

## EDUCATION AND INNOVATION COMMITTEE

### REPORT No. 31 ON THE

### TAFE QUEENSLAND (DUAL SECTOR ENTITIES) AMENDMENT BILL 2014

### QUEENSLAND GOVERNMENT RESPONSE

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#### INTRODUCTION

On 29 April 2014, the Education and Innovation Committee tabled Report No. 31 in relation to the TAFE Queensland (Dual Sector Entities) Amendment Bill 2014.

The Queensland Government response to recommendations made by the Committee and points for clarification sought by the Committee is provided below.

#### RESPONSE TO RECOMMENDATIONS

##### Recommendation 1

The Committee recommends that the TAFE Queensland (Dual Sector Entities) Amendment Bill 2014 be passed.

##### Government Response

The Government thanks the Committee for this recommendation and for its prompt consideration of the Bill.

##### Recommendation 2

The Committee recommends that the Minister for Education, Training and Employment amends the Bill or, as with the TAFE Queensland Bill, the Explanatory Notes to the TAFE Queensland (Dual Sector Entities) Amendment Bill 2014 to clarify that dual sector entities are public providers of vocational education and training (VET).

##### Government Response

The Government does not support this recommendation.

The Explanatory Notes already clarify the Government's expectation that dual sector entities are public providers of VET by allowing them to use the protected term TAFE. Page 2 of the Explanatory Notes states –

*The term Technical and Further Education, or TAFE, has a special meaning in the VET sector. It represents the delivery of VET by the public provider in Queensland as opposed to delivery of VET by a private registered training organisation. Section 58 of the TAFE Queensland Act 2013 protects the term TAFE by limiting the entities which may use this term in connection with their products and services.*

*It is already possible for a university to deliver VET by establishing a registered training organisation and becoming accredited to deliver VET courses. To distinguish dual sector entities from providers who offer both higher education and VET, dual sector entities will be permitted to use the protected term TAFE in relation to their VET courses.*

The status of dual sector entities as public providers of VET will be further assured through both statutory oversights and funding mechanisms. The Bill includes a number of mechanisms to protect the Government's investment in a dual sector entity and ensure that it operates effectively. The dual sector entity will be required to submit an operational plan annually, respond to requests for information from the Minister and be subject to directions in the public interest. These powers in the Bill will ensure that dual sector entities operate appropriately and achieve the Government's objectives for the delivery of VET.

In addition, the Department of Education, Training and Employment will enter into a funding agreement with the dual sector entity to purchase VET. The terms of that agreement, as for any agreement with a VET provider, will outline the Department's expectations for the delivery of VET.

The Department of Education, Training and Employment will continue to purchase training from public and private providers to meet the Government's objectives for delivery of VET at the least cost to Government. This would include addressing issues of access and providing services in regional and remote areas as well as providing a wide range of courses to meet the needs of industry and the community.

Providing in the Bill that a dual sector entity is a public provider will add no further strength to oversight and controls achieved under the above statutory and funding arrangements. The term has no statutory meaning and would not of itself impose obligations on a dual sector entity. It is therefore not proposed to amend the Bill or Explanatory Notes to refer to a dual sector entity as being a public provider.

### **Recommendation 3**

The Committee recommends that the Minister for Education, Training and Employment considers the CQ University/CQIT merger as a pilot project for dual sector entities in Queensland, conducting an evaluation and publishing a report on the establishment of the dual sector entity once the dual sector entity is well established.

#### **Government Response**

The Government accepts this recommendation and will conduct an evaluation of the merger and publish a report on the establishment of Central Queensland (CQ) University and Central Queensland Institute of TAFE (CQIT) as a dual sector entity.

The Bill inserts section 57X in the *TAFE Queensland Act 2013* requiring the Minister to review a dual sector entity's performance of its VET operations every five years. The purpose of a review is to ensure the dual sector entity is operating efficiently and effectively. An evaluation of the merger will be incorporated into this review and the Government will publish the results of the report.

### **Recommendation 4**

The Committee recommends that the Minister for Education, Training and Employment amends the TAFE Queensland (Dual Sector Entities) Amendment Bill 2014 to require that Ministerial approval be required before a dual sector entity undertakes significant action.

#### **Government Response**

The Government does not support this recommendation.

The Bill inserts section 57O in the *TAFE Queensland Act 2013*. This section applies if a dual sector entity proposes to sell (or lease or mortgage) the property transferred to the entity under a transfer regulation. Unless the sale is included in the entity's operational plan for its current operational plan year, as soon as practicable after proposing to take the action, the entity must give the Minister notice of the proposed sale.

The Queensland Training and Asset Management Bill 2014 would require that QTAMA not take proposed significant action unless the Minister agrees to it (new section 46(6)). In addition, the Minister administering the QTAMA Bill “... *must consult with the Treasurer and the Minister administering the Further Education and Training Act 2014 about the proposed significant action.*”

The Committee has correctly commented that there is no requirement in the TAFE Queensland (Dual Sector Entities) Amendment Bill 2014 for Ministerial approval of significant action. A different approach has been undertaken in the Bill given it has different objectives to the QTAMA Bill. In particular, a policy objective of the QTAMA Bill is to improve utilisation rates by managing the public infrastructure on a commercial basis, including implementing disposal processes for obsolete or underutilised assets (refer page 3 of the Explanatory Notes to the QTAMA Bill). Given this objective, Ministerial approval is required as well as consultation with the Treasurer and Minister before significant action, including sale of assets, is undertaken.

It is not an objective of a dual sector entity to dispose assets of assets transferred to it as part of the establishment of a dual sector entity. Rather the transfer of assets is to support the increased capacity for a dual sector entity to deliver a wider range of courses across many sites through the sharing of common resources.

The Government has protected its investment in the transfer of assets to CQ University through the following accountability mechanisms:

- the provision of operational plans to the Minister annually including any sale of proposed assets;
- notices of significant action to the Minister of matters not included in the operational plan;
- power for the Minister to request information;
- power for the Minister to give directions in the public interest; and
- statutory covenants under the *Land Title Act 1994* on the use of transferred assets to ensure that the assets are used to further the objectives of the transfer and are used for purposes benefitting or promoting the purpose of education (on registration, covenants attach to the land and bind the owner and all successors in title until released by the State).

It is considered that the accountability mechanisms included in the Bill, combined with the covenants that will be registered on the title of land transferred, are sufficient to protect the Government’s investment. It is therefore not necessary to add an additional approval process in the Bill as recommended by the Committee.