



Joint unions submission into the review of the *Construction Industry Training Fund 1993 (SA)*

1. This submission into the review of the *Construction Industry Training Fund Act 1993 (SA)* is provided jointly by the SA Divisional Branch of the CFMEU Construction and General Division, the Communications, Electrical and Plumbing Union SA Branch (CEPU), and the South Australian District of the CFMEU Manufacturing Division.
2. We are relevant unions representing thousands of a wide variety of workers within the scope of the *Construction Industry Training Fund* scheme, including workers in building labouring, building trades, and the electrical and plumbing trades.
3. We are grateful to the reviewers for granting an extension of time for the filing of this submission.
4. We strongly support the existence of a construction industry training fund, however amendment to the current legislative framework is necessary to ensure that the scheme operates in the interests of all stakeholders, including workers and potential workers. Critical to that amendment is the restoration of union representation on the CITB board.

History of the CITF Act:

5. The history of the CITF Act was helpfully detailed in the KRA report. We do not replicate that history in this submission, other than to make some brief comments about the nature of the scheme.
6. Firstly, the scheme was self-conceived by the construction industry, including unions. It is one of a number of significant self-created industry schemes within the construction industry, some formalised legislatively some not, including:
 - a. Construction Industry Portable Long Service leave;
 - b. Building Industry redundancy schemes; and
 - c. Industry superannuation.
7. That the scheme had its genesis in industry consensus and industrial compromise is significant in understanding why the legislation was crafted in the manner that it was, which involved a number of industry parties having a stake in the governance of the organisation and involving a series of mechanisms to ensure that no one particular interest could dominate.
8. With great respect to the reviewers, we consider it important that the CITF Act's provisions are understood as a whole. We would caution the reviewers against taking an approach of

breaking the components of the scheme into atomised parts and making recommendations in isolation without considering the effect that amending one aspect of the legislation may have on others.

9. For instance, in so far as propositions suggest including objects for the legislation, changing the board's composition, altering the nature of board appointments, and detailing specific duties for board members, it is important to understand that all of these aspects of the legislation interact, and must work cohesively. That the previous Liberal Government did not understand this reflected was the approach that they took to amending legislation, and to the ultimate detriment of what the scheme set out to achieve..
10. The CITF Act, as before the 2019 amendments, must be understood as a whole. It provided for a board that had representative qualities, whilst being somewhat unbalanced, but protected against that imbalance by requiring consensus decision making on matters of significance. The duties placed upon board members by the legislation recognised that the board was representative and were intended to ensure against the pursuit of private interests and improper use of information whilst still allowing those board members to properly represent relevant industry stakeholders.
11. We also consider that it is important to recognise, as the KRA report did, that CITB is not intended to be exhaustive actor in respect of construction industry training and does not operate to the exclusion of Government investment in the sector. It is not the use of the private monies of the employers that fit within the levy's scope, but in effect public monies to be spent for public good. There is no proper expectation by employers within the scope of the levy that they receive direct expenditure by the Board on their business in proportionate amounts, nor should there be for industry components.
12. For the most part, it is our view that the scheme functioned well for decades. Limited examples of bad decisions historically were in our view better considered the result of bad judgment by particular persons and did not in our view represent systemic flaws.
13. The amendments passed by the Marshall Liberal Government reflected a poor understanding of the nature of the Act. They created a scheme without cohesion and have in our view undermined training outcomes in the industry subsequently.

Board composition and industry representation:

14. We welcome the review of board composition. In summary, the Marshall Liberal Government:
 - a. Amended the Act to effectively remove union representation from the board's composition;
 - b. Appointed a board containing a significant number of board members from Employer backgrounds, including for the 2019 / 2020 board:
 - i. The Executive Director SA of the Property Council of Australia;
 - ii. The Regional Executive Director of the SA Housing Industry Association;

- iii. The Chief Executive Officer of the Master Builders Association;
 - iv. The Chief Executive Officer of the Civil Contractors Federation;
 - v. The General Manager of Sarah Constructions;
 - vi. The design director from the Hickinbotham group
- c. appointed Aaron Cartledge, described in the 2019/2020 annual report as being a 'construction industry consultant' who provides services to employers, and who was reported contemporaneously to be consulting to the Master Builders Association¹ as the 'employee representative' with no representation appointed from stakeholders relevant to the interests of workers.
15. The approach that the former Liberal Government took to CITB was nakedly partisan, and was not in the best interests of training in the construction industry. It destroyed a decades long commitment to the cooperative industry management of training.
 16. That this review must consider the 2019 legislation and its effect was the result of Labor in opposition, and the cross bench, amending that requirement into the bill that passed parliament.
 17. We do not seek to comment on any particular board member's appointment, suitability, or motives in participating in CITB.
 18. We do, however, consider that the compositions of the boards appointed since the Marshall Government's changes to the legislation have reflected only a narrow range of perspectives, and that this has impacted the Board's capacity to deliver outcomes.
 19. We do not contest that there is a value to having employer perspectives involved in industry training. It is important, for instance, that training needs be considered having regard to what business is forecasting it will require in future. It is also important to the longevity of the scheme that business considers itself a stakeholder.
 20. It is undoubtedly also true that there are issues upon which heads of employer associations and senior management of companies can offer little insight, and which would benefit from the insight and assistance of workers, expressed through their unions. For instance, in so far as the Board is concerned with impediments to persons completing qualifications, significant insight may be able to be gained from the views of workers who have either not completed, or who have previously completed training.
 21. We do not understand there to have been any industry calls for the removal of union representatives from the CITB board at the time of the Liberal Government's amendments. We do not understand the changes to have been supported by industry at the time. The

¹ [SA government appoints former union boss Aaron Cartledge to CITB | The Advertiser \(adelaidenow.com.au\)](https://www.adelaidenow.com.au/sa-government-appoints-former-union-boss-aaron-cartledge-to-citb/news-story/)

changes are explainable only as representing a Government desperate to punish what it perceived as its political enemies, to the detriment of workers and training outcomes.

22. That the Marshall Government was not interested in pursuing a skills based board is evident in the nature of the Board that it appointed, which was in effect a representative board without any true representative character.
23. There is little doubt, in our submission, that CITB's conception of the relevant industry stakeholders was significantly impacted by the changes to the composition of the board members, and the removal of unions. Since those changes occurred it is our experience as relevant unions in the industry that the amount of interaction, consultation, and engagement between CITB and our unions and members has been extremely minimal, or non-existent.
24. Indeed, structures which had previously included relevant unions and been somewhat representatives after the board reforms became increasingly less so. For instance, the Commercial Sector Committee ceased having any involvement of the relevant union for that sector the CFMEU,² and instead expanded its membership to include a number of additional owners and managers from construction companies.³
25. The appointments made in 2022 did include an employee representative from a relevant union, however the full appointments did not restore balance to the board. This can be understood as an improvement, but still falling well short of what is appropriate.
26. The loss of insight and perspective, and the failure by CITB to conduct itself in a properly consultative and industry inclusive way during this time has undoubtedly weakened the organisations efforts and the prospects of success in its programmes. By taking this approach, CITB has not benefited from the institutional knowledge that unions could provide, and have lessened their access to, and feedback from, the workforce.
27. We have had the opportunity to review the McKell institutes submission to this review, which we are grateful for, and which strongly supports the presence of union representation on industry boards.
28. As just one limited example of the lost opportunities that arise from not involving unions in the process of considering industry training, we note that although in some seemingly limited ways CITB's initiatives through its Access & Equity program endorse the idea of mentoring,⁴ those efforts are not more broadly attempted, and no efforts have been made to identify mentors utilising support from relevant unions.
29. This is despite relevant unions, including the CEPU- Electrical Trades Union, calling for the establishment of industry pilot programmes to provide apprentices with specialised support and advice from workers in their industry as a method of reversing falling apprentice completion rates in their industries.⁵

² A CFMEU member with a history working in the construction industry is now a nominee of the committee after the 2022 board appointments;

³ Compare CITB annual report 2016-17 p 29 to CITB annual report 2020-2021 p 7.

⁴ [Access & Equity Program | CITB](#)

⁵ Electrical Trades Union, "Powering Australia Apprenticeship Support Network Pilot"

30. By casting its net narrowly, in terms of the views which have been sought, the Marshall Liberal Government and consequently CITB have deprived themselves of both the insight and assistance that comes from true industry consultation and cooperation.
31. We are particularly concerned by decisions made by Boards since the Marshall Government's changes to board composition, in particular:
 - a. The decision to attempt to cut the levy in early 2022; and
 - b. Decisions to remove resources dedicated to research and to enforcement of the Act.
32. Whilst we make no suggestion of improper conduct by board members, these decisions appear, on face value, to plainly favour the short-term interests of businesses at the expense of training outcomes. We believe that they were unlikely to have been supported by union representation had it been present on the board at the time of the decisions being made.
33. We would also encourage this review to probe the circumstances surrounding the appointment and abrupt departure of the previous CEO, both occurring during the life of the Marshall Government appointed board which has been the subject of media reporting.⁶
34. We strongly encourage the review to recommend the amendment of the legislation to ensure that all relevant unions are properly represented on the CITB board, and that CITB significantly improve its efforts to engage with unions and industry workers.
35. The precise formulation of the board's composition should be the subject of extended consultation by the Government. In our submission, the appropriate composition is strongly influenced by the position taken on other questions including whether or not consensus decision making remains a part of the legislation.
36. We note that there are various other bodies that in our view may require some adjustment to their composition, including the industry committees. It is our view that these matters should be left to a newly composed board to consider in due course, and as such we do not make detailed submissions on them during this paper although they are of some significance.

Board decision making, and consensus:

37. There is a tendency to describe particular mechanisms in the CITF Act as originally conceived as a 'veto'. In our view a better conception is consensus decision making.
38. Consensus decision making was integral to the previous design of the board. It enabled the representative board to be composed in a way that did not strictly balance the business and worker representatives, whilst still protecting against sectarian decision making in critical matters like the setting of the levy.

⁶ The Advertiser, 'Head of state government construction training board leaves role, but there's no explanation why', 5 April 2022.

39. We respectfully submit that this review ought find that consensus decision making requirements should be a feature of the board, to Act as a safeguard against board imbalance.
40. If consensus decision making is not to remain in the Act, then we submit that it would become necessary to compose the board in a manner that did not contain an imbalance between business and worker representatives to act as a safeguard against partisan decision making.

Duties of board members:

41. We respectfully disagree with the views expressed in the KRA review of the Act as to the nature of the obligations owed by board members, and the effect of the term ‘represent the interests of’ within the CITF Act, its purpose, and its impact upon the fiduciary duty of board members.
42. It is our submission that this review should not bind itself to the erroneous views of the KRA review, which overly placed weight upon one legal opinion. Caution should be had with this approach.
43. Firstly, one should not confuse legal opinion with legal authority: the opinion received by that review does not have the force of a court interpretation of the CITF Act and should not be taken to be legally binding.
44. Secondly, the opinion upon which the KRA based its recommendation was questionable, at least in so far as the opinion is intelligible from the extracts contained in the KRA report. That review places significant reliance upon a single decision, *Bennett*, which it elevated to the point of being established principle, and then opined that the Board’s legislation in the writer’s view had language sufficient enough to cause about whether this ‘principle’ is displaced, whilst not actually displacing the ‘principle’.
45. The difficulty with this approach is that *Bennett* was a case dealing with a specific statutory scheme and in which dealt with confidentiality in circumstances of a direct conflict of interest between the representative board member’s electors and the board itself, including arbitrated disputation between the two parties. *Bennett* is generally considered to be an example of the ‘strict’ approach to duties held by board members on public boards, but is not, we submit, the only contemporary approach at law to conceiving the fiduciary duty in circumstances where a board member may be appointed in a representative capacity. Support for more pragmatic approaches can be found.⁷
46. The conceptualisation of the fiduciary duty on corporate boards has been considered in circumstances where a board member is appointed from a particular shareholder or group of shareholders. Courts have held that a board member does not necessarily breach the fiduciary duty by acting as a representative of those shareholders.⁸

⁷ See, for example, *Molomy v Whitehead* (1985) 63 ALR 282; Austin, R.P. (1995) “Representatives and Fiduciary Responsibilities- Notes on Nominee Directorships and Life Arrangements”, *Bond Law review*: Vol. 7: Iss 1, Article 3 See pg 29, available online at [Representatives and Fiduciary Responsibilities - Notes on Nominee Directorships and Life Arrangements \(austlii.edu.au\)](http://www.austlii.edu.au/au/other/auflii/au/other/bondlaw/vol7/iss1/art3.html)

⁸ *Re Broadcasting Station 2GB Pty Ltd* [1964-5] NSW 1648, 1663; *Berlie Hestia (NZ) Ltd v Fernyhough* [1980] 2 NZLR 150; [1980] ACLC (CCH) 34,210.

47. That a person may act as representative of external interests whilst present on a board is not inherently inconsistent with the interests of the company. In some instances, it may be in the interests of a company to have particular views represented. In a judgment delivered in 2020, the New South Wales Supreme Court endorsed this proposition (footnotes removed):

“A seat on the board of directors might be the most valuable attribute of membership of a company to ensure participation in management and sometimes to ensure distribution of profits in the form of directors’ remuneration rather than as dividends. Such an agreement may not be effective in so far as it purports to fetter the discretion of a director in the capacity as director. On the other hand while the directors of a company must act in the interests of the company, it may be in the interests of the company that there be a member of the board who will represent an interest outside the company, such as a mortgagee or another trader or a particular shareholder and who will be acting solely in the interests of such third party but may nevertheless be regarded as properly acting in the interests of the company as a whole.”⁹

48. It is not suggested that such a position entitles a person to act in direct conflict to the interests of the company or board, as was the case in *Bennetts*, not do we suggest that we believe that directors are entitled to conduct themselves in conflict with the objects of the CITF Act (if placed in legislation). It is more to suggest that in some circumstances the formalised consideration and representation of interests can be considered by companies themselves to be in the best interests of the company as a whole, and can be enacted by agreement. There is no difficulty in the Parliament, in its consideration of interests, adopting a similar approach in respect to the CITB board and legislating to ensure that particular perspectives are present at board level. That is, in fact, what we submit the Parliament has done in enacting the CITF Act, and in rejecting previous recommendations to remove representative language.
49. It is, we submit, in the best interests of the scheme to ensure that the interests of workers are represented at the board level, and it is accordingly appropriate that the capacity for this representation to occur remains, provided that the subject matter of the representation is appropriately cast.
50. In our view, more harm than good would come from removing representative language from the legislation. This is likely to lead to circumstances in which other board members argue that persons who are appointed in representative capacities *cannot* consider the interests of the persons that they represent. This would undermine the benefits of a representative board.
51. Furthermore, we believe that the underlying fiduciary duty is somewhat misunderstood, as it relates to CITB. A board members’ ultimate duty is to the organisation in achieving the objects of the Act. It is not to the personage that comprises the board’s membership at any given time. There is a subtle, but important distinction between the two. There are occasions when a diligent board member having regard to his fiduciary duty on a public board may have

⁹ *In the matter of Maleny Tricorp Hotel Pty Ltd* [2020] NSWSC 1699 at [56]

obligations to take actions which are adverse to other board members, for example in circumstances of identified maladministration.

52. Given that they can inform the fiduciary duty, if objects are formalised into the Act it is important that they are crafted appropriately so as to ensure that the interests of all relevant stakeholders, including workers, can be considered by the board. Again, it is our respectful submission that any recommendation to this effect should be for the Government to conduct extensive consultation prior to legislating.
53. For the reasons that precede, it is our view that it is appropriate that language relating to the representative nature of board members is appropriate to remain in the Act, and that in fact it should be recognised that board members can, and should, act having regard to the interests of the persons that they are appointed to represent. This is not inconsistent with their fiduciary obligations and is not an impediment to good governance in a legislative scheme that contains an appropriate board composition and safeguards.

Appointment process:

54. We support removing the expression of interest process for representative board members. Equivalent legislation tends to allow for nominations by the minister after consultation with relevant industry parties. That would be an appropriate approach to representative positions on the CITF board.
55. The current EOI process is slow, and adds administrative burden both on the scheme and upon persons who may be appropriate to sit on the board.

The levy:

56. There are different propositions advanced by this review with respect to the levy.
57. We would support the change from project-based levying, to an employee-based levying.. It is our view that this would:
 - a. Reduce complexity regarding the circumstances in which the levy is payable;
 - b. Ensure that monies that ought be levied are;
 - c. Remove current capacities for levy avoidance, relating to the meaning of project.
58. We do not support the combination of the levy, or linking the administration of this scheme with any other schemes including Portable Long Service Leave. We do not consider that Portable Long Service Leave, which is a stable, well run and industry supported scheme is within the scope of this review. No recommendations should be made relating to Portable Long Service Leave.
59. Significant differences in how various schemes operate make any comparison to Queensland difficult. For example, part of the monies levied collectively in the Queensland scheme appear to be monies payable for WorkSafe. In South Australia these monies are levied through the

independent *Return to Work Corporation*, a very different statutory scheme to its Queensland counterpart.

60. Whilst we do consider that an employee-based levy and consistency in the approach taken to coverage could be of benefit, we do not consider that CITB should in any way be responsible for levying monies in relationship to Portable Long Service Leave or other schemes.

The Training Plan:

61. We do not take issue with the idea that requirements to draw up training plans may be extended over multiple years, provided that those plans are also flexible enough to be adjusted as circumstances change.
62. We note that it is our view that the capacity already exists for training plans to be prepared with medium or long term lenses, whilst still being produced annually.

Responses to propositions:

63. We have attached to this submission as an annexure our responses to the various propositions advanced by the review paper.

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Annexure A: responses to propositions:

| | Proposition | Response |
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| | <p>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)?</p> | |
| 1. | <p>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.</p> | <p>We do not oppose the Act containing objects, however those objects should be the subject of extensive consultation by the Government prior to finalisation / enactment.</p> <p>It is important, in our view, that appropriate objects contain goals relevant to the interests of workers in the construction industry, and training outcomes for them, and not just objects regarding the provision of skilled labour to employers.</p> <p>It is important that the current functions of the board, particularly those that relate to work, health and safety are maintained.</p> <p>It should be noted that the creation of objects of the Act themselves does not necessarily remove the need for the board’s functions / purposes to be detailed in legislation.</p> |
| | <p>What opportunities exist to support the achievement of these objects in relation to</p> <ul style="list-style-type: none"> • The composition of the CITB • The staffing of the organisation • Other governance or operational arrangements | |
| 2. | <p>The Act should require the appointment of Board members to have a greater balance of employer and employee perspectives than is presently the case.</p> | <p>We strongly support amending the provisions relating to the Board’s composition to ensure greater balance between workers representatives their unions, and employer representatives.</p> <p>The board’s previous composition must be considered in conjunction with the veto power. If requirements for consensus are</p> |

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| | | removed, the board requires greater balance than the previous m |
| 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. | <p>We do not consider that an expression of interest process ought be mandatory, though it could be appropriate in some circumstances.</p> <p>An ordinary approach to representative boards, historically, has been to seek recommended appointments from peak bodies, including the trades and labour council.</p> |
| 4. | The Act should require the appointment of a Board member with extensive knowledge of training policy and the contemporary training landscape. | We do not object to the presence of a training expert on the board. |
| 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>We consider that Deputy members may have some value on representative boards, provided that they are capable of functioning as Deputies.</p> <p>Deputies ensure that interests are represented in circumstances where the primary board member cannot attend.</p> <p>There is little value to the present circumstance, in which Deputies are appointed from differing organisations.</p> |
| 6. | The appointment of Deputy Members should be reserved only for members appointed due to a specific skill set. | <p>We do not consider that this is appropriately crafted. We do not support changing the nature of the board to skills appointments. We support a representative board, and believe that deputies can serve a function for representative members, provided that they are from the same organisation as the persons who they are deputising.</p> <p>Deputies for skill set appointments do not serve the same function: people with particular skills do not share the same opinions or views. Deputies serve an effective function on representative boards, and should exist for representative members.</p> |

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| 7. | The ability for the Presiding Member to exercise a casting vote should remain. | The Presiding Member's casting vote has not to date been contentious, because the current composition of the board has ensured employer control of CITB. |
| 8. | The provision for a majority Board decision should remain. | <p>We consider that a return to a requirement that particular decisions are made by consensus is more appropriate for an industry and representative board.</p> <p>The review should not make anything from previous instances in which consensus was not reached: there is no basis to form a view about whether or not the decisions which were not the subject of consensus were appropriate or not.</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>We do not support this proposition.</p> <p>The Act currently contains provisions illegalising the use of information for particular purposes.</p> <p>Furthermore, to the extent that such an obligation were to be included in legislation, care should be had as to its drafting so as to not conflate the true nature of the appropriate fiduciary duty.</p> <p>A board member owes a fiduciary duty to the institution, and in ensuring it meets its functions under the Act.</p> <p>Regrettably, because 'the board' can refer to both the institution itself, and its directors, the fiduciary duty is often conflated to refer to the persons comprising the board itself.</p> <p>These interests can be distinct, for example in the instance of inappropriate conduct by a board, or maladministration.</p> |
| 10. | The Act should formalise a requirement to consult with Sector Committees during the preparation of the Training Plan. | Although we consider the practice desirable, it is not clear why this should be formalised in legislation. |
| 11. | The appointment of an independent Chair of the Finance and Audit Committee should be facilitated by | We do not take issue with this proposal. |

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| | <p>permitting the Minister to approve remuneration of the Chair of committees.</p> | |
| 12. | <p>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.</p> | <p>We do not take issue with this proposition.</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>It is our view that the levy system should be re-conceptualised, however we do consider that renewables should fit within the scope of the scheme.</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.)</p> <p>[See Schedule 1(2)(a) of the Act]</p> | <p>We do not take issue with this proposition.</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</p> | <p>We would require further information before providing a view on this proposition.</p> |

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| | 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] | |
| | 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. | We agree with this proposition. We consider that an employee / payroll based levy is preferable to the current project model. |
| 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. | Without a precise formulation of the suggested change, we do not have sufficient information to provide a view. |
| 18. | The Civil sector should remain as part of the CITF Act scheme. | We strongly agree with this proposition. |
| 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. | <p>Whilst planning can be improved, we do not agree with the board funding 'attraction and retention' initiatives in general.</p> <p>Offering sufficiently attractive industrial conditions is a matter for employers. The board's purpose / scope / objectives are <i>not</i> to simply act as a proxy for the broad interests of employers.</p> <p>We do not object to the offering of short courses to enable workers to develop transferable skills.</p> |
| | 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) | |

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| | appropriate to meet the workforce needs of the sector? | |
| 20 and 21 | <p>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.</p> <p>If the levy is based on project value, it should apply to a project's value excluding GST</p> | <p>It is our view that the method of calculations should be varied.</p> <p>We do not support any reduction in levy.</p> <p>It is our view that there is presently insufficient information available to determine whether or not the levy rate is sufficient.</p> <p>We do not have available to us information that would enable us to be confident that the current levy is being captured in all appropriate instances. Accordingly, it is difficult to be certain of whether the levy is capable of capturing an adequate amount.</p> <p>We are extremely concerned that the previous board attempted to reduce the levy, in circumstances where the ongoing training needs of the industry have not reduced.</p> |
| 22. | <p>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.</p> | <p>As previously indicated, we support the levy being calculated on an employee basis. This would render the threshold obsolete.</p> <p>We do not consider that the collection of the levy should be considered too administratively burdensome in the current circumstance,</p> |
| 23. | <p>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).</p> | <p>We do not consider that the levy threshold ought be moved to regulation. It is an appropriate matter to be set by the parliament.</p> |
| | Are there alternative collection methods that would improve levy collection? | |
| 24. | <p>The CITB should increase the resources devoted to education and compliance.</p> | <p>We strongly agree that much more must be done to ensure compliance with the requirements of the Act, particularly the requirement to pay the levy.</p> |

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| | | <p>We are extremely concerned that decisions were made by the previous board to reduce the resources available for compliance and data analytical capacity. It is difficult to understand how such decisions could have been considered appropriate.</p> <p>We are not aware of any proceedings having been brought for enforcement of the Act in recent years. This is not an acceptable state of affairs.</p> <p>We would support the amendment of the CITF Act to improve the enforcement action available to CITB, subject to appropriate consultation. We note that in our view enforcement would be significantly more manageable under an employee-based levy.</p> |
| 25. | <p>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.</p> | <p>In the event that the levy basis was not changed, we agree that the Government should develop greater capacity to share information with CITB, including the identification for construction industry processes that fall outside current approval processes.</p> <p>We are not aware of the basis for the belief that non-compliance with the Act is the result of a lack of 'education'.</p> |
| | <p>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:</p> <ul style="list-style-type: none"> • 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? | |

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| 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. | We support the entire removal of proportionate funding requirements. We believe that these requirements serve little public or industry purpose, and incentivise ineffective spending. |
| 27. | The CITB should allocate funding to administration activities such as research, data analysis, education and compliance. | We agree with this proposition, depending upon that funding being appropriate. |
| | <p>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:</p> <ul style="list-style-type: none"> • longer term workforce planning • addressing longer term skills and workforce requirements • investment in multi-year projects or programs? | |
| 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. | We agree with his proposition |
| 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. | We agree with this proposition |