

Ref: N20.1.6 – 30 August 2022

Sen. Tony Sheldon
Chair – Legislation Committee
Senate Standing Committee on Education & Employment
PO Box 6100 – The Senate
Parliament House
CANBERRA ACT 2600

Dear Senator Sheldon

RE: Jobs & Skills Australia Bill 2022 (Cth) – Supplemental submission

The Independent Tertiary Education Council Australia (ITECA) refers to recent hearings undertaken by the Senate Standing Committee on Education and Employment (Legislation Committee) into the *Jobs and Skills Australia Bill 2022 (Cth)*, and the evidence provided by us and others to the Committee. ITECA takes this opportunity to raise some additional issues.

The Committee discussed at some length the proposed future arrangements for Jobs and Skills Australia to be put in place by a further tranche of legislation. Whereas representatives of some employer groups have advocated for an outdated representative model, ITECA has argued for a governance model that is skills-based. Further advice on this is tendered here consideration by the Committee.

Jobs & Skills Australia – A Skills Based Board

ITECA's recommendation has consistently been that to deliver the outcomes required to support a growing Australian economy, Jobs and Skills Australia needs the best and brightest available to it. It needs a skills-based Board that balances an understanding of the needs of business, government, unions and skills training providers. Importantly, the Board should be selected on merit.

The Australian Institute of Company Directors (AICD) notes clearly in its *Principles for Not-for-profit Governance* — a structure that will equate to Jobs and Skills Australia — that having the right people around the table is critical to the effectiveness of a Board. Its principles state:

Directors are appointed based on merit, through a transparent process, and in alignment with the purpose and strategy.

In a departure from this approach, some organisations have argued for representational appointments for Jobs and Skills Australia rather than skills-based appointments. The Australian Government has previously rejected this outdated 1980s governance approach, accepting expert advice that representational appointments to Boards have the potential to place the success of the entity at risk.

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The Australian Government commissioned the *Review of the Corporate Governance of Statutory Authorities and Office Holders*, undertaken by Dr John Uhrig^{AO} with the final report delivered in June 2003. A foundation member of the former National Companies and Securities Commission, Dr Uhrig was well equipped to consider the appropriate governance structures for government authorities and considered the issue of skills-based Boards and the challenges presented by representational appointments. Dr Uhrig's report noted:

Boards require the skills, experience and characteristics necessary to ensure the success of the entity. In the appointment process, consideration should first be given to the attributes of potential appointees including the ability for critical thought, objectivity, wisdom gained through appropriate experience, authority and the ability to exercise judgement. Subsequently, consideration should be given to the skills that will be beneficial to the board.

Regarding the representational model put forward by some stakeholders, the risks associated with this approach was identified in Dr Uhrig's report:

The review does not support representational appointments to governing boards as representational appointments can fail to produce independent and objective views. There is the potential for these appointments to be primarily concerned with the interests of those they represent, rather than the success of the entity they are responsible for governing.

The report prepared by Dr Uhrig provided unambiguous advice concerning what it considered to be best practice and, in so doing, explicitly argued against representative boards:

Representational appointments to boards have the potential to place the success of the entity at risk.

It is important to note that in its 2004 response to the report, the Australian Government endorsed the governance principles developed by Dr Uhrig, with a corresponding commitment that its Ministers will assess statutory authorities and other bodies within their portfolios against these principles.

Consistent with the advice above, ITECA is not arguing for a deliberative appointment to the Jobs and Skills Australia Board to represent the tertiary education sector.

At the same time, and consistent with the structure of a skills-based Board, there is a degree of logic an appointment with a practical understanding of skills training delivery. This is fundamental to ensuring that Jobs and Skills Australia is able to both appreciate and respond to issues that may threaten the integrity of the skills training sector.

At Committee hearings on the Bill held on 23 August 2022, in response to a question concerning the structure of the Jobs and Skills Australia Board, the representative of the Australian Council of Trade Unions (ACTU) stated:

I have the strong view that this system is about national infrastructure. It's about upskilling and meeting that need, not how that need's being delivered. So I don't think the service providers have a decision-making role here.

To suggest that skills training providers are simply "service providers" that shouldn't have a decision-making role is to misunderstand and undervalue the contribution of skills training providers to the provision of quality skills training. It is akin to saying that workers in the Australian economy are simply "service providers" and should have no decision-making role in the arrangements that directly affect them. Such an approach is as offensive as it is wrong, and a view that should be dispensed with by the

Committee. The ACTU's view effectively disenfranchises skills training providers from the skills training system, a most curious and problematic view.

The Senate Committee also received advice from the Australian Education Union (AEU) concerning the ability of the skills training system to support a greater number of students from key communities. While this advice was factually incorrect in many respects, it also fails to recognise the significant contribution of Australia's independent skills training sector.

Independent Skills Training – Indigenous Persons Skilling & Upskilling

Independent skills training organisations support 66.1% of all students, including 81.9% of all enrolments in transport and logistics courses for these students. 91.0% of Indigenous students were satisfied with the overall quality of the training provided by an independent skills training provider.

Independent Skills Training – Low Income And Disadvantaged Persons Skilling And Upskilling

Independent skills training organisations support 76.7% of all students from these backgrounds, including 91.2% of all enrolments in resources and infrastructure courses for these students. 89.8% of students from low income and disadvantaged backgrounds were satisfied with the overall quality of the training provided by an independent skills training provider.

Independent Skills Training Providers – Disability Community Skilling And Upskilling

Independent skills training organisations support 66.4% of all students with disabilities, including 85.4% of all enrolments in retail services courses for these students. 86.9% of students with a disability were satisfied with the overall quality of the training provided by an independent skills training provider.

Significantly, independent skills training providers support 77.1% of all student enrolments from people in remote, rural and regional Australia, including 90.5% of students in resources and infrastructure courses and 76.2% of female students in remote, rural and regional areas.

In its submission, the AEU made several materially incorrect statements concerning skills training funding. Should it be of assistance to the Committee, ITECA would be pleased to provide information concerning issues, including with respect to skills funding over the past five years to support your deliberations.

ITECA reiterates its view that Jobs and Skills Australia needs to be more than a workforce planning and skills forecasting body, it needs to have a leadership role in restructuring the workforce to meet the changing nature of work. ITECA believes that Jobs and Skills Australia will succeed through a quadripartite arrangement that brings together government, employer, unions and the skills training sector.

ITECA hopes that this further advice will support the Committee's deliberations.

Yours faithfully

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Chief Executive