

Principal issues that emerge from the Terms of Reference

1. Threshold at which the Levy applies

(Term of Reference (d); Recommendation 12)⁸

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.*

Submissions sought

The Review invites submissions, informed by the issues identified, on proposed recommendations to the effect that:

- (1) The levy threshold should be increased within a range of \$20,000 to \$250,000. **The threshold was set 25 years ago at \$20,000. It must be reset, and we recommend that the reset should be to \$50,000. The levy should then be indexed every 24 months and increased according to Construction Cost Index increases over that period.**
- (2) The adjustment threshold should not be materially increased. **\$25,000 was also set 25 years ago. Administratively a more reasonable and cost-effective adjustment threshold would be \$50,000. Again, this should be adjusted per [1].**

2. Introduction of a capital value cap

(Term of Reference (d); Recommendation 10)²¹

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.

Submissions Sought

The Review invites submissions, informed by the issues identified, on the question of whether the Act already provides a sufficient basis for project owners to apply for levy reductions and exemptions.

The Review will consider recommending that:

- (a) Criteria should be published under s.25A which will permit a project owner to make application under s.25B for a reduction in, or an exemption from, the levy otherwise payable. **There was overwhelming support in submissions for there to be no capital value cap. There was also no empirical evidence to support the supposition that the value of large projects [presumably in resources sector] are driven “solely” by high value imported capital equipment. This is driven by the resources sector attempting to reduce their levy contribution. It is not supported.**
- (b) Section 25A of the Act be amended to expand the matters that the Board may take into account, including, for example, circumstances where the high capital-to-labour ratio of a project will lead to levy payments that are disproportionately larger than the project’s construction skills requirements. **Per the comments to [a], this is not supported.**

Submissions are invited to address these matters.

3. Resources integration

(Term of Reference (d), Recommendation 21)³²

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.

Submissions Sought

As is the case with Term of Reference (d); Recommendation 10 (at [2]), the Review invites submissions addressing the question of whether the Act already provides a sufficient basis for project owners to apply for levy reductions and exemptions on high-value projects. **Strongly disagree. No other sector is provided such consideration and nor should the resources sector. Per original submission, the resources sector benefits from the access they have to skilled labour from other sectors in WA. At the ABN Group we have a large apprenticeship program and post-graduation we lose approximately 50-60% of our new tradespeople. We don't lose them to other builders, we lose them to the resources sector! The resources sector should have no exemptions and must be informed that if they are to operate in Western Australia, this comes with an obligation to contribute to the training of tradespeople - generally, not specific to the resources industry. Because they don't just draw labour from within their industry!**

4. The concessional expenditure threshold for resources

(Term of Reference (e), Recommendation 13)³⁸

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.

Submissions Sought

The Review invites submissions, informed by the issues identified, as to whether the current exception to the exemption applicable to resources operational work in Regulation [3](#) should be:

- (a) amended to increase in the concessional expenditure threshold from \$10 million to a higher figure. **The threshold shouldn't exist, but given that it does, it should not be increased. The attitude of the resources industry to continue to prosecute avenues to reduce their payment of the levy is pathetic!**
- (b) removed from the Regulation altogether, such that no alteration and renovation work is leviable. **Strongly disagree! If the levy applies to building "alterations and additions" then it must apply to the resources industry. This is yet again an attempt by the resources industry to reduce its contribution to the CTF.**

5. Issues with the current definition of construction work

(Term of Reference (e), Recommendation 16)

- *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 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.*

Submissions Sought

The Review will consider the definition of construction work and the exemptions in the Act.⁵⁶ The Review invites submissions, informed by the issues identified, on the following matters:

- (a) Whether it is necessary to clarify that the CTF is empowered to allocate its funds to achieve the principal objects in the Act by the means it considers necessary and appropriate, subject to the current requirements that the Board identifies such means in its Annual Operational Plan, and that the Minister approves of them. **Whilst this matter appears to be reasonable, we are concerned that there would be a very real risk that incrementally CTF broadens its remit and funds generated through the levy are allocated to matters that can and should be separately funded by the State Government. This is one of the reasons we are not supportive of the CTF being drawn into addressing minority participation, equity and diversity matters. These are broader societal issues and require specific funds and dedicated long terms programs to make a significant difference. The CTF needs to be laser focused on growing the required skilled workforce we so desperately require in WA.**
- (b) Whether the Act should be amended to make clear that, whilst the definition of “construction work” should continue to be the determinant for levy collection, the power to allocate funds should extend to the support of activities relating to the building and construction industry where the funding of such activities is considered by the Board to be a necessary or appropriate means of achieving the Act’s principal objectives. **We fail to see that the current definition is at all limiting the remit of and delivery by the CTF. There is a real risk that the motivation of the resources industry is to use a review of the definition to further reduce contribution to the levy.**

6. Exemption for government work

(Term of Reference (e), Recommendation 18)

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.

Submissions Sought

Submissions are sought from the Local Government sector, informed by the issues identified, as to why construction work undertaken by Local Government should not be leviable under the Act. **All Government work, be it Local, State or Federal should require the CTF levy to be paid. There should be no exceptions.**

7. Remove ‘quality of training’ from the Act

(Term of Reference (e); Recommendation 20)

Submissions Sought

Submissions are sought, informed by the issues identified, on the question of whether the removal of the references to quality of training in the Act may affect or call into question the CTF’s ability to allocate its funds in the manner that:

- (a) the Board presently considers necessary or appropriate; or
- (b) is contemplated by the terms of the Act itself including, for example, programs that support “innovations in training in the industry and research relating to the levels of competency in, and the training needs of, the industry”. **Our opinion is that there is no need to specifically reference the quality of training. It is implied that the CTF and Industry will work collaboratively to ensure that only quality programs are supported. Likewise, it can be assumed that there will be a level of research and survey required and that innovative training outcomes will be supported.**

8. Attainment of the Act’s objectives: increase the number of skilled persons

(Term of Reference (b)(2))

Submissions Sought

Submissions are sought, informed by the issues identified, on the following matters:

- (a) Whether the Board’s current business model, with its heavy emphasis on employer wage subsidies:
 - (i) has been an effective means of attaining the objectives in the Act; and
 - (ii) represents an efficient allocation of the CTF’s funds to attain the objectives in the Act. **The current business model has been effective in attaining the objectives of the Act. Subsidies are a simple and very effective means of attracting and sustaining engagement in training outcomes. These subsidies address the very real cost issues businesses have training our workforce. The subsidies also provide relief that ensures employers don’t simply cut their training programs in the event of a slowdown of activity within their industry.**
- (b) Whether the Board would benefit from having members with relevant economic expertise to assist in achieving the objects in the Act. **Board balance and diversity is essential and is currently demonstrated. Relevant economic expertise can be obtained as and when required for specific outcomes required.**
- (c) Whether the objective in (b) should be achieved by way of increasing the number of Board members, or by specifying the particular expertise desired in s.10(2) of the Act. **The current Board structure and size delivers an effective outcome. Specific expertise that is not represented on the Board can be obtained as an when required on a need’s basis. The last thing Industry needs is a large and unwieldy CTF Board.**

9. Effectiveness of the Board: collection of levy and administration of programs

(Term of Reference (a)(4))

Submissions Sought

The Review invites submissions, informed by the issues identified under this term of Reference and under Term of Reference (b)(2), on the following matters:

- (a) Whether the Board’s current business model, with its a lack of utilisation of the enforcement mechanisms under the Act, has been an effective means of collecting levies and administering CTF programs. **This is an operational matter and best answered by the current executive and Board Members of the CTF. It may be the view of the executive and Board that enforcement mechanisms are not cost effective to administer, in relation to the quantum of levy being sought. Under the Act, there is a legal requirement to pay the levy where applicable. This comes with the enforcement**

mechanisms required. How these are either applied or not applied is an operational and Board matter.

- (b) Whether the Board would benefit from having members with relevant legal expertise to assist in interpreting the Act and utilising its powers as parliament intended. **No, it is not required. The current executive and CTF Board are effective and efficient. Should additional legal expertise be specifically required, then that advice can be sought as and when required on a fee for service basis.**
- (c) Whether the objective in (b) should be achieved by way of increasing the number of Board members, or by specifying the particular expertise desired in s.10(2) of the Act. **No. Per the submission for [b], a larger CTF Board is not required. Additional specific expertise can be sought and obtained as and when required on a fee for service basis.**

10. Diversity

(Term of Reference (f))

Submissions Sought

Submissions are sought, informed by the issues identified, on the following matters:

- (a) Whether there is any change needed to the Act, including the composition of the Board in section [10](#), in order to better assist the CTF to address the issues raised under Term of Reference (f). **No. Our submission here to a number of these recurring questions is that both the executive and the Board of CTF are efficient and effective. The current Board is well Chaired and there is a diverse group of Board Members. It is our opinion that it is not for the CTF Board or the CTF to solve diversity and inclusion in the related Industries the CTF serves. This is a societal, community and business issue that will continue to be addressed and improved upon. The CTF must focus absolutely on growing a skilled WA workforce in the industries it serves and not be distracted by matters that are beyond this remit.**
- (b) If yes to (a), what amendment would assist the CTF to promote diversity in the building and construction industry. **The answer is No!**

11. The need for the Act to continue in operation

(Term of Reference (c))

Submissions Sought

The Review presently considers that the Act should remain in place.

Unless stakeholders take a different view, any submissions made in respect of this Term of Reference should, informed by the issues identified, address the following matters:

- (a) Whether the Act, including its principal objects, should be amended to maintain the “need” for the Act to remain relevant and effective. **The Act must absolutely remain in place, now and forever! The need to dramatically grow a skilled workforce will remain our number one priority for all the WA industries the CTF serves.**
- (b) Whether the statutory Term of Reference in s.[32\(2\)\(c\)](#) should be amended to provide that Minister is to consider and have regard to “the *desirability* of the Act to continue in operation”. **We don’t trust that at any given juncture a Minister would have the competency, knowledge, or integrity to decide whether it remains desirable for the Act to continue. Any such consideration must include all industries represented under the Act as key stakeholders ahead of any Minister’s deliberations. There is also a risk**

that a Minister may become captive of an industry sector that wants the Act abolished, so that their sector can avoid payment of the levy and the legal adherence to the Act.

12. Effectiveness of the Board: meeting the needs of different sectors of industry

(Term of Reference (a)(2))

This should remain a matter for the Minister to ultimately determine. However, this cannot and should not be at the exclusion of the Chair of the CTF. It is critical that the executive and chair of the CTF in consultation with the Board can assess the need to address the skills, diversity and balance required to best serve the CTF and hence the industries it serves. This should be a collaborative process.