

Investigation and Review of the *Construction Industry Training Fund Act 1993*

Issues paper

December 2022

Contents

Executive summary	2
Propositions for feedback	2
Part 1: Outline of review and context	7
Terms of Reference	7
Responding to this Issues paper	8
Key terms used in this Issues paper	9
Part 2: Propositions	11
ToR A: CITB composition, administration, and operation	11
ToR B: Levy	17
ToR C: Allocation of funds obtained through the levy	29
ToR D: Training plans	31
ToR E: Consideration of other models to support industry outcomes	32



Executive summary



This Independent Review is required to investigate, review and make recommendations on the Construction Industry Training Board (Board) effectiveness and attainment of the objects of the *Construction Industry Training Fund Act 1993* (SA) (CITF Act), to improve the quality of training in the building and construction industry, and ensure the Act adequately improves training outcomes for workers.

In shaping an understanding of the issues that are relevant to the Terms of Reference (or ToR), this Issues paper considers the outcomes of past reviews, previous legislative debate and amendments to the CITF Act. Key stakeholders have provided some early input to the Review.

Submissions are welcome on any matters relevant to the Terms of Reference. The Issues paper is structured as follows:

- **Part 1:** Outlines the *Review* approach and context
- **Part 2:** Discusses issues and presents propositions and questions for feedback.

Propositions for feedback

The propositions presented are not the views of the Minister or the Government, nor are they necessarily the views of the Reviewers. They have been proposed to elicit clear positions from stakeholders on potential changes. Written submissions that are supported by evidence, examples and data will be the most persuasive in informing the Reviewers' response to the Terms of Reference.

CITB composition, administration and operation

ToR A

Concerning the amendments made to the Act by the *Construction Industry Training Fund (Board) Amendment Act 2019*:

No.	Propositions/Question	ToR
	How effective is the CITB, as currently comprised and administered, in attaining the objects of the CITF Act through the exercise of its functions and powers (as outlined in Sections 11 and 12 of the CITF Act)?	A1
1.	The Act should include Objects so that the Board's purpose and priority for the administration of the Fund is clearer. This should include that the Fund should be applied to addressing skills shortages, upskilling and entry level training as supported by data and evidence available to the Board.	A1

Table continued next page >

No.	Propositions/Question	ToR
	What opportunities exist to support the achievement of these objects in relation to - The composition of the CITB - The staffing of the organisation - Other governance or operational arrangements	A2 i ii iii
2.	The Act should require the appointment of Board members to have a greater balance of employer and employee perspectives than is presently the case.	A2 (i)
3.	The expression of interest process for Board appointees should remain, but the Minister should not be compelled to utilise this if the Minister is satisfied that good reason exists not to.	A2 (i)
4.	The Act should require the appointment of a Board member with extensive knowledge of training policy and the contemporary training landscape.	A2 (i)
5.	The Act should require that the Minister ensure that through appointments to the Board, members collectively bring sufficient expertise in the building and construction industry, legal and financial skills. Consideration should also be given to promoting diversity in making appointments to the Board.	A2 (i)
6.	The appointment of Deputy Members should be reserved only for members appointed due to a specific skill set.	A2 (i)
7.	The ability for the Presiding Member to exercise a casting vote should remain.	A2 (iii)
8.	The provision for a majority Board decision should remain.	A2 (iii)
9.	The Act should confirm the principle that Board members' overriding fiduciary duty is to the Board and its objects under the Act.	A2 (iii)
10.	The Act should formalise a requirement to consult with Sector Committees during the preparation of the Training Plan.	A2 (iii)
11.	The appointment of an independent Chair of the Finance and Audit Committee should be facilitated by permitting the Minister to approve remuneration of the Chair of committees.	A2 (iii)
12.	The Act's position in relation to the use of public service employees should reflect that in the <i>South Australian Skills Act 2008</i> to enable more integrated and complementary connections between the Board and Government.	A2 (ii)



No.	Propositions/Question	ToR
Are the exemptions to paying the levy as described in Section 23 of the CITF Act and in the Regulations appropriate?		B2
13.	If an item's cost would ordinarily be captured by the Act, the fact that it is associated with generation, supply or transmission of electricity should not exclude that item from calculation of the levy. (For example, construction work associated with the installation of wind turbines or solar panels would be leviable activity.) [See regulation 13(3) of the Regulations]	B2
14.	If an activity would ordinarily be captured by Schedule 1 of the Act and the activity is maintenance or repair work carried out by a self-employed person or an employee for the benefit of his or her employer, where the principal business activity of the self-employed person or employer is not in the building and construction industry, this activity should not be excluded from building or construction work for the purposes of the Act. (For example, maintenance or repair work performed by employees of a council would be leviable activity – as is the case presently if such work is contracted out.) [See Schedule 1(2)(a) of the Act]	B2
15.	If an activity would ordinarily be captured by Schedule 1 of the Act, the fact that it is associated with mining and petroleum activity should no longer automatically be grounds for exemption. Exemption should apply when associated with core resources operations or other specified activities. (For example, earthworks and building activity associated with the construction or maintenance of roads, tracks, or airstrips would be leviable activity. However, if WA's exemptions were mirrored, then work associated with resource exploration, unsealed haul road tracks etc. would continue to be excluded) [See Schedule 1(15) of the Act]	B2
Is the current levy collection method effective?		B3
16.	The levy should be calculated by reference to employee data not by project value to enable a similar quantum of funds to be collected via a more streamlined process.	B3
17.	If the levy is still to be calculated by project value, the definition of project owner should be changed so that the levy is payable by the landowner or head lessee rather than the current definition of project owner.	B3
18.	The Civil sector should remain as part of the CITF Act scheme.	B3
19.	Planning for allocation of the Fund should be revised to better utilise available funds for the Civil sector, including in relation to attraction and retention initiatives; and short courses which equip Civil sector workers to work in other sectors when there is a downturn in civil construction activity.	B3

No.	Propositions/Question	ToR
	Is the current levy rate of 0.25 per cent of the estimated value of building or construction work (or such other percentage not exceeding 0.5 per cent of that value as may be prescribed in regulations) appropriate to meet the workforce needs of the sector?	B1
20.	In the absence of an alternative method of calculation than project value, the 0.25% levy remains as an appropriate rate for the Board to fulfil its role and functions under the Act.	B1
21.	If the levy is based on project value, it should apply to a project's value excluding GST.	B1
22.	If the levy remains calculated based on project value and exemptions are reduced resulting in an increase in revenue, the threshold of \$40,000 should be increased to reduce the administrative burden of payment and collection on low value projects.	B2
23.	The levy threshold should be contained in the Regulations and reviewed periodically against CPI increases and other relevant data (such as expenditure from the Fund).	B2
	Are there alternative collection methods that would improve levy collection?	B4
24.	The CITB should increase the resources devoted to education and compliance.	B4
25.	If the levy remains calculated according to project value, the South Australian Government should work with the CITB to identify reconciliation options for construction industry projects that are not captured by the usual planning approvals process.	B4

Allocation of funds obtained through the levy

Does section 32(3) of the CITF Act, which requires money for the provision of training to a given sector in "approximately the same proportion" as the amount contributed by that sector:

- create barriers to holistic workforce and skills development across the building and construction industry?
- result in challenges addressing any particular areas of need such as upskilling, higher-level training, or cross-sector skilling?

No.	Propositions/Question	ToR
26.	A minimum of 60% of the CITB fund allocations to training activity should be allocated between each sector of the building and construction industry in approximately the same proportions as has been contributed to the Fund by that sector. The remainder of training funds may be allocated for holistic or cross-sector programs such as sector attraction and cross-sector development.	C
27.	The CITB should allocate funding to administration activities such as research, data analysis, education and compliance.	C

Training plans

ToR D

What impact does the requirement under Section 32(1) for the CITB to produce a training plan on an annual basis have on:

No.	Propositions/Question	ToR
	• longer term workforce planning	D1
	• addressing longer term skills and workforce requirements • investment in multi-year projects or programs?	D2
28.	Government and the CITB should develop processes that facilitate information and market intelligence sharing in the formative stage of the development of a Training Plan.	D1
29.	The annual planning cycle should be replaced by four-year rolling reviews of the overall strategic direction developed through the CITB's investment decisions, with capacity for annual adjustments and reallocation of funds.	D2

Consideration of other models to support industry outcomes

ToR E

Are there any other models for supporting industry training and workforce development outcomes that the reviewer recommends to assist the Construction Industry Training Board achieve its objectives?

PART 1:

Outline of Review and context



The Independent Reviewers are required to report on the effectiveness of the Construction Industry Training Board in the exercise of its functions and powers and the attainment of the objects of the Act, with the following Terms of Reference.

Stakeholders are welcome to provide submissions on any aspect of the Terms of Reference.

Terms of Reference

A - CITB composition, administration, and operation

Concerning the amendments made to the Act by the *Construction Industry Training Fund (Board) Amendment Act 2019 (SA)*:

- How effective is the CITB, as currently comprised and administered, in attaining the objects of the CITF Act through the exercise of its functions and powers (as outlined in Sections 11 and 12 of the CITF Act)?
- What opportunities exist to support the achievement of these objects in relation to:
 - the composition of the CITB
 - the staffing of the organisation
 - other governance or operational arrangements?

B - Levy

- Is the current levy rate of 0.25 per cent of the estimated value of building or construction work (or such other percentage not exceeding 0.5 per cent of that value as may be prescribed in regulations) appropriate to meet the workforce needs of the sector?
- Are the exemptions to paying the levy as described in Section 23 of the CITF Act and in the Regulations appropriate?
- Is the current levy collection method effective?
- Are there alternative collection methods that would improve levy collection?

C - Allocation of funds obtained through the levy

Does Section 32(3) of the CITF Act, which requires money for the provision of training to be allocated to a given sector in “approximately the same proportion” as the amount contributed by that sector:

- create barriers to holistic workforce and skills development across the building and construction industry
- result in challenges addressing any particular areas of need such as upskilling, higher-level training, or cross-sector skilling?

D - Training plans

What impact does the requirement under Section 32(1) for the CITB to produce a training plan on an annual basis have on:

- longer term workforce planning
- addressing longer term skills and workforce requirements
- investment in multi-year projects or programs?

E - Consideration of other models to support industry outcomes

Are there any other models for supporting industry training and workforce development outcomes that the reviewer recommends to assist the Construction Industry Training Board achieve its objectives?

Responding to this Issues paper

This Issues paper has been developed to assist those with an interest in the Review to make a submission. It assumes some level of understanding of the operation and application of the Construction Industry Training Fund. Materials that assist in obtaining an understanding of the operations of the CITB can be found on its website at www.citb.org.au. Other materials that are relevant to the Review, including prior reviews, are available at links on the Review [website](#) or <http://yoursay.sa.gov.au/citfactreview>.

The Issues paper sets out the questions from the Terms of Reference. For each part of the Terms of Reference, Propositions for Feedback are included. These Propositions reflect some of the issues that have been raised with the Reviewers to date.

Submissions to the Review may raise any issues related to the subject matter of the Review. If your submission addresses a particular Term of Reference or Proposition for Feedback raised in this Issues paper, please specify this to assist the Review to identify the issue being responded to.

The closing date for feedback in response to this Issues paper is 1 February 2023.

The Reviewers will consider all feedback and, based on this and information and evidence gathered throughout the Review, will prepare a report for the Minister's consideration containing findings and recommendations.

Ways to contribute

For those wishing to provide general feedback, a short survey has been developed and is available at the link below. This may suit individual employers, workers or trainers.

For those wishing to respond directly to some or all of the propositions, a longer survey based on the Terms of Reference and Propositions for the Review has been developed. This allows interested respondents to comment on one or several propositions.

Submissions that address all or any part of the Terms of Reference can be provided via:

Via Email: CITFactReview@sa.gov.au

Via YourSAY: <http://yoursay.sa.gov.au/citfactreview>

Please be aware that, unless a request for confidentiality is made, information contained in any submission may be referred to publicly or published. All material will be held by the Department for Education who reserves the right not to publish information that could be seen to be defamatory or discriminatory. If you would like your submission to remain confidential, please clearly state this on the submission. Any material identified as 'confidential' is still subject to the *Freedom of Information Act 1991*.

Key terms used in this Issues paper

Act

The *Construction Industry Training Fund Act 1993* (SA).

CITB or Board

The Construction Industry Training Board as established under the CITF Act. Composition and functions of the Board are contained in the CITF Act.

doorways2construction

A CITB Vocational Education and Training (VET) in Schools program established in conjunction with the secondary school sectors of South Australia. It provides senior school students with a construction training pathway, integrated within the South Australian Certificate of Education (SACE).

Exemptions

The CITF Act and Regulations prescribe a number of classes of building and construction activity; and items and components used in building and construction, that are exempt from the Levy payment.

Fund

The Fund established by the CITF Act represents the monies collected by the Levy and administered by the Board to improve the quality of training in the building and construction industry.

KPA review

The Independent Review of the CITF Act commissioned by the then Government in accordance with section 38, which required that an Independent Review occur as soon as practicable after 1 January 2003. The review was conducted by KPA Consulting and its final report was tabled in Parliament in November 2004.

Levy

A 0.25% levy is imposed under the CITF Act on most building and construction work over \$40,000. The levy is paid into the Fund established under the CITF Act.

Local council

The CITF Act provides that a local council must not approve building or construction work unless satisfied the Levy has been paid by the project owner; or that no levy is payable.

Minister

The South Australian Minister for Education, Training and Skills.

Project owner

The person or business entity required to pay the Levy. In practice, the Levy cost is incorporated into the contract price and is usually paid on the project owner's behalf by the party providing the building and construction services.



Regulations

The *Construction Industry Training Fund Regulations 2021* (SA), made under the CITF Act.

Review

The Independent Review required by section 38 of the CITF Act of amendments to the CITF Act by the *Construction Industry Training Fund (Board) Amendment Act 2019*; and related matters contained in the Terms of Reference for the Review.

Sector

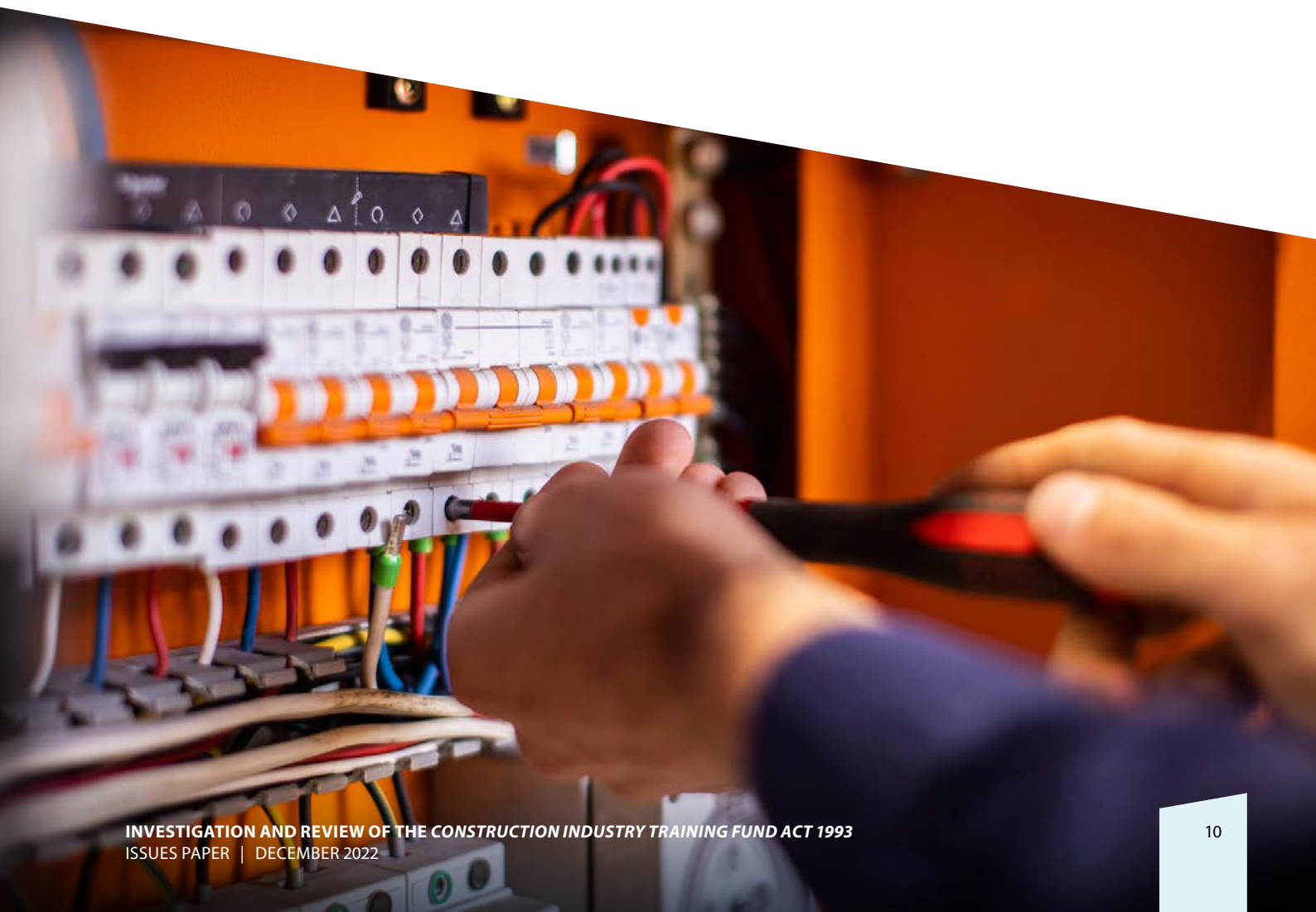
The CITF Act prescribes three sectors, namely, housing, commercial and civil sectors. Other sectors may be prescribed under the Regulations. The scope of each of the industry sectors is defined under the CITF Regulations.

Sector fund allocation

In the preparation of the Training Plan, the Board must allocate monies to each sector in approximately the same proportion as each sector contributes to the Fund. The sector allocation mechanism is, among the five industry training funds across Australia, unique to South Australia.

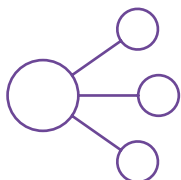
Training plan

The CITF Act requires the Board to develop a training plan that sets out the Board's priorities regarding the use of the Fund for the prospective financial year. The Board must present its training plan to the Minister by 31 May each year for approval.



PART 2:

Propositions



ToR A: CITB composition, administration, and operation

Concerning the amendments made to the Act by the *Construction Industry Training Fund (Board) Amendment Act 2019*:

- How effective is the CITB, as currently comprised and administered, in attaining the objects of the CITF Act through the exercise of its functions and powers?
- What opportunities exist to support the achievement of these objects in relation to
 - The composition of the CITB
 - The staffing of the organisation
 - Other governance or operational arrangements

Achievement of objects of the Act

The terms of reference require the Reviewers to assess: *the attainment of the objects of the CITF Act, to improve the quality of training in the building and construction industry, and ensure the Act adequately improves training outcomes for workers.*

The long title to the CITF Act states:

An Act to establish a fund to be used to improve the quality of training in the building and construction industry; to establish the Construction Industry Training Board to administer the fund and to co-ordinate appropriate training; to provide for the imposition and collection of a levy for the purposes of the fund; and for other purposes.

The Act, however, does not have an explicit Objects section included in it. The objects can be inferred from the long title and the functions of the Board. If the Act did include an Objects section this would provide valuable clarity, purpose and strategic intent to guide the work of the Board. For example, over time different stakeholders have had different views about whether any part of the levy should be directed to skills shortages; or to entry level training compared with upskilling. There has also been variable use of data and research to inform Board considerations.

It is proposed that the function of the Board to improve the quality of training in the building and construction industry would be assisted by succinct, outcome-focused objects that provide guidance on the intention of the Fund and the priorities for the Board.

Propositions for feedback

P1: The Act should include Objects so that the Board's purpose and priority for the administration of the Fund is clearer. This should include that the Fund should be applied to addressing skills shortages, upskilling and entry level training as supported by data and evidence available to the Board.

Composition - Representation

The history of the composition of the Board reflects the origins of the legislation and the scheme. The *Construction Industry Training Fund Act 1993* (SA) (CITF Act) was established in response to advocacy by industry and employee associations for legislation to support the funding of training of workers in the building and construction industry. The Second Reading Speech articulates:

The levy, and its associated fund have been proposed by the employers and unions in the building and construction industry, with the aim of improving the level of skills of new and existing employees in the industry, with a resultant increase in productive efficiency within the industry.¹

Prior to the *Construction Industry Training Fund (Board) Amendment Act 2019* (SA) the Board comprised:

- A presiding member
- Two people nominated by the Minister with experience in VET/provision of training
- Five people nominated by employer associations
- Three people nominated by employee associations

The 2019 *Amendment Act* replaced this with:

- A presiding member
- Between 4 and 8 people nominated by the Minister with industry knowledge, experience or expertise including
 - at least 1 person nominated by the Minister to represent interests of employers and
 - at least 1 person nominated by the Minister to represent interests of employees
- 2 people nominated by the Minister who, in the Minister's opinion, are independent of the building and construction industry who, together have the knowledge, skills and experience necessary to enable the Board to carry out its functions effectively.

Key differences in the appointment process introduced by the 2019 amendments were:

- The removal of the employer (5) and employee (3) association-nominated members
- The removal of the requirement that the Minister must consult with prescribed employer and employee associations on the nomination of the Presiding Member; and
- A new expression of interest process through which people can self-nominate for membership of the Board.

Engagement with stakeholders to date has indicated there is support for the Board composition that existed prior to the 2019 amendments.

Stakeholders (including, but not limited to, employee associations) have suggested that the previous Board composition better reflected interests of employer and employee groups and this provided for greater consensus, "harmony" and more productive Board deliberations. It has been suggested by multiple stakeholders that the Board worked well in its previous composition and that this composition more appropriately reflects the history of the formation of the CITF scheme as an industry sector body.

Concern has been expressed by both employer and employee representatives that the current Ministerial appointment process is now vulnerable to the political ideology of the governing party of the day. Stakeholders generally appear to support balanced employee and employer representation being a consistent component of the Board, irrespective of the government of the day.

The expression of interest process for appointing new members, whilst effective for reaching a wide pool of candidates, is nevertheless potentially administratively burdensome when casual vacancies need to be filled. The CITF Act does not allow any discretion around whether or not the expression of interest process is used.

1 The Hon. Anne Levy, Second Reading explanation to the *Construction Industry Training Fund Bill*, 26 November 1992.

P2: The Act should require the appointment of Board members to have a greater balance of employer and employee perspectives than is presently the case.

P3: The expression of interest process for Board appointees should remain, but the Minister should not be compelled to utilise this if the Minister is satisfied that good reason exists not to.

Composition - Skills

Some stakeholders have noted that the 2019 *Amendment Act* did not change the Board composition from one of representative nominees to a skills-based Board. It has been suggested that in order for the Board to discharge its duties effectively there should be a skills basis to appointments, rather than a focus solely on building and construction industry knowledge.

Knowledge and application of fiduciary responsibilities, capabilities in strategic planning, government policy priorities and planning, and legal skill sets have all been suggested as elements that should be included in appointments. There is also an argument that the Board's ability to administer the Fund, which in recent years sits between 20 and 28 million dollars, is enhanced by having among its membership members with financial and risk expertise. Contemporary knowledge of the construction sector has also been expressed as important; this includes practical knowledge and understanding of worksite safety systems, employee mental health, workforce diversity and conflict management.

Prior to the 2019 *Amendment Act*, the Board also explicitly included two members with appropriate experience in vocational education or training and who were employed or engaged in the provision of such training. This requirement is no longer in place and it has been suggested that this has not been advantageous to the operations of the Board. Given the Board is heavily involved in the training and skills sector by funding training programs, it is suggested that it is appropriate that the Board includes members with detailed operations of this sector.

Examples

Examples of representation on similar industry boards

The SA Portable Long Service Leave Board (PLSLB) achieves balanced representation through its membership model below:

- The Board consists of seven members, appointed by the Governor, of whom—
 - one (who is the presiding officer of the Board) is a person nominated by the Minister; and
 - three members nominated by the Minister after taking into account the recommendations of employer associations, to represent the interests of employers in the construction industry; and
 - three members nominated by the Minister after taking into account the recommendations of employee associations, to represent the interests of construction workers.

Similarly, the Queensland Building and Construction Industry Portable Long Service Leave scheme uses a 3+3 employer and employee representative Board structure in addition to a deputy chairperson who must have knowledge of, and experience in, financial affairs.

Government guidelines stipulate that board appointment processes and decisions should ensure there is appropriate gender diversity on government boards and committees. The guidelines also promote inclusion of people from diverse linguistic and cultural background on decision making and advisory bodies. These objectives are sometimes reflected in legislation with objectives that support social inclusion and participation in public life.

Propositions for feedback

P4: The Act should require the appointment of a Board member with extensive knowledge of training policy and the training landscape.

P5: The Act should require that the Minister ensure that through appointments to the Board, members collectively bring sufficient expertise in the building and construction industry, legal and financial skills. Consideration should also be given to promoting diversity in making appointments to the Board.

Deputies

The ability of the Governor to appoint Deputy members to the Board has always been part of the Act. However, Deputy Members are not a common feature in contemporary governance, particularly for a skills-based board: they are more commonly appointed where the Board member is a nominee of a particular group.

It is understood that Deputy Members have very rarely been called upon to attend Board meetings in the place of a member. It is not clear whether the practice of appointing Deputies for all member positions is an efficient use of the Board or Government's resources. Another view is that Deputy Members might be needed to represent particular skills or interests, particularly if there are changes to the current composition of the Board.

Propositions for feedback

P6: The appointment of Deputy Members should be reserved only for members appointed due to a specific skill set.

Board procedures and administration Presiding members vote

The ability for the Presiding member to cast a vote was introduced with the 2019 *Amendment Act*. This change has not been identified as a contentious issue to date.

This practice is sound in terms of governance principles, provided that the Presiding Member also adheres to good governance practices guiding the role of the Presiding Member; namely, to not use their position to unduly influence the considerations and debate of the Board or to influence voting in alignment with their views.

Veto

Consistently with changing from a 5-member employer and 3-member employee representative structure, the 2019 Amendment Act removed veto voting provisions to enable decisions of the board to reflect a majority position. The veto power was notable in relation to a decision of the Board making a recommendation about a change to the levy rate - at least one employer and one employee organisational nominee needed to be present at the Board meeting that made the decision.

In relation to the veto power generally, Parliamentary Hansard reveals that between 2002-2019 the veto voting provision was used on at least 12 occasions². The 2004 review of the Act recommended that the veto voting provision be removed to ensure decisions reflect a majority of the board as a whole.

Propositions for feedback

P7: The ability for the Presiding member to cast a vote should remain.

P8: The provision for a majority Board decision should remain.

² <https://hansardsearch.parliament.sa.gov.au/daily/uh/2019-02-28/39>

Conflict of duty

The KPA Review suggested that the expression “represent the interests of” in legislation in relation to statutory board members’ duties had the potential to undermine the clear principle, confirmed in legal advice provided to that review, that board members owed an overriding fiduciary duty to the board to which they are appointed, in preference to the particular interest group from which they are drawn. Given the Board’s role in determining allocation of the Fund to different programs - be they pre-vocational, apprentice based, or up-skilling - if Board members have roles or responsibilities with training providers, those organisations can potentially benefit from even general decisions made by the Board about the application of the Fund. Whilst this may not amount to a conflict of interest it can give rise to questions or perceptions about conflicting duties.

Removing the phrase “represent the interests of” in section 5(1a) and replacing it with contemporary language, as was recommended in the KPA review, would better reflect the correct legal position regarding conflict of duty, that representative board members must be aware that their duties to the board override any duty to the cohort or organisation from which they are appointed.

An alternative way of addressing this issue is through consideration of who is appointed to the Board. It would be possible for Board members to be selected who have the appropriate skills and knowledge in the building and construction industry but don’t have an association with a training provider.

Propositions for feedback

P9: The Act should confirm the principle that Board members' overriding fiduciary duty is to the Board and its objects under the Act.

Committees

Section 13 of the Act authorises the Board to establish committees as it sees fit and requires it to establish and maintain a committee in relation to each of the nominated sectors (civil, commercial and residential) to represent the interests of those sectors in relation to the Fund’s management and allocation of Fund monies; and to advise the Board on any matter relevant to the relevant sector.

Early engagement with Board members has indicated that the knowledge of the industry captured within these committees are a valuable input into the Board’s decision making and priority setting. It has also been suggested that there is a balanced representation of interests on these committees, which further contributes to the value of these committees to the Board. It is also understood that they have had variable use over time, but when a central input to the work of the Board, they can be a valuable resource.

It is not uncommon for a finance and audit committee to be chaired by a party external to an organisation. In order to attract candidates of an appropriate calibre, it would be beneficial if the Act permitted remuneration of committee members if authorised by the Minister.

Staffing

The CITF Act specifically excludes public service employees from becoming staff of the CITB. Whilst this arrangement reinforces the Board's independence from government, it may also serve to restrict the Board's access to Department staff with strong institutional knowledge of the CITB's operating environment, and of the interconnections between the CITB and government investment planning processes.

A more flexible approach in this regard is suggested by the *South Australian Skills Act 2008* (SA), which permits the assignment of public service employees to the Commission, and with the agreement of the Minister, use of the staff, equipment or facilities of a government.

Propositions for feedback

P10: The Act should formalise the requirement to consult with Sector Committees during the preparation of the Training Plan.

P11: The appointment of an independent Chair of the Finance and Audit Committee should be enabled by permitting the Minister to approve remuneration of the Chair of Committees.

P12: The Act's position in relation to the use of public service employees should reflect that in the *South Australian Skills Act 2008* to enable more integrated and complementary connections between the Board and Government.



ToR B: Levy

- Is the current levy rate of 0.25 per cent of the estimated value of building or construction work (or such other percentage not exceeding 0.5 per cent of that value as may be prescribed in regulations) appropriate to meet the workforce needs of the sector?
- Are the exemptions to paying the levy as described in Section 23 of the CITF Act and in the Regulations appropriate?
- Is the current levy collection method effective?
- Are there alternative collection methods that would improve levy collection?

The CITF Levy is a charge on most building and construction over \$40,000 in value (the specific exemptions are discussed later in this Issues paper). The Levy is entrusted to the Board which administers the Levy and allocates it, under its Training Plan, to various forms of training and skill development for people employed in the building and construction industry.

Levies are paid for the benefit of those working or who may work in the building and construction industry. The process is that the Levy is initially paid by the project owner, and this cost is ultimately paid by the client, with the value being incorporated into costs and charged to the end consumer of those services.

The questions posed in the Terms of Reference go to five inter-related issues:

The scope of works the levy is applied to.	This is fundamentally a question of the base to which the rate is applied. Are the exemptions and exclusions still appropriate?
The method of calculation / collection (i.e. project value; employee or employer data such as payroll or turnover).	The method should be determined having regard to the policy objective of having a levy and with regard to efficiency and effectiveness. The scope will also be influential – for example if there is not a defined “project” e.g. in the case of mining, then the levy value could not be calculated. Whether or not GST is part of the method of calculation is a sub-set of this question.
The rate at which the levy is applied (currently 0.25 per cent of project value) and the threshold at which levy becomes payable.	The rate determines the amount of income the CITB collects and can allocate according to its objects. The rate is a decision that has to follow once the scope and method of calculation is determined.
The collection process for people to pay the levy.	Presently the payment of the levy is a standalone process not incorporated with any other transaction or utilising any collection agencies.
Compliance	Compliance activity influences revenue, which in turn can impact on what the rate needs to be to fund training.

Scope

The levy is not payable for building and construction works with a project value below \$40,000 and for certain types of, and certain components and items used in, building and construction. Exemptions and exclusions in the legislation reduce the scope of projects for which the levy is payable.

Exemptions and exclusions contained in the CITF Act for which a levy is not payable include:

- Main or core turbines or generators to be installed at power stations involved in the generation of electricity for the State's power system
- work associated with any operation under the *Petroleum and Geothermal Energy Act 2000* (SA), the *Petroleum (Submerged Lands) Act 1982* (SA), the *Mining Act 1971* (SA) and the *Opal Mining Act 1995* (SA). This does not include work carried out on a mining or petroleum project that is otherwise covered in the housing sector or the commercial sector of the building and construction industry as defined by the Regulations, but does include civil works
- maintenance and repair work carried out by a self-employed person or employee of a person for the benefit of their employer where the principal business activity of the person performing the works is not in building or construction work – notably this sees maintenance and repair work carried out by local council employees exempted
- construction, alteration, repair, demolition or removal of a fence; or work directly associated with the care, conservation or rehabilitation of agricultural land.

Building and construction projects on Commonwealth property used for a public purpose are also not leviable under the CITF Act.

Since the introduction of the Act, industry-wide changes in building and construction industry and other sectors prompt the question, whether the current levy scope and applicability remains 'fit for purpose' and consistent from a public policy perspective.

Electricity generation

The Act enables the Regulations to specify items that are not subject to the levy. Regulation 13(3) provides:

"...main or core turbines or generators to be installed at power stations involved in the generation of electricity for the State's power system constitute a class of items the cost of which will not be taken into account for the purposes of the calculation or imposition of the levy under the Act"

Changes in the electricity market and electricity generation in South Australia have complicated the interpretation of this exemption. There are difficult questions of interpretation around what constitutes a turbine or generator and what is generation for "the State's" power system. There are now many contributors to the State's power system. The public policy reason for this exemption may have been linked to the provision of an essential utility by a single government-owned provider. (Originally when the Act was passed, the levy was also not payable in respect of building or construction work carried out for or on behalf of a government authority, unless the work had been tendered out.) Western Australia and Queensland do not exempt works associated with generation, supply or transmission of electric power.

Mining and Petroleum civil construction works

Of interest is whether or not building and construction work associated with Mining and Petroleum projects should continue to be exempted from paying the levy if the nature of the activity would otherwise be captured and does not directly relate to core resources operational business. Importantly, it is not proposed that consideration extend to core resource exploration work, or any works currently identified as exemptions under the WA model.

However, Regulation 15 excludes work associated with any operation under the *Petroleum and Geothermal Energy Act 2000*, the *Petroleum (Submerged Lands) Act 1982*, the *Mining Act 1971* or the *Opal Mining Act 1995*. Work carried out in the housing sector or the commercial sector are exempt under this Regulation, so the exemption pertains to civil construction in the mining and petroleum sector.

These exemptions reflect submissions on the original Bill for the CITF Act by mining industry proponents that the mining sector should be exempt from the levy based on:

- Views expressed that under the Western Australian levy scheme, companies in the sector, which already spend a large proportion of budget on structured training, were unfairly impacted
- The industry having high capital costs, which made the imposition of the Levy on capital cost unfair, compared to other industries
- The uncertain future of the then Commonwealth Training Guarantee Levy, which, if continued, would have resulted in the industry being subject to two training levies (this was abolished in 1996)

In Western Australia some activity is covered that is not covered in South Australia. They have some exemptions, but these are limited to activities which can be described as “core resources operational business”. This includes exempting unsealed haul tracks associated with “a resources operation, including work resulting in declines, inclines, adits, and cross cuts”. But it does include pipelines, processing facilities, airfields and sealed and unsealed roads, bridges, and transportation tunnels.

In South Australia the exemptions are much broader and include, for example “for construction of temporary tracks or an access track for a purpose associated with mineral or petroleum exploration activity, and other earthworks associated with such exploration activity”. South Australia also excludes, for example, the maintenance of an airstrip or landing pad.

Broadening the capture of leviable activities on or around mining and petroleum projects would considerably increase levy collection rates. This Issues paper tests whether the more narrow definitions applied in Western Australia are more appropriate.

However, the history of the Fund, the views of the building and construction sector, and the mining sector, should inform the position that is taken as to the continuation of whether mining and petroleum projects are so comprehensively exempt from building and construction activities that would be otherwise be payable.

Employment status of workers for local council projects

In Schedule 1 1(b) of the Act it states building and construction work includes:

- the construction, alteration or repair of any road, street, parking area, footpath, thoroughfare (for pedestrians or vehicles), kerbing, guttering, roundabout, median strip, or the performance of other similar roadworks;

However, there is an anomaly regarding maintenance and repair work in Clause 2 of Schedule 1 – Exclusions whereby the nature of the employment contract determines who is liable to pay the levy- not the nature of the work, nor the trades required. For example, a council is not liable to pay the levy on maintenance or repair work carried out on roads and the like by its own employees; however, if a council engages independent contractors or non-council employees to carry out this work, a council will be liable to pay the levy. This exemption is not extended to road building or other building and construction work that is not maintenance or repair work.

This distinction appears to be inconsistent with the intention that works involved in building and construction activities over the threshold amount should be captured, regardless of the employment arrangement of those carrying out the repair and maintenance work.

P13: If an item's cost would ordinarily be captured by the Act, the fact that it is associated with generation, supply or transmission of electricity should not exclude that item from calculation of the levy. (For example, construction work associated with the installation of wind turbines or solar panels would be leviable activity.) [See regulation 13(3) of the Regulations].

P14: If an activity would ordinarily be captured by Schedule 1 of the Act and the activity is maintenance or repair work carried out by a self-employed person or an employee for the benefit of his or her employer, where the principal business activity of the self-employed person or employer is not in the building and construction industry, this activity should not be excluded from building or construction work for the purposes of the Act. (For example, maintenance or repair work performed by employees of a council would be leviable activity – as is the case presently if such work is contracted out.) [See Schedule 1(2)(a) of the Act]

P15: If an activity would ordinarily be captured by Schedule 1 of the Act, the fact that it is associated with mining and petroleum activity should no longer automatically be grounds for exemption. Exemption should apply when associated with core resources operations or other specified activities. (For example, earthworks and building activity associated with the construction or maintenance of roads, tracks, or airstrips would be leviable activity. However, if WA's exemptions were mirrored, then work associated with resource exploration, unsealed haul road tracks etc. would continue to be excluded) [See Schedule 1(15) of the Act.]

Method of levy collection

The levy is applied to project value and is payable by the project owner.

Calculating the levy using project value has limitations. There is a heavy reliance on self-reporting by project owners with the allied risk of underreporting and incorrect application of the legislation. It generates complexity and administrative burden compared with other possible models. It also makes the task of ensuring compliance more complicated than other models.

At present the project-value basis for calculation of the levy requires a project owner to be identified. That person is liable to pay the levy. The Act defines a project owner as:

- a. If a person has been engaged (other than as an employee) to carry out, or to cause to be carried out (including by the use of one or more subcontractors) all, or substantially all, of the building or construction work associated with a particular project – that person
- b. In any other case – the person for whose direct benefit the building or construction work exists on its completion

The project owner is ostensibly the primary project owner under the head contract, however if the primary project owner avoids paying the levy, project owner status shifts to the next project owner (generally a subcontractor) who it then responsible for payment of the levy.

There is, therefore, often confusion about who a project owner is and this problem can be more acute where:

- the project does not hinge on a single contract, but is made up of smaller components under different contracts
- there are multiple (sub-) contractors.

Potentially any of the following parties can be a project owner:

- Landowner
- Homeowner
- Lessee (ie. Fitout)

- Main contractor / Builder
- Sub-Contractor
- Council
- Developer
- Private Certifier
- Architect / Designer / Draftsman

In summary, who is considered a project owner is a point in time issue determined by the judgement of the various entities delivering a project about their liability to pay the levy, or not. One model that has been suggested is that the Act could specify that the project owner is the land owner or the head lessee. An alternative approach is to ensure the head or principal contractor always pays the levy on the full value of the project, irrespective of the nature or timing of work provided by sub-contractors on the same project. The Review is interested to understand any issues that would be associated with these approaches.

The Australian Capital Territory *Building and Construction Industry Training Levy Act 1999* (ACT) has a definition of “project owner” which varies from the definition used in the South Australian Act. The ACT Act adopts a definition with two elements, the first of which centers on the owner of the land on which the building and construction occurs, as follows:

project owner, for work, means—

- (a) if the work is done on land by or for the owner of the land—the owner; or
- (b) in any other case—the person on whose behalf the work is done.

The KPA Review noted that an alternative to the project-value-based levy is one which is labour-based. Options identified included:

- utilisation of the payroll tax system
- utilisation of existing infrastructure operating within the industry (specifically the *Construction Industry Long Service Leave Act 1987*); and
- working within the existing CITF Act framework by benchmarking the value of the labour component for projects within each of the three construction industry sectors

That review reported that at that time there was no support in consultations for changing the project-value-based nature of the levy.

The *Construction Industry Long Service Leave Act 1987* provides for employers to contribute a portion of the remuneration value paid to employees to a Fund to facilitate portability of long service leave entitlements. The scheme covers building, electrical and metal trades work. This is different to the coverage of the Construction Industry Training Fund scheme.

The long service leave scheme is funded on a compulsory industry levy paid by employers. The levy is a cost to business which is ultimately passed through to the consumer. The payment mechanism is a bi-monthly return completed by eligible employers who employ eligible workers, containing the number of days worked and remuneration paid to construction workers during each period.

An advantage to this model is the certainty arising from the method of calculation (point-in-time total remuneration paid to an employer’s workers) and rigour (bi-annual returns accompanied by the levy payment) compared with the project value model.

Further, transferring the levy collection point from project owners to employers could leverage employers’ existing wage payment and HR systems rather than requiring reference to project value.

This could bring transparency, simplicity, certainty and reduced administrative burden to the scheme.

Civil construction

The application of the levy to the civil construction sector is more difficult than for the residential and commercial sector. A range of issues, peculiar to the civil sector have been identified:

- Inconsistent application of building approval laws to civil construction.
- The civil sector is often unable to access training reflecting its 'share' of the funds, resulting in complaints that the industry is under-funded. One reason for this may be that, compared to the other sectors, there are comparatively fewer opportunities to deliver structured training to workers, with the sector having fewer formal training requirements.
- A lack of long term planning under the CITB's annual funding planning cycle is a risk to the pipeline of workers needed on projects that are delivered in the years beyond 12 months.
- The sector is heavily regionally based, making it harder to deliver structured training and engage a locally trained workforce.

Alternative levy collection model: South Australian Portable Long Service Leave

Instead of a levy being payable on a project value, the levy under the South Australian portable long service scheme is collected on the basis of construction work employees that are full time, part time or casual who spend at least half of their time building, or performing electrical or metal trade work. Employers pay a levy based on 2% of remuneration (excluding overtime). The levy excludes apprenticeships and employees who work less than three days in a month. This compares to 0.25% of the CITB training levy on project value.

The funding base under the Portable Long Service Leave scheme is linked to the workforce size, award coverage and percentage of workers' time in the industry. Notably, the scheme excludes workers predominantly employed in the civil sector.

The amount collected by the PLSLB in 2022 was just under \$21 million- this compared to CITB's just under \$27 million.

The comparisons are not direct, and joint levy collection would not be able to be implemented without changes to the Portable Long Service Leave Act – which is out of scope of this review. However, this does not discount there may be some lessons from this model that could inform improvements to the CITF Act. For example, compared to the CITF Act approach, this model provides greater clarity on who is responsible for payment of the levy (the employer); and the payment model is not reliant on a third party or process, such as council or planning approval, to ensure compliance. In addition, the payment amount does not occur upfront, but retrospectively to reflect the previous two months' construction activity.

There is merit in investigating potential CITB reforms based on the SA Portable Long Service Leave model, including:

- membership balance
- the requirement for levy payment being the responsibility of the building and construction employer
- payment being paid retrospectively to the completion of works
- the value of payment being linked to construction worker remuneration, rather than project value
- similar to Queensland (discussed in the case study, below), the collection of the levy being built into the collection of the Portable Long Service Leave process.

Propositions for feedback

P16: The levy should be calculated by reference to employee data not by project value to enable a similar quantum of funds to be collected via a more streamlined process.

P17: If the levy is still to be calculated by project value, the definition of project owner should be changed so that the levy is payable by the landowner or head lessee rather than the current definition of project owner.

P18: The Civil sector should remain as part of the CITF Act scheme.

P19: Planning for allocation of the Fund should be revised to better utilise available funds for the Civil sector, including in relation to attraction and retention initiatives; and short courses which equip Civil sector workers to work in other sectors when there is a downturn in civil construction activity.

Levy rate

The Levy is 0.25 per cent of the project value determined by the contract price. The CITF Act provides that the value on which the levy is based includes GST. The ACT and Queensland both exclude GST in the calculation of the total cost. It has been suggested that including GST as part of the project value is difficult for project management costing systems to calculate, as normally all costs are included then GST applied, but project owners have to calculate CITF Levy manually after this process.

The 0.25 per cent rate has been in place since the Act commenced in 1993. Previous Reviews have not recommended a change to the levy rate and there have not yet been any strong calls from stakeholders to change the levy rate. The current levy rate appears to deliver a quantum which enables the CITB Board to fulfil its functions.

The Board in February 2022 is reported to have recommended a decrease in the levy rate to 0.20 per cent due to the amount of levy not spent. However, this Board decision was made during the caretaker period and was unable to be actioned by the Minister. A reduction in the levy rate would make it consistent with the rates in Western Australia, Tasmania and the ACT. However, a direct comparison cannot be made, as there are different exemptions to be considered, for example, mining is included in the base collection for Western Australia.

A levy rate reduction would materially reduce income to the fund and with the current demands on the construction industry workforce, submissions regarding the levy and any evidence which may support a change to its rate are invited. An estimate of the reduction in the total monies raised (and resultant savings to project owners) if the levy rate was reduced to 0.2 per cent is around \$5.5 million over a year. However, these changes may be offset by the scope of the building and construction work subject to the levy.

Propositions for feedback

P20: In the absence of an alternative method of calculation to project value, the 0.25% levy remains at an appropriate rate for the Board to fulfil its role and functions under the Act.

P21: If the levy is based on project value, it should apply to a project's value excluding GST.

Levy threshold

The levy payment threshold value seeks to strike a balance between ensuring the fund is sufficiently replenished and avoiding capturing smaller scale building projects that, due to their volume, would increase the administrative workload involved in administering the Fund. The levy payment threshold in this way has increased over time from a base of \$5,000 in 1993 to \$15,000 in 2002 and to \$40,000 in 2017.

The South Australian levy payment threshold is the second highest of the five states/territory training levy schemes, noting the highest - the Queensland levy - is a composite of three levies payable on projects above \$150,000.

There are a number of factors that make calculation of the levy difficult. For example, there is an observable trend of increasing offsite and manufacturing processes and inputs into the building and construction industry and this is making levy calculation more difficult, particularly when skills essential to the building and construction works are performed away from the primary building or construction site.

In data presented to the review:

- around 20 per cent of the top ranked levy payers (by levy amount paid) account for a large proportion (around 70 per cent) of the levy monies collected; and
- around 20 per cent of the bottom ranked payers (by levy amount paid) account for a very small proportion (below 2 per cent) of the levy monies collected
- The top 500 payments (by levy value, which is below 3 per cent of all payments) account to almost half (48 per cent) of the levy monies collected.

This suggests the \$40,000 threshold results in a high transactional burden on low value levy collection.

One explanation for this is that the threshold amount is not indexed regularly in line with inflation, and as construction costs increase the threshold amount does not keep pace.

It may be that if the base is expanded by having fewer exemptions (discussed above) the levy payment threshold could be increased, which would result in a reduced administration burden on potentially thousands of small value projects, without dramatically impacting revenue.

3 This system is in the process of being upgraded by the CITB.

The threshold rate could be moved to the Regulations and a clause to enable a regular review and increases, for example three yearly, could be pegged to CPI rates. This would be consistent with government fees and charges where increases are linked to inflation.

Propositions for feedback

P22: If the levy remains calculated based on project value and exemptions are reduced resulting in an increase in revenue, the threshold of \$40,000 should be increased to reduce the administrative burden of payment and collection on low value projects.

P23: The levy threshold should be contained in the Regulations and reviewed periodically against CPI increases and other relevant data (such as expenditure from the Fund).

How the levy is paid

An online portal provides a guided process for payment of the levy by project owners³. This online application process provides the project owner with a receipt which can be provided to a local council in order to obtain approval for a building application for works to which the Levy payment relates.

In the annual report it was stated that to support the 2022/23 Training Plan, CITB plan to implement a number of initiatives to decrease collection red tape for levy payers including:

- Re-platform the training and levy administration system (TALAS) database
- Link in with the Department for Infrastructure and Transport e-Portal building lodgement application process.
- Improve the process of collecting levies in order to ensure CITB receives all revenues to which it is entitled and to ensure also the process is efficient and effective for both Project Owners and CITB.

It is understood that these reforms were initiated because it was recognised improvements are required, and the steps currently being taken will assist in improving the effectiveness of the current levy collection method.

Further work is required to improve capture and compliance, and this is being actively considered by the Board and CITB executive.

In terms of an assessment of the current process, the system is either reliant on the planning approval process, and for those activities which do not follow this process, there is an "honour system" payment arrangement. The type of projects which might not be captured under this arrangement include:

- Major projects which have an alternative planning approval process or projects which are approved by the Planning Commission that sit outside of the local government approval processes
- Air conditioning installations and repairs
- Fitouts (joinery, etc)
- Bathrooms
- Kitchens
- Fire protection
- Electrical rewires
- Tiling
- Painting
- Carpets
- Partitions
- New (internal) offices
- Landscaping

3 This system is in the process of being upgraded by the CITB.

- Fencing (if below required heights)
- Retaining walls (if below required heights)
- Repairs and maintenance
- Roadworks and footpaths
- Pipelines
- Electrical transmissions
- Subdivisions
- Demolition

There is also an "honour system" in place in relation to adjustments of the value of projects when this value has exceeded the level that was originally estimated when paying the levy. In addition, it has been heard there can be confusion as to who is responsible for payment.

Example

Capturing full value of a project

Multiple project owners may exist on a project (i.e. the builder and the client of the builder). The builder is contracted for the build (project value greater than \$40k) e.g. new house, but following practical completion, the client then contracts the remaining work such as connecting down-pipes to stormwater, paving, concreting, sheds, retaining walls, landscaping, etc. with one or multiple providers. These individual works may be less than \$40k, but collectively greater than \$40k. Rarely will a levy be paid by the client/project owner.



There is little incentive for councils who are required to check that the levy payment has been complied with, or paid at the appropriate rate.

With these limitations, it is an open question as to whether the collection method based on a project value, collected prior to building approval is the most effective means for capturing levy payments.

The payment ahead of approvals appears an effective lever for payment for those projects captured, but there remains a gap for those projects which fall outside this scope.

A Queensland Case Study

Levy Collection

In 2022 Queensland raised over \$44m through a collection method linked to combined levy payment system. The training levy represented payments of 0.1% on projects over \$150,000 in value. The total levies are **0.575% of the total cost of work excluding GST**, comprised of: Portable Long Service Leave Levy at 0.35% Work Health and Safety Levy at 0.125% Construction Skills Queensland Levy at 0.1%

As soon as practicable after receiving an amount of building and construction industry training levy, the authority must pay the amount to a building and construction industry training fund prescribed under a regulation to be held in trust for the training of persons in the building and construction industry.

Base

While the levy rate is lower and the threshold is higher, the base is broader. For example, the Queensland Act specifically covers the following:

- works for the generation, supply or transmission of electric power;
- works for solid waste disposal;
- works for the conveyance, treatment or disposal of sewage or of the effluent from any premises;
- works for extracting, refining, processing or treating materials or for producing or extracting products and by-products from materials;
- works for conveying products, by-products or materials;
- works for the irrigation of land;
- fences, other than fences on farms;
- land clearing and site preparation, other than for farming

Project Owner for the purpose of Levy Payment

The obligation for the notification of work which is the trigger for the levy payment is the responsibility of the person for whom the work is to be done. In practice this can be done on behalf of the client by another party, but this approach provides an alternate definition as to whom is ultimately responsible:

- If building and construction work is to be carried out, an approved form must be filed, with the authority or its agent by or for the person for whom the work is to be done.
- This compares to the South Australian approach which identifies the “project owner”, that is, the person engaged (other than as an employee) to carry out the building and construction work (including any subcontractors) or the beneficiary of the building or construction work.

The South Australian model could be improved by adopting aspects of the Queensland Construction Industry Training Fund approach in relation to:

- What is included in the base / scope of construction work captured
- Collection processes being combined with other levies, such as portable long service leave
- Responsibility for levy payment sitting with the person for whom the works are being done, rather than the “project owner”

Compliance and education

Compliance impacts on the amount of levy that is collected and therefore can be applied for the purposes of the Act.

It is understood that following the 2019 Amendments to the Board composition, decisions were taken to reduce the CITB resources that supported compliance and data analytic capacity, including how that capacity can assist determining compliance levels. This appears to have compromised the advice and service able to be provided to the Board to support their decision making and the effectiveness with which the Board can address non-compliance or non-payment of the levy.

The CITB's current executive is of the view increased education of the requirements of the CITF Act, improved factsheets on building and construction activities that are leviable, simpler forms and better linkages with PlanSA would all significantly contribute to improving compliance and the user experience and outcomes.

Propositions for feedback

P24: The CITB should increase the resources devoted to education and compliance.

P25: If the levy remains calculated according to project value, the South Australian Government should work with the CITB to identify reconciliation options for construction industry projects that are not captured by the usual planning approvals process.



ToR C: Allocation of funds obtained through the levy

Does section 32(3) of the CITF Act, which requires money for the provision of training to a given sector in “approximately the same proportion” as the amount contributed by that sector:

- create barriers to holistic workforce and skills development across the building and construction industry?
- result in challenges addressing any particular areas of need such as upskilling, higher-level training, or cross-sector skilling?

The Board’s Annual Training Plan sets the framework for training spending from the Fund. The Board has chosen to apply the Fund to pre-entry attraction initiatives (such as doorways2construction); to apprenticeship support (including employer and employee incentives) and short course funding.

CITB funded training can comprise:

- Tuition funding in the form of discounts on Trade School fees for eligible CITB-supported apprentices
- On-job training support towards the costs of training an apprentice on the job.
- Short course and refresher training including to maintain worker knowledge of industry codes, White Card, First Aid and regulations.

It can be seen from this that people not employed in the industry are excluded from accessing funded training. However, the building and construction industry is in need of more workers than are available and the undersupply of skilled workers is likely to continue and in the current labour market, potentially worsen. The CITB has limited ability to fund attraction initiatives.

Due to the variations in revenue in each year, and that apprenticeships which the Board contributes to stretch over four years, the Board adopts a conservative approach by retaining a contingency. Some suggest that more of the Fund should be applied than has been the tradition. Similarly, there are sound reasons for monies from the Fund to be applied towards administration and supporting activities such as research, data analysis, education and compliance.

The Act requires that the Training Plan must be prepared on the basis that money from the Fund for the provision of training will be allocated to each sector of the building and construction industry in approximately the same proportions as the resources of the Fund have been contributed by that sector. The Board achieves this by seeking information from project owners about the relative project costs attributable to each sector (residential, commercial or civil) and basing the allocations to sectors based on the aggregated relativities as disclosed by project owners. No other jurisdiction with a training levy has this model, but leaves the relative allocation to sectors within the industry to the discretion of the relevant board or authority.

This hypothecation is regarded by representatives of the civil construction sector as important to maintain, not least because it is the view of that sector that this has been difficult to achieve. Civil construction has fewer apprenticeships attached to it.

However, this hypothecation could limit the scope for holistic sector planning. The model is administratively complicated and there is a view that allocations to the sectors over time tend to even out.

The sector allocation model assumes a degree of worker attachment to the industry that is not borne out by statistics⁴ that show that workers in this industry are just as likely or more likely to change employers as workers in other occupations. It is also reported that employers in all building and construction industry sectors face an undersupply of suitably skilled or job-ready workers, whatever their employment background.

The sector allocation model therefore seems ill-adapted to raising the skill level of workers across the entire industry, addressing gaps in the skills workers present with; and providing assurance to employers that workers are adequately trained, irrespective of their employment history.

The focus under the hypothecation model may mean that emerging sectors within the building and construction industry are outside the Board's purview for allocation of monies under the Training Plan. Further, clearer objects in the CITF Act around the equitable and evidence-based distribution of monies collected could counterbalance any risk of inequitable allocation to a particular sector.

CITB access

To access short courses or apprenticeship subsidies, each worker registers with the CITB and obtains a CITB number. In order to do this, it is a policy decision of the CITB that the worker must be employed with the result that a person who is not in an employment relationship cannot access training funded by the CITB.

Propositions for feedback

P26: A minimum of 60% of the CITB fund allocations to training activity should be allocated between each sector of the building and construction industry in approximately the same proportions as has been contributed to the Fund by that sector. The remainder of training funds may be allocated for holistic or cross-sector programs such as sector attraction and cross-sector development.

P27: The CITB should allocate funding to administration activities such as research, data analysis, education and compliance.

4 <https://www.abs.gov.au/statistics/labour/jobs/job-mobility/latest-release>

ToR D: Training plans

What impact does the requirement under Section 32(1) for the CITB to produce a training plan on an annual basis have on:

- longer term workforce planning
- addressing longer term skills and workforce requirements
- investment in multi-year projects or programs?

A key role of the Board is the development of the Training Plan. The Training Plan sets out the Board's prescription for allocating money in the Fund to the areas that are most in need; and in areas in which the Board considers further investment is required. The Training Plan outlines the intended targets of the Board's investment and the expected dividends from that investment, and the Board's priorities for promoting employment in the industry to groups outside of the mainstream workforce.

The requirement to produce a training plan annually may constrain the Board's ability to plan for outcomes or projects that span several years. Further, the timing of its development and submission for Ministerial approval does not align with the planning cycle of training providers, adding to business planning uncertainty. It has been suggested that the annual planning cycle should be replaced by four-year rolling reviews of the overall strategic direction developed through the CITB's investment decisions, with capacity for annual adjustments and reallocation of funds.

How the fund is utilised through the Training Plan

The CITB funds accredited and non-accredited training through endorsed RTOs. Non-accredited training encompasses training in areas that sit outside of the traditional building trades, such as WHS legislation, business management, communication and teamwork, Handling of Asbestos and technical and specialist training such as CAD design and Wet Area Construction. Non-accredited training also responds to emerging technology and proprietary products used in the industry such as aerated concrete and steel frame construction (this component makes up around 40% of non-accredited courses funded by the CITB)

More specifically, the training plan identifies the types of training activity eligible for funding and the amounts quarantined for those types of training. Successive training plans have established a pattern of investment that reflects the industry's priorities for its workforce and for addressing the undersupply of new and skilled workers. The training plan also provides a medium through which the board can demonstrate the effectiveness of its investment year to year and project where funding needs to occur based on its analysis and intelligence provided through its sector committee representatives.

In addition, the training plan allows the board to articulate how and where funding can contribute to maintaining a productive and healthy workforce that is inclusive of all sections of the community contributing to the workforce and notably those sections of the community who are under-represented in the industry by a significant degree, including women.

From an industry workforce planning perspective, it is critical to understand where workers will be needed across the sectors, and emerging training requirements. Understanding what skills are needed in the current environment and moving forward allows for early and effective engagement with training providers and for the design and timing of funding initiatives. Forward-looking workforce planning also informs the design of training packages and qualifications to enable the industry to adopt and implement new technologies and work processes. There is also scope to improve sector-wide workforce planning through better alignment of Government and CITB information and market intelligence sharing in the formative stage of the development of a training plan.

Propositions for feedback

P28: Government and the CITB should develop processes that facilitate information and market intelligence sharing in the formative stage of the development of a Training Plan.

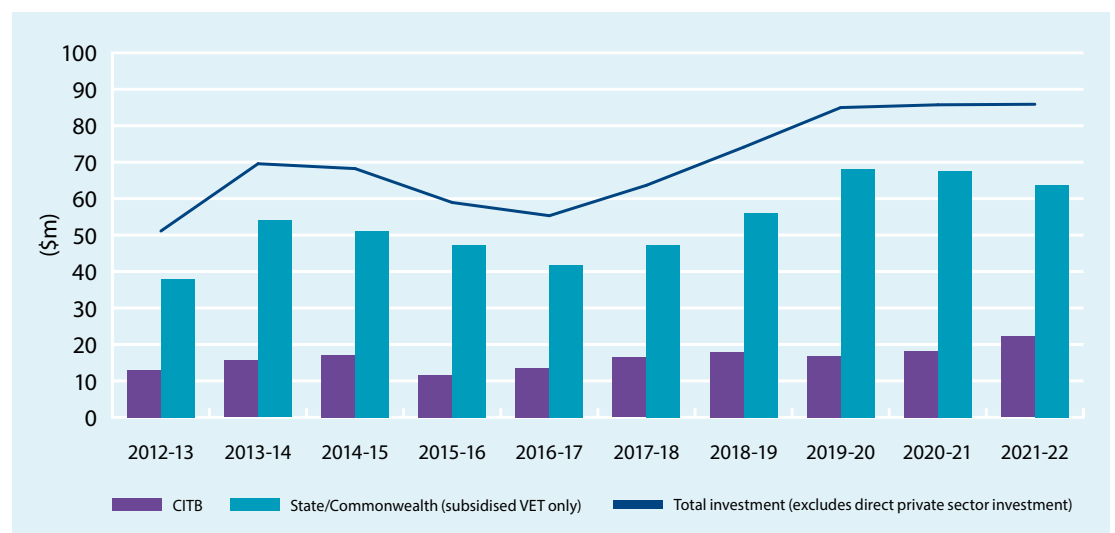
P29: The annual planning cycle should be replaced by four-year rolling reviews of the overall strategic direction developed through the CITB's investment decisions, with capacity for annual adjustments and reallocation of funds.

ToR E: Consideration of other models to support industry outcomes

Are there any other models for supporting industry training and workforce development outcomes that the reviewer recommends to assist the Construction Industry Training Board achieve its objectives?

In addition to the Fund, there are a number of other sources of funding that support skills and workforce development activities for the building and construction industry in South Australia.

The graph below outlines year-on-year investment across different funding sources over the last 10 years, noting that the private sector is also likely to make significant contributions in this area.



Public investment in skills and workforce development (building and construction, 2013-2022)

Source: CITB and Department for Education

Public investment in training for the building and construction industry

The Federal Minister for Skills and Training and the South Australian Minister for Education, Training and Skills recently signed a 12-month skills agreement, worth \$65 million, that will see 12,500 fee-free TAFE places, including 2,500 in a range of construction qualifications.

The Commonwealth Government also makes available financial incentives of approximately \$1 billion nationwide, annually, to employers and apprentices and trainees, through the Australian Apprenticeships Incentives System.

The Review welcomes views from stakeholders on this element of the Term of Reference and ways in which the many sources of government and industry investment could be optimised. This might include adopting features of interstate training levy schemes, which include combining the training levy with levies for portable long service leave, as well as any options for:

- Leveraging industry investment
- Enhancing employers' and employees' awareness of the available funded training options
- Ensuring better alignment between CITB and Government in funding and purchasing of training and towards building and construction sector-wide workforce development

Any examples, insights, or suggestions of a specific nature regarding other models that would support industry training and workforce development outcomes to achieve the objective of improved training for the building and construction industry are welcome.



Contact

CITFactReview@sa.gov.au

Construction Industry Training Fund Act Review Secretariat
Policy and Strategy
Skills SA
Department for Education

yoursay.sa.gov.au/citfactreview

