

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

### **TERMS OF REFERENCE**

#### **a) Effectiveness of the Board:**

##### **1. Relationship with industry and effectiveness of communication.**

The relationship CTF's Board has with the building and construction industry is very good. The Board ensures it meets and holds functions in regional areas. This is important in terms of visibility, connection, communicating and demonstrating the CTF serves the whole State. CEO, Tiffany Allen is very visible within the construction industry and regularly presents at industry events. This demonstrates that the CTF is an important industry stakeholder.

##### **2. Structure of the Board and its effectiveness in meeting the needs of different sectors of the industry.**

The structure of any organisation is dynamic; however, the current Board is well balanced both in terms of gender and industry wide representation. The nine Directors include five males and four females, which is significant given the very male dominated industries represented by CTF. There are two building industry, 2 union, 2 resource industry, one civil construction and one training/regional representative on the Board. In addition, the Chair has excellent knowledge of the resources industry, given his previous role as CEO of CME.

##### **3. Operation of the Board in strategic management of the Construction Training Fund.**

The strategic management of the CTF by the Board is being undertaken well. There appears to be the right balance between operational focus, together with strategic focus to meet future industry needs.

##### **4. Efficiency of the Board in collection of levy and administration of programs.**

Collection of levy and administration operates efficiently and effectively.

#### **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.**

The improvement of training requires industry to continue to engage with the Department of Training and Workforce Development [DTWD]. There needs to be ongoing collaboration between industry, CTF and DTWD to ensure that we continue to challenge the quality, efficiency, and effectiveness of training in WA. It should not be a requirement of CTF to improve the quality of training. This is the role of the DTWD.

##### **2. To increase the number of skilled persons in the building and construction industry.**

The Board is focused on continuing to support industry through subsidies and tailored programs to ensure we are growing our labour capacity. This needs to be the number one priority for the CTF, above all other considerations. The severe labour shortage in our industry, in WA will continue to be a major constraint to the cost-efficient delivery of construction projects in WA.

By way of example, the sustained downturn in home building in WA between 2015-2020 resulted in a large reduction in tradespeople working in the home building industry. Most trades that left the

home building industry found work in the resources industry. Stimulus grants provided by the State and Federal Governments to prospective home buyers from early June 2020, driven by the risk of further industry downturn due to the pandemic, resulted in a massive increase in demand. We are now almost 4 years after this intervention, but the demand for new homes in WA remains very high and our workforce remains drastically constrained. This results in continuing delays in the completion of homes and other building projects, together with sustained high labour costs, with no end in sight.

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

Agree absolutely! For the reasons outlined above.

The ABN Group operates Australia's largest and most successful housing industry apprenticeship training program. Currently employing 123 apprentices across various trades, throughout metropolitan Perth & Southwest WA. ABN's program includes 3 female apprentices, 8 First Nation apprentices, and 23 mature age apprentices. These apprentices are being provided the exciting opportunity of joining our industry, whilst at the same time adding to the labour capacity we urgently require.

We do not operate our own ABN Group apprenticeship program in Victoria, despite approximately 50% of our housing completions being in Victoria. A significant reason for this is that there is no CTF operating in Victoria. Instead, we are a significant 'host hirer' of apprentices through the HIA group scheme in that State.

In WA, the significant apprentice subsidies are the difference. But despite the scale and value of these subsidies, our program still runs at a loss of between \$1.5-\$2m per year in unrecoverable expenses. We justify this expense as an investment in building significant capacity in our business and our industry.

Please note that despite the success of our program, within 2 years of an apprentice graduating, we lose approximately 50% of these new tradespeople. We don't lose them to other builders, we lose them to the resource sector. Our industry just happened to train them!

The WA State Government must acknowledge the importance of retaining apprentices and graduating tradespeople in the residential industry to increase labour capacity, to deliver required housing targets/needs.

This issue needs to be urgently addressed. The CTF must engage with the Department of Training & Workforce Development and the building industry to find ways to ensure that apprentices graduating as tradespeople remain in the building industry.

We do not accept that the building industry should continue to train the resources sector workforce!

Given the depth of experience and knowledge the ABN Group has in training a large volume of apprentices over many years, we recommend that workers signing on for a building industry apprenticeship be 'bonded' to their employer [subject to appropriate checks and balances], post-graduation.

At completion of their apprenticeship, the tradesperson would be required to stay with their host employer for the same time that a host employer supported them in their apprenticeship [A 3-year apprenticeship results in a bond commitment of an additional 3 years with the employer, subject to terms and conditions to be agreed].

There is precedence for this approach. The Australian Defence Force Academy offers a 4-year training course. On completion the graduate must commit to serving an additional 5 years.

To assist with the passage of any required regulation change to introduce such a model, it would be proposed that the 'bonded' apprenticeship is an 'opt-in' model. This is where the CTF would play a vital role.

The State Government's rhetoric regarding the dire delivery capability of the WA building industry in meeting the State's ongoing demand for new homes and commercial building is accurate. The question is, what will they commit to address this?

For apprentices who choose to sign up for the bonded opt-in model, they do so in the knowledge that in their final year of their 3-year apprenticeship they will receive an additional bond-bonus and that for each of their 3 years post-graduation they will also receive a bond-bonus.

These four bond-bonuses would be administered and paid by CTF and be derived from levy funds. The level on annual bond-bonus would have to be significant to ensure the opt-in model was desirable.

Those choosing not to opt-in undertake a normal apprenticeship, but do not receive the four bond-bonuses and are free to remain in the building industry or leave upon graduation without penalty.

Data would be captured for the success of the opt-in model to be gauged and regular reviews undertaken to adjust the required level of bond-bonuses to ensure they are of sufficient value.

This model would be a game changer and be the most significant mechanism to permanently address the continued loss of newly trained skilled trades to the resources sector in WA.

**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.**

See specific comments against each recommendation.

**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.**

See specific comments against each recommendation.

**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.**

Industry requires the CTF to be the most efficient and effective in capturing levy funds from residential & commercial construction, civil construction, resource industry construction and related work per CTF's remit. Industry also requires the CTF to efficiently and effectively distribute these funds to increase the number of skilled workers in these industries. Industry does not require the CTF to be distracted in the pursuit of running expensive and targeted campaigns to attempt to rectify gender imbalances and attempt to improve First Nations participation in training.

Should the State Government of WA recognise these as important community and industry endeavours, then the State Government should make available additional funds that Department of Training and Workforce Development can utilise to run such programs.

To do otherwise will substantially increase the workload of the CTF, requiring substantial additional staff and increased operational costs for potentially very limited change in numbers.

This is not the remit of the CTF!

However, the CTF can provide substantial additional [bonus] subsidies to employers who take on female & First Nations trainees and apprentices. This could result in a very cost-effective outcome, where employers are financially rewarded for their focus in addressing the imbalance.

**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 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.**

Strongly disagree with this recommendation. The framing of this recommendation is flawed.

There is no undermining of the policy intent of the Levy from the inclusion of large capital value projects. In fact, there are a great number of exclusions that favour the resources sector.

The building and construction sector would argue that many of these exclusions should be reduced.

One notable difference being that the cost of landscaping should be included in the calculation of levy payment for housing and commercial construction.

However, in the resources sector, related works are excluded:

- Work for the environmental remediation, restoration or rehabilitation of ground disturbed by a resource's operation.
- Work for the closure or decommissioning of one or more resources facilities (including work associated with environmental remediation, restoration, or rehabilitation).

In the building and construction sector construction works [requiring a levy payment] include:

Carrying out on a site the construction, erection, installation, reconstruction, re- erection, renovation, alteration, demolition or maintenance.

However, in the resources sector these exclusions apply:

- Work for the closure or decommissioning of one or more resources facilities (including work associated with environmental remediation, restoration or rehabilitation).

- Work for the repair or maintenance of one or more resources facilities.
- Work for any of the following if the value in aggregate of the work, estimated in accordance with subregulation (3), is \$10 million or less:
  - the alteration or renovation of one or more resources facilities.
  - the replacement of one or more resources facilities that have been or are to be closed or decommissioned; *and*
  - the relocation of one or more resources facilities.

The resource sector also fails to appreciate that other sectors train workers and then have them “poached” by the resources sector, for far greater incomes and conditions that other sectors cannot match.

The resources sector enjoys more than adequate consideration and there should be no consideration of a capital value cap.

Resource sector’s workers and their families require homes, childcare facilities, schools, hospitals, and every other amenity a functional community must provide. The resource sector should willingly contribute to the CTF and ensure that all sectors are able to adequately train skilled workers for our whole State economy.

**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.**

Agree. The current threshold of \$20,000 had not been reviewed since inception of the CTF. A more practical commencement threshold would be \$50,000 and have this indexed to the Construction Cost Index. This indexation should occur every 24 months.

**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.**

Strongly disagree. No other sector would be provided such consideration, nor should the resources sector. The ten recommendations are being dealt with as a part of the 2024 Statutory Review and they do should not remain post the review. They are either adopted or rejected.

**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.**

Strongly disagree. It is not acceptable for this review to be addressing ten previous recommendations from the resource sector, whilst the bases are being loaded for the next review!

It is clear by the framing of this recommendation that the resources sector seeks to further limit their contribution to the CTF through every mechanism possible. This is absurd when considered against the ongoing negative effect it has on labour capacity in every other related sector. Civil

construction, residential and commercial construction sectors train resource workers. Not the other way around. The resources sector must acknowledge the cost and negative impact it has on all other sectors and pay its way!

**The six recommendations from the 2019 Review include:**

**Recommendation from 2019 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.**

Strongly disagree. However, recommend that the threshold remains at \$10 million, and that indexation is applied every 24 months per recommendation 12.

**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.**

Disagree.

- **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.**

Disagree.

- **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.**

Agree.

**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.**

Agree. It is important for the CTF to be forward focused, recognise and be supportive of the requirement for increasing levels of off-site skills training development.

**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.**

Agree with the continued adoption of this definition.

**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 resource’s facility is considered operational work and so does not attract a levy liability.**

Strongly disagree. The definition of construction work, together with resources sector exclusions, make it clear what is deemed construction and what is operational. This is simply another attempt by the resources sector to minimise its input into the CTF.

**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.

Agree. The CTF levy should apply to all government work.

**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.

Agree.

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

Agree. This is the role of Department of Training and Workforce Development, not the CTF.

**\*Refers to recommendations remaining from the 2014 review.**