

# **CITB Board Submission to the CITF Act Review, Issues Paper**

**1 February 2023**

Board Members:	Role	Organisation
John Chapman	Presiding Member	CITB
Peter Russell	Employee Representative	Senior Industrial and Legal Officer, CFMEU
William Frogley	Employer Representative	Chief Executive Officer, Master Builders Association of SA
Mardi Conduit	Independent Representative	Barrister, Edmund Barton Chambers
Patrick Curran	Independent Representative	Principal, Curran Risk Management
Andrew Clarke	Industry Representative	Executive Officer, Master Plumbers South Australia
Maree Wauchope	Industry Representative	Chief Executive Officer, District Council of Barunga West
Pasquale Gerace	Industry Representative	Chief Executive Officer, Urban Development Institute of South Australia
Rebecca Pickering	Industry Representative	Chief Executive Officer, Civil Contractors Federation
Stephen Knight	Industry Representative	Regional Executive Director, SA Housing Industry Association

It is noted against each Board Response where Board members abstained or declared a Conflict of Interest and left the room.

Stephen Knight abstained from a number of responses, noting he was provided with insufficient time to consult with HIA members.

Peter Russell noted he abstained from all responses.

## 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 power (as outlined in Sections 11 and 12 of the CITF Act)?

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| 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. |
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**Response:**

*Yes, supported.*

*The Board agree that the Act should include Objects as opposed to Functions. This would ensure that the Board's purpose is clearer and provides greater guidance.*

*Abstained: Peter Russell.*

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

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| 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. |
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**Response:**

*Yes, supported.*

*The Board believes that the composition of board members should have a greater balance of employer and employee representation; however, should include a reference to knowledge / industry experience of the representative.*

*Abstained: Maree Wauchope, Peter Russell, Stephen Knight.*

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| 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. |
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**Response:**

*The Board believes that the Minister should advertise publicly for EOI. There should also be a process for a casual vacancy if it emerges, to avoid going through the advertising process again.*

*Abstained: Peter Russell.*

4.	The Act should require the appointment of a Board member with extensive knowledge of training policy and the contemporary training landscape.
<p><b>Response:</b></p> <p><i>The Board believes that the Act should require the appointment of Board members that have the right skills to do the job as well as ensuring balance of diversity. There should be a skills matrix for the Board. Board members should include people from the industry to add value as well as training and other relevant expertise to bring different perspectives.</i></p> <p><i>Abstained: Peter Russell, Stephen Knight.</i></p>	
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.
<p><b>Response:</b></p> <p><i>The Board believes that the Act should require the appointment of Board members that have the right skills to do the job as well as ensuring balance of diversity. There should be a skills matrix for the Board. Board members should include people from the industry to add value as well as training and other relevant expertise to bring different perspectives.</i></p> <p><i>Abstained: Peter Russell, Stephen Knight.</i></p>	
6.	The appointment of Deputy Members should be reserved only for members appointed due to a specific skill set
<p><b>Response:</b></p> <p><i>No, not supported.</i></p> <p><i>Board members do not support the appointment of Deputy Members.</i></p> <p><i>Abstained: Peter Russell.</i></p>	
7.	The ability for the Presiding Member to exercise a casting vote should remain.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>The Board agree that the Presiding Member should exercise a casting vote.</i></p> <p><i>Conflict Interest declared: John Chapman left the room whilst this item was discussed by Board members.</i></p> <p><i>Abstained: Peter Russell.</i></p>	

8.	The provision for a majority Board decision should remain.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>The Board agree that the provision for a majority Board decision should remain.</i></p> <p><i>Abstained: Peter Russell.</i></p>	
9.	The Act should confirm the principle that Board members' overriding fiduciary duty is to the Board and its objects under the Act.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>Abstained: Peter Russell.</i></p>	
10.	The Act should formalise a requirement to consult with Sector Committees during the preparation of the Training Plan.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>Abstained: Peter Russell.</i></p>	
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.
<p><b>Response:</b></p> <p><i>The Board supports this recommendation on the assumption that the appointment of an independent Chair to the Finance and Audit Committee remains the responsibility of the Board.</i></p> <p><i>Conflict of Interest declared: John Chapman left the room whilst this item was discussed by Board members.</i></p> <p><i>Abstained: Peter Russell.</i></p>	
12.	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.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>Abstained: Peter Russell.</i></p>	

Levy	
<p>Are the exemptions to paying the levy as described in Section 23 of the CITF Act and in the Regulations appropriate?</p>	
13.	<p>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]</p>
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>The Board agrees that exemptions under Regulation 13 (3) should be removed.</i></p> <p><i>Abstained: Peter Russell, Maree Wauchope, Rebecca Pickering.</i></p>	
14.	<p>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]</p>
<p><b>Response:</b></p> <p><i>The Board supports the exclusions listed in Schedule 1(2)(a) of the Act are too broad and should be amended; however, recommend that further review and consideration be given to expanding the power under the Regulations to review and make changes to exclusions and exemptions.</i></p> <p><i>Conflict of Interest declared: Maree Wauchope left the room whilst this item was discussed.</i></p> <p><i>Abstained: Peter Russell, Rebecca Pickering.</i></p>	
15.	<p>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]</p>
<p><b>Response:</b></p> <p><i>There is scope to give this further consideration; however, the Board were unable to form a concluded view in the absence of additional information.</i></p> <p><i>Abstained: Peter Russell, Rebecca Pickering.</i></p>	

Is the current levy collection method effective?

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.

**Response:**

*No, not supported.*

*The Board do not support this due to the administrative burden.*

*Abstained: Peter Russell.*

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.

**Response:**

*No, not supported.*

*The Board do not support the definition of project owner being changed. The Board believes that the collection of the levy should be paid as a condition of development approval.*

*Conflict of Interest declared: Maree Wauchope left the room whilst this item was discussed.*

*Abstained: Pasquale Gerace, Peter Russell, Rebecca Pickering, Stephen Knight.*

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

**Response:**

*Yes, supported.*

*The Board supports the Civil Sector remaining part of the CITF Act.*

*Conflict of Interest declared: Rebecca Pickering left the room whilst this item was discussed.*

*Abstained: Maree Wauchope, Peter Russell.*

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.

**Response:**

*The Board believes that the civil sector is not currently funded adequately through federal and state funding initiatives due to several reasons, including how some occupations that support Civil Qualifications are not listed on the Australian and New Zealand Standard Classification of Occupations and therefore aren't considered for government funding. However, the Board believes that sectors should be supported based on contributions.*

*Conflict of Interest declared: Rebecca Pickering left the room whilst this item was discussed.*

*Abstained: Maree Wauchope, Peter Russell, Stephen Knight, William Frogley.*



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?

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.

**Response:**

*The Board agrees the current rate remains sufficient to fulfil its role under the Act, subject to response to Question 21 and any further amendments to the Act that may increase or reduce the levy payable. The Board recommends that levy rate and value should be included within the Regulations.*

*Abstained: Maree Wauchope, Peter Russell, Stephen Knight.*

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

**Response:**

*Yes, supported.*

*The Board agrees that the levy should apply to the project value excluding GST.*

*Abstained: Peter Russell.*

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.

**Response:**

*Yes, supported.*

*Abstained: Peter Russell.*

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).

**Response:**

*Yes, supported.*

*The Board believes that the levy threshold and the levy rate should be contained in the Regulations and reviewed periodically against CPI increases and other relevant data (such as expenditure from the Fund).*

*Abstained: Peter Russell.*



Are there alternative collection methods that would improve levy collection?

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

**Response:**

Yes, supported.

The Board agrees CITB should increase the resources devoted to education, governance and compliance, and have been working on a strategy in this regard.

Abstained: Peter Russell, Stephen Knight.

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.

**Response:**

Yes, supported.

Abstained: Peter Russell.

**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?

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.

**Response:**

The Board believes that the CITB fund allocations to training activity should be allocated:

1. Between each sector of the building and construction industry in approximately the same proportion as has been contributed to the Fund by that sector, and
2. To achieve objects of the Act.

The Board do not support a numerical percentage on spending application.

Abstained: Peter Russell, Rebecca Pickering, Stephen Knight.

27.	The CITB should allocate funding to administration activities such as research, data analysis, education and compliance.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>The Board agrees and are developing a strategy in this regard.</i></p> <p><i>Abstained: Peter Russell.</i></p>	

Training plans	
<p>What impact does the requirement under Section 32(1) for the CITB to produce a training plan on an annual basis have on:</p> <ul style="list-style-type: none"> <li>• longer term workforce planning</li> <li>• addressing longer term skills and workforce requirements</li> <li>• investment in multi-year projects or programs?</li> </ul>	
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.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>The Board agrees, noting that CITB have already sought greater input from sector committee members to support the development of the 2023/2024 training plan year.</i></p> <p><i>Abstained: Peter Russell.</i></p>	
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.
<p><b>Response:</b></p> <p><i>Yes, supported.</i></p> <p><i>Abstained: Peter Russell.</i></p>	

Consideration of other models to support industry outcomes	
<p>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?</p>	
<p><b>Response:</b></p> <p><i>CITB are currently considering the development of a robust workforce planning strategy.</i></p> <p><i>Abstained: Peter Russell, Stephen Knight.</i></p>	

## Additional Information

This is an opportunity to provide additional feedback on the CITF Act that has not been addressed in the Issues Paper and Terms of Reference.

### **Response:**

1. *The CITF Act currently references the use of a Common Seal (Part 2, 4 (2), Part 3, Div 1, 15) CITB do not use Common Seals currently. The Board recommends that reference to the Common Seal be removed from the Act.*
2. *Board Expenses – Part 2, 10 – Allowances and expenses. The Act refers to the Board being entitled to receive allowances and expenses approved by the Minister. The Board recommends the Presiding Member be able to approve reasonable travel costs of any Board Member (particularly for Board Members located regionally) in line with the Determinations of the Commissioner for Public Sector Employment or similar - 3.2 Employment Conditions - Remuneration, Allowances and Reimbursement. To ensure transparency, it would be suggested that the Act also provide for such approvals for such cost reimbursements to be made public in a timely manner on the CITB website.*
3. *The Board recommends an independent review of the Presiding Member's remuneration to better reflect the role and responsibilities.*

*Conflict of Interest declared: John Chapman left the room whilst item 3 was discussed.*

*Abstained: Peter Russell.*