

## BCITF Levy in WA's resources sector Fact sheet 2 - FAQs

### 1. Who is obliged to pay the BCITF Levy?

A project owner is required to pay the BCITF Levy. In the absence of a building permit (issued in accordance with the Building Act 2011), a project owner is defined as the

- (i) person or body for whose direct benefit construction work exists upon its completion; or
- (ii) if the person or body referred to in (i) has engaged another person or body, other than as an employee, to carry out or cause to be carried out all of the construction work, the person or body so engaged.

### 2. When must the levy be paid by the project owner?

A project owner is required to notify the CTF of construction works that are subject to the BCITF Levy and make payment of the appropriate amount prior to the commencement of construction.

### 3. How is the levy calculated?

The levy is calculated at 0.2% of the value of construction work. For example, the BCITF Levy would be \$20,000 for construction works valued at \$10m.

Initially, the BCITF Levy is calculated based on the estimated value of construction works and payment is made prior to the commencement of construction. The final value of construction works determines the full amount of BCITF Levy to be paid (refer to Q12).

### 4. How is the value of construction work estimated?

If there is no contract price for the construction work, then estimating the value of construction in accordance with Schedule 2 of *the Act* must account for the sum of the value (including the GST) of each of the following relevant components

- a) all goods (including manufactured goods) forming part of the construction work; and
- b) labour; and
- c) services necessary; and
- d) fees payable; and
- e) overheads to be met; and
- f) profit margin

If there is a contract price, that price must include a value for each of the relevant components noted above.

### 5. Is GST added to the amount of levy calculated for payment?

GST is not added to the amount of levy calculated.

Each of the relevant components in the construction process must already include GST; or, a contract price for construction must also include GST.

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### 6. Can the BCITF Levy be paid in instalments?

The amount of BCITF Levy is calculated according to the estimated value of construction for a project and must be paid in full prior to the commencement of construction.

Where projects are developed in discrete phases, the BCITF Levy is calculated based on the estimated value of the works included in each phase.

For example, a resources company announces a five-year plan to invest \$2bn to establish a completely new mine, with \$1bn immediately committed to construction of infrastructure required to achieve operational status. The amount of BCITF Levy to be paid will be calculated on the \$1bn of construction works.

The BCITF Levy will apply to further new construction works contracted by the company for expansion or enhancement of the mine.

### 7. A company announces an investment of \$1bn to expand operations. \$300m of this value is in rolling stock, such as haul trucks, water carts and other vehicles. Is this to be included in the estimated value of construction?

No; items such as haul trucks, water carts, locomotives, rail cars and vehicles are not part of construction works and will not be included in calculating BCITF Levy payments.

### 8. Where does revenue from the levy go and how is it used?

Revenue from the BCITF Levy is collected by the CTF.

CTF directs the revenue into programs that support apprenticeships and other entry level training in the building and construction industry; and supplementary training for those who are already working in the industry, including training for work health and safety.

- Currently, an employer of a trainee or apprentice may be eligible for a base grant between \$3,000 and \$10,000 from the CTF, depending on the qualification. Additional supplements and trade bonuses can bring the total amount available to \$25,000 per apprentice.
- CTF can subsidise the cost of short-course training by up to 80%.

### 9. How do these programs benefit the resources sector?

The benefits include

- a skilled workforce; equipped to conduct construction works efficiently and safely
- reduced training costs; either for the individual worker or the company that is employing them and paying for their training
- safer work sites, reducing risk and lost time for injury
- a healthier economy, less susceptible to skill shortages at critical times

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### 10. Will the revenue raised from construction works in the resources sector go directly back into the sector?

There is no direct return of revenue from the BCITF Levy to any construction project or sector from which it is received.

The construction industry covers a range of contexts, enabling multiple industries to carry out their business. Project owners building schools (education), hospitals (health), roads (transport), factories (manufacturing), shopping centres (retail) have paid the BCITF Levy since 1991 and contributed to the training of thousands of apprentices and workers.

Generations of apprentices have become qualified tradespeople and completed construction works across multiple contexts and industry areas, including the resources sector; which, since 1994, has had exclusions from the BCITF Levy.

The additional revenue raised from construction works in the resources sector will support the training of apprentices and industry workers, ensuring that all sectors and contexts contribute to and can draw from a skilled construction workforce.

### 11. How are BCITF Levy payments made?

Where a building permit is not required, BCITF Levy payments are made directly to the CTF via a secure online system. Project owners are required to provide key information relating to the project, including; description of works, location, estimated value of construction, commencement date and estimated completion date.

Once payment is received, CTF will provide the project owner with a receipt reflecting payment details.

### 12. Why is a completion date necessary?

CTF requires an estimated completion date to assist project owners with reconciliation of BCITF Levy due, based on the final value of construction.

The initial payment made by a project owner is based on an estimate of the value of construction works.

When the construction works have been completed and the final construction value has varied by more than \$25,000 from the estimate, then an adjustment to the amount of levy paid is required.

Where the final construction value is more than \$25,000 *below* the estimated value, CTF will refund an appropriate amount of the levy paid to the project owner.

Where the final construction value is more than \$25,000 *above* the estimated value, the project owner is required to pay an additional amount of levy to the CTF.

### 13. What happens if a project doesn't go ahead and the levy has already been paid to the CTF?

CTF will refund to a project owner 100% of the levy paid if a project is cancelled prior to commencement of construction.

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### **14. What happens if the BCITF Levy is not paid by a project owner prior to the commencement of construction – are there penalties?**

There are penalties which may apply if a project owner fails to pay the BCITF Levy prior to construction or to notify the CTF of variations in the final value of construction.

An individual can face a penalty of \$20,000 for each instance and a company can face a penalty of \$50,000 for each instance.

In addition to any penalty and the amount of levy originally due on the construction works, the project owner can be liable to pay a further 100% of the unpaid levy, annualised from the estimated date when construction commenced.

### **15. What is the meaning of construction work?**

The meaning of *construction industry* and *construction work* within the *Act* is the same as defined by the *Construction Industry Portable Paid Long Service Leave Act, 1985*; which, at its core, is the carrying out of construction, erection, installation, reconstruction, re-erection, renovation, alteration, demolition, maintenance or repairs activities on a site.

### **16. Will all construction work in the resources sector under this definition be subject to the BCITF Levy?**

The amended Regulations now include engineering construction works in the resources industry that were previously excluded from the scope of the BCITF Levy. Works related to resources operational activities are excluded. Residential and commercial construction works remain subject to the BCITF Levy.

### **17. Does the threshold of \$10m apply to all works in the resources sector?**

No; the threshold applies only to replacement, renovation, alteration, reconfiguration, refurbishment and relocation works undertaken on existing resources facilities or components of resources facilities. All other construction works with an estimated value greater than \$20,000 in the resources sector and not captured by an exclusion outlined in the Regulations are subject to the BCITF Levy.

### **18. Does the BCITF Levy apply to offshore construction work?**

Yes; Section 5 of *the Act* prescribes the inclusions for offshore construction work. As an example, the construction of an offshore gas platform and associated infrastructure that transports hydrocarbons to an onshore processing plant is subject to the BCITF Levy.

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### 19. Does the BCITF Levy apply to earthworks related to mine rehabilitation?

No; recontouring of land and/or redistribution of strip or overburden to backfill or stabilise land; and/or re-seeding of land affected by resources operations is excluded.

Flooding, sealing, capping and sequestering activities connected with closure and/or decommissioning of resources operations is excluded.

Demolition of structures, components and/or facilities as part of the decommissioning of resources operations is excluded from the BCITF Levy.

### 20. Why are works for replacement, alteration, renovation, reconfiguration and replacement of resources facilities subject to a threshold?

In recognition of the unique requirements of resources operations, the BCITF Levy will only apply to the replacement, alteration, renovation, reconfiguration or relocation of a resources facility or component of a resources facility when the aggregate value of the associated works is \$10m or greater.

This equates to a minimum BCITF Levy value of \$20,000.

### 21. Maintenance or repairs of resources facilities are not subject to the BCITF Levy; however, replacement, alteration, renovation and reconfiguration works are often part of repairs and maintenance schedules. Will these activities be subject to the BCITF Levy if they're part of a regular maintenance program?

The definition of construction prescribed in *the Act* excludes *maintenance or repairs of a routine or minor nature*.

The adjective *routine* is widely accepted as relating to activity which is *performed as part of a regular procedure, rather than for a special reason*. Similarly, the adjective *minor* is accepted as relating to an activity that is comparatively *lesser in importance, seriousness or significance*.

Maintenance or repairs of a routine or minor nature within a resources operational context would therefore be works that are regular; procedural; or works that are comparatively of lesser significance to operations and are not subject to the BCITF Levy.

The threshold only applies to instances of replacement, alteration, renovation or reconfiguration works of an existing resources facility or component of a resources facility that are not regular; procedural; or are works that have comparative significance to operations; and where the aggregate value of the works is \$10m or greater.

### 22. The Regulations come into force on 1 October 2018. Will the BCITF Levy apply to construction works that are currently underway?

The BCITF Levy will only apply to relevant works that commence on or after 1 October and will not be applied retrospectively to works that commenced prior to this date and that are underway.

CTF will consult with project owners to determine the nature of contracts and works to ensure that the BCITF Levy is applied only where appropriate.

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**23. The amended Regulations extend the application of the BCITF Levy to certain engineering construction works which were previously excluded under Reg 3AA; resources facilities that are not commercial facilities. What does this mean?**

Commercial facilities are infrastructure or structures that are intended predominantly to be used or to contain people; or plants; or machinery; or goods; or livestock.

Examples include

- Hospitality—kitchens, cooking and food preparation, dining/mess areas, function rooms
- Leisure—sporting facilities, gyms, swimming pools, spas, games rooms, TV/movie theatres/lounges, decks, aquariums
- Cultural—prayer rooms, chapels, meeting rooms
- Health—first aid, medical centres
- Ablutions—bathrooms, toilets, shower areas
- Offices—reception, visitor centres, retail
- Laboratories
- Nurseries and seed banks
- Workshops—light and heavy machinery, fabrication shops, tool shops, garages and vehicle shelters, hangars
- Transport—sealed roads, unsealed roads (not haul roads), footpaths, hardstands, forecourts, cycleways, runways, airports
- Storage, warehouses and depots—cool rooms, fuel, hazardous materials, chemicals, explosives, core libraries