



## VTA submission on Education and Training Reform Bill (Exposure Draft) 2005 20<sup>th</sup> January 2006

### POLICY ISSUES

1. Chapter 3, s.3.1.1 to 3.1.10 of the Bill p.176 to 183 deals with the organisation titled the "Victorian Skills Commission", which is responsible for the VET sector. The VTA is of the view that limiting the title of the Commission to a reference to 'Skills' devalues the role of TAFE Institutes, which are involved in much more than skills acquisition, especially through Diploma, Advanced Diploma, Degree and Graduate Certificate programs. More generally, the title of the Commission does not fully reflect the functions, powers and accountability of the Commission. The VTA therefore strongly suggests a renaming to the "*Victorian Vocational Education and Skills Commission*" would be more appropriate.
2. At s.3.1.2(2) of the Bill p. 178 there has been an omission from the prior VET Act 1990 of s.9(2)(a) p.18. The VTA believes that this sub clause:  
*"have regard to the whole of the functions conferred on boards of TAFE institutes by or under this Act; and"*  
is of importance and should be reflected in the Bill as a new 3.1.2(2)(a) and a subsequent renumbering of sub clauses following.
3. At s.3.1.13(1)(a) of the Bill p. 187 there is reference to "prepare periodic management plans for the institute". In our original submission to the Legislative Review and Discussion Papers at point 35 the VTA submitted that this statement from the VET Act 1990 s.25(1)(a) p. 40 was inconsistent with current best practice which requires a more strategic business approach. Further this wording implies operational management rather than governance that has been the accepted principle articulated in other clauses of the Bill and does not reflect the performance agreement process or contents. We therefore suggest that this sub clause be reworded to embrace the actuality of "strategic plans and operational business plans".  
Therefore, VTA submits that s.3.1.13(1)(a) be reworded as follows:  
*"to oversee and govern the institute efficiently and effectively and to prepare and review strategic plans and operational business plans for the institute; and"*.
4. The VTA is mindful of the Government's intention of ensuring that the new Act reflects the contemporary education scene. With this in mind, it is surprising that no real change to the function of TAFE Institute Boards has been included in section 3.1.13 (1) of the Draft Bill. The role of TAFE Institute Councils has long been to promote entrepreneurial and income-generating activity and the capacity of Institutes to do so is a well-accepted key performance indicator in OTTE's annual benchmarking report. Further, this is now recognised in section 12 of the Skilling Australia's Workforce Act 2005. The VTA therefore suggests amendment to s.3.1.13 "Functions of TAFE institute boards" p. 187 to comply with and to better reflect the increased commercial and entrepreneurial functions of institutes. We suggest a new s.3.1.13(1)(f) and subsequent sequential renumbering of s.3.1.13(1)(f) and (g).  
The suggested new s.3.1.13(1)(f) would read:

*“to engage in innovation and entrepreneurial initiatives including through the generation of commercial revenue, sponsorships, partnerships and other entrepreneurial and commercially focused activities.”*

*(source: reworded clause 12(1)(e) & (f) of the Skilling Australia’s Workforce Act 2005 p.12)*

5. In relation to s.3.1.13(2) p.188 of the Bill, while recognizing that the functions listed are consistent with the current Act, the VTA is of the view that there is a need to revise and update the list since some issues of greater relative importance to those listed in sub-clauses (a) to (f) have been overlooked. These include promotion of science and technology, community engagement, industry engagement and entrepreneurship. Further, we suggest a new sub clause (g) as follows:  
*“promote student development related to employability skills.”*
6. Consistent with the amendment proposed in point 4 above the VTA submits that the “Powers of TAFE institute boards” at s.3.1.13(2) of the Bill p. 188, needs to place an increased emphasis of the entrepreneurial and commercial activities of TAFE institutes. The VTA suggests that this can be achieved by amending s.3.1.13(2)(b) to read:  
*“undertake commercial services including research, development, consultancies and other services”*
7. The VTA submitted at point 38 of the prior submission that TAFE institutes be provided the ability to establish and operate Group Training Companies (GTC). We originally proposed this on the basis of market equity and did not elaborate upon this point. There are very sound reasons why TAFE institutes should be afforded this opportunity. TAFE institutes believe they are well placed to undertake a GTC role and that they can deliver improved educational and vocational outcomes if this opportunity is provided. TAFE institutes believe they can significantly contribute to higher participation rates and lower non completion rates by apprentices and can foster and develop closer relationships with industry if provided with the ability to establish and operate GTCs. Therefore at s.3.1.13(2) of the Bill p. 188 we suggest that an amendment be made to the “Functions of TAFE institute boards” to provide for a new sub clause that would read:  
*“establishment and operation of Group Training Companies”.*
8. We suggest that s.3.1.15(2) of the Bill p.189 be amended as follows:  
*“The board of a TAFE institute is accountable to the Minister for the effective and efficient governance of the institute including the discharge of its statutory function and ~~for the educational and financial~~ the performance of the institute”.*
9. At point 48 of the VTA prior submission we outlined support for fixed dates of appointment of board directors and that these be staggered so that one third of directors terms expire in February of each year. The Bill has not reflected this suggestions. The VTA believes that this issue should be addressed in the Act. We therefore submit that s.3.1.16 p. 190 be amended by the insertion of a new sub clause s.3.1.16(4) and the renumbering of existing sub clause (4) to (5).  
The new sub clauses 3.1.16(4) would read:  
*“(4) Directors of a TAFE board will be appointed for terms of up to 3 years with one third of the total board directors’ terms expiring in February of each year.”*

Further at point 48 of the VTA prior submission we suggested that a process be established to enable the selection/appointment of reserve members to allow for the filling of vacancies arising through vacating of office by a director. The VTA would appreciate

the opportunity to further discuss the merits of this suggestion with the Department/Minister.

10. The Victorian Registration and Qualifications Authority has in the listed "Functions of the Authority" at clause 4.2.2 of the Bill p. 249 to 252 omitted to reflect some of the key functions of the Victorian Qualifications Authority outlined in the VQA Act 2000. The VTA strongly supports the work that has been undertaken by the VQA in standards monitoring, linkages between qualifications and life long learning objectives and favors their retention within the new VR&QA.

Under the proposed new arrangements, the VQA will be the only statutory authority that has coverage across the three education sectors: schools, VET and Higher Education. This is a unique opportunity to promote cooperative arrangements between the sectors in the area of qualifications, which has been lacking in the past.

We therefore suggest that the following clauses of the VQA Act 2000, "Objectives of the Authority" s.5(a), (b), and (c) p.10 be reflected in the Bill in clause 4.2.2. Also, the "Functions of the Authority" have been varied and VQA Act 2000 clause s. 6(1)(g), p.12 has been omitted from the Bill. VTA is of the strong view that s.6(1)(g) of the VQA Act should also be reflected in the Bill. (Note: references below are to sections of the VQA Act 2000).

*"s.5(a) develop and monitor standards for education and training normally undertaken in, or designed to undertaken in the years after year 10;*  
*s.5(b) ensure and support appropriate linkages between qualifications;*  
*s.5(c) facilitate procedures which make it easier for people to re-enter education and training and acquire qualifications throughout their lives*  
*s.6(1)(g)promote and develop linkages between accredited courses and recognised qualifications and support articulation between these courses and courses in other sectors of education"*

In the event that there was seen to be a need to delineate that the Authority did not have the role of developing standards as per s.5(a), the VTA would suggest that the word "develop" could be replaced with "foster".

The VTA would also be prepared to consider an alternative to the above. That is, s.5(a) and s.5(b) could be reworded as "Functions of the Authority" as outlined below and s.5(c) would remain unchanged and be reflected in the Bill:

Alternate s.5(a) -

*"ensure consistency, encourage, support and foster linkages as appropriate between courses, qualifications and/or education sectors"*

Alternate s.5(b) -

*"promote and develop linkages between accredited courses and recognised qualifications and support articulation between those courses and courses in other sectors of education"*

11. The powers to make Ministerial Directions/Orders as they relate to TAFE Institutes have been extended to general powers as detailed in Part 5.2, s.5.2.3 to 5.2.15 p. 310 to 319 of the Bill. The VTA perceives that this is an expansion of the powers contained in the current Vocational Education and Training Act 1990, s. 6(1)(aa) to (h) and 6(1A)(9a) and (b) p. 11 to 13 and s.6A and 6B p.14 and 15.

The VTA requests that the Bill be amended to insert a new clause 5.2.3(4) on p.312 and to renumber the subsequent 5.2.3(4) to 5.2.3(7). The suggested new sub-clause 5.2.3(4) would read:

*“A direction to a TAFE Institute may be issued following consultation with the board(s) of the Institute(s) and having due regard for the functions, powers and accountability of the board(s) as detailed in this Act”.*

Further, the VTA has previously raised concerns about proper communications processes related to Ministerial Directions and ensuring that an up to date and consolidated user friendly version of directions and orders are made available to TAFE boards annually. We therefore suggest a new subclause under s.5.2.3 that would read: *“The Minister shall notify all relevant bodies of the issue of directions that relate to them and ensure that directions are published and readily available.”*

Dual sector Universities with TAFE Divisions have particular concerns related to the broader Ministerial Direction powers and the interface with Commonwealth legislation, regulations and DEST funding and operational requirements. The Dual sectors believe that the broader Ministerial powers as enabled in the Bill may place them into conflict situations with Federal requirements. The VTA therefore requests that a meeting be convened by the Department with the Universities with TAFE Divisions to further explore their concerns. The VTA would be pleased to facilitate the organising of such a meeting.

### **TECHNICAL ISSUES**

12. At s.3.1.4(1) and 3.1.4(4)(b) p.179 of the Bill (Exposure Draft), the word “council” appears. For consistency with the renaming of councils from the VET Act 1990 to “boards” in Part 3 Division 2 of the Bill, these words should be replaced by “board”.
13. At s.3.1.19(1)(a) of the Bill p.191, the word “managing” is used, yet at 3.1.12(1)(a) the word “govern” is used. VTA supports the adoption of the word “govern” and therefore suggests that s.3.1.19(1)(a) be amended to replace the word “managing” with “governing”.
14. The Bill at Schedule 10 clause 3(3) p. 402 refers to a “council of a TAFE institute”. The word “council” should be replaced with “board” for consistency.