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# Part 2: Operational Governance

# Part 2 Operational governance

## The Board

### **Functions and powers**

The CILSLB Act sets out the Board's main functions as well as the powers that the Board may exercise in performing those functions.

The functions of the Board in administering the portable long service leave scheme (provided for in section 55 of the CILSLB Act) include:

- administration of the Scheme; and
- providing advice and making recommendations to the Minister concerning the operation of the CILSLB Act.

In exercising its powers and carrying out its functions, the CILSLB Act obliges the Board to do so in a manner that is reasonable, and accords with and furthers the object of the Act.

### **Membership**

The Scheme is administered by a Government appointed Board. Under the provisions in the CILSLB Act, the constitution of the Board consists of:

- a minimum of five members made of the Chairperson and four other members; and
- up to two additional members.

A person may be eligible for appointment to the Board if they hold suitable qualifications, or have suitable knowledge or experience, relating to the functions of the Board. Board members are able to hold office for a period of up to five years, and may be reappointed.

The number of public sector employees that may be appointed to the Board is capped at two. This restriction ensures majority industry participation in the administration of NT Build and keeps the Scheme, established for the benefit of industry, at arm's length from government.

Changes in board membership during the 2020-21 period saw the appointment of new member David Hayes, following the resignation of former member Michael Haire. The membership of the NT Build Board on 30 June 2021 was as follows.

Chairperson	<b>Michael Martin OAM</b> Former senior NT public servant; Chair of NT Government Remuneration Tribunal
Other members	<b>Dick Guit OAM</b> Director of Master Builders Australia (national); Chair of the Master Builders Fidelity Fund; Director/Chair of the Industry Capability Network NT; Director Charles Darwin University Council Co-Chair of Team Territory (NTG reference group) Member of NT Strategic Defence Advisory Board
	<b>David Hayes</b> NT Organiser, Electrical Trades Union (ETU)
	<b>David Malone</b> Executive Officer, Master Builders NT
	<b>Michael Milatos</b> Director, Cento Pty Ltd
Additional members	<b>Sarah Rummery</b> Assistant Under Treasurer Economics, Department of Treasury and Finance
	<b>Rosemary Campbell</b> Director, Merit Partners

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## **Conducting business**

### Meetings

During this reporting period the Board convened a total of 15 times, including 7 regular meetings and 8 occasions involving specific matters that required attention between scheduled meetings.

Details regarding members' participation at meetings is provided in the Financial Statements included in this report.

### Remuneration

Board members are remunerated in accordance with the rates and conditions determined under the *Assembly Members and Statutory Officers (Remunerations and Other Entitlements) Act 2006*; based on a classification that recognises the range of duties, powers and responsibilities assigned to the Board.

Details regarding payments to members is provided in the Financial Statements included in this report.

### General decisions

In the course of the 15 meetings of the Board held over the 2020-21 reporting period, 76 general items of business were resolved, covering a range of issues concerning governance, scheme administration and the financial and operational management of NT Build.

### Board Policies

One policy, relating to the defined weekly benefit level, was issued during this reporting period.

All policies of the Board are intended as a guide only and are not intended to bind the Board to any particular action or decision about the nature of construction work or affecting the operation or administration of the portable long service leave scheme.

Copies of all policies are published on the website at: [ntbuild.com.au](http://ntbuild.com.au)

### Ministerial directions

Section 67 of the CILSLB Act enables the Minister to give a direction to the NT Build Board relating to the exercising of its powers or the performance of its functions.

No directions pursuant to section 67(1) of the CILSLB Act were given during the year ending 30 June 2021.

### Disclosure of interests

As required under the CILSLB Act a register of the interests of members of the Board is maintained. All members submit an initial declaration stating any interests of relevance to Board business and a process has been implemented to ensure any new or amended declarations are disclosed at each meeting. In addition, at the end of each financial year, all Board members submit the requisite Key Management Personnel Related Party Disclosures Declaration for the relevant reporting period.

### Reconsideration/reviews

Under Section 84 the CILSLB Act, a person affected by a decision made by either the Registrar or the Board may request the Board to formally reconsider that decision.

Table 2.1 below illustrates that two applications for reconsideration were received during this reporting period. Both of these involved an employee request for reconsideration by the Board under section 84, with reference to the section 21(8) "exceptional circumstance" provision, and were made in response to the Registrar's refusal to re-register them (noting that the Registrar had no discretion to re-register the employees based on the particular circumstances, without the requisite Board approval).

Table 2.1: Summary - applications for reconsideration lodged - Section 84

YEAR	B/FWD	LODGED AGAINST		RESOLVED	C/FWD
		decision of Registrar	decision of Board		
2020-21	-	2	-	2	-
2019-20	-	-	-	-	-
2018-19	-	1	-	1	-
2017-18	-	3	-	3	-

Similarly, under section 85 of the CILSLB Act, a person who has applied to the Board for a reconsideration of a decision may, if dissatisfied with the decision, apply to the Local Court for a review of the Board's reconsidered decision.

No applications for a review by the Local Court were received during the 2020-21 reporting period.

# The Office

## Registrar

The CILSLB Act requires that a Registrar (who is to be an employee within the meaning of the *Public Sector Employment and Management Act 1993*) be formally appointed by the Board for the Scheme. Mr Theo Tsikouris is the appointed Registrar for the Scheme.

The specific powers and primary functions of the Registrar are set out in the CILSLB Act. The functions of the Registrar in administering the portable long service leave Scheme (provided for in section 77 of the CILSLB Act) include:

- administering the Scheme in accordance with any directions given by the Board;
- exercising any powers or functions delegated by the Board;
- maintaining construction worker and employer registers;
- approving of forms to be used for the Scheme; and
- approving registration requests and deregistrations for the Scheme.

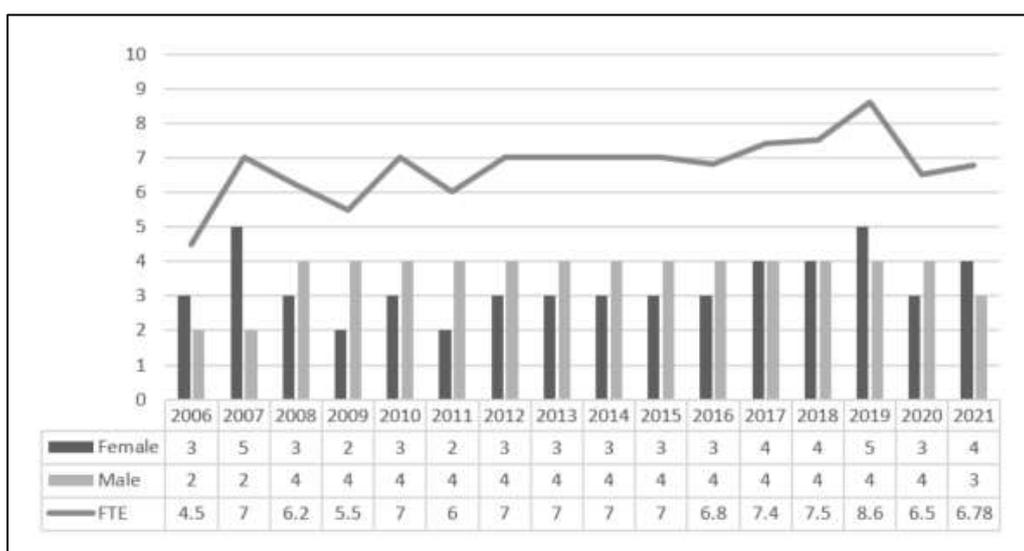
## Staff

Section 59 of the CILSLB Act enables the Board to engage any person to assist it in exercising its powers and performing its functions. To date, the Board has opted to source employees from within the Northern Territory Public Sector (NTPS), rather than employ directly.

In accordance with the Administrative Arrangements Order, in force for the period ended 30 June 2021, responsibility for the administration of the CILSLB Act rests with the Department of Industry, Tourism and Trade (DITT). This means that, for administrative purposes, NT Build reported direct to the Minister for Mining and Industry. Likewise, the staff of NT Build are included in DITTs FTE numbers, but are made available to the NT Build Board under an agreed full cost recovery arrangement.

As illustrated in the chart below, the staffing profile for NT Build as at 30 June 2021 consisted of seven staff.

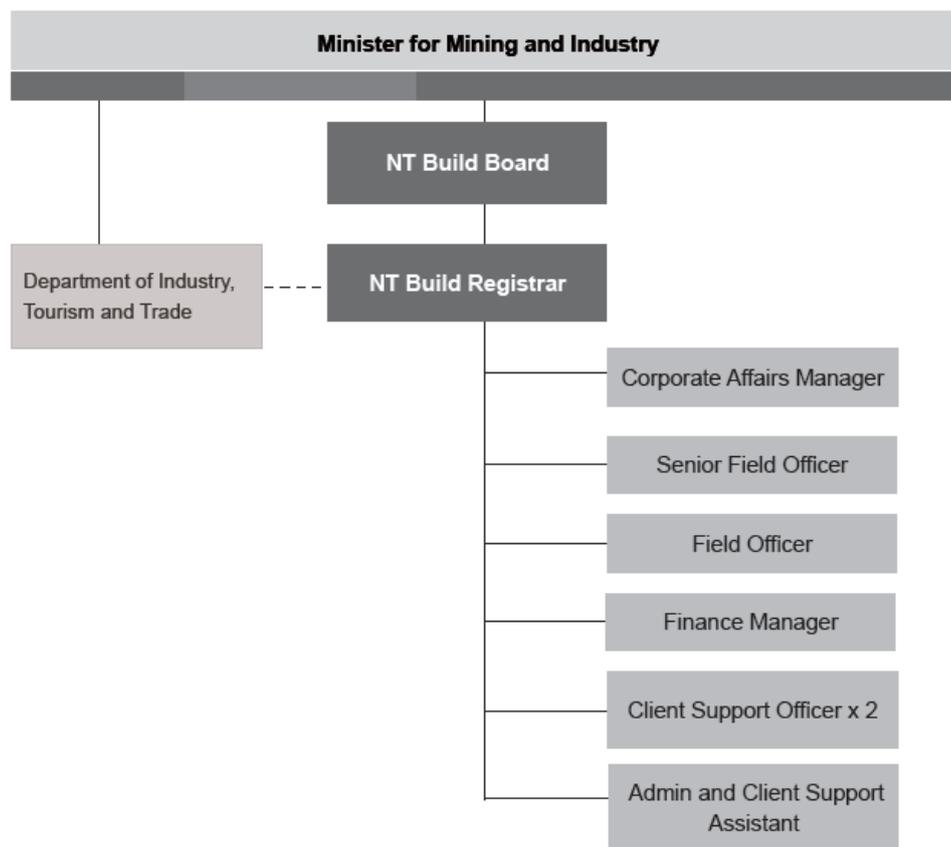
Chart 2.1: Staffing FTE and profile as at 30 June 2021



For the purpose of managing staff, the Registrar and other NTPS employees made available to the Board are engaged under the standard NTPS employment arrangements. In addition, the Registrar has been provided with delegations equivalent to those applicable to an NTPS Chief Executive Officer under the provisions of the *Public Sector Employment and Management Act 1993*, in relation to the staff of NT Build.

## Organisation structure

The following diagram represents the organisation structure as at 30 June 2021.



### Disclosure of interests

In accordance with the NTPS Code of Conduct, NT Build staff are required to disclose any financial or other interests held by them immediately upon becoming aware that a potential conflict between personal interest and official duty, whether real or apparent, has arisen or is likely to arise.

Written declarations have been submitted by all relevant NT Build staff when appropriate.

## **Information management**

### Information Privacy and Access (FOI)

As a 'body corporate' established under Northern Territory legislation, NT Build is an identified entity for the purpose of reporting under section 98 of the *Information Act 2002*.

In accordance with section 98 of the *Information Act 2002*, NT Build had no requests to report for the access to information held by NT Build during the 2020-21 reporting period.

### *Managing Access*

NT Build strives to make general information of interest available to any interested party, where such information is allowable under the CILSLB Act and does not interfere with the essential public interest, individual privacy or the effective operation of NT Build. In most cases, levy payers and registered workers and employers seeking access to their own information held by NT Build can obtain the information more quickly under the provisions of the CILSLB Act rather than by making an application for access under the *Information Act 2002*.

### *Managing Privacy and Protection*

NT Build respects the privacy of individuals and is committed to collecting, using, storing and managing personal information in a manner that complies with the Information Privacy Principles.

More information is published on our internet site at: [ntbuild.com.au](http://ntbuild.com.au)

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## Records management

Part 9 (Records and Archives Management) of the *Information Act 2002* provides for the establishment and implementation of records management standards. Adequate records management underpins the access, correction and privacy components of the *Information Act 2002* by ensuring that Government information (records) can be found, read and reproduced in response to requests.

Notwithstanding that NT Build is a 'body corporate' established by Northern Territory legislation, the Department of Industry, Tourism and Trade (DITT) is the agency designated under the Administrative Arrangements Order with responsibility for the general administration of the CILSLB Act, as at 30 June 2021.

For the purpose of Part 9 of the *Information Act 2002*, all records relating to the administration of the CILSLB Act handled by NT Build are managed in accordance with the DITT records management framework and policies.

## Information systems

### *Office environment*

The Northern Territory Government's information technology services are managed through a number of outsourced service provision arrangements. NT Build operates within the standard Northern Territory Government information technology server environment.

### *Business system*

The business system utilised to support the administration of the NT Build Scheme provides a user friendly and intuitive client self-service functionality. The Formation Technology Group has been engaged to provide ongoing maintenance and technical support of the system.

## ***Communication and marketing***

### General marketing activities

Throughout the reporting period a number of customer focused marketing activities were implemented.

These have included:

- advertising in relevant industry publications and directories;
- maintenance of the NT Build website;
- production and maintenance of a range of targeted customer information bulletins and fact sheets; and
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### Industry consultation

#### *Information sessions and briefings*

During the reporting period, NT Build staff provided a range of information and briefing sessions to construction industry organisations, such as:

- general presentations at industry forums;
- targeted presentations to employer and developer groups; and
- tailored on-site briefing sessions to employees, employers and developers.

#### *Presentations to the Board*

During the reporting period eight presentations were made to the Board on matters of interest to the effective administration of the Scheme.

#### *Liaison with other construction industry long service leave schemes*

As a party to the National Reciprocal Agreement, NT Build continues to liaise with other state and territory construction industry long service leave schemes for the purpose of processing benefit claims lodged by registered workers.

In addition, the Registrar and nominated board members participate in regular meetings with the chief executives and chairpersons of equivalent interstate construction industry portable long service leave schemes for the purpose of exchanging ideas on scheme coverage, administrative practices, legislation, investments, and information technology.

Hosting of these meetings are managed on state/territory rotation basis. Formal meetings that had been scheduled for 2020-2021 were cancelled due to the impact of COVID-19 pandemic on staffing and remote operational practices implemented across all state and territory schemes.

## ***Insurance and risk management***

### Insurance

As a self-funded statutory body corporate, insurance policies relating to public liability, vehicle and property damage and workers compensation have been endorsed by the Board to mitigate any financial risk to the Scheme.

### Finance, Risk and Audit (FRA) committee

The FRA committee has been established by the Board for the purpose of providing:

- reasonable assurance to the Board that NT Build's core business goals and objectives are being achieved in an efficient and economical manner, within an appropriate framework of internal control and risk management; and
- strategic oversight and focus on the key financial and strategic risks and controls across NT Build but does not replace the appropriate function of the Board.

The endorsed terms of reference for the FRA include the requirements for the committee;

- composition to be reviewed at least biennially and its members will be appointed, replaced or removed at the discretion of the Board;
- to consist of a minimum of three members, with two constituting a quorum;
- to meet as frequently as is necessary to undertake its role effectively and in any event at least three times per year;
- to report to the Board through the Chair of the committee by written report at Board meetings, including recommendations for Board consideration.

Current members appointed to the FRA committee are Rosemary Campbell (Chair), Michael Milatos and Sarah Rummery.

During this reporting period the FRA committee convened a total of three times.

### Financial sustainability

The NT Build Board is responsible for the administration of the Scheme which entails, amongst other things, investing the assets of the organisation and monitoring the Scheme's solvency.

The Scheme is funded by the generation of levies, based on project construction cost and payable by project owners, along with investment returns on the same.

The Scheme currently has a high solvency ratio, attributable to the recent major gas plant project levy payment, along with significant investment returns during 2020-21. However, the Board notes the real possibility of near-term solvency adjustments, given ongoing uncertainty and equity market fluctuations.

Related to the above, the findings in the report in the actuary's last two triennial reviews (February 2017 and June 2020), indicate that the Scheme is not sustainable in the long term at the current 0.1% levy rate.

### *Solvency management*

NT Build is a Scheme established to pay benefits in the future, based on past service in the NT construction industry.

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The effective monitoring and management of the solvency of the Scheme is therefore crucial to ensuring NT Build has the necessary funds to meet the current and future long service leave obligations of registered building and construction industry workers in the Northern Territory.

The Board's capital management plan, which provides a framework for the regular monitoring the Scheme's solvency position, is reviewed annually.

#### Financial and internal audit services

As the contracted financial advisers for the Scheme, TDH Chartered Accountants continued to provide NT Build with independent financial, accounting and taxation advice and services.

During the reporting period the following range of services were provided under the contracted consultancy arrangement.

- on-going ad-hoc general advice in regard to the accounting and taxation implications of NT Build activities.
- preparation of annual Financial Statements for statutory auditing and reporting.
- advice and assistance with the delivery of a compliance audit program.

#### Fraud control and prevention

Fraud prevention is the responsibility of all NT Build Board members and staff, all of whom are required to:

- behave in an ethical way that is consistent with the NT Government Boards Handbook, and the Northern Territory Public Sector Code of Conduct respectively, along and relevant provisions contained in the CILSLB Act; and
- report and manage any incidents of suspected fraud consistent with the ICAC's Whistleblower Protection Guidelines and Directions and Mandatory Reporting Directions and Guidelines.

#### Levy compliance program

NT Build operates a 'Strategic audit and levy compliance program' to support its strategic audit framework. This framework introduced an annual audit program aimed at increasing knowledge and awareness of CILSLB Act requirements, strengthening levy compliance, and supporting the effective and efficient administration of the Scheme. The programme involves routine audits of selected construction projects each year, to ensure that levy payers are declaring and remitting the correct amount of levy that is required.

All audits are undertaken by contracted external auditors. A panel contract arrangement has been established for the purpose of conducting levy compliance audits.

The final report prepared by the auditor of a compliance review, including audit findings, are considered by the FRA Committee prior to the Board's consideration and determination of any further action.

Where, as a result of the audit findings, the reconciled cost of the construction project results in a finding that the actual cost was less than the original estimate, NT Build will refund the overpaid portion of the levy payment.

This includes a full refund where the reconciled total cost of the construction project is determined to be less than:

- \$1 million for projects that started on or after 7 April 2014; or
- \$200,000 for projects that started before 7 April 2014, regardless of completion date.

However, if the total cost of construction is determined to be more than the amount originally notified to the Board, the levy payer will be required to pay the additional amount of levy. An interest penalty may also be applied.

Table 2.2 provides a summary of the status of the levy compliance audits undertaken.

As a result of the COVID-19 pandemic, the two audits initiated during the later half of the 2019-20 reporting period, were postponed until 2020-21. One audit was finalised prior to 30 June 2021. The other was well progressed, but was carried over to the 2021-22 for finalisation.

Table 2.2: Summary of the audits undertaken

	<b>B/FWD</b>	<b>STARTED</b>	<b>FINALISED</b>	<b>C/FWD</b>
2020-21	2	2	1 <sup>(a)</sup>	1
2019-20	-	2	-	2
2018-19	3	-	3 <sup>(2a)(d)</sup>	-
2017-18	3	3	3 <sup>(2a)(b)</sup>	3

(a) = Additional levy payable - audited final construction cost more than reconciled project cost declared.

(b) = Partial levy refunded - audited final construction cost less than reconciled project cost declared.

(c) = Full levy refunded - audited final construction cost assessed as less than \$200 000 levy exemption amount.

(d) = No levy adjustment required - audited final construction cost same as reconciled project cost declared.

### External audit

As required under the provisions of the CILSLB Act the annual statutory audit of the financial statements relating to the Board's operation for the year ended 30 June 2021 was undertaken by the NT Auditor-General.

The audited financial statements and accompanying report from the Auditor-General are included in the following Part 3 of this Annual Report.

### Legal advice

Legal support services for NT Build are predominately provided by the Northern Territory Government Department of the Attorney-General and Justice. As such, the Solicitor for the Northern Territory provides both general and high level advice on the interpretation and application of the CILSLB Act, including the undertaking of any prosecutions on behalf of NT Build, when necessary.

When required or appropriate, the Solicitor for the Northern Territory facilitates the outsourcing of a request for legal services for specialist advice or assistance. No out sourced legal services were engaged during this reporting period.

