

## Vanessa Juliana

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**From:** Morena Stanley <Morena.Stanley@des.wa.gov.au>  
**Sent:** Monday, 10 December 2018 12:30 PM  
**To:** Public Submissions; Analena Gilhome  
**Cc:** Vanessa Juliana  
**Subject:** HPECM: FW: ERA Business Licensing Reform Inquiry: Draft Report Consultation  
**Attachments:** Training Accreditation Council submission in response to the draft report - ERA Inquiry into Business Licensing.pdf

**Importance:** High

Dear Analena

At its recent meeting held Thursday 6 December 2018, the Training Accreditation Council (the Council) held further discussions regarding the ERA's draft report into business licensing reform and Council's initial response to the Inquiry dated 4 December 2018 (attached).

As noted in the formal response (refer point 2, Attachment A) the final paragraph requests the ERA give consideration to the Inquiry's applicability to the operations of the Council. As a result of the discussions by Council members at its recent meeting, the Council requested that I provide further clarification and reinforce their position that the Council is established by State legislation and operates in accordance with national standards that are established under Commonwealth Government legislation, therefore the Council believes they fall outside the scope of the Inquiry.

On this basis, the Council respectfully requests the ERA give consideration to a full exemption from the scope of the Inquiry and requests this communication be included as an addendum to the Council's response dated 4 December 2018.

As previously advised, the Council's Chairman would be pleased to meet with the ERA to further discuss the Council's position in response to the Inquiry.

Regards

**Morena Stanley**  
A/Director Training Regulation



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**From:** Morena Stanley  
**Sent:** Tuesday, 4 December 2018 9:29 AM  
**To:** [Public.Submissions@erawa.com.au](mailto:Public.Submissions@erawa.com.au)  
**Cc:** Vanessa Juliana <[Vanessa.Juliana@erawa.com.au](mailto:Vanessa.Juliana@erawa.com.au)>; [analena.gilhome@erawa.com.au](mailto:analena.gilhome@erawa.com.au)  
**Subject:** RE: ERA Business Licensing Reform Inquiry: Draft Report Consultation

Dear Analena

Thank you for confirming a short extension.

Our ref: VE0622-15: 2018/22636

Enquiries: Morena Stanley (08) 9441 1920

Analena Gilhome  
Economic Regulation Authority  
PO Box 8469  
PERTH BC WA 6849

via email: [public.submissions@erawa.com.au](mailto:public.submissions@erawa.com.au)

Dear Ms Gilhome

Thank you for the opportunity to provide feedback on the Economic Regulation Authority's (ERA) draft report of the Inquiry into Reform of Business Licensing in Western Australia (the Inquiry).

The Training Accreditation Council (TAC or Council) notes the potential benefits outlined in the report that aim to reform licensing schemes and reduce regulatory burden on consumers.

The Council is an independent statutory body and operates within an agreed national regulatory framework including State legislation and national quality standards. In this context, feedback provided at Attachment A centres on two main issues:

1. response to the specific statement about the regulation of training organisations on page 28 of the draft report; and
2. discussion on the definition of 'licence' and the applicability of proposed strategies relevant to the role and functions of the Council.

Should you wish to discuss these matters further, please contact Ms Morena Stanley, Acting Director Training Regulation on 08 9441 1920 or via email [morena.stanley@des.wa.gov.au](mailto:morena.stanley@des.wa.gov.au).

The Council would also be pleased to meet with the ERA to further discuss matters relevant to its operations and the objectives of the State Government in regard to licensing matters.

Yours sincerely



Ian Hill  
CHAIRMAN  
TRAINING ACCREDITATION COUNCIL

4 December 2018

Att

## Attachment A

### 1. Reference on page 28 of the draft report

As noted in the ERA's draft report, the Office of the Auditor General (OAG) conducted an audit of the Council. The audit assessed whether the Council can provide assurance that Registered Training Organisations (RTOs) deliver quality training and assessment of student skills.

The OAG's audit concluded that the Council follows the national approach in how it regulates RTOs. This includes deciding which RTOs to register, checking compliance, and when to sanction RTOs that do not comply.

The ERA's draft report references the OAG audit at the top of page 28 and in particular I draw your attention to the statement:

*Since 2013, the Auditor General has reported on shortcomings with compliance for four licensing schemes. These shortcomings include agencies not undertaking inspections or not requiring licence holders to provide adequate evidence of compliance with conditions.*

In relation to regulatory functions, in particular the audit processes and activities of the Council, the above statement infers the Council does not undertake inspections or require RTOs to provide adequate evidence of compliance, when in fact the opposite is true. The Council registers RTOs and regularly checks, via audits, that they meet the requirements and comply with the national quality standards. Audit findings in relation to a provider's compliance are based on evidence presented to the auditor.

RTOs are provided with a rectification period to address non-compliances and the Council does not progress an RTO's registration or approve applications for initial, renewal or amendment to registration while non-compliances remain. The regulatory framework allows the RTO to continue to operate while it fixes non-compliances. When sanctions are applied, this limits the operations of the RTO until it can demonstrate compliance.

The OAG audit of TAC identified that the Council was revising its approach to managing risk in the sector, in particular the way it responds to non-compliance. Since the OAG audit, the Council has implemented its Risk Framework which places emphasis on managing the highest levels of risk and enables more appropriate and timely regulatory responses.

On the basis that the statement at the top of page 28 of the draft report is not consistent with the nature of TAC's regulatory framework, particularly in regard to how it manages RTO compliance and applies regulatory decisions, it is suggested the reference to 'Regulation of training organisations' within the table on page 28 is removed.

Alternatively, the statement at the top of page 28 could be rephrased to capture the OAG's observations relating to managing risk whilst RTOs are fixing identified non-compliance:

*Since 2013, the Auditor General has reported on shortcomings with compliance for four licensing schemes. These shortcomings include agencies not undertaking inspections, not requiring licence holders to provide adequate evidence of compliance with conditions, or managing risk resulting from non-compliance.*



## 2. **Applicability of proposed strategies relevant to the role and functions of the Training Accreditation Council**

It is understood the Inquiry has applied a broad definition of 'licence' and the focus includes where there is an obligation stemming from State government legislation to administer the licence. To that end, the Council was identified as 'in scope' of the Inquiry as it issues a licence in respect of the accreditation of a VET course and registration to operate as an RTO.

The terms of reference for the Inquiry require the ERA to identify opportunities to improve business licensing in Western Australia. Attendance at the ERA's information session on 7 November 2018 confirmed a focus on State licensing and that the scope of the Inquiry does not consider circumstances where State and Commonwealth legislation intersects for the purpose of, and in the course of administering a licence. Therefore it is understood the Inquiry's focus is targeted at agencies administering exclusively State based licensing regimes.

The Council is an independent statutory body and its 'licensing' scheme is prescribed in State legislation, the *Vocational Education and Training Act (1996)* (VET Act) and its subsidiary legislation, the *Vocational Education and Training (General) Regulations (2009)*. All RTOs across Australia must meet the same set of standards for the courses they deliver which means the Council also operates within a national VET regulatory framework.

In regard to review cycles, the VET Act includes a statutory five-year review cycle and the Commonwealth Department of Education and Training has responsibility to oversee the design and management of the national VET standards, including applicable regulatory impact assessments and review processes.

On the basis that VET regulation is underpinned by State legislation and a national framework, the Council respectfully requests the ERA give consideration to the scope and extent to which the Council may be required to participate in any applicable implementation strategies resulting from the Inquiry.

