construction Industry Training Fund Motion and Amendment to Motion*, Legislative Council, 1738d-1752a (Hon Sue Ellery).

Recommendation 12 – Increase threshold at which the Levy applies

UnionsWA considers the current threshold at which the levy applies of \$20,000 remains appropriate. Recognising the concerns raised in the 2014 Statutory Review regarding administration costs associated with the collection of the levy, UnionsWA notes that there is no indication in that review whether those costs are in fact reasonable and whether further efficiencies can be found, particularly as this recommendation from that review predates the launch of the Construction and Training Fund’s online claim and payment portal in August 2018. UnionsWA also does not consider that an indexation of the formula is necessary at this time.

Recommendation 18 – Exemption for government work

UnionsWA supports removing the exemption for construction work undertaken on government projects directly by government workers. As noted in the 2019 ACIL Allen report, this exemption principally appears to result in projects undertaken at a local government level by employees of local government, including road maintenance, sitting outside of the scope of the levy. There does not appear to be a clear reason for this exemption to remain.

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

UnionsWA strongly opposes the recommendation to remove ‘improve the quality of training’ from the objectives of the Act. This objective remains critical to the strategic operation of the Building and Construction Industry Training Board and how it administers the fund.

The basis of this recommendation in the 2014 Review was that training quality authorities had been established since the original implementation of the Act. UnionsWA contends that there is a fundamental difference between ensuring a level of quality training standards for the purposes of accreditation and the objective of improving the quality of training. It is simply not the case that registered training organisations all provide training of the same quality or that the training each RTOS provides is appropriate and well-suited for local industry contexts.

The Board has an important role in providing for and supporting training and research to improve the quality of training, that goes beyond what quality training standards provide. Further, this objective establishes a critical consideration for the decision-making processes of the Board and the use of the allocated funds.

If you wish to discuss any matters raised in this submission further, please contact me at 9328 7877 or owhittle@unionswa.com.au.

Yours sincerely,



Owen Whittle
Secretary