Proposed changes to QLeave levies

Consultation Regulatory Impact Statement

Office of Industrial Relations

MAY 2019

Queensland Government

Contents

1.0 Executive summary

The Queensland Government is investigating possible changes to the levies established under the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (the Act) and the *Building and Construction Industry (Portable Long Service Leave) Regulation 2013* (the Regulation).

Queensland's portable long service leave (PLSL) scheme for the building and construction industry commenced in 1992. The PLSL Authority, QLeave, registers an individual workers' accruing entitlement so once a worker has served the equivalent of ten years in the industry, they are entitled to 8.6667 weeks of long service leave paid by QLeave.

The scheme is funded by a levy payable to QLeave comprising 0.25% of the total project costs (including all direct and indirect costs) of all building and construction work over $150,000, excluding goods and services tax (GST). The levy is collected as per section 66 of the Act along with two other levies – a 0.1% building and construction training levy (the training levy) and a 0.125% work health and safety (WHS) levy. This results in a combined levy rate of 0.475% for projects under $1.61 billion. The current levy rates are subject to a tiered structure which essentially provides a discounted rate for the portion of a project's costs that exceed $1.161 billion, resulting in a combined levy rate of 0.2375% for project costs over $1.61 billion and nil levy for projects costs over $5.806 billion, as set out below:

Table 1

	Base ($150K - $1.161B) %	**Second ($1.161 - $5.806B) %**	**Top (over $5.806B) %**
Portable long service leave levy	0.25	0.125	Nil
Building and construction industry training Levy	0.1	0.05	Nil
Work health and safety levy	0.125	0.0625	Nil
Total	**0.475**	**0.2375**	**Nil**

Since its institution, the scheme has grown to encompass 337,854 workers and 18,621 employers (as at 30 June 2018) and paid $97.8 million in claims over 2017-18. Surveys of employers established a satisfaction rate of 91%.

Over the years there have been gradual changes to both the PLSL levy rate and the cost threshold, although the way in which the levy is calculated remained relatively similar until 2014. Changes which commenced on 1 July 2014 included the introduction of a tiered levy structure which effectively exempted very large resource projects and discounted other large projects and a change to how leviable building and construction costs for a project are calculated. These changes were in response to concerns about the impact of the levies on large resource projects. At this time the levy rate was also reduced from 0.3% to 0.25% and the cost threshold at which the levy applied was increased from $80,000 to $150,000.

The QLeave 2017-18 annual report[1] shows that the scheme is currently financially sound but also notes a number of future pressures, notably the increasing number of workers becoming eligible for long service leave as the scheme matures, and that these will have an impact on the funding ratio for the scheme in the medium to long term. Noting this position, the Queensland Government wishes to consult with stakeholders in the building and construction industry about the scheme's current levy structure as the 2014 changes were not subject to a comprehensive public consultation process at the time of their introduction. In particular,

[1] https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2018/5618T1560.pdf

the Government wishes to consult directly with the scheme's levy payers on certain aspects of the 2014 amendments to give fair and open consideration to their ongoing impact. The options canvassed are restoring the PLSL levy rate by up to 0.05% (from 0.25% to a possible maximum of 0.3%), reinstating a single base rate for the levies and reintroducing GST into the cost of building and construction work on which the levies are calculated.

It is not proposed to consider lowering the threshold at which the levy applies, although the re-inclusion of GST would result in some lower value projects which are currently exempt being included in the scheme.

The Queensland Government is also taking this opportunity to consult with industry on another related proposal, that is a small increase to the WHS levy to provide dedicated funding for mental health and suicide prevention strategies in the building and construction industry. The Queensland Government recognises the wide ranging and long lasting social and economic impact of suicide and acknowledges the high incidence of suicide in the construction industry. In particular, young men working in the construction industry have a suicide rate two to three-times higher than the general community. Research indicates that male construction workers face a range of interrelated workplace and personal stressors and work in an industry that tends to be characterised by traditional cultural norms of masculinity and a stigma associated with mental health and suicide that prevent workers from seeking help. It is estimated that suicide attempts resulting in fatality, total incapacity or a short absence from work in the Queensland construction industry cost $345 million in 2012, with 98% of the cost borne by government. While the WHS levy revenue is intended to fund WHS measures generally within the construction industry, it is proposed to create dedicated funding source specifically for mental health and suicide prevention strategies targeted at this industry by increasing the WHS levy rate by 0.005% to 0.13%. It is proposed the additional revenue collected be allocated to the Office of Industrial Relations for the provision of relevant programs and initiatives.

If this proposal was implemented in conjuction with the other three proposed changes – in particular, restoring the PLSL levy rate up to a maximum of 0.3% - this would result in a combined levy rate of 0.53% for most projects, as set out below:

Table 2

Building and construction industry training Levy	Portable long service leave levy	Work health and safety levy	Combined levy payable
0.1%	0.3%	0.13%	0.53%

The purpose of this consultation regulatory impact statement (the consultation RIS) is to seek feedback from industry stakeholders on the impact of the proposed changes. Submissions are invited from levy payers; employer groups and individual employers; industrial organisations and workers and relevant industry bodies. Written submissions in response to this consultation RIS should be directed to the Office of Industrial Relations by 30 May 2019.

1.1 How to have your say

The Queensland Government is undertaking a comprehensive consultation process on these proposed changes to the levies established under the *Building and Construction Industry (Portable Long Service Leave) Act 1991* and welcomes feedback from interested stakeholders in the building and construction industry.

Written submissions in response to this Consultation RIS can be lodged by 30 May 2019 via:

Email: QLeavelevy@oir.qld.gov.au

Post: Portable Long Service Leave Levy Consultation
Director, Industrial Relations Strategic Policy
Office of Industrial Relations
GPO Box 69
Brisbane QLD 4001

Submissions will be published on the Office of Industrial Relations' website unless provided in confidence. Material provided in confidence should be clearly marked 'IN CONFIDENCE'.

Any questions about this consultation process can be submitted via the above email address or by contacting the Director, Industrial Relations Strategic Policy, Office of Industrial Relations, on 07 3406 9872.

Interested persons can also register to receive updates on this proposal by sending a request to the email address above.

2.0 Background

2.1 History of the scheme and how it works

A portable long service leave (PLSL) scheme for Queensland's building and construction industry was established under the *Building and Construction Industry (Portable Long Service Leave) Act 1991* (the Act) and commenced in 1992. It was the first PLSL scheme established in Queensland, in recognition of the difficulty that workers in the industry had in gaining the required years of service with one employer to become eligible for long service leave.

In Queensland, the *Industrial Relations Act 2016 (Qld)* (IR Act) provides a standard a long service leave entitlement, subject to certain conditions, for full time, part time, casual and seasonal employees. The leave entitlement is 8.6667 weeks' after 10 years continuous service with the same employer. Because long service leave requires continuous service with the same employer, accessibility to such leave can be difficult for workers in industries where mobility or insecure work is a feature. High workforce mobility or insecure employment may occur where work in that industry is project-based or where firms hire staff based on obtaining a contract that has a limited term.

PLSL schemes allow workers to accumulate long service leave entitlements based upon their continuous service in an industry, rather than with a single employer. PLSL schemes typically operate by requiring employers to report on their employees' service and to pay a levy into a centralised pool administered by an appropriate authority. That authority keeps track of an employees' total service in the industry, even when they switch employers. When an employee accumulates sufficient service credits, the authority manages the long service leave payment directly to the employee. In Queensland, the PLSL authority is QLeave.

The building and construction industry's PLSL scheme uses a service credit system where eligible workers who are registered with QLeave receive one service credit for every day they work, up to a maximum of 220 credits in any financial year. After 2,200 credits are recorded (i.e. equivalent to 10 years' service) workers are entitled to 8.6667 weeks of paid long service leave. There is a capped weekly rate of pay for all PLSL claims that is reviewed and set by the Minister before the start of each financial year. As at 30 June 2018, the cap is set at $1,980 per week for all long service leave payments. There is no cost to a worker to participate in the scheme and a broad range of trades and jobs qualify a worker as eligible.

In Queensland's building and construction industry scheme, the PLSL levy has always been paid on the total cost of work for a building and construction project above a prescribed cost threshold. The levy payer must notify QLeave of the proposed building and construction project and pay the levy amount before the project can receive development or planning approval under the *Planning Act 2016* or the *Plumbing and Drainage Act 2002*. In effect, this means the initial levy payable for a project is calculated on an estimate of the total costs. The final levy amount payable is reconciled by QLeave at the finalisation of the project based on the actual total costs. This means that levy payers either pay any additional levy owing or are reimbursed for any levy paid on an overestimation of the projects costs. The Act also allows levy payers to enter into an agreement with QLeave to pay the levy in instalments

The Act provides that the project notification and levy payment must be made "by or for the person for whom the work is to be done" so by design, the levy payers in Queensland's scheme tend to be principal contractors or proponents of a building and construction project. These levy payers are not necessarily the employers of building and construction workers though, as it is common practice for the principal contractor or proponent to outsource aspects of the project work to individual sub-contractors who in turn employ tradespeople and labourers to undertake the actual building and construction work. However, smaller residential projects may be managed by a builder who is both the levy payer and employer, as they pay the levy on behalf of the homeowner but also directly employ tradespeople to complete the work.

The Act and Regulation imposed a base PLSL levy rate on project costs above a certain threshold. Over the years there have been gradual changes to both the PLSL levy rate and the cost threshold, although the way in which the levy is calculated remained relatively similar until 2014.

On 1 July 2014, a suite of legislative and regulatory amendments commenced that changed how the levy is calculated by clarifying what is and is not included in leviable building and construction costs for a project and what building and construction work is exempt from the levy, particularly in relation to large resource projects.

These changes were introduced in the *Construction and Tourism (Red Tape Reduction) and Other Legislation Amendment Act 2014* (2014 Amendment Act) and the Building and Construction Industry (Portable Long Service Leave) Amendment Regulation (No. 1) 2014 and included:

- decreasing the LSL levy rate from 0.3% to 0.25%;
- increasing the cost threshold at which the levy applied to $150,000;
- creating a tiered structure to which the levy applies for different amounts of building and construction work;
- removing GST from the calculation of total cost of work;
- aligning the interest rate charged on late levy payments to that set out in the *Taxation Administration Act 2001;*
- clarifying that the levy is not payable when a person conducting building and construction work is not substantially engaged in the building and construction industry; and
- clarifying that an environmental impact statement or feasibility study undertaken for a project is exempt from the leviable cost of building and construction work under the Act.[2]

These changes resulted from a review conducted over 2013-14 by an independent reviewer in consultation with QLeave and the Queensland Resources Council (QRC) and overseen by a steering committee that included the Department of Justice and Attorney-General and the then Department of State Development, Innovation and Planning.

The review was undertaken in response to “serious concerns” raised by the QRC about “the disproportionate contribution that was being made by the resources sector” to the building and construction industry’s PLSL scheme[3]. Resource projects like coal seam gas, liquified natural gas and other mining operations in Queensland do fall within the scope of the scheme because they require the building of infrastructure. The review led to a Memorandum of Understanding being negotiated and agreed to by the QRC and QLeave that detailed the eventual 2014 changes to the scheme. The explanatory notes for the 2014 Amendment Act state that “extensive consultation” was undertaken with the QRC and “major building and construction industry stakeholders, including Queensland Master Builders’ Association, Housing Industry Association, Civil Contractors Federation and construction industry unions”. However, this was conducted through the scheme’s Board and did not involve direct engagement with levy payers. Limited information is publicly available about the substantive work of this review and the considerations that led to the current levy structure on which the scheme is funded.

2.2 The current levy structure

Currently the scheme is funded by a PLSL levy of 0.25% payable to QLeave on the total project costs (including all direct and indirect costs) of all building and construction work over $150,000 (excluding GST). The levy is imposed under section 66 of the Act along with two other levies collected by QLeave - the building and

[2] See the *Construction and Tourism (Red Tape Reduction) and Other Legislation Amendment Act 2014* and the *Building and Construction Industry (Portable Long Service Leave) Amendment Regulation (No. 1) 2014*

[3] See the QRC’s submission to the Legal Affairs and Community Safety Committee’s Inquiry into the 2014 Bill

construction training levy (the training levy) payable to Construction Skills Queensland's Building and Construction Training Fund, and the work health and safety (WHS) levy.[4]

2.2.1 The training levy

The training levy was initially introduced into section 33 of the Act by the *Building and Construction Industry (Portable Long Service Leave) Amendment Act 1998 (No. 44)* as specific "funds of the Authority" calculated as "an amount equivalent to 0.05% of the cost of building and construction work".[5] These funds collected by QLeave were to be "allocated for the training of persons in the building and construction industry". Further amendments made by the *Building and Construction Industry (Portable Long Service Leave) Amendment Act 2005 (No. 27)* reorganised these provisions to their current form where the training levy it is imposed as a specific levy under section 66 of the Act with the rate prescribed in the Regulation as 0.1% of project costs. Section 32 of the Act stipulates that the training levy funds paid to QLeave "is not part of the authority's funds".[6]

The funds collected by QLeave are provided to Construction Skills Queensland (CSQ) as the corporate trustee for the Building and Construction Industry Training Fund (Qld). CSQ provides a portion of the funds, in accordance with its Trust Deed, to pre-approved training organisations in order to fund training courses (including certification programs) to workers in the construction industry, with the remainder used to fund the administration of the trust itself, including employee and administrative expenses, and promotional activities. The courses to be funded are identified in annual training plans, generated in consultation with industry stakeholders, and aim to rectify identified skill gaps in the workforce, particularly with regard to major projects such as the Queen's Wharf precinct, Cross-River Rail project and the North Queensland Stadium. In the 2017-18 financial year, CSQ received $32.1 million from the training levy, of which 26.3 million was spent on training support.[7] In 2016-17 (the last year for which a corporate report is available) CSQ funded 10,156 positions in short courses and 838 civil qualifications.

2.2.2 The WHS levy

The WHS levy existed as an industry levy or fee to support the provision of WHS regulation since before the PLSL scheme was established. Previously it was prescribed under successive work health and safety legislative instruments but in 2011, it was inserted into the Act and Regulation and set at a rate of 0.125% of the cost of the building and construction work. Section 32 of the Act provides that the WHS levy collected by QLeave "must be paid by the authority to the relevant department for the consolidated fund". It is thereafter paid out of the consolidated fund, in its entirety, to Workplace Health and Safety Queensland (WHSQ). This provision of funds supports the work of government in regulating WHS in this high priority industry. While this has previously focussed on the physical WHS issues that the industry faces, there has been a growing focus in recent years on supporting the mental health of workers in the industry as well. However, the WHS levy has never been payable for operational work at a mine or operating resources plant that is subject to mining or petroleum safety legislation. This reflects the different safety jurisdiction under which the mining and resources industry operates.

2.2.3 The tiered levy structure

The current levy rates are subject to a tiered structure prescribed under section 6 and Schedule 1 of *Building and Construction Industry (Portable Long Service Leave) Regulation 2013* (the Regulation)[8]. The tiered structure essentially applies a discounted levy rate to the portion of a project's cost of works over $1.161 billion. The three levies are usually paid together as a combined levy on the total cost of works by the project's

---

[4] Link to the Building and Construction Industry (Portable Long Service Leave) Act 1991

[5] https://www.legislation.qld.gov.au/view/html/asmade/act-1998-044

[6] https://www.legislation.qld.gov.au/view/html/asmade/act-2005-027

[7] Building and Construction Industry Training Fund (Qld) – Financial Statements for the Year Ended 30 June 2018.

[8] Link to the Building and Construction Industry (Portable Long Service Leave) Regulation 2013

proponent before the development permit for any building, construction, plumbing, drainage or operational work under the *Planning Act 2016* or the *Plumbing and Drainage Act 2002* can be issued.

The following table sets out the current tiered levy rates for each of the three levies, as well as the combined rate paid on notification of a project:

Table 3

	Base Tier (\$150K - \$1.161 B) %	**Second Tier (\$1.161 B - \$5.806 B) %**	**Top Tier (over \$5.806 B) %**
Portable long service leave levy	0.25	0.125	Nil
Building and construction industry training levy	0.1	0.05	Nil
Work health and safety levy	0.125	0.0625	Nil
Total	**0.475**	**0.2375**	**Nil**

Immediately prior to the 2014 changes, there was a single base levy structure:

Table 4

Building and construction industry training Levy	**Portable long service leave levy**	**Work health and safety levy**	**Combined levy payable**
0.1%	0.3%	0.125%	0.525%

In addition, the threshold at which the levies began to apply was \$80,000, rather than the current threshold of \$150,000.

As a result of the 2014 changes, an estimated \$91.3 million was foregone by the scheme that would otherwise have been collected between the 2014-15 to 2017-18 financial years. This can be expected to have had an impact on the sustainability of the scheme in the longer term.

The tiered levy structure effectively provides subsidies for very large resource-projects. These projects employ significant numbers of construction tradespeople who during their time on these projects accrue service credits under the PLSL scheme without the levy payer making full levy contributions to the scheme for these projects. The burden of this subsidy has fallen disproportionately on smaller projects since 2014 and the loss of revenue to the scheme over the period can also be expected to have a bearing on the sustainability of the scheme in the longer term. Any future costs as a result of loss of revenue to the scheme will continue to be disproportionately borne by smaller projects if the tiered structure is maintained. Furthermore, the top tier has not applied to any project since its introduction as no project has exceeded the threshold of \$5.806 billion, which raises a specific question about the relevance of that part of the tier structure.

2.2.4 Jurisdictional comparison

All other Australian States and Territories have a PLSL scheme for the building and construction industry and each scheme has entered into a national reciprocal agreement, meaning service recorded interstate may be recognised and included when calculating eligibility for a long service leave claim in Queensland. However, in most interstate schemes it is the employer who pays a levy, which is imposed on the ordinary wages of their employees.

Like Queensland, the PLSL schemes for the building and construction industries in New South Wales (NSW) and the Northern Territory (NT) also apply a levy to the project's costs. The NSW scheme applies a 0.35% levy to project costs valued over $25,000 (including GST). The NT scheme applies a levy of 0.1% to the cost of projects valued over $1 million (including GST). The NT also applies a two-tiered system, in which a project-specific levy rate determined by the Minister applies to project costs valued over $1 billion. In no other state does the industry's PLSL scheme collect additional levies separate to their PLSL levies.

2.2.5 Financial viability of the PLSL scheme

QLeave's 2017-18 annual report[9] confirms the scheme is currently financially sound while also providing a snapshot of the scheme's levy revenue and claims paid since 2013-14 (see page 3). In 2017-18, $76.5 million in levy revenue was collected from across 35,7078 notified project works. This is compared to $107.5 million in levy revenue collected in 2013-14 from 35,817 projects. The annual report also shows that the number of workers registered in the scheme has increased from 285,027 in 2013-14 to 337,854 in 2017-18. There has also been an increase in the number and total value of claims paid over this period with $72.2 million paid across 10,292 claims in 2013-14 compared to $97.8 million paid for 14,532 claims in 2017-18.

The changes noted above, combined with the loss of revenue from the scheme since 2014, suggest that a review of the current levy rate and structure is timely to ensure the longer term financial viability of the scheme. The target range for funding ratio of assets to the Accrued Benefit Liabilities (the present value of expected future PLSL payments) is 105%-120% and the scheme has operated comfortably within this range. However, it may not be possible to continue operating in this range in the medium-term. The ratio of liabilities to assets fell below the bottom range target to 102% in December 2018, before rising to 105.04% in January. The scheme will continue to see an increase in the number of workers becoming eligible for long service leave as their entitlements mature and this will have an impact on the funding ratio for the scheme. To inform consideration of the scheme's viability over the medium to long term, the Queensland Government is consulting on the current levy rate and structure of the scheme and in particular, on some of the changes introduced in 2014 which have not previously been subject to wider industry consultation.

3.0 Objectives of Government

3.1 What is the policy objective with regards to the PLSL scheme's levy structure?

The primary policy objective with regards to the PLSL scheme is to consult with stakeholders in the building and construction industry about the scheme's current levy structure as the 2014 changes were not subject to a comprehensive public consultation process at the time of their introduction. In particular, the Government wishes to consult directly with the scheme's levy payers on certain aspects of the 2014 amendments – namely the reduction in the PLSL levy rate, the tiered levy structure and the exclusion of GST from leviable costs - to give fair and open consideration to their ongoing impact. It is not proposed to consider changing the threshold at which the levy applies as the proposed re-inclusion of GST in the calculation of the total cost of works would have a similar effect and capture some projects which would not currently be subject to the levies.

3.2 What is the policy objective with regards to mental health and suicide prevention?

The primary policy objective of the Queensland Government with regards to the WHS levy in particular is to ensure it provides a dedicated source of funding for the specific purpose of supporting mental health and suicide prevention strategies targeted at the building and construction industry.

[9] https://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2018/5618T1560.pdf

4.0 Consideration of the scheme's levy structure

4.1 Tiered levy structure

The introduction of the tiered levy structure was intended to provide a discounted levy rate for very large building and construction projects, particularly those relating to a resource or mining project. Since the tiered levy structure took effect on 1 July 2014, four projects have qualified for the discounted levy rates for costs exceeding $1 billion (indexed annually to account for growth in building and construction costs).

Table 5 shows the revenue payable on the three combined levy rates (see Table 1) both with the tiered structure and without (projects with an included cost of work under $1.161 billion are not affected by the tiered structure):

Table 5

COMBINED LEVY PAYABLE[10]	Cost of Work ($)	Included Cost of Work ($)	Combined Levy Tiered ($) (0.2375%)	Combined Levy No tiers ($) (0.475%)	Additional levy revenue ($)
Project 1	1,817,283,668	1,817,283,668	7,073,424	8,632,097	1,558,673
Project 2 *WHS levy not applied	2,474,263,076	2,446,609,128	6,313,316	8,563,132	2,249,816
Project 3	1,930,000,000	1,930,000,000	7,341,125	9,167,500	1,826,375
Project 4	20,517,138,734	1,547,878,660	6,433,587	7,352,424	918,837
Total	**26,738,685,478**	**7,741,771,456**	**27,161,452**	**33,715,153**	**6,553,701**

The impact of the tiered levy structure on each of the three individual levies is also in the following tables:

Table 6

PLSL LEVY PAYABLE	Cost of Work ($)	Included Cost of Work ($)	PLSL Levy Tiered ($) (0.125%)	PLSL Levy No tiers ($) (0.25%)	Additional PLSL levy revenue ($)
Project 1	1,817,283,668	1,817,283,668	3,722,855	4,543,209	820,354
Project 2	2,474,263,076	2,446,609,128	4,509,511	6,116,523	1,607,011
Project 3	1,930,000,000	1,930,000,000	3,863,750	4,825,000	961,250
Project 4	20,517,138,734	1,547,878,660	3,386,098	3,869,697	483,599
Total	**26,738,685,478**	**7,741,771,456**	**15,482,214**	**19,354,429**	**3,872,214**

[10] Tables 5-8 are exclusive of GST.

Table 7

TRAINING LEVY PAYABLE	Cost of Work ($)	Included Cost of Work ($)	Training Levy Tiered ($) (0.05%)	Training Levy No tiers ($) (0.1%)	Additional Training levy revenue ($)
Project 1	1,817,283,668	1,817,283,668	1,489,142	1,817,284	328,142
Project 2	2,474,263,076	2,446,609,128	1,803,805	2,446,609	642,805
Project 3	1,930,000,000	1,930,000,000	1,545,500	1,930,000	384,500
Project 4	20,517,138,734	1,547,878,660	1,354,439	1,547,879	193,439
Total	26,738,685,478	7,741,771,456	6,192,886	7,741,771	1,548,886

Table 8

WHS LEVY PAYABLE	Cost of Work ($)	Included Cost of Work ($)	WHS Levy Tiered ($) (0.0625%)	WHS Levy No tiers ($) (0.125%)	Additional WHS levy revenue ($)
Project 1	1,817,283,668	1,817,283,668	1,861,427	2,271,604	410,177
Project 2 *WHS levy was not applied to this project	2,474,263,076	2,446,609,128	N/A		
Project 3	1,930,000,000	1,930,000,000	1,931,875	2,412,500	480,625
Project 4	20,517,138,734	1,547,878,660	1,693,049	1,934,848	241,799
Total	26,738,685,478	7,741,771,456	5,486,351	6,618,953	1,132,601

For comparison, Table 8 shows the combined levies paid by a selection of hypothetical projects at various cost points below the upper threshold for the first tier:

Table 9

	Small project ($300K)	Medium Projects ($1M)	Large Project ($200M)	Very large project ($1B)
Combined levy - 0.475%	$1,425	$4,750	$950,000	$4,750,000

Given the limited consultation with levy payers undertaken prior to the introduction of the tiered levy structure and the resulting impact on the scheme to date and into the future, the Government is considering a number of options to address the perceived inequity of the tiered levy structure and loss of income to the scheme that has resulted. The main options under consideration are the removal of the tiered levy structure altogether, amending the tiered levy structure or keeping the tiered levy structure. At this stage, it is not proposed to consider changing the base level threshold of $150,000 at which the levies begin to apply as the reinclusion of GST would have a similar effect by capturing projects that are not currently subject to the levies. The Government acknowledges that a range of other options may be possible and invites stakeholders to submit for consideration any alternative measures that would achieve the same ends.

4.3 Option 1 – Remove the tiered levy structure

Removing the tiered levy structure would restore the levy structure to what it was prior to the 2014 changes and mean that all levy payers are subject to the same levy, without a discount for very large resource projects. It would also bring Queensland back in line with the other, more comparable, Australian industry scheme in NSW, which only charges a single PLSL levy rate.

Based on the above figures, the combined impact of removing the tiered structure across all three levies would have generated approximately $7 million in additional combined levy revenue from the four projects to which it has applied since 2014. Empirical evidence and actuarial advice suggest projects of second and top tier size are infrequent. On past experience it is assumed that no projects costs would exceed the tier 1 threshold on an annual basis but that large projects exceeding $3-6 billion would occur once every 2-3 years.

These figures demonstrate that while the tiered structure does not affect the vast majority of levy payers in the scheme, it has reduced the funds collected from this revenue stream for the PLSL scheme, as well as for WHSQ and CSQ. While some of these projects relate more strongly to the mining or resources sector, their construction still falls within the regulatory purview of WHSQ and provide a significant source of employment for skilled tradespeople and those apprentices who are still training.

The tradespeople and apprentices employed on these large resource projects would also be earning service credits and will ultimately be claiming their long service leave payments from the scheme which would include that service. It is considered fair that large resource projects also make a full contribution to that payment.

While removing the discount offered by this tiered structure would increase costs for large projects such as these, it is not at an amount that would threaten a project of that size. Furthermore, the geographical realities of large resource, energy and infrastructure projects mean that losing a discount of this kind would not necessarily be a disincentive or cause the project to relocate to another state. However, the additional revenue that could be generated from removing these upper discounted rates would contribute to the PLSL scheme's funding position, as well as the work of WHSQ and CSQ.

As it is not proposed to alter the current lower threshold, smaller projects (with an included cost of work between $80,000 and $150,000) will not be affected, and will continue to be exempt from the levies.

4.2 Option 2 – Keep the tiered levy structure

The introduction of the tiered levy rate has had a demonstrated decrease in costs for levy payers on very large projects. It has also decreased the impact of the scheme on the resources sector. While arguments could be made to remove the tiered levy structure, the very infrequent application could also be considered a reason to retain it despite the additional complexity it adds to the scheme. Also, as noted above, it may be considered unfair if large resource projects are not making full contributions for projects on which tradespeople are employed and accruing long service leave credits which will later be claimed from the scheme.

4.2 Option 3 – Amend the tiered levy structure

Given the tiered levy structure was introduced in response to concerns from the QRC about the impact of the scheme on very large resource projects, a further option is to consider retaining the tiered discount but in an amended form that ensures project proponents do not avoid their financial obligation to the workers constructing their projects.

Under this option, just the base and second tier levy rates are retained but the threshold for the second tier discount is increased to cover all project costs exceeding $2 billion.

Table 10

	Base Tier ($150K - $2B) %	Second Tier (over $2B) %
Portable long service leave levy	0.25	0.125
Building and construction industry training levy	0.1	0.05
WHS levy	0.125	0.0625
COMBINED LEVY RATE	**0.475**	**0.2375**

Based on the experience of the last four years, only one project – Project 2 – would qualify for the second tier discount rate. Tables 11-13 set out the effect on this project if the tiered structure were amended as proposed:

Table 11

COMBINED LEVY PAYABLE	Cost of Work ($)	Included Cost of Work ($)	Combined Levy Base Tier ($) (0.475%)	Combined Levy 2nd Tier ($) (0.2375%)	Total levy payable ($)
Project 1	1,817,283,668	1,817,283,668	8,632,097	N/A	8,632,097
Project 2 <u>*WHS levy was not applied to this project</u>	2,474,263,076	2,446,609,128	9,500,000	1,060,696	10,560,696
Project 3	1,930,000,000	1,930,000,000	9,167,500	N/A	9,167,500
Project 4	20,517,138,734	1,547,878,660	7,352,423	N/A	7,352,423

Table 12

PLSL LEVY PAYABLE	Cost of Work ($)	Included Cost of Work ($)	PLSL Levy Base Tier ($) (0.25%)	PLSL Levy 2nd Tier ($) (0.125%)	Total PLSL levy payable ($)
Project 1	1,817,283,668	1,817,283,668	4,543,209	N/A	4,543,209
Project 2	2,474,263,076	2,446,609,128	5,000,000	558,261	5,558,261
Project 3	1,930,000,000	1,930,000,000	4,825,000	N/A	4,825,000
Project 4	20,517,138,734	1,547,878,660	3,869,696	N/A	3,869,696

Table 13

TRAINING LEVY PAYABLE	Cost of Work ($)	Included Cost of Work ($)	Training Levy Base Tier ($) (0.1%)	Training Levy 2nd Tier ($) (0.05%)	Total training levy payable ($)
Project 1	1,817,283,668	1,817,283,668	1,817,283	N/A	1,817,283
Project 2	2,474,263,076	2,446,609,128	2,000,000	223,304	2,223,304
Project 3	1,930,000,000	1,930,000,000	1,930,000	N/A	1,930,000
Project 4	20,517,138,734	1,547,878,660	1,547,878	N/A	1,547,878

This option gives a discount to very large projects but still ensures these levy payers do not avoid part of the contribution to the scheme project costs. However, this discount is still not available for all other levy holders and so does not address the inequity of spreading the costs of the scheme amongst much smaller projects. Also, the administrative complexity that this introduces for the scheme is not justifiable for a single project that experience indicates will proceed every 2-3 years.

5.0 Consideration of the exclusion or inclusion of GST in leviable costs

5.1 History of including GST in the total project costs

The current exclusion of GST was introduced in 2014 after lobbying from the QRC about the impact of the decision in *Australia Pacific LNG Pty Ltd and Ors v Building and Construction Industry Authority* [2014] QMC 004.[11] This matter considered the different costs used by Australia Pacific LNG Pty Ltd (APLNG) and QLeave to calculate the levy rate in relation to the construction of liquid natural gas pipeline and export facilities in central Queensland and Curtis Island. QLeave determined that the project's total building and construction costs included all GST liabilities, even if those liabilities would later be offset by a corresponding input tax credit. APLNG considered there was no actual cost of any GST for supplies purchased if it is later offset by an input tax credit.

The Industrial Magistrate upheld QLeave's determination on the basis that, under the scope of the Act's definition at that time, "the cost to the applicants of the building and construction of the projects is inclusive of GST. What input tax credits they are entitled to recover are immaterial to the cost". APLNG appealed this to the Industrial Court of Queensland, which confirmed the Industrial Magistrate's decision in *Australia Pacific LNG Pty Ltd & Ors v Building & Construction Industry (Portable Long Service leave) Authority* [2015] ICQ 013.[12] In this decision, President Martin considered APLNG's arguments that the 2014 legislative amendments were to clarify that GST was not intended to be included in the total building and construction costs and as such should not be included in the calculation of the levies paid by APLNG. However, he found that despite the references to clarifying this inclusion, the Second Reading Speech delivered for the 2014 Amendment Act supported the position that the original intention of the Act was to include GST in the total leviable project costs:

> "*If that were all that had been said then it might be arguable that, so far as the GST issue is concerned, s 7 only worked to clarify that GST had never been intended to be included. That, though, is inconsistent with the clear words in the Second Reading Speech that the GST component is removed from the leviable cost of work. There is no lack of precision in what the Attorney-General said. He went on to say that the removal of the GST component was estimated to save "the industry approximately ten million dollars per annum". If the GST component had not been a part of the leviable cost, then no such saving could occur. In any event, the contents of extrinsic material can only be used to assist the comprehension of, not override, the plain words of a statute. The words of Part 8 compel the conclusion that there is no reason for the GST component in the costs of building and construction work to be excluded from the amount upon which a levy is imposed. (Paragraph 61)*

5.2 Re-instating GST in the total project costs

Including GST would bring Queensland back in line with the other comparable Australian schemes, in NSW and the NT, that are funded from a levy on total project costs and in which GST is included.

As previously outlined, the exclusion of GST from the total leviable building and construction costs was introduced in 2014 to clarify what Government considered to be an included or excluded cost of the building and construction work at that time. However, the lack of broad consultation with levy payers on this

[11] https://archive.sclqld.org.au/qjudgment/2014/QMC14-004.pdf
[12] https://archive.sclqld.org.au/qjudgment/2015/ICQ15-013.pdf

particular change in 2014, compels the government to consider the impacts of re-instating GST inclusions in line with the original intentions of the Act.

It is hard to quantify the exact impact of the GST exclusion on the scheme's levy revenue since it took effect on 1 July 2014 because GST is not a uniform tax that applies to every input cost for a project. However, it is possible to reach a conservative estimate of the financial impact by calculating the proportion of additional levy revenue that would have been collected over the last four financial years if GST was still included in the leviable project costs. The below analysis shows that approximately $8 million per annum has been foregone as a result of excluding GST from levy calculation, amounting to some $32 million in the 4 years between mid 2014 and mid 2018. This is revenue that would otherwise have been paid to the scheme and its loss will have a bearing on the sustainability of the scheme into the future.

Table 14 illustrates this comparison for each of the three levies imposed under the Act as well as the combined levy rate of 0.475%:

Table 14

	2017-18 revenue ($ millions)		
	Excluding GST	**Including GST**	**Increase**
PLSL levy	78.6	86.4	7.8
WHS levy	39.3	43.2	3.9
Training levy	31.4	34.6	3.2
Combined levy	149.3	164.2	14.9

Reinstating GST in the scope of total building and construction costs would bolster the scheme's revenue base and it is estimated to generate an additional approximately $8 million per annum in PLSL funds (though the actual sum of foregone revenue has varied from year to year since 2014). Clearly, this also represents an increased cost to all levy payers. The impact of this increase on a range of different sized levy payers and projects can be modelled also:

Table 15

	Very small project ($145K)	**Small project ($300K)**	**Medium Projects ($1M)**	**Large Project ($200M)**	**Very large project ($1.8B)**
Excluding GST Combined levy - 0.475%	Nil – below levy threshold	$1,425	$4,750	$950,000	$8,550,000
Including GST Combined levy - 0.475%	$756	$1,567	$5,225	$1,045,000	$9,405,000
Increase	$756	$142	$475	$95,000	$855,000

In addition to increasing the cost of a project, the APLNG case also highlighted that a levy payer may not necessarily consider the GST liability from the purchase of goods and materials to be a true cost of the project if it will otherwise be offset by an input tax credit provided for under the relevant tax legislation. However, President Martin provided some rebuttal to this argument in the Industrial Court's appeal decision, stating "[t]he Act does not require that there be such an intensive examination of the internal tax affairs of a person to whom the levies apply…. The fact that, at some later stage, some categories of persons subject to the levy may be able to set off GST credits against a liability to pay GST on its own supplies does not prevent the GST element from being a cost at the time of payment."

The impact of including GST would have a positive impact on the funding position of the PLSL scheme, particularly in the context of maturing entitlements. The additional revenue collected from the WHS and training levies would support the existing work undertaken by WHSQ and CSQ.

6.0 Consideration of the portable long service leave levy rate

The decrease to the PLSL levy rate in 2014, from 0.3% to 0.25% formed part of the Newman government's agenda of cost reduction for business. QLeave currently estimates that the reduction in levy rate has reduced the scheme's income from the PLSL levy by a total of approximately $62.2 million since the 2014-15 financial year. The average of each annual reduction in PLSL revenue since that time is $15.5 million.

6.1 Option 1 – Increase the PLSL levy rate

Increasing the PLSL levy rate, up to a maximum of 0.3%, is also an option for ensuring the stability of the scheme into the medium-term. In conjunction with the other proposals set out above, this would reverse the majority of the 2014 changes and increase the PLSL levy for all levy payers. If a decision were made to leave the current tiered structure of the levies in place, a discounted rate of 0.15% would apply to project costs above the 2nd tier threshold.

There was little justification given in 2014 for the reduction of the PLSL levy rate, beyond general references to an agenda of cutting costs for business. There is also limited evidence of consideration at the time of the impact of the levy reduction on the financial sustainability of the scheme.

It is estimated that if a full 0.5% increase to the PLSL levy was reinstated, annual revenue to the scheme would be increased by approximately $15.5 million per year, based on historical figures. This is in the context of an estimated $42 billion of building and construction work QLeave has projected will take place is 2019-20. The additional cost impact of an increased PLSL levy rate on different sized projects is outlined in Table 16 below (project costs exclude GST):

Table 16

Project size	Current PLSL levy payment (0.25%)	Increased PLSL levy payment (0.3%)	Additional levy payable
$300,000 project	$750	$900	$150
$1 million project	$2,500	$3,000	$500
$200 million project	$500,000	$600,000	$100,000
$1 billion project	$2,500,000	$3,000,000	$500,000

While restoring the levy rate to its pre-2014 level would increase costs for levy payers in the industry, the additional revenue would support the financial viability of the scheme in the medium term. The levy rate was increased to 0.3% in January 2010 based on actuarial recommendations at the time to ensure the long term sustainability of the scheme. Restoring the levy rate up to 0.3% will provide additional revenue to the scheme and will allow for a further assessment of the financial position of the scheme to be made in the future once the impact of the reversal of the 2014 has been established.

7.0 Dedicated funding for targeted mental health and suicide prevention strategies

In response to the high rate of suicide in Queensland's construction industry, the Queensland Government also proposes to establish an ongoing funding source specifically for mental health and suicide prevention strategies through the WHS levy.

7.1 Mental health in the building and construction sector

The Queensland Government remains committed to suicide prevention, recognising the wide ranging and long lasting social and economic impact of suicide. Suicide prevention and mental health is a key priority for the Queensland Government under the *Our Future State: Advancing Queensland Priorities.*[13] The *Queensland Suicide Prevention Action Plan 2015-2017* has a goal of achieving a 50 per cent reduction in suicide within a decade, as recommended by the National Mental Health Commission's *National Review of Mental Health Services and Programmes* report of December 2015.

The Queensland Government acknowledges the high incidence of suicide in the construction industry. A 2006 report by the Australian Institute for Suicide Research and Prevention, commissioned by stakeholders in Queensland's commercial building construction industry, found that the suicide rate of men within Queensland's building and construction industry was significantly elevated and that workers were six times more likely to commit suicide than die in an industrial accident. [14] In particular, young men in the industry aged between 15 and 24 years have an elevated risk of suicide with a suicide rate two to three-times higher than the general community.[15] The average age of suicide fatality among construction workers in Queensland over 2001–12 is 36.7 years.[16]

Research indicates that male construction workers face a range of interrelated stressors stemming from their the workplace (e.g. deadline pressure, lack of job security, bullying and isolation) and their personal lives (e.g. family and relationship problems, financial pressures).[17] However, the industry tends to be characterised by traditional cultural norms regarding masculinity and a stigma associated with mental health and suicide that prevent workers from seeking help,[18] as well as a seemingly deeply-ingrained belief that talking about suicide can cause suicide.[19] Maladaptive coping mechanisms, such as alcoholism[20] and drug use,[21] are relatively common. These cultural norms and self-stigma are known to be difficult to change.[22]

Conversely, encouragement from family and peer networks has been demonstrated to act as an impetus for men to seek professional assistance with mental health problems.[23] Programs providing 'gatekeeper training' have shown some success in teaching participants to recognise people at risk of suicide and help them access

---

[13] https://www.ourfuture.qld.gov.au/healthy-qld.aspx

[14] Australian Institute of Suicide Research and Prevention (2006) *Suicide in Queensland's Commercial Building and Construction Industry: An investigation of factors associated with suicide and recommendations for the prevention of suicide*. Griffith University

[15] Milner et al. (2017) *Male suicide among construction workers in Australia: a qualitative analysis of the major stressors precipitating death* Volume 2. Deakin University 17:584

[16] Christopher M Doran and Rod Ling (2015) *The economic cost of suicide and suicide behaviour in the Queensland Construction Industry*. Hunter Medical Research Institute, University of Newcastle,

[17] Australian Institute of Suicide Research and Prevention (2006); Milner et al. (2017); Australian Institute of Suicide Research and Prevention, *A qualitative evaluation of the effectiveness of the Mates in construction program*, (2017), Griffith University; MATES in Construction (2017) *Saving Lives in the Construction Industry*.

[18] Milner et al, 2017; King et al. (2018) *Shifting Beliefs about Suicide: Pre-Post Evaluation of the Effectiveness of a Program for Workers in the Construction Industry*, International Journal of Environmental Research and Public Health, Volume 15.

[19] King et al, 2018.

[20] du Plessis et al. (2013) *Harmful Drinking and Experiences of Alcohol-Related Violence in Australian Male Construction Industry Apprentices*, American Journal of Men's Health Volume 7 Issue 5.

[21] du Plessis and Corney (2011) *Construction industry apprentices' substance use: a survey of prevalence rates, reasons for use, and regional and age differences*, Youth Studies Australia Volume 30, Issue 4.

[22] Milner et al. (2018) *A smart-phone intervention to address mental health stigma in the construction industry: A two-arm randomised controlled trial* Social Sciences & Medicine – Population Health Volume 4.

[23] Corney and du Plessis (2010) *Apprentices' mentoring relationships: the role o 'snigificant others' and supportive relationships across the work-life domains*, Youth Studies Australia, Volume 29(3).

appropriate assistance.[24] Gatekeeper training programs targeted at the construction industry (e.g. MATES in Construction (MATES) or the Life Care Skills program provided by Incolink in Victoria) have been shown to increase the awareness of suicide risk factors, enable participants to better support peers experiencing mental health problems.[25] [26]

It is estimated that suicide attempts that result in fatality, total incapacity or a short absence from work in the Queensland construction industry cost $345 million in 2012, with 98 per cent of the cost borne by government.[27] In terms of the human impact across workers in the industry, OIR is advised that from September 2015 to March 2016, a 24 hour helpline operated by MATES received its highest number of calls from Queensland construction workers (482 out of 763 calls nationally).[28]

The Government acknowledges that many building and construction industry stakeholders currently provide support for mental health and suicide prevention programs in the industry. Given the extent of the problem in the building and construction industry, there needs to be an industry wide approach to addressing the human and financial impact of suicide by adopting preventive measures and targeting root causes. One component of that is industry support to provide sustainable funding for proven programs so that the industry can rely on, and build on, the successes of those programs to achieve workplace improvements now and into the future.

7.2 Option 1 - Increase WHS levy to include specific mental health component

To ensure a dedicated source of funding specifically for mental health and suicide prevention strategies targeted at the building and construction industry, the Queensland Government is proposing to increase the WHS levy collected under the Act by 0.005%. This would take the WHS levy rate to 0.130%. Based on the levy amounts collected from construction projects over the past five years, it is estimated this would generate between $1-2 million annually for mental health and suicide prevention initiatives in the industry. While this is an increased cost for levy payers, the additional amount generated is relatively small and when spread over all projects valued over $150,000 (approximately 35,000 in 2017–18), it alone is likely to have minimal impact on industry. The impact of this separate increase to the WHS levy on different sized projects is shown in Table 17:

Table 17

(Assuming no tiered structure)	Small project ($300K)	Medium Projects ($1M)	Larger Project ($200M)	Very Large Project ($1B)
0.125% WHS levy rate	$375	$1,250	$250,000	$1,250,000
0.13% WHS levy rate	$390	$1,300	$260,000	$1,300,000
Increase	$15	$50	$10,000	$50,000

If GST was to be reinstated in the leviable project costs, a conservative estimate would be for these costs to increase by a further 0.10%.

This increase is proposed separately and in addition to the other changes already proposed in the this RIS – namely the re-inclusion of GST and reinstatement of a single base levy rate structure. While these changes will also result in an increase in WHS levy revenue, a standalone levy increase is considered the best option

[24] Isaac et al. (2009) *Gatekeeper training as a preventative intervention for suicide: A systematic review,* Canadian Journal of Psychiatry Volume 54.
[25] Gullestrup et al, (2011) *MATES in Construction: Impact of a Multimodal, Community-Based Program for Suicide Prevention in the Construction Industry,* International Journal of Environmental Research and Public Health Volume 8; Broadbent et al. (2013) *Using generalist youth work practice in suicide prevention,* Youth Studies Australia Volume 32 number 1; Broadbent and Papadopoulos, 2014; King et al, 2018; Milner et al, 2018.
[26] Milner et al, 2017
[27] Doran and Ling, 2015
[28] MATES in Construction, 2017

to meet the Government's objective of ensuring a dedicated source of funding for mental health and suicide prevention strategies for the industry. It is considered appropriate that industry fund this levy increase, both to minimise disruption by continuing current practice and because participants in the construction industry (both employers and workers) will be the key beneficiaries.

Any funding generated from the levy would be directed to industry specific suicide prevention programs which have been able to clearly demonstrate their effectiveness and acceptance by stakeholders. Examples of the kinds of initiatives that this additional revenue could be directed towards include the MATES program, which is a multi-faceted suicide prevention program for construction workers built around the concept of '**M**en **A**ctively **T**alking to **E**ach other on **S**ite'. The program was developed by industry stakeholders and uses on-site training to encourage help-seeking and early intervention through volunteer 'connectors' who are trained in suicide intervention skills. This helps builds resilience and capacity around mental health and suicide at a local level and is supported with case management, a national 24-hour telephone helpline and online counselling. The program is also active in NSW, South Australia and Western Australia.

The Bluehats program recently commenced by Incolink in Victoria has adopted the same model of provision of training for on-site 'first responders', backed by counsellors and coupled with support for cultural change in the industry toward increased awareness of, and willingness to discuss, mental health issues.

MATES has been independently evaluated by the Australian Institute of Suicide Research and Prevention, which found that key aspects considered central to the success of the program were its simplicity, clear roles for volunteers and a strong perception of being part of the construction industry. The onsite visibility of MATES and motivational presentations from peers has also enabled construction workers to move past the traditional barriers of male attitudes and workplace culture to seek professional support.[29] A 2016 review of the MATES program by the University of Queensland and Deakin University found that in the five years since the program's commencement (2008-2012), there had been a reduction in male suicide rates in the Queensland construction industry of 7.9 per cent, while over the same period the average suicide rate for males in Queensland has remained unchanged.[30]

7.3 Option 2 – Dedicate a specific portion of existing WHS levy revenue to mental health and suicide prevention strategies

A further option to fund mental health and suicide prevention strategies in the building and construction industry is to still rename the WHS levy to specifically provide for this dedicated purpose but source the 0.005% of the funds from existing levy revenue rather than increase the WHS levy rate. While this would not impose any further burden on industry, it would put additional funding pressure on government, as it would redirect funds away from other WHS activities. This additional pressure would also occur at a time when the WHS regulatory activities of OIR are increasing in both the construction industry, as a result of the Best Practice Review, and in the resources industry, given the increase in new solar and wind energy projects being constructed across Queensland.

However, if additional changes are also made to the current tiered levy structure and/or exclusion of GST in the leviable costs, the cost of this 0.005% could be met from the associated increase in revenue in some scenarios. Table 18 shows the total revenue that would be collected from the WHS levy under these different scenarios, using the 2017-18 financial year as a baseline.

[29] Australian Institute of Suicide Research and Prevention, 2017

[30] Martin G, Swannell S, Milner A, Gullestrup J Mates in Construction Suicide Prevention Program: A Five Year Review. (2016) Journal of Community Medicine and Health Education.

Table 18

	Maintain status quo	Remove tiered levy	Re-inclusion of GST	Both remove tiers and reinclude GST
Total revenue	$149.3 million	$150.3 million	$164.2 million	$165.3 million
Additional revenue	N/A	$1 million	$14.9 million	$16 million

8.0 Implementation

8.1 Changes to the tiered levy structure

The Government would need to amend the Regulation to give effect to any change in the tiered structure. An awareness and engagement strategy would be developed to advise stakeholders of any changes in advance of those changes coming into effect. QLeave and OIR would be available to provide advice to levy payers affected by any changes during the transitional period.

8.2 Re-instatement of GST

The Queensland Parliament would need to pass legislative changes to section 73 of the Act to give effect to this proposed option. This would involve the usual parliamentary processes of introduction of the amendments to parliament and consideration and debate of the proposal by the Parliament. An awareness and engagement strategy would be developed to advise stakeholders of any changes in advance of changes coming into effect. QLeave and OIR would be available to provide advice to levy payers affected by any changes during the transitional period.

8.3 Restoring PLSL levy rate to pre-2014 level

The Government would need to amend the Regulation to give effect to any change in the PLSL levy rate. An awareness and engagement strategy would be developed to advise stakeholders of any change in advance of those changes coming into effect. QLeave and OIR would be available to provide advice to levy payers affected by any changes during the transitional period.

8.4 Dedicated mental health and suicide prevention funding

Sections 66 and 32 of the Act would need to be amended to give effect to the proposed levy increase or reallocation, particularly the name of the levy and intended provision to mental health and suicide prevention initiatives. The Regulation would also need to be amended to increase the WHS levy rate and specify that the 0.005% proportion that is intended for mental health and suicide prevention initiatives.

It is anticipated these funds, at least in part, will be provided to external initiatives or service providers. This would be subject to the Queensland Government's procurement processes with any successful recipients entering into contractual arrangements with the agency that will administer the additional funds (most likely OIR). This contractual arrangement will be for a fixed term and ensure the use of this funding is monitored through contractual reporting requirements. This is not expected to pose an additional administrative burden on government because it would reflect the contractual arrangements under which OIR has previously provided periodic funding to external organisations.

An awareness and engagement strategy would be developed to advise stakeholders of any changes in advance of those changes coming into effect. QLeave and OIR would be available to provide advice to levy payers affected by any changes during the transitional period.

9.0 Evaluation

If these proposed changes were to progress, actuarial advice would be obtained to more accurately model both the individual impact of the measures chosen and their combined impact.

QLeave has a statutory obligation to review the financial position of the scheme at least every two years. If the proposed changes were implemented, OIR would work with QLeave to monitor and report on the impact on the scheme's funding position in the medium to long term.

10.0 Combined impact of the proposed levy changes

As outlined above, the Government's preferred options are to progress changes to the Act and Regulation to increase the PLSL levy rate from 0.25% to a maximum of 0.3%, include GST in the definition of the total cost of works, and to remove the tiered levy structure and revert to individual base levy rates. This will reverse some of the 2014 changes, which were implemented without adequate consultation with industry, restore some of the funding components of the scheme to pre-2014 levels, and increase the equitable functioning of the scheme.

Each of the four preferred changes – removing the tiered levy structure, reinstating GST and separately increasing the PLSL levy by up to 0.05% and the WHS levy by 0.005% - will increase levy revenue on their own so it is prudent to consider the combined impact of implementing all four proposed changes. Table 19 sets out the current and proposed levy rates.

Table 19

	PLSL levy (%)	Training levy (%)	WHS levy (%)	COMBINED (%)
Current	0.25	0.1	0.125	0.475
Proposed	0.3	0.1	0.13	0.53

If there is no separate increase to the PLSL or WHS levies, the cost impact on the levy revenue (based on 2017-18 figures) is detailed in Table 20 (note that the highlighted column represents the status quo):

Table 20

	Excluding GST ($ millions)		Including GST ($ millions)	
	Tiered	No tiers	Tiered	No tiers
LSL levy (0.25%)	78.6	79.1	86.4	87
WHS levy (0.125%)	39.3	39.5	43.2	43.5
Training levy (0.1%)	31.4	31.6	34.6	34.8
Combined levy (0.475%)	149.3 total revenue (no change)	150.3 total revenue ($1 million increase)	164.2 total revenue ($14.9 million increase)	165.3 total revenue ($16 million increase)

Table 21 sets out the impact of the GST and tiered structure changes, without the additional increases in the PLSL or WHS levies, on a hypothetical project with a total cost (excluding GST) of $3 billion:

Table 21

	Excluding GST ($)		Including GST ($)	
	Tiered	No tiers	Tiered	No tiers
LSL levy (0.25%)	5,201,250	7,500,000 (2,298,750 increase)	5,576,250 (375,000 increase)	8,250,000 (3,048,750 increase)
WHS levy (0.125%)	2,600,625	3,750,000 (1,149,375 increase)	2,788,125 (187,500 increase)	4,125,000 (1,524,375 increase)
Training levy (0.1%)	2,080,500	3,000,000 (919,500 increase)	2,230,500 (150,000 increase)	3,300,000 (1,219,500 increase)
Combined levy (0.475%)	9,882,375	14,250,000 (4,367,625 increase)	10,594,875 (712,500 increase)	15,675,000 (5,792,625 increase)

The combined impact of these proposed changes on the aggregate revenue for each individual levy (based on 2017-18 figures) as well as the combined levy rate payable by levy payers is detailed in Table 22 (note that all increases are based on the status quo figure in Table 20):

Table 22

	Excluding GST ($ millions)		Including GST ($ millions)	
	Tiered	**No tiers**	**Tiered**	**No tiers**
LSL levy (0.3%)	90.3	94.2	99.3	103.6
WHS levy (0.13%)	40.9	41.1	44.9	45.2
Training levy (0.1%)	31.4	31.6	34.6	34.8
Combined levy (0.53%)	162.6 total revenue (13.3 million increase)	166.9 total revenue (17.6 million increase)	178.8 total revenue (29.5 million increase)	183.6 total revenue (34.3 million increase – PREFERRED OPTION)

For the purposes of comparison, Table 23 presents the impact of the proposed changes on the hypothetical $3 billion project:

Table 23

	Excluding GST ($)		Including GST ($)	
	Tiered	**No tiers**	**Tiered**	**No tiers**
LSL levy (0.3%)	6,241,500	9,000,000 (2,758,500 increase)	6,691,500 (450,000 increase)	9,900,000 (3,658,500 increase)
WHS levy (0.13%)	2,704,650	3,900,000 (1,195,350 increase)	2,899,650 (195,000 increase)	4,290,000 (1,585,350 increase)
Training levy (0.1%)	2,080,500	3,000,000 (919,500 increase)	2,230,500 (150,000 increase)	3,300,000 (1,219,500 increase)
Combined levy (0.53%)	11,026,650	15,900,000 (4.8 million increase)	11,821,650 (795,000 increase)	17,490,000 (6.4 million increase)

The combined impact of the changes in terms of the total combined levy paid by different groups of levy payers is detailed in Table 24 (note that none of the hypothetical projects reach the threshold for the second levy tier):

Table 24

COMBINED IMPACT OF PREFERRED OPTION	**Levy payable by project size**			
	Small project ($300K)	**Medium Project ($1M)**	**Larger Project ($200M)**	**Very Large Project ($1B)**
STATUS QUO (combined current levy of 0.475%, excluding GST)	$1,425	$4,750	$950,000	$4,750,000
PREFERRED OPTION (combined increased levy rate of 0.53%, including GST)	$1,749	$5,830	$1,166,000	$5,830,000
INCREASE FROM STATUS QUO	**$324**	**$1,080**	**$216,000**	**$1,080,000**

If these proposed changes were to progress, further actuarial advice would be obtained to more accurately model the individual and combined impact of each option.

QLeave has a statutory obligation to review the financial position of the scheme at least every two years. If the proposed changes were implemented, OIR would work with QLeave to monitor and report on the impact on the scheme's funding position.

QLeave and the QLeave Board would also be responsible for monitoring compliance with the payment of the levies in accordance with its existing legislative responsibilities.

10.1 Broader regulatory impact

The proposed levy in this RIS should be considered within the industry's broader regulatory environment.

10.2 Consistency with COAG competition principles

The Queensland Government Guide to Better Regulation[31] requires that the recommended option in a consultation paper of this nature should be consistent with clause 5 of the Council of Australian Governments' (COAG's) 1995 C*ompetition Principles Agreement*.[32] The COAG Competition Principles Agreement requires that proposed legislation should not restrict competition unless:

1. it can be demonstrated that the benefits of doing so outweigh the costs; and
2. the policy objective can only be achieved by restricting competition.

While the proposed changes to the QLeave levies impose an increased cost on levy payers in the building and construction industry, the benefits from the changes are considered to balance those increased costs. Firstly, reinstating GST in the calculation of the leviable costs and removing the tiered levy structure will broaden the scheme's revenue base and bolster its funding position. Secondly, dedicated funding for suicide prevention programs is expected to provide benefits across the industry in terms of reduction of suicide, better stress management, reduced impact on families and communities and related improvements in productivity and efficiency. As these levy changes are spread across all levy payers in the building and construction industry, there is not expected to be any restriction of competition.

10.3 Consistency with fundamental legislative principles

The Queensland Government Guide to Better Regulation[33] requires that the recommended option in a consultation paper of this nature should be consistent with Section 4 of the Queensland *Legislative Standards Act 1992*. The meaning of 'fundamental legislative principles' is set out in the Queensland *Legislative Standards Act 1992*, which states that legislation should have sufficient regard to:

1. the rights and liberties of individuals; and
2. the institution of Parliament.

Having sufficient regard to the rights and liberties of individuals may depend on whether the legislation:

- ensures access to review of administrative decisions;
- is consistent with natural justice;
- allows administrative powers to be delegated only to appropriate persons;
- does not reverse the onus of proof in criminal proceedings;
- confers search and seizure powers only with a warrant;
- provides appropriate protection against self-incrimination; and
- does not have adverse retrospective impacts; and
- is drafted in clear and precise language.

---

[31] Queensland Treasury, *The Queensland Government Guide to Better Regulation*, 2016, p. 15. https://s3.treasury.qld.gov.au/files/guide-to-better-regulation.pdf
[32] See the website of COAG at https://www.coag.gov.au/about-coag/agreements/competition-principles-agreement
[33] Queensland Treasury, *The Queensland Government Guide to Better Regulation*, 2016, p. 15. https://s3.treasury.qld.gov.au/files/guide-to-better-regulation.pdf

Having sufficient regard to the institution of Parliament may depend on whether the legislation:

- subjects delegated legislative powers to the scrutiny of the Legislative Assembly; and
- authorises the amendment of an Act only by another Act.

The proposed changes to the building and construction industry's QLeave levies have sufficient regard to both the rights and liberties of individuals; and the institution of Parliament.