



Submission to Productivity Commission

Response to Interim Report on Review of National
Agreement on Skills and Workforce Development

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Overview

TAFE Directors Australia (TDA) acknowledge the role market instruments may contribute to public policy by placing consumers in a stronger position to influence supply and drive responsiveness and for generally improving efficiency of government services. Increasing levels of competition have been a strong feature in vocational education and training (VET) for over thirty-years, with more expansive models implemented in more recent years.

The sector has suffered huge reputational damage from poor design and mismanagement of market-like reforms. All governments have pulled back their levels of funding and increased the regulatory oversight to mitigate the risks.

Students have been the victims, through no fault of their own and despite their best endeavours to improve their lot in life. It is difficult to conceive how it would be any different under the proposals put by the Productivity Commission. At least ten per cent of labour market participants have received a significant economic and social 'shock' from COVID-19. They should not be unnecessarily exposed to further downside risks across the next decade from failure of public policy to take onboard lessons learnt. Post recovery, market-oriented policies can then be re-visited.

The interim report is suggesting a return to open competition in the VET sector to guide the conditions of a new national agreement. In the face of poor practice in recent times and the need for a new form of vocational education to serve the new economy, the message from TDA is better management and controls on competition are needed. There appears to be a natural limit to competition in a human services area where scoping, funding and oversight of what is an intrinsic human endeavour is an imprecise task.

VET in Australia seems to be captured by impossible expectations. First, it is expected to deliver nationally consistent training outcomes, defined remotely from the provider (supplier) and enforced through threat of regulatory sanctions. Second, providers, which are the source of success for students and for industry and communities, are called to respond in a flexible manner to local circumstances but the very flexibility sought through competition sees students snapped up by some providers cutting corners to secure limited public funds. Restrictions placed on training requirements and the accountabilities that follow soon morph into claims of unresponsive providers and the call for yet another round of changes.

In the meantime, imbalance between vocational education and higher education pushes students into sectors that may not suit them and distorts the efficient transition of graduates into jobs and onto career paths. Without reforms based on a tertiary perspective, distortions will not be resolved.

One of Steven Joyce's key insights in his review of VET in 2019 was the need to restore confidence in providers so they can invest in capability to better serve students and thereby communities and industry. Confidence of providers and in providers is needed in greater measure to help Australians navigate the fragile labour market in a post COVID-19 world.

Returning to open and poorly managed competition in VET as the salve for the sector raises deep concerns for those committed to positive outcomes for all students who seek out a vocational education experience. Many in the sector have seen these policies play out before and a sense of their return quashes the very confidence Joyce sees as critical to the sector rising again.

There are other policy tools at the disposal of governments to drive to successful social outcomes, that leverage the best of the government and non-government sector and civil society. Approaches that moderate the impacts of profit seeking behaviour. 'System stewardship' offers a safer pathway to success than competition models and although embryonic should be explored as a valid and more reliable public administration policy tool.

Introduction

Thank you for the opportunity to respond to the Interim Report on the National Agreement for Skills and Workforce Development (NASWD).

This submission is prepared by TAFE Directors Australia (TDA) as the peak body for TAFEs across Australia and TAFE divisions of dual sector universities. These are the views of TDA as a national association and may not align with specific views of individual institutions, some of which are providing separate submissions. The operation of vocational education in the context of the tertiary education sector is an important element of consideration.

Navigating the existing reforms

We note the Productivity Commission was asked to respond to the terms of reference in context of the:

- links between vocational education and higher education
- responsibilities between governments, employers and industry for shared investment in vocational education and training
- responding to the dispersed economic and community needs vocational education and training is expected to serve
- cogency with current programs of funding and reform, including the Joyce Review and the joint inter-government reform plan, the *VET Reform Roadmap*.

Further context for the final report from the Commission is the decision by the newly formed National Cabinet to contribute \$1 billion toward vocational education responses for displaced workers and school leavers over nine months from September 2020. The heads-of-agreement appears to have been signed by the majority of jurisdictions and is expected to be formalised through a national partnership agreement. The national agreement governing Specific Purpose Payments for vocational education is expected to be negotiated at a later stage. The joint commitment and actions by governments reflected in the *VET Reform Roadmap*, which is a product of collaboration by governments, appears to be the frame for these agreements.

The structure of this submission

The interim report appears to be built off the principles of user choice and open competition as the best means of achieving efficiency, although we interpret from the Commission's request for further information that it is wanting to understand the limits of these approaches in respect of VET.

In part I of this submission, responses are provided on the general principles of markets in social policy. Part II provides specific responses to requests for information in the Interim Report.

PART I

The context for a well-functioning market in education

The Productivity Commission has a key role, and has key expertise, in consideration of public policy and regulation that goes to the core of Australia's economic performance and community wellbeing. It aims to position Australia for continued economic, social, and democratic prosperity. At the core of these considerations is the nature of the exchange between entities (governments, industries, private and public firms and individuals). Market-based exchanges are just one element in a complex organising framework between these entities.

The accepted analysis of well-functioning markets concludes market competition is the most effective means to achieve efficiency and innovation in the supply of goods or services and provides the best outcome for consumers by providing choice amongst competitive offerings.

However, well-functioning competitive markets are characterised by several critical attributes. These include achievement of public interest objectives, widespread availability of trustworthy information, absence of excessive market externalities, ease of market entry and exit, and the absence of significant monopoly or monopsony power. Importantly, markets rely on trusted exchanges between supplier and customer. If any of these conditions are not sustainable, or are absent, the consumer may receive a less than desired outcome.

TDA is of the view there is as sequence to these well-functioning market attributes when implementing a market orientated doctrine on what may be seen as a public or near public good, such as education. Significant monopoly or monopsony power may be unavoidable when market arrangements, on balance, do not meet public interest objectives or there are significant deficiencies in the availability of trustworthy information particularly for consumers. TDA argues there are conditions in VET and the tertiary sector which count against competition measures that are prescribed in the interim report.

Comments on the three new principles which should underpin a national agreement

The opening message in the report states the next agreement should address three important principles that are not dealt with adequately in the current NASWD: customers; subsidiarity; and efficiency.

Claims of a supplier centric system misunderstands national policy instruments

The Commission claims VET is supplier centric, citing the fact that selective subsidies favour segments of supply and, in effect, compromises price as the value signal by which customers best select training. In this aspect, the report fails to consider the issue of control exerted over supply through national policy instruments, as this limits user choice in particular.

As stated in the report, 85 per cent of hours of training are under nationally recognised programs. Most of the content and approach of these programs is determined by Australian Industry, for Australian Industry, under advisory arrangements funded and managed by the Commonwealth. As a result, most of the provider activity is prescribed by these requirements and enforced by threat of sanction from the national regulator for non-compliance.

This approach constrains two important elements central to the student-centred approach outlined in Box 2 of the report. First, 'obstacles to (virtuous) product variety', which limits providers capacity to differentiate services and to innovate, need to be avoided. Differentiation, if anything, plays out in a negative way in VET. In past experiments with open competition, a substantial number of providers charged no fees in order to attract students and then cut corners in training delivery, compromising the efforts of many providers seeking to do good by students and by following regulation and compliance requirements. In many respects, this behaviour created a race to the bottom as more providers were forced to match this behaviour in order to survive. Second, the report implies the current reform measures for the Australian Skills Quality Authority (ASQA) gives confidence in restoring more open competition. The sector is scattered with examples of opportune providers, defrauded governments, and students as victims. There is no proof yet that new regulatory approaches will be sufficient to prevent these excesses in the future.

The Productivity Commission is absolutely right that there should be no objection that 'students have the best overall understanding of their preferences and life goals'. Government policy in return, however, needs to assure the product is of value to the individual over the longer term and students can trust the organisations that governments register to provide that vocational education and training product. These elements have proven insufficiently robust to date to make this guarantee to students. Opening up competition in advance of these assurances being put in place risks, yet again, poor outcomes for students.

Subsidiarity is an important principle to be observed

The very nature of VET and the many purposes it serves places subsidiarity as an important organising principle, as proposed in the report.

At present, qualifications and regulation operate nationally and run counter to subsidiarity principles. These aside, subsidiarity should guide the rest of the administration and operation of VET. The national agreement should place the bulk of the responsibility on states and territories for providing incentives to promote participation and quality provision. The selection of providers and courses for receipt of subsidies, whether via voucher or not, best rests with the state and territory as they know local conditions and local demand and are better placed to ensure scale and coverage of supply.

Student loans, which require Commonwealth administration to facilitate student repayments via the taxation system, can operate within this subsidiarity principle, as explained later in this submission.

Effectiveness needs to balance efficiency objectives

It is hard to argue against the merits of efficiency and innovation. These two principles are fundamental to the production of any good or service in a market. Efficiency and effectiveness are competing elements, however. We note the Productivity Commission's view that efficiency in the current NASWD concept is too imprecise. This may refer to the trade-off between quality and cost that reflects the historical tensions between efficiency and effectiveness. Unless this is addressed other components proposed in the report, such as efficient delivery or efficient pricing and subsidies, are somewhat neutered.

Efficiency in the education context must consider the future quality of life attributable to the acquisition of knowledge, skills and the ability to apply them. Efficiency, as currently conceived in VET, risks delivering to students skills that prepare them for low-level occupations. This is derived from the construct that VET is focused solely on training for an occupation. Where there is no industry-wide knowledge and skills defined nor delivered and no future educational or training pathway, the value of the training intervention is diminished. Unfortunately, this is too much the case in current VET practice and can be drawn from the low rates of return to vocational education as shown in Box 3 of the report.

If we consider that irrespective of background VET students should have equal access to opportunity as higher education students, then life-time value must be factored into efficiency measures. This calls for a wider scope and approach to vocational education

qualifications, which provide a greater chance of success over time across many different work contexts.

TDA recommends that effectiveness considerations should precede efficiency considerations as outlined in the report. The VET Reform Roadmap is a start in this direction.

The consideration of VET as a post-secondary education option

As highlighted in the interim report, the framing of VET public policy, ideally, should not be considered in isolation from all forms of post-secondary education. In economic terms, it is challenging to frame a market for one good or service when there is a fully substitute good or service that operates outside that market. This applies especially when the substitute good or service is mostly fully funded by government. While not purely identical in nature, higher education and VET are substitute products.

It may be argued that in a past era higher education and vocational pathways served different purposes in an industrial based, goods-orientated economy with high tariffs and minimal global integration. These are not the circumstances now with the Australian economy being highly service industry orientated, and outwardly focused (see TDA's first submission to the Productivity Commission on the NASWD).

During the last few months the Australian Government has announced a range of initiatives in higher education that mimic objectives for VET, such as the federally accepted changes to the AQF, making higher education and VET further 'alike', or substitute, products. These initiatives include Australian Government financial incentives for students to make more job-relevant choices (that lead to more job-ready graduates) by reducing the student contribution in areas of expected employment growth and demand.

The Australian Government sees students substituting units of study across VET and higher education to end up with a tertiary qualification - one market from a consumer (and national government) perspective. For example, the Minister for Employment, Skills, Small and Family Business, the Hon Michaela Cash MP, said at the time of the announcement concerning the higher education package that 'the new package would complement the Government's reforms in vocational education and training' and that 'we are working to deliver reforms that will give Australians the power to mix and match their qualifications across VET and higher education to suit their needs'¹.

¹ <https://ministers.dese.gov.au/tehan/job-ready-graduates-power-economic-recovery>

This is not a new revelation to TAFEs, which offer education and training services from VET in secondary schools through to higher education degrees (a one stop shop). For example, TAFE NSW this last semester awarded its first double major degree, for a Bachelor of Applied Commerce (Accounting and Financial Planning)².

There are nine TAFEs across Australia, in addition to the six dual-sector TDA members, that operate with a one tertiary market approach, already delivering on the policy intent of Minister Cash's statement. There is no valid reason why a wider scope of vocation oriented higher education degrees, with work placements, should not be taught at TAFEs with their strong connection to local firms and industries. What is required is the freeing up of Commonwealth Supported Places and for the awarding of self-accreditation for TAFEs.

With existing market conditions challenging current orthodoxy of a connected but bifurcated post-secondary education system, a sole focus on market instruments in VET compromises the desirability of a neutral but not equivalent treatment of higher education and VET.

Resolving this issue in the timeframe for this enquiry is impossible, however, the principles for the national agreement that the Commission is proposing should place the role of VET in the context of the tertiary education landscape as the highest priority. Further, it should commit governments to seriously explore the proposed AQF reform as this offers a pathway for dealing with the issue in a systemic way.

TDA is strongly of the view that connections and the interface with higher education should be a major determinant of VET policy and principles, to be reflected in any new national agreement.

Start with the Australian Qualifications Framework (AQF)

A key in understanding the positioning and future of a VET market is the *Australian Qualifications Framework Review*³ (AQF).

The AQF review recommendations define attributes of the post-secondary education product. Significantly, the review provides a more explicit acknowledgment of the importance of integrating knowledge, skills, and application (of knowledge and skills) equitably across the eight bands (from an initial vocational certificate through to a doctoral degree) in the proposed redesign.

² <https://tda.edu.au/tda-and-tafe/highered-and-tafe/>

³ <https://www.education.gov.au/australian-qualifications-framework-review-0>

The attributes of knowledge, skills, and application at each of the proposed eight bands defines the products from which market considerations can evolve. These are the products on which competition could be sought to best meet the needs of the consumer and on public interest grounds determine the public good attributes of education.

A stock-take of VET and higher education qualifications against the proposed elements of the AQF – in determining the level of a qualification and the qualification type – creates a rational base for the application of the principles proposed in the report. The VET sector may eventually choose stronger user choice principles, but the purpose and relevance of the product needs to be clarified beforehand. This then allows for issues of competitive neutrality and national competition policy to be considered from a holistic perspective.

As an example, the Australian Industry Group noted in its report *Reimagining Vocational Qualifications*⁴, a key element of the proposed AQF is the new sequence of diplomas: diploma, higher diploma, and graduate diploma before ascending into the bachelor degree (a qualification level that is being offered more frequently by TAFEs as students progress through the AQF). These diplomas transcend sectoral divides and would enable both higher education and VET to have access to qualification types (products) well suited to providing upskilling and reskilling opportunities.

We must deal with the limits of consumer information

Many of the proposed policies outlined by the Productivity Commission relies on robust and trustworthy information to support students in making choices about courses and providers. Apart from the limits in being able to develop reliable and comparable information about providers and performance, which is described elsewhere in this response, the actual behaviour of prospective students and the acuity they need to make decisions in these areas is a critical success factor.

The VET sector consists of around 4000 providers offering an almost limitless number of qualifications and skills sets from the suite of around 1 700 qualifications consisting of 17 000 individual units, which can be assembled in many different ways. This is a complicated system to navigate. Students new to an area of training, and after all that is why they are seeking out training, have limited context in which to discern the right course or provider. Feedback from many students reveal they have a general sense of the career they wish to pursue, and they put their trust in a provider that is government registered as to provider integrity and the quality of its training. Even measures such as

⁴ https://cdn.aigroup.com.au/Workforce_Development/Reimagining_Vocational_Qualifications.pdf

employment outcomes to guide a student about quality is clouded by the impact of employment conditions at the time as opposed to the value-add from the vocational education experience.

The National Careers Institute (NCI) is a valuable addition to the sector. However, it can't afford to rely on choice mechanics as the only solution for students. Its key role is to deeply understand the behaviour of prospective students and then work with the sector and its policy instruments to maximise the effectiveness of the sector's response. Without this, career guidance risks being de-linked from the student experience in the sector.

The NCI's greatest challenge will be providing insights as to why a prospective student may choose a vocational or an academic path, not for the job but for the first step on the career pathway. Central to this is good and balanced careers guidance as a human service.

TDA recommends that national information platforms such as My Skills complement face to face guidance services and not be relied upon as a choice tool as it is too difficult to achieve in an equitable way to represent providers.

Subsidies, Loans, and Exclusion from Post School Education and Training

The Interim Report makes some observations about the inter-play between subsidies, student loans and fee for service activity and suggests non-accredited and informal training leads to equivalent skill formation.

There are several grounds that warrant public subsidy. Apart from equity with higher education funding, many prospective VET students lack the capacity to finance post school education and training. The high rate of take up of free or highly subsidised courses seems to indicate there may be significant financial barriers to skilling and up-skilling through formal education and training.

The role of accredited education is critical. If the objective of VET is to equip those without the necessary skills to enter or be better positioned in the labour market then accredited education and training, although with faults, offers certification for the individual to signal their skills and to navigate work opportunities. Non-accredited training, as outlined in the report, is mainly funded by employers and they accrue the benefits. This doesn't form part of VET policy (although its place and role needs to be acknowledged) and it does not warrant subsidy.

As an aside, the implication in the report that employer sponsored training delivers skills that are just as valid as those from formal learning indicates the two are substitutable in the mind of the Commission. If that is the case then public subsidy and loans, to the extent it is justified, must be directed to the public good elements of training. This may mean aspects of current components of training should be paid by the employer. This may be the case but, again, higher order issues such as the purpose and place of VET need to be resolved first.

Student loans are also an important equity tool for governments. Upfront fees act as a barrier to student participation, which an income contingent loan can overcome. Further comments about student loans are provided later in this submission.

The interplay and relativities between subsidy, loan and fee for service will be a key outcome of the deliberations of the National Skills Commissioner (NSC). On subsidiarity grounds, the NSC should develop the principles by which these important elements of VET play out at the jurisdictional level. As a starting point, however, the NSC can exercise national leadership and undertake development in several areas. First, it needs to make some key decisions about the effectiveness of current qualifications and their scope and purpose. The revised AQF would be a good starting point, given acceptance of the recommendations by the Australian Government, alongside an assessment of the knowledge, skills and capability (or application) students need from a vocational education intervention. A genuine look at the application of knowledge and skills, which shore up student success, seems a good place to start.

Second, the NSC needs to develop base costs for quality delivery. This is a difficult task given the various contexts and modes of delivery, let alone to guard against excessive margins, as raised in the report. These two approaches provide a genuine opportunity to rebase the VET sector toward quality and excellence. It is not until these base conditions are met that user choice could be expanded with any confidence.

TDA recommends subsidies form a crucial role in triggering participation in VET and relying on private capacity will not meet the policy objectives of VET. Similarly, student loans overcome barriers to participation and should be expanded, although under controlled circumstances.

Protections are too late in the piece

The VET sector has established various mechanisms to offer protection to students but by their very nature these protections kick in after the student has suffered loss. This has

resulted in poor or non-existent training, loss of earnings and fees and discouragement in undertaking learning again.

From a provider perspective, ASQA has established more rigorous registration processes. To gain registration approval new providers are required to have in place training materials and trainers. This can be completed by consultants as part of the application and therefore there is no guarantee of follow-through once a provider is registered. This occurs because the natural justice provisions of the regime encourage gaming of the system, where providers can readily rectify practices when sanctions are threatened. This can lead to practices of reaping profits (at the expense of students) and rectifying quality and compliance issues if, and only if, ASQA identifies non-compliance.

The report indicates regulation failure was the cause of the excesses of VET FEE-HELP (VFH). In reality, the regulation provisions allowed for providers to continue delivery and to receive student loans on behalf of students. For one of the more epic provider failures under VFH ASQA had conducted a review at the peak of the program abuse by the provider. It only found a small issue in reporting when in hindsight it was clear the provider had received over \$400 million at that point for training that was not being delivered.

Providers intent on profit, at the expense of the student, clearly chase the money. ASQA has no remit for testing value for money for public funding, either on behalf of governments or students. State based consumer protections address this concern but, again, recourse to the student is after the event.

The experience in student loans is a salutary lesson on the impacts of information asymmetry. Were VSL and user choice to be expanded the lessons need to be learnt and these are lessons direct to the Commonwealth, which may be pursuing more open competition through the proposed new national agreement. Further explanation is provided in [Attachment 1](#).

Efforts by the Australian Government to develop metrics of provider performance have not succeeded. The range of providers, courses and purposes of VET have constrained the ability to produce robust comparable measures. The latest decision that ASQA will publish audit findings is a useful step but it is difficult to see how effective it would be in the hands of students as a decision-making tool.

Given the history in VET, and its ability to attract speculative operators, it is not clear, and certainly too early to say, whether these new regulatory measures will protect student interests. At the same time ministers have committed to turning the sector to one with the reputation for quality and excellence (on the assumption they see this is not the case

currently with the over 4,000 providers). If this is the priority it would appear risky, even foolhardy, for governments to expand user choice provisions where there is no guarantee that excesses of the past would not be repeated.

The question to be asked is what prospective measures are available to protect student interests.

TDA recommends placing more services through the public provider (with government backed assurance to students) and through contracting of services to other providers, where there are greater controls available to governments.

VET must be conceived as more than supplying workers

The 2008 *Melbourne Declaration on Educational Goals for Young Australians*⁵ committed all jurisdictions, with Commonwealth leadership, to ensure:

The senior years of schooling should provide all students with the high-quality education necessary to complete their secondary school education and make the transition to further education, training, or employment. Schooling should offer a range of pathways to meet the diverse needs and aspirations of all young Australians, encouraging them to pursue university or post-secondary vocational qualifications that increase their opportunities for rewarding and productive employment.

The reality a decade later is set out in Australian Curriculum, Assessment and Reporting Authority (ACARA) reporting – see Figure 1⁶.

Figure 1: Year 12 certification rates by socio-economic states and sex, by state/territory, 2018 (per cent)

Socio-economic status State/territory	Low socio-economic status			Medium socio-economic status			High socio-economic status			All		
	Male	Female	All	Male	Female	All	Male	Female	All	Male	Female	All
New South Wales	63	77	70	65	74	70	79	83	81	68	78	73
Victoria	75	82	78	77	85	81	86	89	87	78	85	82
Queensland	80	89	84	80	87	84	81	84	82	81	87	84
South Australia	76	93	84	81	92	87	91	96	94	81	93	87
Western Australia	72	80	76	78	81	79	79	83	81	77	82	79
Tasmania	46	62	53	56	68	62	74	69	71	53	65	59
Northern Territory	14	18	16	63	71	67	58	78	67	44	52	48
Australian Capital Territory	-	-	-	86	93	89	82	84	83	83	86	84
Australia	70	81	75	74	82	78	82	85	84	75	83	79

Overall, students of low socio-economic status, and male low socio-economic in particular, do not fare well. These are not small numbers. Australia-wide 30 per cent of

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http://www.curriculum.edu.au/verve/resources/National_Declaration_on_the_Educational_Goals_for_Young_Australians.pdf

⁶ <https://www.acara.edu.au/reporting/national-report-on-schooling-in-australia/national-report-on-schooling-in-australia-data-portal/year-12-certification-rates#view2>

low socio-economic males do not achieve Year 12 certification. Even for slightly better off 18-year-old Australians (male and female), 22 per cent do not achieve Year 12 certification.

Australia as a full-employment economy had avenues for providing work opportunities and wages for early school leavers and those who have not succeeded in school for whatever reason. The uncertainty around new economic structures, changed employment rates, and suppressed wages dictate the post-school sector must now do the heavy lifting for these students. As university is not a suitable pathway, the importance of an accessible TAFE model grows in significance. Importantly, while many Australians may have chosen short-term training interventions to smooth the way into work, this may not be the best pathway in the future.

The current system of VET, with or without user choice, is not structured well to meet these needs. This is the important area of reform for vocational education.

A strong public provider anchors the sector and facilitates technology transfer

The public provider is far more than just the delivery vehicle for training packages, yet the report's recommendations appear to be formed from that assumption.

The TAFE model has a rich history in Australia and a recognition in the community as a distinct and quality post-school alternative to university. In this it has roles beyond what could be priced through a VET qualification. There are many examples of TAFE non-market activities as part of their public mission.

- TAFEs receive all citizens regardless of socio-economic, educational or cultural background and develop education, training and engagement programs to meet their needs, particularly for success in society.
- TAFEs deliver a full range of qualifications and courses, which means students can commence with a TAFE and adjust their learning program as their educational aspirations, career ambitions, or their circumstances change.
- TAFEs provide school and higher education level programs in addition to vocational education in schools and for post-school students, and serve international markets.
- TAFEs maintain campuses in CBDs, sub-metropolitan regions and rural and regional areas as the focus for education and training and as such are critical social architecture that helps build community resilience and confidence.
- TAFEs deliver the bulk of apprenticeship training and are the bedrock of delivery in high priority industries.

- TAFEs engage locally with enterprises to facilitate productivity improvement through targeted workforce development and product and service innovation.
- TAFEs maintain capacity to service niche industries usually at a cost beyond revenues.
- TAFEs build and maintain capital and sophisticated equipment for training so vocational education can be conducted in contemporary facilities.

Of far greater importance to Australia is TAFEs' role in technology transfer. This is more correctly described as the repository of knowledge and techniques of production and service processes that are systematised and codified for transfer via education, training and ancillary services. This is difficult to conceptualise given the complex nature of modern economies, however it would be known if this function were absent. Some may argue this is the innate element of industry and enterprise, however it is not in their interests to pass on these knowledge and techniques in a competitive environment. Government intervention through bodies like [Industry Growth Centres](#) is evidence in this regard.

There is a risk of a false assumption these production and service processes are reflected in national industry training packages as the basis of technology transfer. This is, first, an impossibility and second, training packages simply serve to describe job roles to guide training delivery.

This broader capability need not necessarily be monopolised by TAFEs but there is a risk to governments if it is not treated as a public good. Capture within the non-public part of the VET system without clear rules to guard against proprietary behaviour risks its own form of monopoly.

It is time for a new vision for TAFE beyond anything that increased user choice or open competition for training package qualifications can deliver. In the current context of economic upheaval, and the inevitable emergence of new industries and transition of businesses, there needs to be a system, difficult though it may be to conceptualise or codify, where these 'technologies' are curated and then passed on.

We have universities as the houses of academic knowledge and charged with exploring new frontiers of thought to advance economic activity and the human condition and improve society. This is not codified or costed but is recognised as a public good element of a university and the basis of self-accreditation.

At the core this requires a new approach to forming learning and accreditation, which recognises applied learning and knowledge formation. More local accreditation is required to facilitate this process. Central national control of skills definition is a drag on

the sector and ultimately the economy. However, where local and national accreditation operates needs dialogue and policy development.

PART II

Priorities for vocational education to be reflected in a new agreement

On the basis a new agreement facilitates transfer of Commonwealth raised revenue for vocational education and training directed to nationally agreed priorities, we outline the priorities that should inform the agreement making. We note the *VET Reform Roadmap* also provides a strong indication of reform priorities. The ones we list complement or expand those in the roadmap.

A new national agreement should be limited to financial accountability

The interim report asks for views about the nature of the next national agreement.

The constitutional limit on Commonwealth reach in education should frame the approach to a new agreement. The interim report acknowledges the role of non-formal learning for the acquisition of skills, but as it is non-accredited training and out of the remit of vocational education regulation it should not form part of the agreement. By its nature, these transactions would be covered by consumer and contract law. In the main, protections of private fee-for-service accredited training are the responsibility of ASQA. The scope and nature of its operation as far as states and territories are concerned are dealt with in another inter-government agreement for establishing ASQA. This does not warrant repeating in a new agreement.

As national agreements exist primarily to govern transfers of specific purpose payments from the Commonwealth, any agreement should be focused on the financial elements of the transfer.

All national agreements should respond to fluctuations in demand for the services, which are driven mainly by population trends. As the Commonwealth has most revenue raising powers as well as population policy responsibility through migration settings, it stands to reason the national agreement should respond to these issues. The present agreement is static in real terms and loses its relativity as population rises. The agreement would benefit if it had a growth parameter which kept Commonwealth contributions at least relative to population growth. On this basis the Commonwealth could justify its conditions setting.

Specifying the roles of governments in respect of VET as proposed in the report needs some care, as does over specifying conditions. Governments have proven capable to

agreeing new roles and responsibilities outside of national agreements. This was the case with setting up ASQA.

The interim report concludes that a principles-based agreement lends itself more to the notion of subsidiarity. It should be noted the NASWD under COAG reform principles from 2008 operated primarily as untied funds as long as they were directed to VET in jurisdictions. This was on the understanding jurisdictions held better information and knowledge of the operation of VET in their jurisdiction and should be given the autonomy to aim toward national outcomes. Any over-ride by the Commonwealth risks being based on poor information or misunderstanding of local priorities. All jurisdictions working in their way toward national priorities, not conditions, will achieve more, especially in delivering outcomes to suit local conditions.

Given the turbulent time the economy is facing and adaptations to vocational education are likely to be required, it may pay to agree conditions to govern national aspects of VET outside the national agreement. These would be restricted to non-financial matters and could be formalised by collaborative agreement.

Quality and Access needs to come first

In the COVID and post-COVID context the most critical role for VET is to ensure quality vocational education is accessible to all Australians seeking a skilling trajectory to prepare for work or entrepreneurship.

Expanded competition and user choice (supported by information to consumers) seems to be the preferred policy response in the interim report over and above effectiveness considerations. All governments on the other hand have committed to a quality and excellence agenda for VET. It is hard to see how this would be achieved if user choice and competition are the first order policy prescriptions given the poor run these approaches have had in the sector.

The report seems to assume that vocational education is easily commodifiable for delivery from providers that only need to meet basic requirements for registration and can enter and exit as suppliers as part of the dynamics of a market. This model is assumed to deliver quality for the consumer as it generates price signals to attract the consumer, which in turn drives quality improvement.

The current model for VET is based on competency standards defined by industry through training packages. As national products reflecting industry demand for skills, these are designed to be applied and delivered consistently by all providers and are enforced through auditing by funders and regulators. There is little scope, therefore, for flexibility to drive quality improvements and innovation expected of user choice.

This sets up the paradox in the VET system where the flexibility needed to respond to a local context, which should characterise an outcome and standards-based curriculum, is overrun with input specification in qualifications enforced through compliance. This has arguably arisen from industry, regulators and funders seeking to shore up delivery standards to guard against the observed downsides of user choice funding.

In response, providers act logically by either withdrawing from delivery or paradoxically (but understandably) compromising delivery to focus solely on meeting regulatory requirements at the expense of good vocational education. Others pursue non-accredited offerings to avoid the regulatory load.

Where competition works alongside limited funds (public and private) there is usually a race to the bottom in educational terms. It is hard to see user choice alone dealing with this dilemma, and regulation has proven inadequate as a guard to quality even accounting for the proposed reforms.

The pursuit of competition as the outcome of vocational education will perpetuate this dilemma – more specification and control to guard against misuse of public funds and to protect students – that limits the very flexibility and responsiveness user choice seeks.

New demand on workers requires a new model for vocational education

The assumed education production function underpinning vocational education is proving increasingly anachronistic.

At present qualifications define the standards, or outcomes, expected from a training intervention. In broad terms these are the tasks defined by Industry that a student would be expected to be proficient in when in a workplace. From these standards the training provider is expected to design the course and delivery mode and establish the content. The latter is critical.

This industry-relevant content is assumed to be readily available because the trainer is required to have current industry knowledge. Apart from the imprecision of this assumption across 4000 providers, many skills are emerging and difficult to formalise. In an increasingly knowledge-based world of work the knowledge components of training packages are loosely specified and poorly curated. A quick glance at many of the knowledge requirements within training packages would have a student heading to university to acquire the knowledge such is the impact of the unstructured list.

Also underpinning the VET system is the behaviourist logic underpinning competency-based training. As a result, assessments are expressed as demonstrable activities. It is

quite easy, therefore, to wash over knowledge elements so crucial to being effective in a modern economy.

Feedback to the Australian Industry Skills Committee is showing that employers are prioritising 21st century skills such as teamwork, problem-solving and creativity as an output from vocational education, yet training package qualifications exclude any of these elements from training and as a result are not funded for delivery. Any sense these are positive side-products of the training process is washed out by the costs of adhering to excessive specification of delivery and assessment expectations.

In line with the aspirations in the *VET Reform Roadmap*, far more progress would be made in modernising vocational education through a fundamental refresh of the qualifications system and the education model. After all, it is qualification content and quality of transmission that are the heart of vocational education.

While the report notes the improvements in training package revision cycles, the policy position mandating nationally agreed industry standards for training inherits a complex and time-consuming process of development, negotiation and agreement. This also runs against user choice aspirations.

If user choice and open competition is the objective of governments then significant liberalisation of qualifications is required. Local or self-accreditation models are the channel for that flexibility, but the report is silent on this matter.

TDA recommends that new forms of vocation education are required to build up the capabilities of students to meet the needs of the modern economy and should be a first order issue before expanding competition in the sector.

A strong public provider is required to underpin vocational education reform

In the secondary school sector educational outcomes are achieved through two thirds of students being enrolled in government schools. In the higher education sector, most students attend public institutions, whether public universities or public TAFEs.

Yet in the vocational education and training sector, the thought of majority public provision seems to raise visions of inefficiency and a lack of innovation. This can only arise from an assumption that qualification standards (training packages) released into the market will drive vocational outcomes.

For the VET sector to modernise as outlined in the *VET Reform Roadmap* to present graduates with new capabilities, needs a new form of supply. A new eco-system of capabilities is required. This includes delivery of learning outcomes built on the

combination of craft, formal scientific and procedural knowledge and brought together with a deliberative education strategy.

Governments can facilitate the development and delivery for new forms of capability through its public providers. This includes building new capabilities to support new industries and re-gearing vocational education so graduates are prepared to enter work and enterprises with contemporary capabilities.

Government oversight of TAFEs allows for experiment with these new forms of learning with the lessons learnt retained in government to inform further policy development. As the model is refined positive spillovers to the wider sector can be encouraged.

Public providers are doubly accountable - accountable to the national regulator and accountable through their state department and ministers, to the Parliament of their state or territory. This means the public provider is looked to for setting new standards in the quality of education and training, in the same way public hospitals are called upon to lead health developments.

A training package program (despite the limitations) is brought to life at the point of delivery. The RTO Standards⁷ require engagement with industry at the local level to contextualise the training. However, success comes from the industry experience and the expertise of the trainer, and the development of content and accessible methods of learning.

Core to quality is teacher professionalism, yet there is little in the sector to build education excellence that is at the heart of success for students.

TDA contends that the new form of vocational education is best developed through public providers in an eco-system with other stakeholders.

If needed, efficiency of delivery of non-market elements of VET can be tested outside of contracting out

The interim reports questions whether state and territory VET policies meet national competition policy. In the spirit of subsidiarity and Commonwealth-state relations this is a matter for states and territories.

That said, the question needs to be asked why this issue is asked specifically of the VET sector. If it is on the basis of competition agreements between levels of government then why is this not tested in the schooling sector. Equally, noting that higher education

⁷ <https://www.legislation.gov.au/Details/F2019C00503/Download>

funding is under the charge of the Commonwealth why does competition policy not feature in higher education?

It is up to each jurisdiction how it applies competition policy within the context of national competition agreements. Given the broader role played by TAFEs, putting community service obligations and other elements to the market would appear to defeat the very purpose of continuity and cogency of supply.

States and territories, if needed, can use tools such as review of efficiency, similar to that conducted on Australia Post's community service obligations, to test the efficiency of the non-market elements of TAFEs.

Align the VET and the Higher Education funding model

VET and higher education need to be aligned within one tertiary framework. There are a range of reasons to re-think the way VET is structured that goes to priorities, funding and support to VET students. What may be useful to consider is aligning the model for the VET sector with that announced for higher education, given both sectors are supposed to now be delivering job-ready graduates.

The changes to the funding structures for universities (see [Attachment 2](#)) in the Commonwealth's package *Job-ready graduates to power economic recovery* initiative⁸ mirror the historical and on-going policy intent for VET. Application of a similar structure and intent to VET - through subsidies, and income contingent loans - would not be new to the sector.

The starting point may be to consider classifications of the subsidy bands to recognise emerging labour market priorities based on the four clusters agreed for higher education, and seek to at least match the relative level of support provided by the subsidy to the overall cost of the VET course. That is, the relativity of support in undertaking a course in VET be at least the same for a similar course of study undertaken at a higher level.

A further funding envelope for VET should also be available to ensure VET providers are able to respond to industry and student demand for different courses, outside what is set through the cluster/band arrangement in university funding.

If the 'mix and match' concept for a one tertiary education sector is going to be realised as a public policy outcome, then the relativities between higher education and VET need to align.

⁸ <https://ministers.dese.gov.au/tehan/job-ready-graduates-power-economic-recovery>

There are deeper conceptual reasons to align VET and higher education in a one universal funding framework. There is almost universal acceptance that Australians need to pursue lifelong learning. On that basis moving between VET and higher education and mixing and matching needs to be as seamless as possible.

TDA recommends that the funding for VET should move toward the model applied in higher education.

Student Loans should be substantially expanded

Student loans for vocational education should be expanded in a controlled way to support access and be the starting point for alignment with the higher education model. The current targeting of loans on certain courses will fail to respond to the need of every student and business, such is the range of needs VET seeks to address. Without loans these Australians need to fall back to full fees and may choose to not proceed with training.

In addition to the recommendations in the report to reduce the compliance load on students and providers the following expansion is recommended:

- Allow all Diploma and Advanced Diploma courses to be eligible for student loans through approved providers;
- Encourage states and territories to leverage loans with subsidies to expand access to courses;
- Extend loans to Certificate III and IV subsidised courses under agreement and controls set by states and territories; and
- Expand student loans to be available to TAFEs and a small group of designated independent providers to establish an incentive to develop local courses for specific needs, but particularly to explore innovation and entrepreneurship training and services to help build new products and businesses⁹.

The operation of subsidy and student loans across the VET qualification profile is an important determinant to encourage participation. Close collaboration with states and territories will allow for managed expansion of loans as these will be directed to areas determined by states and territories as priorities on economic and equity grounds. Importantly, loans address the barrier of high upfront fees often faced by students that limits their choice.

⁹ <https://tda.edu.au/tda-and-tafe/practice-based-innovation-and-applied-research-and-tafe/>

Improved integration between subsidy and loans also removes the current loan fee (of 20 per cent) currently imposed for VET Student Loans for courses that are not subsidised by a state or territory.

Expanding student loans in this way helps the sector to be responsive. The nature and pace of change in skilling requirements will be difficult to predict in the COVID environment so some degree of flexibility to generate local responses will be key to smooth economic recovery. Quality and relevance are assured as all vocational education facilitated by loans is accredited and assured.

The Commonwealth can guard against states and territories substituting loans for subsidies as part of Commonwealth agreements. The cost to the Commonwealth of its indirect subsidy for student loans such as through late repayments is minimal because the repayment thresholds are close to the minimum wage. The alignment of eligible Certificate III and IV courses with state and territory priorities gives a greater assurance the vocational education acquired will generate economic activity that would justify the indirect subsidy incurred by the Commonwealth.

The 20 per cent automatic loan fee operates as a tax on participation and is applied inequitably in the tertiary sector. There is no sound policy rationale to apply the tax to all VET providers and non-university higher education providers when university students do not face any tax on learning.

TDA recommends a suite of changes to student loans to encourage participation in vocational education and training.

Accountability and reporting

The interim report asks for advice on accountability and reporting to underpin a new national agreement.

If the Commonwealth is concerned about leveraging state and territory effort, then that can be covered by national partnership agreements where reform priorities and implementation plans can be agreed and monitored.

Extensive reporting is available through the National Centre for Vocational Education Research (NCVER), complemented by reporting planned by the NSC. These two platforms should provide scope for reporting on the effectiveness of Commonwealth injected funds for vocational education.

TDA recommends the bulk of accountability measures for inter-jurisdictional agreements should be drawn from information and data collected and managed by NCVER. This builds

on existing mechanisms with limited additional costs to providers and as NCVER is a jointly owned entity it facilitates shared commitment to transparent reporting.

Conclusion

With June 2020 official unemployed reaching nearly 1 million Australians (at 7.4 per cent)¹⁰, and with an underutilisation rate at 19.1 per cent, now is the time the economy needs a revitalised vocational education system. As the Australian Government has noted on many recent occasions, the pathway back is not through a higher taxation burden but through growing the economy through productivity enhancing reforms.

On the immediate horizon, with recent announced changes effective from the end of the third quarter 2020, 2.1 million Australians are expected to be no longer supported by JobKeeper from the current 3.5 million Australians.

Key lessons from past recessions is the longer someone remains detached from the labour market, or not engaged in education or re-skilling, the greater the risk of long-term detachment. Further, skills built up before the recession quickly dissipate if the employee does not re-engage into the labour market.

If ever there is a need for strong public providers to underpin growth and quality, it is now.

¹⁰ <https://www.abs.gov.au/ausstats/abs@.nsf/mf/6202.0>

Consumer protection in the VET market is post event to the student's detriment

The Experience with Student Loans

VET FEE-HELP (VFH), and the subsequent narrow casting of its replacement VET Student Loans (VSL), demonstrates the flawed nature of the asymmetrical information in the market. The inability of regulatory oversight to adequately respond, and the lack of confidence of the Australian Government that a more comprehensive VSL scheme could be administered without a repeat outbreak of poor market behaviour, is evidence the nature of the product of education and training may not be suitable for a traditional approach to markets, as if education and training was just another consumer product.

In this context, it is not TAFEs' decision that it makes up about 76 per cent of the total of VSL each year, but the result of the narrow casting by the Commonwealth of VSL to students of only the most trustworthy of providers. Given the application of actuarial analysis and now the analysis and experience of the Commonwealth's Tuition Protection Service (TPS), it may be reasonable to assume, on balance, the Commonwealth has appropriately assessed the risk. Therefore, it continues to only provide VSL to a limited number of trustworthy providers; mostly TAFEs.

There is evidence to support this approach. From 1 July 2017 to 31 March 2020 the Commonwealth's VET Student Ombudsman received 20,055 individual VFH complaints, while in the same period it received 435 individual VSL complaints¹¹. It is of note that at 31 December 2019, 853 individual VFH complaints remained unresolved that were received by the VET Ombudsman during the 2017–18 financial year (that is, the student was still waiting for their complaint to be resolved 18 months to 2.5 years later).

Given this, it should not be surprising nearly six per cent of VFH students gave up on their complaints during this period. This is the only the tip of the iceberg, as many students TDA spoke to as part of the restitution process for students from failed VFH providers simply found the whole experience of engagement on their complaint so disenchanting the students simply wished not to engage with the VET bureaucracy any further.

These VFH and VSL numbers do not include those complaints separately handled by the Australian Competition and Consumer Commission (ACCC), which resulted in a number of court cases and in ACCC negotiated s.87B undertakings. It also does not necessarily

¹¹ https://www.ombudsman.gov.au/_data/assets/pdf_file/0014/111155/VET-Student-Loans-Ombudsman-quarterly-update-1-January-to-31-March-2020.pdf

include complaints resolved by the Secretary of the Commonwealth education department or by state or territory fair trading agencies. Further, many student complaints of private provider behaviour were managed by TDA post the collapse of private training providers during 2017. It is of note, TDA has managed about 10,000 such complaints and it still receives complaints from students not related to TAFE operations.

While the discussion is about the number of complaints, and the delay in resolving many of these complaints, the reality is these are actual students. It was TDA's experience in dealing with the collapse of private providers, particularly in 2017, that many of these students saw VET as a chance to improve their lot in life.

When talking to many of these students it was clear the money for the fees needed to undertake entry level VET courses was a barrier to commencing their learning journey. Most did not see VFH, or see its replacement VSL, as free loading on the taxpayer, but as an opportunity they would not otherwise have to commence learning, especially if their earlier years were difficult or schooling failed them.

It seems clear the tighter controls on VSL, limiting VSL to students enrolled with trustworthy providers, has dramatically reduced the number of complaints.

Legislation for Tuition Protection recognises the surety of public providers

For domestic students, tuition protection under the TPS is limited to those students with a VSL with a private provider. TAFEs are exempt from these arrangements for domestic students because TAFEs are trusted providers, with this exemption enshrined in Commonwealth legislation passed by the Australian Parliament in 2019¹².

For non-VSL students, that is full or part fee paying students, the Australian Parliament recognised the trustworthiness of TAFEs through Standard 7.3 and Schedule 6 of the [*Standards for Registered Training Organisations \(RTOs\) 2015*](#)¹³ (the Standards). It is recognised by the Australian Parliament that TAFEs have in place policies addressing learner fee protection arrangements backed by being a government entity.

These exemptions from tuition protection schemes for students with TAFEs, for VSL and fee paying students, places TAFEs on the same competitive neutral footing as tuition protection arrangements for all domestic students at Australian universities, for the tertiary education sector in which TAFEs compete. These arrangements also recognise the additional regulatory burden incurred by TAFEs in responding to, and being held accountable by, the state through the relevant state department or agency and, through

¹² The exemption also applies for TAFEs offering FEE-HELP or HECS-HELP, with the exemptions given effect through amendments to the *VET Student Loans Act 2016* and *Higher Education Support Act 2003*.

¹³ <https://www.legislation.gov.au/Details/F2019C00503/Download>

the responsible state minister, to the state parliament. This additional regulatory burden incurred by TAFEs could not be regarded, by any measure, as being of light touch.

TDA continues to encourage the Commonwealth to extend the TPS to cover full or part fee paying students with private providers. It does not seem appropriate that the only tuition protection a student is able to obtain, if enrolled with a private provider, is to take out a government tuition loan and incur a 20 per cent loan fee.

Given the absence of alternative tuition protection mechanisms, if the Commonwealth does not see it appropriate to extend the TPS to cover upfront fees with private providers, it may seek to further legislate to prevent fees in excess of \$1,500 (or a lower amount) being taken in advance. Given Schedule 6 of the Standards seeks for the provider to hold an unconditional financial guarantee with a bank operating in Australia or some other protection measure, whatever that may be, that is approved by ASQA, and given the on-going absence of any commercial alternative to the TPS, it currently falls to state based fair trading agencies to remedy any complaint by fee paying VET students (unless the matter is significantly grievous it falls to the ACCC). In the absence of any other action, the Commonwealth may consider further limiting by regulatory means the financial exposure of VET students to inappropriate behaviour.

Further consideration may also be given to the requirement for pre-paid fees to be held in trust, only to be drawn down by the private provider as those fees are earned. Given the nature of the education and training product, as discussed, it may not be the role of the student to be inappropriately funding, through the early access to prepaid fees, the cash flow of any business or for that business to need to rely on early access to its students fees for its day-to-day survival.

It is clear from the history of the exposure of students' tuition fees, and the asymmetrical nature of the market, actions for consumer protection should be targeted at preventing the placing of students at risk rather than simply relying on post event remedies. These considerations need to balance any implementation of user choice models.

Job-ready Graduates: Commonwealth Supported Places Funding Clusters Student Contribution Bands

Subject to the passage of legislation through the Australian Parliament, Commonwealth Supported Places funding will align with emerging labour market priorities, in terms of the Commonwealth Government supported places and on what the student may contribute to reflect perceived private benefit.

In addition, universities will be given additional freedom through a funding envelope, which will be indexed in line with CPI to maintain its real value, to ensure they are able to respond to industry and student demand for different courses.

Commonwealth Contribution: 4 clusters

Cluster 1 - \$1,100	Cluster 2 - \$13,500	Cluster 3 - \$16,500	Cluster 4 - \$27,000
<ul style="list-style-type: none"> • Law & Economics • Management & Commerce • Social Studies, Political Science and Behavioural Science • Communications 	<ul style="list-style-type: none"> • Teaching • Clinical Psychology • English • Maths • Allied Health • Other Health • Architecture • IT • Creative Arts 	<ul style="list-style-type: none"> • Nursing • Languages • Engineering • Environmental Studies • Science 	<ul style="list-style-type: none"> • Agriculture • Medical • Dental • Veterinary Science

Student Contribution: 4 bands – based on private returns & national priorities

Band 1 – \$3,700	Band 2 – \$7,700	Band 3 – \$11,300	Band 4 – \$14,500
<ul style="list-style-type: none"> • Teaching • Clinical Psychology • English • Maths • Nursing • Languages • Agriculture 	<ul style="list-style-type: none"> • Allied Health • Other Health • Architecture • IT • Creative Arts • Engineering • Environmental Studies • Science 	<ul style="list-style-type: none"> • Medical • Dental • Veterinary Science 	<ul style="list-style-type: none"> • Law & Economics • Management & Commerce • Social Studies, Political Science and Behavioural Science • Communications