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Dear Ms Mulvey

RE: Vocational Education and Training Regulations 2009

The Chamber of Minerals and Energy of WA (CME) appreciates the opportunity to comment on the 2009 Regulations of the Vocational Education and Training Act 1996 (VET Act).

In broad terms, CME supports a Vocational Education and Training system that is efficient and capable of delivering quality and nationally standardised training that meets the diverse needs of the resources industry.

The CME is the peak resources sector representative body in Western Australia. Member companies generate an estimated 95 per cent of all mineral and energy production across the State. CME exists to champion the WA resources sector and assist it in achieving its vision to lead the world in sustainable practice through innovation and to underpin Australia's position in the global economy.

In terms of the industry's workforce CME's goal is that the resources sector is an industry that provides attractive career opportunities, enables people to safely meet operational targets and develops their capacity.

CME supports the amendments to the VET Act, and in particular priorities one, two and five:

1. Introduce a new legislative framework to modernise apprenticeships and traineeships (termed 'apprenticeships' hereunder);
2. Repeal the *Industrial Training Act 1975* which currently regulates the apprenticeship system;
5. Provide a more coherent structure in the Act to describe the components of the State training system.

A number of elements to these however are of concern and have been highlighted below.

1. Introduce a new legislative framework to modernise apprenticeships and traineeships

It is acknowledged Western Australia is the last state to modernise the “apprenticeships” legislation. The proposed regulations not only bring WA in line with the rest of the nation but also with current training practices and innovations already undertaken by training providers within our state. By repealing the *Industrial Training Act 1975* (ITA) and developing the *Vocational Education and Training (General) Regulations 2009* (General Regulations); and, *Vocational Education and Training Amendment Regulations 2009* (Amendment Regulations), training providers will have far more, flexibility and consistency in which they will be operating.

A large portion of resources sector training and assessment occurs in the workplace. In some resource companies the RTO role is one whereby the enterprise conducts the training and assessment and the RTO provides the quality assurance and the certificates/statements of attainment if they are issued. CME is of the view that it is necessary to ensure the proposed training contracts and training plans under the new regulations will adequately allow for this type of auspicing arrangement, and it is only if this occurs that they are supported.

Under the ITA, requirements in how training was delivered, how many hours needed to be completed, and where the training took place (ie on/off the job) were all prescribed. Bringing in legislation that is up to speed with current training practices and innovations officially acknowledges the changes in the training system such as competency based rather than time based training and skills recognition.

Competency-based training is a common approach to VET by resource companies. Our sector places emphasis on what a person capability in the workplace as a result of completing a program of training. Entry into many positions in the industry are not reliant on the completion of an apprenticeship (Class A qualification) but require training that is specific to their job role, commodity, location, etc. The training is broken into units, which are based on standards set by industry, and assessment which is designed to ensure each student has achieved all the outcomes (skills and knowledge) required by each unit.

Resource companies identify relevant units to suit their training requirements and ensure a Statement of Attainment is issued for those units. A consequence of this is that while significant investment is made by industry in training this is not reflected in the numbers of Certificate qualifications that are issued. Feedback received from the industry is such that in some instances the package of units that compile a Certificate course are not all relevant to that particular workplace and as such only a portion of them are completed.

A benefit of the proposed changes for the resources sector is that progress within a competency-based training program will not be based on time - as opposed to the time specific apprenticeships in the old legislative framework. Competency-based training allows individuals who have achieved or demonstrated the outcomes required in a unit, to progress in their skills development. In this way, companies can potentially move their students through a program of study at a much faster rate while still ensuring quality of training and competencies are attained.

The resource sector recognises some people within the workforce have not obtained any formal qualifications. As part of an increasing need to attract and retain skilled staff, companies are working hard to recognise their staffs existing skills and knowledge. Recognition of prior learning (RPL) of skills and knowledge gained through some other form of study, formal training and/or work experience is important to enable our companies’ staff to gain a qualification without completing a standard training program or course.

RPL is seen by companies to have many other benefits including:

- students can finish their courses earlier
- study loads and costs are reduced
- students can take on additional study leading to a second qualification

- by identifying an individual's current competencies, RPL can effectively target training requirements.

The flexibility of the new framework also allows for national recognition which aims to remove barriers to free the flow of labour that can arise from differences in regulations in each state or territory. The sector will recognise:

- the decisions of all other states and territories in registering training organisations and accrediting courses.
- Australian Qualifications Framework qualifications and statements of attainment issued by other registered training organisations.

With an industry that has suffered from skills shortages in the past, and foresees further shortages in the long term, national recognition is important in order to access skilled labour from other states and territories in manner where industry is assured of consistency of quality training.

The CME endorses the new regulation being now in line with the National Skills Framework which aims to promote quality and national consistency in terms of qualifications and the delivery of training. The key components of this framework include training packages, the Australian Qualifications Framework and the Australian Quality Training Framework.

Our industry welcomes the opportunity under the Australian Quality Training Framework (AQTF) to provide feedback on RTO's to ensure that:

- the RTO provides quality training and assessment across all of its operations
- the RTO adheres to principles of access and equity and maximises outcomes for its clients
- management systems are responsive to the needs of clients, staff and stakeholders and the environment in which the RTO operates.

2. Repeal the *Industrial Training Act 1975* which currently regulates the apprenticeship system (note that currently there is minimal legislative framework for traineeships);

A vital component of repealing the ITA is that it allows for the modernisation of the VET sector under the new '*Vocational Education and Training Regulations 2009*'.

The new regulations now also account for a broader sense of the term 'Apprenticeship'. Under the new regulation 'Apprenticeship' means any employment based training scheme whether termed an apprenticeship, traineeship, cadetship or internship. Currently it is acknowledged that traineeships are covered only by policy. Under the ITA apprenticeships were highly regulated and traineeships unregulated.

CME notes the incorporation of these other training schemes into a regulated environment. It is necessary to ensure the ability of an employing organisation to flexibly manage its trainees, cadets and interns is not unduly encumbered by the new arrangements.

5. Provide a more coherent structure in the Act to describe the components of the State training system.

The amended VET Act places the administration of apprenticeships in the full responsibility of the Department of Education and Training (DET). The consultation and support networks that the VET Act enlists will hopefully improve operational continuity. CME endorses the resource sector being a part of this consultative process as it is industry that is best placed to provide specific advice and recommendations on training requirements.

CME identifies strong potential in there being one establishment process of all 'apprenticeships' through the State Training Board (STB) in consultation with the Industry Training Councils. This

is evidenced by CME's joint venture arrangement with the Australian Petroleum Production and Exploration Association (APPEA) in the development and implementation of the Resources Industry Training Council (RITC).

The CME looks forward to the opportunity to input into the RITC which will advise the STB in relation to matters on which it seeks vocational education and training advice under the Act. It is assumed this arrangement will make the establishment process quicker and responsive to industry needs.

Areas of Concern

The CME would like to raise their concerns with the phrase 'institutional pathway' and its association with a Class B qualification (refer to Classification of Qualifications for Apprenticeships - Chart A). Having an 'Institutional pathway' as an alternative for this class of apprenticeship infers that someone can go to TAFE and get the qualification despite having minimal or no on-site experience in the field.

Considering the immense importance of safety in our industry, there is often limited opportunity for young and inexperienced personnel to find employment in the resource sector. Theoretical knowledge alone cannot and does not validate the qualification. The preference is for people to be trained and assessed 'on-site' either through formal traineeship arrangements or with people already employed within the industry.

Qualifications attained through institutional pathways do not meet the resources industry's needs. The resources sector would prefer to see a caveat on the Class B alternative along the lines of the following:

*"or
Where the industry situation allows it and the industry is supportive, an
institutional pathway without the requirements of an apprenticeship."*

Note that the industry accepts there will be Class C qualifications, generally at the higher AQF levels, where institutional pathways may be appropriate.

In Registration of Training Contracts for Apprenticeships - Chart D under the "failure to complete" box, the current wording allows for an RTO to inform the DET that an apprentice is not competent or for the employer to advise the DET the apprentice has ceased employment. CME considers it necessary for the employer to be able to request an extension of term where, in their opinion, the apprentice is not yet competent.

While CME in-principle supports the training plans, it is essential to ensure they will allow flexibility and not be a bureaucratic or an onerous imposition upon companies in their development.

Non completion of these training plans in the specified time frame will now incur a financial penalty. The ability to take into account situations that are outside of the employers control is required to ensure employers are not unfairly penalised.

The CME also has concerns with the termination of apprentices. In the case of a serious misconduct the CME considers the apprentice should be suspended without pay until the termination hearing has been heard. If the hearing finds the apprentice should be reinstated, the employer would be subject to back pay.

In all instances it is imperative termination hearings are expedited to resolve matters quickly. Administrative processes for dealing with suspension or termination of apprentices that includes timelines and who is responsible for advising who should be clearly articulated.

CME Position in Summary

In terms of regulation changes and current training practices and innovations, CME recognises the need by the DET to align Western Australia with the rest of the nation.

Large investments are being made into training by the resource sector through partnerships with private RTOs and established in-house company training departments. The changes in the new regulations will ensure the resource sector continues to develop its workforce needs and ensure these are addressed flexibly and responsively, with confidence in the training outcomes.

The resource sector supports a training system that has a coherent structure, implements a nationally endorsed model and which involves sector input. Simplifying the process with one establishment process for all 'apprenticeships' and broadening the scope of apprentices to include traineeships, is a logical step forward.

The resource sector welcomes in particular, the sentiments inferred by Part 4 Division 2 Regulation 37 whereby the State Training Board must seek advice and recommendations from any industry training advisory body. In this way, the training system will become an industry demand driven system.

The sector recognises the importance of positioning itself to be prepared for the next growth phase and the need to build tomorrow's workforce today. Preparing new skilled staff, retaining current employees or building their capability is critical to the ongoing success of the resources sector. It is hoped that the new Regulations of the VET Act will assist our sector to achieve our goal of developing our people's capacity in the workforce.

For more information on our industry's commitment to a sustainable workforce in the WA resources sector and for a resource sector specific growth outlook on people please refer to the respective enclosed documents 'Building Tomorrow's Workforce Today' and 'Developing a Growth Outlook for WA's Mineral and Energy Industry'.

If you have any queries on the above, please do not hesitate to contact me on 08 9220 8513 or n.roocke@cmewa.com.

Kind regards

A handwritten signature in black ink that reads "Nicole Roocke". The signature is written in a cursive, flowing style.

Nicole Roocke
Director