GOVERNMENT OF
WESTERN AUSTRALIA

Statutory Review

of the Building and Construction Industry Training Fund and Levy Collection Act 1990

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1. Executive Summary

Under section 32 of the Building and Construction Industry Training Fund and Levy Collection Act 1990 (the Act) the Minister is required to review the Act and submit a report based on the review to Parliament every five years. The Minister's review is to consider and have regard to:

a) the effectiveness of the Board
b) the attainment of the objects of the Act
c) the need for the Act to continue in operation
d) any other matters that appear to the Minister to be relevant.

In undertaking this Review the Minister engaged Tom Dixon to provide external, expert advice and support.

1.1 About the Act

The *Building and Construction Industry Training Fund and Levy Collection* (BCITF) *Act* (the Act) was established in 1990. It establishes the Building and Construction Industry Training Fund, trading as Construction Training Fund (CTF), as a statutory body governed by its Board. The Board reports directly to the Minister for Skills and TAFE and is responsible for:

- improving the quality of training and increasing the number of skilled persons in the building and construction industry and connected purposes
- administering the fund and collecting the building and construction industry training levy.

1.2 About the Review

This Review focused on examining the Act and determining whether amendments to the Act could improve the BCITF's efficiency and effectiveness. It has done so by undertaking a desktop analysis of the Act and external advice informed by comparison to similar bodies across Australia, consultation with relevant stakeholders from government agencies, stakeholders, CTF itself and members of the Board.

The Review also examined data and other evidence on matters such as the effectiveness of incentives and training quality issues which lie at the heart of the CTF operations and the Board's role in setting strategic direction aligned to the objectives of the Act and the Minister's directions.

This Review did not examine CTF's performance, which is outside the scope of this legislative review.

1.3 Summary of Findings

1.3.1 Effectiveness of the Board

Finding 1: The Review found that the Board has a positive relationship with industry and is committed to engaging with stakeholders. Stakeholders would like greater consultation on planning, programs, and achieving the objectives of the Act. There is opportunity for stakeholders contributing to the Fund to more directly have input to guide the programs prioritised in the CTF's annual operational plan.

Finding 2: The Review has found the BCITF Act provides a sound legislative framework for the Board to collect and administer the building and construction levy. The Act clearly defines the composition of the Board and consultation required with industry bodies under Section 10 for the Minister to appoint Board members. The Board composition could be strengthened through a skills matrix which defines the skills needed for effective levy collection and program development to realise the objects of the Act.

Finding 3: The Review found that the Board's allocation of resources has an over-reliance on untargeted wage subsidies. There is a considerable underspend of the Fund at a time when there are critical skills shortages in the sector and apprenticeship commencements are declining in key trade areas. There are opportunities for programs to be developed for greater impact with a sharper focus on the objectives of the Act, available evidence and data analytics.

Finding 4: There are systemic issues in the CTF's approach to levy collection, particularly regarding enforcement and compliance in large resource sector projects. The lack of robust enforcement mechanisms has led to significant revenue losses and risks undermining the integrity of the levy system.

Finding 5: There are opportunities to improve effectiveness of the levy collection and to strengthen the Minister's expectation for CTF's annual operational plan to reflect Government priorities, including investment in infrastructure, economic diversification, transition to net zero, meeting the State's housing target, and supporting priority cohorts.

1.3.2 Attainment of the Objects of the Act

Finding 6: The Review found that the Act provides operational flexibility for the Board to allocate funds to priorities which improve the quality of training and increase the number of skilled persons in the building and construction industry. References to quality of training should be retained in the Act.

Finding 7: The Act does not confine interpretations of quality training to a narrow compliance-oriented view of quality against the RTO Standards. There is a large array of evidence that relates to improved outcomes through a holistic approach to a quality training experience, where the needs of the employer and apprentice are supported through non-financial measures like wrap-around supports and workplace culture. Taken together these measures improve the quality of the training experience for individuals and employers.

Finding 8: Better targeting of incentives can be effective, and should be accompanied by other non-financial measures like wrap-around supports. Small to medium enterprises (SMEs) are more responsive to incentives than large employers and incentives can drive greater numbers of commencements in the sector.

1.3.3 Need for the Act to continue in operation

Finding 9: The Review found that the continuation of the Act has broad support from stakeholders, and that the Act enables the Board to achieve the objects of the Act through the annual Operational Plan to lead the CTF's operations and delivery of programs.

1.3.4 Any matters relevant to the Minister

Finding 10: The review found that the Board should consult with the resources sector to develop suitable criteria for consideration by the Minister that provides for a reduction in levy obligations where a company can commit to meeting apprenticeship training targets in relevant trades.

Finding 11: The levy threshold in WA is low when compared to other States of similar size and should be increased to $100,000 to reduce the regulatory burden on the sector with minimal impact on revenue. The Regulations are a sufficient mechanism to make the adjustment and ensure its currency through regular review.

1.3.5 Resources integration

Finding 12: Removing the Resources sector exemption has worked as intended, contributing around 42% of 2023-24 levy receipts.

1.3.6 Review of levy revenue and CTF expenditure

Finding 13: A differential levy for high-value projects in the resources sector will significantly reduce the amount of levies collected and limit the ability to achieve the objectives of the Act. There is an adequate basis for project owners to apply for levy reductions and exemptions on high-value projects if Section 25A is used in line with Finding 10.

Finding 14: Issues with interpreting the distinction between operations and alterations and renovations in the Regulations are best managed case-by-case based on legal advice and not through amendment of Regulations or the Act.

Finding 15: Alteration and renovation work valued at over $10 million is significant construction work and requires a skilled workforce to complete it and therefore the current concessional expenditure cap in the Regulations should remain in place.

1.3.7 Consider pursuing the following legislative changes in the medium to long term to address issues with the current definition of construction

Finding 16: The definitions of "construction work" and "building and construction industry" are now embedded as standalone definitions in the Act. Expanding the current definition risks extending the collection base beyond current limits and including off-site activities could result in double taxation and therefore is not recommended.

1.3.8 Streamlined definition of resources construction

Finding 17: There is no cogent argument for a separate definition of resources operational work. A broadened and streamlined definition of construction work, although widely supported by stakeholders, runs the risk of double taxation.

1.3.9 Exemption for government work

Finding 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.

Finding 19: The Board should consult with the Local Government sector to develop suitable criteria for consideration by the Minister that provides for a reduction in levy obligations where a Council can commit to meeting relevant and appropriate training targets.

1.3.10 Remove 'improve the quality of training' from the Act

See Findings 6-8

1.3.11 Assess whether participation of Aboriginal people and gender imbalances in training are being adequately addressed under the Act

Finding 20: The CTF currently has a number of diversity measures in place, but more could be done to improve outcomes for women and Aboriginal people. These are not matters that require legislative change and the capacity to do is within the present remit of the Board.

1.4 Summary of Opportunities

Based on the findings above, the Review found the Act to be fit for purpose and that opportunities can be achieved through using existing provisions under the Act and Regulations, and with one change to the Regulations, as follows:

1. introduce a Ministerial Statement of Priorities
2. refocus the Annual Operational Plan
3. develop a Levy Collection Strategy
4. clarify Board Expertise
5. publish reductions and exemptions criteria under s.25A
6. increase threshold at which the Levy applies
7. remove the exemption for government work
8. expand the range of diversity programs

Further details on each opportunity can be found in Section 5 of this Review.

2. Introduction

2.1 Review Overview

Under Section 32 of the *Building and Construction Industry Training Fund and Levy Collection Amendment Act 2004* (the Act), the Minster is required to review the Act and submit a report based on the review to Parliament every five years. The Minister's review will have regard to:

a) the effectiveness of the Board
b) the attainment of the objects of this Act
c) the need for this Act to continue in operation
d) any other matters that appear to the Minister to be relevant.

The Review was initiated in January 2024. The Minister engaged Tom Dixon as the independent Chair of the Review to provide external, expert advice and support. The final Review includes further assessment and analysis.

The Review provides a thorough analysis of all issues covered by the Terms of Reference and is structured as follows:

- **Overview of the Act:** Section 2 outlines components of the Act with a focus on the Board, governance, and operational plans.
- **Review Process**: Section 3 outlines the methodology used for this Review.
- **Findings**: Section 4 presents analysis and findings, specifically the matters laid out at s32 of the Act, and the and the additional items carried over from previous reviews, and the extent to which diversity in the sector is being promoted.
- **Opportunities**: Section 5 identifies potential reforms based on the findings in Section 4.
- **Conclusion**: Section 6 summarises the content of the Review, with key observations.
- **Appendices**: The appendix provides additional information on the initial Terms of Reference for the review.

2.2 Background on BCITF Act 1990

The Construction Training Fund (CTF) is a statutory body established under the Act. Through its Board, the CTF reports to the Minister for Skills and TAFE.

2.2.1 Functions of the Board

The Act provides a governing Board with the following functions:

- to ensure the efficient collection of levy.
- to control and administer the Fund.
- allocate the Fund's resources to provide for, or support, training programs and research to improve the quality of training, and increase the number of skilled persons in the building and construction industry.
- formulate and implement annual operational plans approved by the Minister.

2.2.2 Operational Plans

The Board is required to prepare an annual Operational Plan to allocate the Fund's resources which aim to improve the quality of training and increase the number of skilled persons in the building and construction industry through programs that support[1]:

a) apprenticeships and other forms of entry level training for employment in the industry
b) supplementary training for those already qualified to work in the industry
c) training in technology used in the industry and in the work health and safety requirements of the industry
d) the recognition, for the purposes of employment in the industry, of persons with existing skills, knowledge and aptitude appropriate to the industry
e) the accreditation of training courses for employment in the industry or that are otherwise appropriate to the industry
f) innovations in training in the industry and research relating to the levels of competency in, and the training needs of, the industry

Section 8 of the Act requires the Board's operational plan to set out the priorities for the allocation of the Fund's resources during the financial year to the programs supported by the operational plan and the administration of the operational plan.

The Board is required to submit an operational plan, together with such other submissions (if any) that it considers appropriate, to the Minister for approval.

2.2.3 Ministerial Directions

Section 9 of the Act provides that the Minister may give directions in writing to the Board with respect to its functions or powers, either generally or with respect to a particular matter, and the Board shall give effect to any such direction.

2.2.4 Governance Arrangements

The CTF is governed by a Board of nine members appointed by the Minister after consulting with bodies required under the Act, which broadly cover employer and worker interests covering the building and construction sector, and the resources sector.

The Board must include at least:

- one member with experience or expertise in the construction of facilities associated with the mining industry
- one member with experience or expertise in the construction of facilities associated with the petroleum industry
- two members are independent.

The Act also outlines how the Board should function by outlining the minimum number of meetings per year, the quorum arrangements and voting arrangements.

[1] Second Reading Speech at p.8697.

3. Review Process

3.1 Review Methodology

This Review has evaluated the Act using stakeholder consultation, data, and desktop analysis.

3.1.1 Stakeholder Consultation

The Minister engaged Mr Tom Dixon, a Barrister with State Chambers based in New South Wales, to undertake the Review according to the Terms of Reference outlined at Appendix A.

The Review hosted three stakeholder information sessions between February and April 2024. 57 stakeholder representatives attended those sessions. There were also over 70 one-on-one consultation sessions across the review period.

Consultation sessions were held with training funds in other States and Territories; with departments and bodies concerned with training in States where no training fund equivalents exist; and with a number of government departments and agencies in Western Australia and around the nation.[2]

A call for submissions was published in two Western Australian newspapers in April 2024, and key stakeholders were informed of the call for submissions by direct correspondence. There were 25 written submissions in response to the Terms of Reference received in May 2024. The submissions were published on the Review website. An interim paper published to identify the issues that had emerged from the submissions and consultation, and to provide an opportunity for further comment.[3]

3.1.2 Desktop Analysis

The Review included a desktop analysis of the following topics:

- **Legislative analysis**: The Review is informed by an analysis of the Act's provisions, including objects, functions, governance arrangements, and administrative requirements.
- **Interjurisdictional comparison**: To inform the Review, similar schemes to the BCITF operating other jurisdictions were reviewed.
- **Document review**: The Review has been informed by analysis of the CTF's annual reports, local and national research on issues relating apprenticeships and traineeships, particularly as it applies to the building and construction sector.
- **Data analysis:** An actuary was engaged to examine the levy collection performance in the various sectors covered by the Act.

[2] Including the Commonwealth Department of Employment and Workplace Relations, BuildSkills Australia, Jobs and Skills Australia; TAFE, WorkSafe WA, the Training Accreditation Council, the Department of Training and Workforce Development, and the Equal Opportunity Commission.

[3] The stakeholder submissions were summarised in an Issues Paper (https://ctf.wa.gov.au/about-us/2024-statutory-review) and are not repeated in this Report.

4. Findings

This section provides the findings of the Review, including areas of interest or consideration provided in the Terms of Reference, grouped under the areas specified under Section 32 of the Act:

a) the effectiveness of the Board
b) the attainment of the objects of this Act
c) the need for this Act to continue in operation
d) any other matters relevant to the Minister.

4.1 Effectiveness of the Board

The Review assessed whether the Act provides an effective legislative framework for the CTF's Board to fulfill its functions:

- relationship with industry and effectiveness of communication
- structure of the Board and its effectiveness in meeting the needs of different sectors of the industry
- operation of the Board in strategic management of the Construction Training Fund
- efficiency of the Board in collection of levy and administration of programs.

In evaluating effectiveness, this Review examines whether the Act's design enables these objectives to be achieved, not whether they have been achieved (which may be affected by factors outside the legislation).

4.1.1 Relationship with industry and effectiveness of communication

Stakeholders indicated that the Board has a positive and constructive relationship with industry, and effectively communicates with it.[4] The feedback related to the Board's relationship with industry stakeholders, its commitment to engagement with stakeholders, and its marketing efforts. In general, feedback was complimentary of the Board. However, some stakeholders felt there was a lack of consultation with industry stakeholders in the formation of the CTFs operational plan.[5]

The CTF regularly publishes an industry snapshot for stakeholders to show the state of the sector and updates on key metrics and programs. Its website is easy to navigate and allows for stakeholders to opt in to various communication streams. The outcomes from Board meetings are also promptly posted onto its website which provides transparency on its governance, activities, and direction.

Finding 1: The Review found that the Board has a positive relationship with industry and is committed to engaging with stakeholders.[6] Stakeholders would like greater consultation on planning, programs, and achieving the objectives of the Act[7]. There is opportunity for stakeholders contributing to the Fund to more directly have input to guide the programs prioritised in the CTF's annual operational plan.

[4] Statutory Review The Building and Construction Industry Training Fund and Levy Collection Act 1990 (WA), Issues Paper, September 2024, p.28
[5] Ibid, p.29
[6] Term of Reference (a)(1).
[7] Statutory Review The Building and Construction Industry Training Fund and Levy Collection Act 1990 (WA), Issues Paper, September 2024, p.29

4.1.2 Structure of the Board and its effectiveness in meeting the needs of different sectors of the industry

The need for an infusion of relevant skills on the Board is particularly relevant given the findings made in other sections of this report. While the current Board members understand the construction industry and the need for a skilled workforce, there is no obvious repository of expert knowledge able to guide the CTF with respect to the efficient allocation of resources and collection of levies.

The efficient allocation of the CTF's resources ideally requires expertise in labour market trends, assessing the cost-effectiveness of training programs, and maximising the economic effects of fund allocations.

These findings are not a reflection of the members of the Board. The Review was impressed with the Board members' industry knowledge, and dedication. Consistent with contemporary processes for establishing Boards, members should be appointed based on merit including by reference to appropriate skills, qualifications and experience; and thereafter discharge their duties as fiduciaries who are concerned with acting in the best interests of the CTF.[8] There is nothing in the Act that prevents the Minister from making appointments that reflect a merit and skills-based Board.

Finding 2: The Review has found the BCITF Act provides a sound legislative framework for the Board to collect and administer the building and construction levy. The Act clearly defines the composition of the Board and consultation required with industry bodies under Section 10 for the Minister to appoint Board members. The Board composition could be strengthened through a skills matrix which defines the skills needed for effective levy collection and program development to realise the objects of the Act.

4.1.3 Operation of the Board in strategic management of the Construction Training Fund

The Review was concerned with the nature of the role that the Board plays in the strategic direction of the CTF. The Act requires the Board to formulate an annual operational plan, which is the vehicle by which all CTF funds are allocated.[9] The Act similarly requires the Board to undertake investigative and enforcement actions including the institution of proceedings in order to collect levies.[10]

Whilst the Board is entitled to delegate matters to the executive, the Review considers that more input from the Board is required in order to fulfil its statutory duties and to address the findings and recommendations of this Review, particularly as it relates to collection of levies, program design, industry engagement and strategic allocation of funds.

With the CTF holding cash reserves of around $100 million, a pervasive shortage of skilled workers in the sector, and a shortage of housing supply, the effectiveness of Board's strategic oversight of the CTF needs consideration. The CTF business model for allocating grants to employers has remained largely unchanged since 1990. The *Strategic Review of the Australian Apprenticeship Incentive System 2024 Final Report*[11] (the Ross-Paul review) outlines evidence of factors that lift commencements, completions and improve the quality of training. The Strategic Review also highlights where incentives could be more effectively applied, with greater targeting of small to medium enterprises (SMEs).

[8] The Hitchen Review recommended that "the criteria of selection should be directed at having a Board with a blend of training, evaluation and financial expertise": Hitchen Report (1994 Statutory Review of the Act) at p.41; see also PEG Consulting, "Investigation and Review of the Construction Industry Training Fund Act 1993 (SA): Final Report"
(April 2023) at pp.28-30.

[9] Section 8(1) of the Act

[10] Sections 28-29 of the Act.

[11] Skills for tomorrow: Shaping the future of Australian apprenticeships - Strategic Review of the Australian Apprenticeship Incentive System 2024 Final Report, Department of Employment and Workplace Relations

Finding 3: The Review found that the Board's allocation of resources has an over-reliance on untargeted wage subsidies. There is a considerable underspend of the Fund at a time when there are critical skills shortages in the sector and apprenticeship commencements are declining in key trade areas. There are opportunities for programs to be developed for greater impact with a sharper focus on the objectives of the Act, available evidence and data analytics.

4.1.4 Efficiency of the Board in collection of the levy and administration of programs

The CTF's Levy Collection Arrangements

The CTF employs several methods to collect levies. In the case of residential construction where a building permit is required, Local Governments have historically collected levies on behalf of the CTF.

The CTF also relies upon arrangements with a number of other government agencies to assist in information gathering about construction projects where the levy is payable. The most common collection method is via the CTF's online levy portal. The CTF has a levy team comprised of four full-time staff to administer levy collections.[12]

General Non-Compliance Issues

The Review engaged actuaries to look at levy collection performance in the various sectors covered by the Act. The actuaries determined that, based on construction activity data sourced from the ABS, the Australian Construction Industry Forum and BIS Oxford, in the 6 years to 30 June 2023 the CTF collected levies on:

- 90% of construction projects (by capital value) in the residential sector
- over 100% of projects in the commercial sector[13]
- 48% of projects in the civil sector
- 56% of projects in the resource sector.[14]

Evidence suggests material under-reporting of leviable projects in these sectors, although to some extent this is explained by levy exemptions.[15] Moreover, as a result of CTF's compliance enforcement activities there has been a significant increase in the levy amount collected in 2023-24 for the resources sector.[16]

Stakeholder consultations revealed concerns about non-compliance on major resource sector projects. Stakeholder submissions highlighted underutilisation of enforcement powers and inconsistent application of levy requirements. The Board has never used its powers under section 24 (penalties for late payment) or section 29 (prosecution for offences) of the Act.[17] In contrast, the MyLeave Board in Victoria actively pursues enforcement, with a much larger compliance team and frequent legal actions. The CTF's compliance function is under-resourced, with only one staff member (without legal qualifications) compared to 50 in Victoria's LeavePlus.[18]

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[12] Consultation Session No.2.

[13] Note that the >100% market capture is likely due to inconsistent market segment definitions between CTF and a 'consensus' definition and values from a range of sources used for the actuarial study for the Review. Finity Consulting, "Actuarial Advice on recommendations from the 2019 Statutory Review of the Construction Training Fund" (December 2024) at p.4

[14] Ibid. p.4

[15] Ibid. p.4 . The CTF also indicated in its correspondence to the Review that it was "concerned" about the non-reporting of local government authority tenders by contractors, and that it "may not be collecting all the levy due": CTF correspondence to the Review dated 13 May 2024 at p.13.

[16] As depicted in Figure 10; Finity Consulting, "Actuarial Advice on recommendations from the 2019 Statutory Review of the Construction Training Fund" (December 2024) at p.4.

[17] For example, *Programmed Industrial Maintenance Pty Ltd v The Construction Industry Long Service Leave Payments Board* [2021] WASCA 208; 101 WAIG 1457.

[18] Consultation Session No.32.

The CTF has been refining its compliance strategy, including developing enforcement processes and engaging debt collectors for levy recovery,[19] which may be a more effective approach than that deployed in Victoria.

The Board must take steps to actively monitor the CTF's updated compliance strategies to ensure that the millions in potential unpaid levies are collected. This is critical to ensure the funds are deployed to achieve the objects of the Act and additionally, to ensure free-rider problems are addressed and companies are not getting an unfair advantage in the market through avoidance of their obligations.

Finding 4: There are systemic issues in the CTF's approach to levy collection, particularly regarding enforcement and compliance in large resource sector projects. The lack of robust enforcement mechanisms has led to significant revenue losses and risks undermining the integrity of the levy system.

Finding 5: There are opportunities to improve effectiveness of the levy collection and to strengthen the Minister's expectation for CTF's annual operational plan to reflect Government priorities, including investment in infrastructure, economic diversification, transition to net zero, meeting the State's housing target, and supporting priority cohorts.

4.2 Attainment of the Objects of the Act

4.2.1 Improving quality of training

Quality of training 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".[20]

There is some evidence that the Board's operations have improved the quality of training through the funding of programs such as the Construction Careers Scholarship Program. However, the CTF took the view that improving the quality of training was beyond its remit.

The Review recommends that the Board satisfy itself that its funding programs adequately address the Act's objective to improve quality of training. It can do so by including, for example, key performance indicators in its funding arrangements, and a Quality Framework that sets out training standards (such as best-practice behaviours), the satisfaction of which can condition the ongoing receipt of CTF funds. The Board can incorporate such terms to promote its social equity objectives within the industry, and use them to restrict funding to employers or RTOs that do not meet the Board's standards.

The majority of stakeholder submissions opposed the removal of the reference to quality of training in the Act.[21] The principal reason was the view that the CTF should take responsibility to ensure that its funding is directed towards supporting training that is of a high quality.

4.2.2 Increasing the number of skilled persons in the building and construction industry

The purpose of the Act was to create a training fund that would "assist in overcoming the cyclical skills shortages that often plague the industry by creating additional training places and by providing greater opportunities for enhancing the skills of the existing work force and mobility across the various sectors of the industry. The overall intention of the fund is to increase the level of training in the building and construction work force"[22].

[19] CTF, Annual Report 2023-2024 at p.46.
[20] Section 8(1)(f) of the Act.
[21] Issues Paper at p.20.
[22] Hon. Tom Stephens, *Hansard* (Thursday, 6 December 1990, Legislative Council) at p.8695 (Second

The CTF's Board was intended to have "a specific role in funding additional training, cross skilling and retraining programs within industry, as well as ensuring that the stock of apprentices and trainees is sheltered against the disruptive effects of cyclical fluctuations within the industry". This objective was reflected in the Board's annual operational plan which was intended to "allocate funds to priority training areas".[23]

Finding 6: The Review found that the Act provides operational flexibility for the Board to allocate funds to priorities which improve the quality of training and increase the number of skilled persons in the building and construction industry. References to quality of training should be retained in the Act.

Finding 7: The Act does not confine interpretations of quality training to a narrow compliance-oriented view of quality against the RTO Standards. There is a large array of evidence that relates to improved outcomes through a holistic approach to a quality training experience, where the needs of the employer and apprentice are supported through non-financial measures like wrap-around supports and workplace culture. Taken together these measures improve the quality of the training experience for individuals and employers.

Finding 8: Better targeting of incentives can be effective, and should be accompanied by other non-financial measures like wrap-around supports. Small to medium enterprises (SMEs) are more responsive to incentives than large employers and incentives can drive greater numbers of commencements in the sector.

4.3 The need for the Act to continue in operation

The overwhelming majority of Stakeholder submissions advocated for the retention of the Act. The Review finds that the government's original intent for establishing the Fund remains sound, and provides sufficient reason for maintaining it. The identified ineffectiveness and inefficiencies associated with the CTF's operations are not a result of issues inherent in the terms of the Act and can be addressed by the Board.

Finding 9: The Review found that the continuation of the Act has broad support from stakeholders, and that the Act enables the Board to achieve the objects of the Act through the annual Operational Plan to lead the CTF's operations and delivery of programs.

4.4 Any other matters relevant to the Minister

4.4.1 Consider introducing a cap on the capital value of projects

The Review did not find strong foundations to support the inclusion of a capital value cap. It should be noted the Queensland scheme removed the tiered levy concessions (and therefore any "cap") in 2020 to preserve its financial integrity.

The Review considers that there is significant merit in using published criteria under s.25A to encourage large resource companies to deliver quality training to large numbers of construction workers. The Board could have input into the magnitude and quality of training arrangements and make its approval of any concession conditional upon the satisfaction of certain criteria, such as number of apprentices commenced and completed, gender equity targets, and quality of training measures.

A more effective approach could be considered under Section 25A of the Act, which provides that if a project owner meets various criteria that are published by the Minister from time to time, the Board "shall" grant a reduction in, or an exemption from, the levy payable. To date no criteria have been published.

Reading Speech).

[23] Second Reading Speech at p.8697.

The Review also sought submissions as to whether there was a case to amend Section 25A of the Act 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. However, there were no strong evidentiary grounds advanced in the submissions to support changing the Act.

Finding 10: The review found that the Board should consult with the resources sector to develop suitable criteria for consideration by the Minister that provides for a reduction in levy obligations where a company can commit to meeting apprenticeship training targets in relevant trades.

4.4.2 Increase threshold at which the Levy applies

The legacy items carried over from earlier reviews included recommendations to:

a) increase the threshold at which the levy applies, and the adjustment threshold in ss.21(1)(c) and 22 of the Act, in line with an appropriate indexation factor[24]
b) specify levy adjustments in the Regulations.[25]

The CTF currently collects a levy of 0.2% where the value of construction work (as defined) is over $20,000.[26] The levy threshold when the Act commenced operation was $6000.[27] The current levy threshold of $20,000 was implemented in 1999.[28] The levy threshold is prescribed in the Regulations.[29]

The CTF also collects a levy of 0.2% where the value of the construction work varies by an amount of $25,000 or more from the initial estimate.[30] The adjustment threshold has not changed since the Act came into force.[31] The adjustment threshold is prescribed in the Act.[32]

The Review engaged actuaries to gauge the impact of any increase in the thresholds on CTF revenue, and on the workload associated with the collection and processing of levies. The levies collected from small projects is relatively minimal, however, they form a significant proportion of leviable projects. If the levy thresholds were to have been increased in the period from January 2020 to December 2023 to:

- $100,000 - it would have resulted in 2% of the total levy income being foregone, but would have exempted 33% of all projects by number.
- $250,000 - it would have resulted in 5% of the total levy income being foregone, but would have exempted 48% of all projects by number.

There has been no change to the thresholds in over 25 years. In that time, the cost of construction has increased significantly.[33] The result is that the levy is now being applied to a far broader base than was the case when the levy threshold was last increased.[34]

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[24] Term of Reference (d) (Recommendation 12); and (e) (Recommendation 19).
[25] Term of Reference (d) (Recommendation 12); and (e) (Recommendation 19).
[26] (**levy threshold**); ss.4-6 of the *Building and Construction Industry Training Levy Act 1990* (WA).
[27] WA Government Gazette No.83 (28 June 1991) at p.3122; The threshold was then increased from $6000 to $10,000 (WA Government Gazette No.30 (8 March 1994) at p.943).
[28] Regulation 3 of the *Building and Construction Industry Training Fund and Levy Collection Amendment Regulations (No.2) 1999* (WA); WA Government Gazette No.155 (13 August 1999) at p.3831.
[29] Regulation 3(1)(a) of the *Building and Construction Industry Training Fund and Levy Collection Regulations 1991* (WA) (**Regulations**).
[30] (**adjustment threshold**)
[31] Section 21(c) of *Act No.76 of 1990* (WA).
[32] Sections 21(1)(c) and 22 of the Act.
[33] Costs increased by over 60% based on indices in *Rawlinson's Australian Construction Handbook 2023* (Edition 41) at pp.815, 828.
[34] The number of projects from which a levy was collected in 2022-2023 was 22,931: CTF, Annual Report 2022- 2023 at p.18.

The levy foregone from increasing the threshold should result in savings associated with the collection and processing of levies. Reducing the administrative burden will free up CTF staff to focus on other areas of the business such as non-compliance.[35]

Stakeholder submissions were overwhelmingly in favour of increasing the thresholds, with the main reason being the increasing costs of construction.[36] Thresholds for similar levies in South Australia and Queensland are higher, at $100,000 and $150,000 respectively, but only $10,000 in the ACT and $20,000 in Tasmania.[37]

The analysis showed that only 4% of projects vary from the initial estimate of cost of construction work by more than $25,000. Increasing the adjustment threshold would not, therefore, result in the same administration costs savings as would be the case with an increase in the levy thresholds.

Given the levy threshold is prescribed in the Regulations and is sufficient as a mechanism to keep the threshold current. The Board should monitor the extent of building cost increases and the impact on the number of projects in scope and collection costs, and recommend the Minister increases the threshold from time to time.

Finding 11: The levy threshold in WA is low when compared to other States of similar size and should be increased to $100,000 to reduce the regulatory burden on the sector with minimal impact on revenue. The Regulations are a sufficient mechanism to make the adjustment and ensure its currency through regular review.

4.4.3 Resources integration

In 2018, the Regulations were amended to remove the levy exemption applicable to the resources sector.[38] the Resources sector has, over the course of the Review, increased the proportion of its contribution of levies vis a vis the other sectors. The resources sector contributed 42% of the $76.3 million in levy receipts in the 2023-2024 financial year.[39]

Many of the submissions from the resources sector noted the high value of its contribution and sought various concessions and increased representation on the Board.[40]

There was little support for these submissions from the other sectors.[41] Many stakeholders submitted that the resources sector benefits greatly from accessing construction workers who have been trained in other sectors. The comparatively favourable terms and conditions on offer in the resources sector have been identified as a reason for apprenticeship non-completions in other sectors.[42]

The Review considers that the income from the resources sector is what was contemplated when it was included in the ambit of the Act. The participants in the resources sector were exempt from the requirement to pay levies for almost 30 years from the Act's inception. In that time it benefited from trained construction workers drawn from the building and construction sector to develop its projects and maintain and run its operations.

The Review makes no recommendations for change. It is recommended that the resources sector remains within the ambit of the Act.[43]

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[35] Finity Consulting, "Actuarial advice on recommendations from the 2019 Statutory Review of the Construction Training Fund" (December 2024) at p.12.

[36] Issues Paper at p.4. The Housing Industry Association and the CTF subsequently supported increases in the range of $100,000 to $150,000 in their submissions in response the Issues Paper.

[37] There are levy thresholds of $10,000 in the ACT (at a rate of 0.2%); and $20,000 in Tasmania (at a rate of 0.2%).

[38] WA Government Gazette No.145 (28 September 2018) at pp.3584-3587.

[39] CTF, Annual Report 2023-2024 at p.46.

[40] Recommendations from the Resources Sector Submission to the 2019 Statutory Review.

[41] Issues Paper at p.30.

[42] Western Australian State Government Response to Strategic Review of the Australian Apprenticeship Incentive System (2024) at p.8;, *et al* "Building The Dream - The future of Western Australia's construction industry" (July 2024) Bankwest Curtin Economics Centre, Focus on Industry Series, No. 9 at p.54.

[43] Term of Reference (d); Recommendation 22.

Finding 12: Removing the resources sector exemption has worked as intended, contributing around 42% of 2023-24 levy receipts.

4.4.4 Review of levy revenue and CTF expenditure

The principal recommendation advanced by the Chamber of Minerals and Energy on behalf of the resources sector in 2019 was that a differential levy rate of 0.1% be applied to projects over $500 million in value "to be consistent with the threshold incorporated in the Australian Jobs Act 2013".[44] The review sought actuarial advice on the impact of a differential levy rate of 0.1% for the resources sector for projects of over $500 million.

Actuarial advice shows that a reduction in the levy rate would adversely impact the CTF's income. In total, there were 18 resource projects above $500 million (in 2029 values). Those projects had a combined project value of $28.3 billion (in nominal values). The CTF collected levies of $56.7 million from those projects.[45] If a 0.2% levy rate was applied to the first $500 million of capital value for these projects, and a 0.1% levy was applied for the capital value above $500 million, then $19.4 million of levies would have been foregone in the four years to 31 December 2023.[46]

Finding 10 obviates the need for a differential levy and maintains the integrity of the levy base.

Finding 13: A differential levy for high-value projects in the resources sector will significantly reduce the amount of levies collected and limit the ability to achieve the objectives of the Act. There is an adequate basis for project owners to apply for levy reductions and exemptions on high-value projects if Section 25A is used in line with Finding 10.

4.4.5 Review of concessional expenditure threshold

Regulation 3 extends the "resources operational work" exclusion to work that:

a) Includes "alteration or renovation" to resources facilities, replacement of decommissioned resources facilities, and relocation of resources facilities[47]
b) is valued at $10 million or less.

The effect of the Regulation is to apply the levy to alteration and renovation work valued at over $10 million on resources sector projects.[48]

Over the four years to 31 December 2023, there were 206 resources projects with total capital value of $40.6 billion paying the levy. Nine of those projects were identified as involving work that could be characterised as alteration and renovation work valued at over $10 million.[49]

Actuaries conducted an analysis on the identified projects to quantify the expected impact if the concessional expenditure threshold was to be increased. The key finding was that although the impact on levy collection would have been negligible, there were one in five projects that were misclassified as alteration and renovation work when it would appear they should have been classified as operations and exempted. Changing the threshold will not resolve the interpretational issues.

[44] CME Submissions to the 2019 Review at p.4.
[45] Finity Consulting, "Actuarial Advice on recommendations from the 2019 Statutory Review of the Construction Training Fund" (December 2024) at p.19.
[46] Finity Consulting, "Actuarial Advice on recommendations from the 2019 Statutory Review of the Construction Training Fund" (December 2024) at p.19.
[47] (together, "alteration and renovation work").
[48] (concessional expenditure threshold).
[49] The nine projects had total capital value of $300 million.

The CTF seeks legal advice when it identifies definitional issues in relation to the exemption. If the advice is that it has an arguable case and there are significant levies at stake, then litigation will resolve the issue of interpretation.[50] Amendment of the Act or Regulations, however, is unlikely to provide clarity if the distinction between the concepts that parliament seeks to include and exclude is unclear.[51]

Finding 14: Issues with interpreting the distinction between operations and alterations and renovations in the Regulations are best managed case-by-case based on legal advice and not through amendment of Regulations or the Act.

Finding 15: Alteration and renovation work valued at over $10 million is significant construction work and requires a skilled workforce to complete it and therefore the current concessional expenditure cap in the Regulations should remain in place.[52]

4.4.6 Consider pursuing the following legislative changes in the medium to long term to address issues with the current definition of construction

The 2019 Statutory Review of the Act recommended that the definition of construction work be contained within the Act. This change was enacted on 28 August 2025 as a consequential amendment arising from the *Construction Industry Portable Paid Long Service Leave Amendment Act 2025*.[53] Importantly, the intention was for the definition of the scope of the term "construction industry" prior to the consequential amendment to be maintained in the *Building and Construction Industry Training Fund and Levy Collection Act 1990*.[54]

An expansion of the definition of "construction work" carries the risk that it may broaden the assessment base for the collection of levies beyond its current limits. If the definition of "construction work" were to be amended to expressly include off-site activities, then building components could conceivably become leviable at the manufacturing stage, and again as part of the overall project cost once installed. The result would be 'double taxation'.

Finding 16: The definitions of "construction work" and "building and construction industry" are now embedded as standalone definitions in the Act. Expanding the current definition risks extending the collection base beyond current limits and including off-site activities could result in double taxation and therefore is not recommended.

4.4.7 Streamlined definition of resources construction

The 2019 Statutory Review recommended exploring 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.

Finding 14 deals with the definitional issues with interpreting the distinction between operations and alterations and renovations, and the Review proposes no change to definitions.

There was broad agreement amongst stakeholders that the definitions of construction in the Act are complex and that the Act should contain a relevant and broadened definition of construction.

[50] In the example given, the CTF might have considered that it had reasonable grounds to seek payment of the levy if the structure in question was principally for the "use" of non-potable water in the project's operations (that is, notwithstanding that the structure was also used for storage of non-potable water as an incident of its principal purpose).

[51] The MBA submission in response the issues paper was to the effect that amendment may lead to "unintended consequences".

[52] CTF Submission in response to the Issues Paper.

[53] *Building and Construction Industry Training Fund and Levy Collection Act 1990*

[54] Ms Simone McGurk (Fremantle—Minister for Industrial Relations), Second reading speech, 14 August 2025, https://www.parliament.wa.gov.au/hansard/daily/lh/2025-08-14/18

Consideration through the Review is that an expansion of the definition of "construction work" carries the risk that it may broaden the assessment base for the collection of levies beyond its current limits. If the definition of "construction work" were to be amended to expressly include off-site activities, then building components could conceivably become leviable at the manufacturing stage, and again as part of the overall project cost once installed. The result would be 'double taxation'.

To avoid double taxation, the Review considers that the scope of the definition of "construction work" should not be changed significantly. A further advantage of maintaining the status quo is that there have been a number of decisions concerning the present definition that will assist in its interpretation.[55]

Finding 17: There is no cogent argument for a separate definition of resources operational work. A broadened and streamlined definition of construction work, although widely supported by stakeholders, runs the risk of double taxation.

4.4.8 Exemption for government work

Regulation 3(1)(d) of the Regulations currently excludes "government work" from the definition of "construction work". The Regulation defines government work to include work carried out by Local Government as defined in the Local Government Act 1995 (WA). The 2019 Kobelke-Walker review noted that there did not appear to be a clear rationale for the exclusion of government work insofar as it related to the work of Local Government,[56] a view that was repeated by several stakeholders to the current Review on the basis that Local Government was the beneficiary of the training provided to the industry generally.[57]

The functions of Local Governments have expanded over time from the provision of traditional municipal services to involvement in complex and commercially-oriented enterprises and activities, including roles in economic development and large infrastructure projects.[58] Larger scale projects "are often undertaken by contractors on behalf of a Local Government. In such circumstances the levy would be incorporated into the costs of the project by the contractor".[59]

It was estimated in the 2019 statutory review that Western Australian local governments "will spend $742 million on local roads maintenance and upgrades in 2019-20. If the Levy were applied to this expenditure, it would raise an additional $14.8 million, around 42% of the actual Levy revenue raised in 2017-18".[60]

Local Governments engage in significant construction work. Many Local Governments also directly employ workers who require skills in building trades.[61] In cases where work is in-sourced, Local Government is a beneficiary of the efforts of the broader building and construction sector in taking on apprentices and trainees to ensure an adequate supply of suitably qualified workers. Should changes to the exemption for Local Government be implemented, changes could also take into account Finding 10 whereby the Board consult with the Local Government sector to develop suitable criteria for a reduction in levy obligations where they commit to meeting appropriate training targets.

Finding 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.

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[55] For example, *Programmed Industrial Maintenance Pty Ltd v The Construction Industry Long Service Leave Payments Board* [2021] WASCA 208; 101 WAIG 1457.

[56] Kobelke-Walker Report at p.7 (referencing Key Finding 17).

[57] Issues Paper at p.18.

[58] For example, the City of Perth budget in 2023/2024 was $297 million, of which $58 million was set aside for a capital works program: City of Perth Budget 2023/2024; Section 3.59 of the *Local Government Act 1995* (WA) is a provision that addresses local government involvement in commercial enterprises; WALGA, "Final Submission to the Select Committee into Local Government" (September 2019) at p.28; Productivity Commission, "Local Government, Shifting the Dial: 5 year Productivity Review", Supporting Paper No.16 (3 August 2017) at p.5; Legislative Council, WA Parliament, Select Committee Final Report - "Inquiry into Local Government" (September 2020) at p.12 [2.8].

[59] WALGA Submission in response to the Issues Paper at p.2.

[60] ACIL Allen Consulting "Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* - Final Report To Review Chair" at p.42, being Appendix A to the Kobelke-Walker Report.

[61] SGS Planning and Economics, "2022 Local Government Workforce Skills and Capability Survey - Western Australia Report" (November 2022) Australian Local Government Association at pp.110-111.

Finding 19: The Board should consult with the Local Government sector to develop suitable criteria for consideration by the Minister that provides for a reduction in levy obligations where a Council can commit to meeting relevant and appropriate training targets.

4.4.9 Remove 'improve the quality of training' from the Act

This matter is dealt with at section 4.2.1 above - "Improving quality of training" - and Findings 6-8.

4.4.10 Assess whether participation of Aboriginal people and gender imbalances in training are being adequately addressed under the Act

There was an overwhelming response from Stakeholders in favour of allocating CTF funds towards measures to address the lack of equity and diversity in the building and construction industry.[62]

A focus on equity issues is consistent with the statutory objectives. If, for example, the CTF can assist in overcoming the attraction and retention issues that undermine the attainment of full gender participation, it will have taken significant steps towards achieving the statutory aim of increasing the number of skilled people in the industry.[63]

Very significant imbalances remain in the construction industry.[64] Studies identify a culture of epistemic injustice in the construction industry, where minorities are undervalued and become the subject of discrimination.[65]

At the time of the Review, women made up around 15% of the building and construction workforce, but only around 3% were working in trades.[66]

Governments in Australia use public procurement to achieve social outcomes. For example, the Australian Skills Guarantee includes targets for women for suppliers to Australian Government-funded major construction projects.[67] Both the Commonwealth and the Western Australian government also have procurement policies requiring indigenous participation targets to be met.[68]

Despite government social procurement policies requiring indigenous employment targets to be met, indigenous people working in the construction industry dispute that the targets are being achieved, or that discrimination on worksites is being eliminated. Their experiences, unfortunately and unacceptably, remain harrowing.[69]

[62] Issues Paper at pp.24-25; Term of Reference (f).

[63] The issues identified in the Stakeholder submissions that undermine the achievement of diversity are set out in the Issues Paper p.24.

[64] Department of Training and Workforce Development, "Western Australian Apprenticeship Framework: Background Research for the Building and Construction Consultative Committee" (July 2024) Western Australian Government at pp.26-28.

[65] Holdsworth S, *et al*, "Gender Bias in the Australian Construction Industry: Women's Experience in Trades and Semi-Skilled Roles", *Soc. Sci*. 2023, 12, 627; Submission of Mr D. Jones and Mr B. Eades; Submission of the Carey Group.

[66] Master Builders Association, "Breaking Ground: Women in Building and Construction" (March 2024) at p.2; NAWIC Submission, p.5.

[67] Department of the Prime Minister and Cabinet, "Working for Women: A Strategy for Gender Equality" (2024) Commonwealth of Australia at p.60. Under the Australian Skills Guarantee, major construction projects valued at $10 million or more require a minimum of 10% of all labour hours to be undertaken by apprentices, and a minimum of 6% of all apprentice labour hours to be undertaken by women.

[68] Commonwealth Government "Indigenous Procurement Policy" contains mandatory minimum indigenous participation requirements; Western Australian Government "Aboriginal Procurement Policy" (November 2024) requires minimum levels of indigenous participation to be included as a condition in construction contracts valued above $5 million: at pp.11-12.

[69] Submission of Mr D. Jones and Mr B. Eades at p.2; Consultation Session No.30.

The CTF has put a number of initiatives in place that address diversity including, for example, wage subsidies for Group Training Organisations[70], the Women in Non-Traditional Trades Scholarship Program, and additional employer incentives for the engagement of apprentices that are variously female, indigenous, mature age, or from the regions.[71]

The Board should be commended for its efforts in addressing what has been seen as an intractable issue in the industry. However, there remain other options available to the Board to encourage initiatives that seek to normalise the balance of the workforce. For example, the Board could:

- Institute Quality Frameworks that require equity targets as part of its funding arrangements.[72]
- Collect data on the experience of under-represented cohorts.[73]
- Consider how the mechanisms in s25A to s25C of the Act may provide a vehicle for embedding its diversity objectives and standards across the industry.
- Fund (or employ) staff from under-represented cohorts to provide mentoring and pastoral care to relevant apprentices and trainees.

The submissions to the Review from indigenous Stakeholders and the VET sector identified the need for relevant mentoring or wrap-around services to help address issues of completion.[74] These submissions align with the findings in the literature.

Finding 20: The CTF currently has a number of diversity measures in place, but more could be done to improve outcomes for women and Aboriginal people. These are not matters that require legislative change and the capacity to do is within the present remit of the Board.

[70] The CTF has allocated $7.3 million to provide a 75% wage subsidy for 100 new apprentice commencements, and a 100% wage subsidy for 75 commencements from under-represented cohorts: draft 2025-2026 CTF Operational Plan at pp.10-12. This is a worthwhile target as GTOs typically have higher completion rates than those directly employed by small to medium-sized host employers.

[71] CTF Submission at p.7; CTF Reconciliation Action Plan.

[72] For example, the targeted funding of training programs that cater for First Nations workers.

[73] Section 8(1)(f) of the Act; Holdsworth S, *et al* "Women in Construction: Exploring the Barriers and Supportive Enablers of Wellbeing in the Workplace" (2020) RMIT University, Melbourne at p.6.

[74] Department of Employment and Workplace Relations, "Strategic Review of the Australian Apprenticeships Incentive System: Background Paper" (June 2024) Commonwealth Government at pp.18-21.

5. Opportunities

Based on the findings outlined in Section 3, this Review has identified a number of areas where the Minister's powers under Section 9 of the Act can be utilised to improve Board effectiveness in achieving the objectives of the Act and greater strategic oversight of the CTF's operations to grow the skilled workforce for the sector and improve the quality of training. These opportunities have been organised into the following themes:

- Annual Operational Plan
- Levy collection
- Governance.

The review also identified the following opportunities in response to matters identified in previous reviews. Matters requiring further consideration include:

- publish reductions and exemptions criteria under s.25A
- increase threshold at which the Levy applies
- exemption for government work
- expand diversity programs.

5.1 Annual Operational Plan

The Review's findings reveal an opportunity for the Construction Training Fund to review mechanisms to develop its annual Operational Plan and associated programs to improve the quality of training and increase the number of skilled persons in the building and construction industry.

5.1.1 Introduce a Ministerial Statement of Priorities

Proposal: Introduce a Ministerial Statement of Priorities, or a similar statement, through which the Minister would identify priority issues that CTF would be required to incorporate into the annual Operational Plan. This could include a description of CTF's role within the Government's whole-of-economy workforce strategy, policy and delivery framework.

Rationale: The Review found broad stakeholder support for the Act to continue (Finding 9). The annual Operational Plan requires the Board to propose its own activities with limited input from the Minister. A Ministerial Statement of Priorities, or similar mechanism, would:

- provide the Board with a clear understanding of government priorities rather than requiring CTF to anticipate them
- provide the Board with direct expectation regarding consultation on planning, program and achieving the objectives of the Act (Finding 1)
- create clear authorisation for the Board to engage on issues of importance to the Government, including issues that intersect with other agencies (Finding 8)

Implementation: To progress this opportunity the Minister could write to the Board periodically, consistent with the Act. The Minister to prepare a Ministerial Statement of Priorities to require the annual Operational Plan to be developed under Section 8 in response to this Statement.

5.1.2 Refocus the Annual Operational Plan

Proposal: The Board to review flexibility to allocate funds to priorities which improve the quality of training and increase the number of skilled persons in the building and construction industry additional and complementary to existing structures. At the direction of the Board, the CTF could better consider available evidence, better utilisation of data and give greater attention to the objectives of the Act.

Rationale: The Review observed the CTF's current approach is informed by a reliance on untargeted wage subsidies (Findings 3, 6-8) and a narrow view of quality against the regulated Standards for Registered Training Organisations, with limited consideration of available evidence to improve outcomes and support employers, apprentices and other building and construction stakeholders.

Design and prioritisation of programs should take a broader view of how the fund can be used to improve the quality of the training experience for all users of the apprenticeships system in the building and construction and resources sector as it relates to the Act.

Implementation: The Board to revise the annual Operational Plan and refocus activities to take into account the full range of or programs and opportunities enabled under the Act.

5.2 Levy Collection

The Review's findings provide a clear case for the Construction Training Fund to review levy collection mechanisms. Stakeholder submissions indicated there is underutilisation of enforcement powers, and it has not accessed powers available under Section 24 (penalties for late payment) or Section 29 (prosecution for offences) under the Act.

5.2.1 Develop a Levy Collection Strategy

Proposal: The Minister will request the Board to develop a Levy Collection Strategy with consideration of the powers available to it under the Act. In developing the Strategy, the Board should consider current collection processes, expertise required by the CTF under a revised strategy, and the cost of alternative approaches. The Board should consider approaches in other jurisdictions to introduce a proactive and adequately resourced compliance strategy to ensure effective levy collection and uphold the Act's objectives.

Rationale: Consistent application of the levy collection is critical for the integrity of the scheme and to maximise the revenue available to achieve the objectives of the Act (Findings 4, 5). This will provide for targeting development of programs which support quality training and increase skilled workers in the building and construction industry. The industry supplies workers for construction projects across the economy to meet industry and Government priorities.

Implementation: The Board to develop and implement a Levy Collection Strategy, which should also be included in its Annual Operational Plan and routinely reported as a KPI for improvement, efficiency and effectiveness.

5.3 Governance

5.3.1 Clarify Board Expertise

Proposal: Request the Board to consider the skills and expertise across industry knowledge and the desirable skills, qualifications and experience it needs to more effectively fulfil its role, including strategic oversight of the CTF programs and review of industry intelligence, and effective collection of the levy.

Rationale: The composition of the Board must have expertise to collect the levy (Findings 2, 4-5) for it to attain funds to increase skilled building and construction workers and improve quality of training. The Board's expertise is highly regarded for its expertise in skills and workforce and knowledge of the building and construction industry. However, there is a clear need to strengthen its expertise on compliance matters in relation to levy collection.

Implementation: To progress this opportunity, the Minister will request the Board to provide an assessment of its current skills composition and recommend a future focussed skills matrix for the Minister's consideration.

5.4 Other review considerations

5.4.1 Publish reductions and exemptions criteria under s.25A

Proposal: Minister to publish under s.25A criteria for reductions and exemptions from the levy to encourage large resource companies to deliver quality training to large numbers of construction workers.

Rationale: Section 25A of the Act provides that if a project owner meets various criteria that are published by the Minister from time to time, the Board "shall" grant a reduction in, or an exemption from, the levy payable. This is seen as a more direct and effective mechanism to targeting growth in the trades workforce and more appropriate than introduction of Capital value caps, as it provides for direct assessment of the merits of each case in terms of its needs for skilled building and construction workers.

Implementation: The Board to consult with the resources sector to develop suitable criteria for consideration by the Minister that provides for a reduction in levy obligations where a company (project owner) can commit to meeting apprenticeship training targets, including diversity targets, in relevant trades. The CTF should monitor progress and achievement of the targets and re-impose the levy where these are not met.

5.4.2 Increase threshold at which the Levy applies

Proposal: Increase the levy threshold from $20,000 to $100,000.

Rationale: There has been no change to the thresholds in over 25 years. In that time, the cost of construction has increased significantly, and the levy now has a far broader base than originally intended. The threshold in WA is low when compared to other States of similar size and increasing it to $100,000 will reduce the regulatory burden on the sector with minimal impact on revenue (Finding 11).

Implementation: The Regulations are a sufficient mechanism to make the adjustment and ensure its currency through regular review.

5.4.3 Remove the exemption for government work

Proposal: Removing the current exemption for "government work" from the regulations

Rationale: Local Governments engage in significant construction work. Many Local Governments also directly employ workers who require skills in building trades. In cases where work is in-sourced, Local Government is a beneficiary of the efforts of the broader building and construction sector in taking on apprentices and trainees to ensure an adequate supply of suitably qualified workers (Finding 18, 19).

Implementation: The Board to consult with the Local Government sector to develop suitable levy reduction and exemption criteria for consideration by the Minister. Criteria should include verifiable commitments from Local Government authorities on relevant and appropriate training targets and how they will meet these. The criteria should be published under Section 25A of the Act and where possible be consistent with criteria applied to the resources sector.

5.4.4 Expand the range of diversity programs

Proposal: Implement initiatives that seek to provide greater representation of Aboriginal people and women in the workforce to improve equity, address workforce shortages.

Rationale: There is a critical shortage of workers and Aboriginal people and women have extremely low levels of participation in the building and construction sector (Finding 20). State and Commonwealth government procurement policies have targets for increased participation of women and Aboriginal people to improve equity. Well-paid jobs in the sector will contribute to Closing the Gap objectives and the gender pay gap.

Implementation: The Board to consult with key stakeholders to co-design and implement programs. Programs to be considered include:

- Quality Frameworks that require equity targets as part of its funding arrangements.
- Funding or employing staff from underrepresented cohorts to provide mentoring and pastoral care to relevant apprentices and trainees.
- Relevant mentoring or wrap-around services to help address issues of completion.

6. Conclusion

The Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990* has found the Act provides a sound legislative framework for the Construction Training Fund. The Act establishes clear objects, grants appropriate powers, and creates effective governance mechanisms.

Under this legislation, the CTF Board collects the construction levy and develops programs through the annual Operational Plan to improve the quality of training and to increase the number of skilled persons in the building and construction industry. CTF delivers a range of programs and initiatives to meet the objectives of the Act.

The Review found the board has a positive relationship with industry and is committed to engaging with stakeholders. The Review has identified opportunities to enhance the Act's operation and strengthen the CTF's contribution to the State's skilled building and construction workforce. These opportunities aim to improve CTF's efficiency and effectiveness, rather than change CTF's role and responsibilities.

The Government's priority to develop a skilled and productive workforce provides an opportunity for the Board to strengthen its capability to collect the levy, consult broadly with stakeholders to develop contemporary programs which focus on building supply including through workforce diversity, and enhance its focus on operational planning.

7. Appendix A: Terms of Reference

REVIEW OF THE BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION ACT 1990 TERMS OF REFERENCE

Section 32 of the Act establishes broad terms of reference for the review, each of which should include specific areas of interest or consideration which are listed below:

(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.

(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.

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

(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.:
   (i) Introduce a capital value cap
   (ii) Increase threshold at which the Levy applies
   (iii) Resources integration
   (iv) Review of levy revenue and CTF expenditure

(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.
   (i) Review of concessional expenditure threshold
   (ii) Consider pursuing the following legislative changes in the medium to long term to address issues with the current definition of construction
   (iii) Streamlined definition of resources construction
   (iv) Exemption for government work
   (v) Specify levy adjustments in regulations
   (vi) Remove 'improve the quality of training' from the Act

(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