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Dear Tom

Review of the *Building and Construction Industry Training Fund and Levy Collection Act 1990 (WA)*

Thank you for your letter dated 27 August 2024.

Please find further clarification on the questions and information requested in your letter. The CTF understands that responses to these questions will assist in informing the final report. Where possible, concrete examples that support the answers are provided.

Question 1:

Please reconcile the answer the CTF provided on 13 May 2024 in response to Question 12(a) with the examples of disputes set out above.

The CTF response related to significant or legal disputes where a legal process had started. Contact had with companies mentioned in your letter are to initiate a conversation with parties and to find out more information about projects where there is an assumption of unpaid levies.

It is not confirmed that these are truly unpaid levies, since there are so many exclusions, particularly as the levy is applied in the resources sector and therefore not in dispute.

Up until recently, the CTF did not have the internal processes in place to pursue the levy. The levy enforcement processes are now in place, and so the CTF can and will be pursuing Roy Hill / Hancock Prospecting and will have further conversations with them.

In February 2021 the CTF had an appointed authorised person who exercised the requirement to produce documents. This was conducted under previous CTF personnel and there is no record of clear governance or processes being in place to ensure that the necessary checks and balances occurred.

Question 2:

Please provide full particulars (details) of what occurred in February 2021 with respect of the utilisation of the enforcement powers in the Act.

Unfortunately, there is limited information available as this work was delivered through previous personnel no longer with the CTF, and there are insufficient records.

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Question 3:

(a) Does the CTF consider that the powers in Parts 4 and 5 (including, specifically, those in section 28) of the Act are insufficient to deal with the difficulties identified by the CTF at page 10 of its Submission? If so, how and why?

It is sufficient as a last resort. To maintain productive relationships, the CTF chooses not to exercise the powers. It could fracture relationships with other agencies if we used our legislated powers on them.

If the requirement for the levy is embedded into other permits, such as the building permit, then that would be ideal so in that way it's just part of business.

A stronger whole-of-government solution and culture of data sharing would also be of benefit.

(b) Section 4 provides that the Act binds the Crown in right of the State. Section 28(5) of the Act provides that:

“An authorised person may, by notice in writing given to a person require the person to submit to the authorised person, or to the Board, within such reasonable time as is specified in the notice, such information or documents relevant to the operation of this Act as is specified in the notice”

Has the CTF ever sought to use the provisions in Parts 4 and 5, including s.28(5), in order to deal with the information-sharing difficulties identified at page 10 of its Submission?

Yes, in February 2021 and then not until recently (September 2024) when a proper process was in place.

(c) The CTF is otherwise invited to identify, in light of the matters raised in this correspondence, an appropriate recommendation in order to best assist it in dealing with the information-sharing difficulties identified at page 10 of its Submission.

The CTF believe we need to look for ways that the levy payment can be embedded within existing licenses for other non-permit related construction.

Yours sincerely



Tiffany Allen
Chief Executive Office
2 September 2024