DEPARTMENT OF EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

INPUT FOR ANNUAL REVIEW OF REGULATORY BURDENS ON BUSINESS – SOCIAL AND ECONOMIC INFRASTRUCTURE SERVICES

APRIL 2009

ATTACHMENT A

WORKPLACE RELATIONS IMPLEMENTATION GROUP
SAFETY AND ENTITLEMENTS GROUP

Including information on the DEEWR portfolio agency - *Office of the Australian Building and Construction Commissioner*

> **Workplace Relations Implementation Group (including information on the DEEWR portfolio agency - *Office of the Australian Building and Construction Commissioner*)**

1. **Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors.**

   The Australian Government Implementation Guidelines (the Guidelines) for the National Code of Practice for the Construction Industry (the Code).
   Building and Construction Industry Improvement Act 2005 (BCII Act)
   Building and Construction Industry Improvement Regulations 2005 (Cth)
   Workplace Relations Act 1996 (WR Act)
   Workplace Relations Regulations 2006 (Cth)
   Independent Contractors Act 2006 (Cth) (IC Act)
   Independent Contractors Regulations 2007 (Cth)

   The Australian Government's Forward with Fairness Policy Implementation Plan included a commitment to retain the Office of the Australian Building and Construction Commissioner *(*ABCC) until 31 January 2010. At that time, the Government will replace the ABCC with a specialist building and construction division of the inspectorate of the Government's new independent umpire, Fair Work Australia.

2. **DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.**

   DEEWR does not consider any of the existing regulations to be unnecessarily burdensome.

3. **Concerns raised by sectors about regulatory burdens.**

   All tenderers for federally funded building and construction work are required to be compliant with the Code and Guidelines. There has been considerable discussion and debate in the building and construction sector regarding the impact and requirements of the Code and Guidelines. A number of employers and employer associations regard them as valuable and effective while other industry participants, such as unions and some state and territory governments, regard elements of the Code and Guidelines as an intrusion and an obstruction.

4. **Recent and ongoing reviews of regulation.**

The Code and Guidelines are currently being considered as part of the Australian Government's broader review of the regulatory framework applying to the building and construction industry. The Honourable Murray Wilcox QC was appointed by the Deputy Prime Minister to conduct extensive consultation and provide the Government with a report on his findings at the end of March 2009. Further information on the consultations can be found at: www.workplace.gov.au/wilcox.

It is recommended the Productivity Commission defer further consideration of building and construction industry related matters until after the Wilcox Report has been considered by Government.

5. **Industry associations and other key stakeholder groups.**

Master Builders Association (MBA)
Housing Industry Association (HIA)
Australian Constructors Association (ACA)
Australian Chamber of Commerce and Industry (ACCI)
Australian Industry Group (AiG)
Australian Council of trade unions (ACTU)
Construction Forestry Mining Energy Union (CFMEU)
Electrical trades Union (ETU)
Communications Electrical Plumbing Union (CEPU)
State and Territory governments
Local Governments

Each of these stakeholders is actively participating in the Wilcox consultations.

Safety and Entitlements Group

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1. **Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors.**

   Building and Construction Industry Improvement Act 2005 (BCII Act)
   Building and Construction Industry Improvement (Accreditation Scheme) Regulations 2005
   Building and Construction Industry Improvement Regulations 2005

2. **DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.**

   - There are currently a number of state and territory government prequalification schemes with an occupational health and safety (OHS) requirement.

3. **Concerns raised by sectors about regulatory burdens.**

- There are general policy concerns regarding the requirement to have federal OHS accreditation to allow access to Commonwealth funded building projects (subject to certain thresholds).
- The government is committed to maintaining the Scheme in its current form given the poor OHS performance of the building and construction industry.

4. **Recent and ongoing reviews of regulation.**

- The current BCII Act will be reviewed as part of the broader review being undertaken by the Honourable Murray Wilcox QC.

5. **Industry associations and other key stakeholder groups.**

Master Builders Association (MBA)
Australian Constructors Association (ACA)
Civil Contractors Federation (CCF)
Industry Reference Group (MBA, CCF, ACA, Leightons, John Holland, Abigroup, Probuild, Bovis Lend Lease, Baulderstone, Laing O'Rourke)
Government Reference Group (Defence, Immigration, Infrastructure, Comcare, Finance and Deregulation, Australia Post)

EARLY CHILDHOOD DEVELOPMENT GROUP
EARLY CHILDHOOD PROGRAMS GROUP
EARLY CHILDHOOD EDUCATION AND WORKFORCE GROUP

1. **Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors.**

The family assistance law imposes conditions for approval and continued approval on child care services. These are set out in part 8 of the *A New Tax System (Family Assistance) (Administration) Act 1999* and in the Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval Determination 2000.

It is a condition of approval and continued approval for Child Care Benefit (CCB) purposes that services register and satisfactorily participate in the Child Care Quality Assurance (CCQA).

The CCQA systems are administered on behalf of the Australian Government by the National Childcare Accreditation Council (NCAC).

Part 8 also contains CCB compliance monitoring powers and imposes an obligation on approved child care services to co-operate with persons exercising monitoring powers.

Child care providers **are required** under section 21 of the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Determination 2000 to r*eport vacancy Information.

2. **DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.**

Quality Assurance

There is some overlap and duplication between the CCQA systems and the state and territory regulatory systems. DEEWR supports reducing the overall regulatory burden on services by looking at areas of overlap and duplication between Commonwealth and state/territory activities. This is being addressed through COAG processes.

CCB Compliance

Compliance monitoring is considered necessary to underpin more than $1.9b outlays in payments for Child Care Benefit purposes, $860m in Child Care Tax Rebate plus substantial funding programs. The obligations to keep records and to produce them for inspection are fundamental to compliance.

Reporting of Vacancies

As part of their Child Care Benefit (CCB) approval requirements, child care services since June 2006 have been required to provide details of their anticipated vacancies to DEEWR. Currently services are required to provide vacancy information on a weekly basis, before 8pm each Friday. Vacancy or availability information must relate to the following week. The information provided should be based on the "number of vacant CCB approved places a service identifies each day in line with the service's business practices". Services are required to report for each week that they operate, regardless of whether they have vacancies or not.

Child Care Management System

As services transition to the Child Care Management System (CCMS), they will use this system to lodge their vacancy information. Reporting via CCMS is perceived by DEEWR to incur only a small administrative burden on services, and all CCB-approved services are anticipated to be on CCMS by mid 2009.

DEEWR continues to be cognisant of any potential burden's imposed on the sector via vacancy reporting. As noted by the Deputy Prime Minister in her press release of 16 June 2008 announcing the first phase of the Information for Families/mychild.gov.au initiative, a planned review and consultation around reported vacancy information would "….include how to minimise the regulatory burden on child care service providers and maximise information to parents".

3. Concerns raised by sectors about regulatory burdens.

Evidence from the first wave of consultations into the National Quality Framework (NQF) showed that there was strong support for a nationally consistent approach to regulation of the early childhood education and care sector. Service providers are seeking a reduction in the 'cost of compliance', especially the administrative burden of meeting compliance and a reduction in the overlap between Commonwealth and state or territory licensing and accreditation requirements.

The Child Care Management System (CCMS) introduces a new process for transferring information between child care services and the government over the internet. This information will include details of the children enrolled in the service and information about their attendance at the service.

There were legislative changes introduced to support the introduction of CCMS.

As part of the wide consultation around the introduction of the new system, the department established an industry reference group, made up of representatives from the various national child care peak bodies. The role of the reference group included:

- Providing feedback to the Department on change management strategies, hardware/software provision and data collection/reporting;
- acting as a conduit for input from the broader child care sector; and
- providing information and comment so as to inform the department's ongoing implementation work, in particular around the targeted financial assistance, support and information for the sector.

The transition of services to CCMS commenced in February 2008 and is continuing. Over this period, some services have experienced transition issues, however with close to 5,000 (out of 11,000) services having successfully made the change to CCMS so far, the level of consultation with the sector has provided the grounding for the transition to meet its legislative timeframe and objectives with minimal disruption to the sector.

One of the objectives of this level of consultation was to consider issues and concerns raised by the sector early in the project and thereby limit concerns for child care services as the new arrangements are introduced.

Some child care services have complained about the burden that reporting vacancy information places upon them – often this is linked to a concern that the information provided is of limited value to parents and to the service itself (in terms of attracting clientele).

4. Recent and ongoing reviews of regulation.

DEEWR is working with state and territory officials to improve the existing regulatory framework. It is expected that the Early Childhood Development Subgroup (which sits under the Productivity Agenda Working Group of COAG) will consider options for a new regulatory framework for early childhood settings at its meeting in January 2009.

As foreshadowed by the Deputy Prime Minister in her press release of 16 June 2008, DEEWR will shortly be undertaking consultations with the sector regarding an improved vacancy reporting model, which will consider minimising the regulatory burden on child care service providers.

5. Industry associations and other key stakeholder groups.

The Child Care Quality Assurance systems are administered by the National Childcare Accreditation Council (NCAC). The Accreditation Decisions Review Committee is the appeals body for NCAC decisions.

The child care sector is represented by a range of service type specific stakeholder groups, without a clear authority existing for any specific organisation.

ATTACHMENT C

NATIONAL EDUCATION SYSTEMS GROUP

1. **Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors.**

Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004 (relevant to 2005-08 funding quadrennium)
Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005 (relevant to 2005-08 funding quadrennium)
Schools Assistance Act 2008
Schools Assistance Regulations 2008 (to be drafted)

2. **DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.**

The Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004, which applied to the 2005-08 funding quadrennium, imposed over 20 accountability requirements, commitments and funding conditions on schools receiving Commonwealth funding over the 2005-08 quadrennium. The legislation replacing this Act for 2009-12, the *Schools Assistance Act 2008*, rationalises these obligations, greatly reducing the compliance reporting burden on schools.

A new set of Regulations under the *Schools Assistance Act 2008*, the *Schools Assistance Regulations 2008*, will apply to non-government schools only. These focus on the six requirements which are critical to the government's transparency and performance reporting agenda: the national student assessments which schools must administer; the performance information they must provide for national reports on schooling which are published by MCEETYA and COAG; the student reports they must provide to parents; and the information schools themselves must publish. Two further regulations, to take effect at a later stage, will specify the individual school information to be provided to the Minister (or other body she determines, such as the new Australian Curriculum, Assessment and Reporting Authority), and will give details of the national curriculum which schools must implement.

DEEWR believes that overall the *Schools Assistance Act 2008*, the *Schools Assistance Regulations 2008* and associated Administrative Guidelines and compliance mechanisms which will take effect in 2009 eliminate unnecessary reporting by non-government schools while focussing on the government's key national school transparency and performance information requirements.

Similar reporting provisions will apply to government schools, but under the terms of the National Education Agreement (NEA) rather than via Commonwealth regulation.

The *Schools Assistance Act 2008* also regulates the provision of a number of grants, including recurrent grants, to non-government schools. DEEWR does not believe that the relevant requirements are unnecessarily burdensome. In order to be eligible to receive grants under the Act, however, schools must be registered by the relevant state or territory government. Accreditation and registration of non-government schools by state and territory governments is inconsistent, and sometimes lacking in transparency, in its application.

The *Schools Assistance Act 2008* also allows for school systems to operate across several states which will create complexity for such systems in dealing with different regulatory regimes depending on the state or territory in which their schools are registered.

3.   Concerns raised by sectors about regulatory burdens.

For concerns about former regulatory and compliance requirements on non-government schools see *Rethinking Regulation - Report of the Taskforce on Reducing Regulatory Burdens on Business* (January 2006).

Non-Government schools, and their peak bodies, regard state and territory governments as their competitors. There is a lack of clear structural separation between the roles of state and territory governments as regulators of the non-government school sector and as providers of public schooling. Non-government schools and their peak bodies maintain that they should not be regulated by their competitors.

4.   Recent and ongoing reviews of regulation.

In 2007 an Australian Education Systems Officials Committee (AESOC) Review of Schools Compliance Reporting, chaired by the Australian Government, and including all states and territories and Catholic and Independent school peak bodies, commenced a process to review and streamline compliance reporting by schools to government and between levels of government. This process was overtaken during 2008 by new funding and reporting arrangements negotiated under the NEA and the introduction of parallel non-government schools funding legislation and regulations.

Some state governments have undertaken some review of, at least, some of aspects of their regulation of non-government schools. None, however, have reviewed the structures and possible conflicts of interest related to their dual roles as regulators and providers.

5.   Industry association and other key stakeholder groups.

Council of Australian Governments (COAG)
Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA)
State and territory education departments
Independent Schools Council of Australia (ISCA)
Associations of Independent Schools in each state and territory
National Catholic Education Commission (NCEC)
Catholic Education Offices in each state and territory and in individual dioceses
Christian Schools Australia

ATTACHMENT D

HIGHER EDUCATION GROUP

1. **Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors.**

The *Higher Education Support Act 2003* (the Act) and guidelines and funding agreements made under the Act

The Act, guidelines and funding agreements impose obligations on higher education providers that receive Commonwealth funding under the Act as a condition of that funding. Funding under the Act includes grants (including grants to provide scholarships to students) and Commonwealth payments on behalf of students who receive assistance (primarily in the form of loans) under the Higher Education Loan Program (HELP).

   o   Some parts of the Act are administered by the Department of Innovation, Industry, Science and Research (DIISR). This response does not cover DIISR's responsibilities.

The obligations include conditions on the expenditure of some grants, accountability (reporting, etc) to the Commonwealth, quality and other requirements in relation to the provision of higher education to students, provision of information to and responsibilities towards students (primarily in relation to tuition charges and loans, including regulation of tuition charges) and administration of HELP.

The higher education FEE-HELP arrangements have also been extended to the vocational education and training sector (VET FEE-HELP) under Schedule 1A of the Act. The obligations on VET providers (those registered training organisations approved to offer VET FEE-HELP assistance to their students) include quality and accountability requirements and administration of the program.

The Act does not impose these obligations on higher education/VET providers that do not receive funding under the Act or require higher education/VET providers that receive funding to comply other than as a condition of funding (with the consequences of non-compliance being removal or restriction of funding, including ability to offer HELP assistance to students).

Higher Education Providers approved under subdivision 16-C of the *Higher Education Support Act 2003*

Higher education providers approved under subdivision 16-C of the Act to offer FEE-HELP assistance to their eligible students are required to comply, and to continue to comply, with the Act's quality and accountability requirements including financial viability, quality, fairness, tuition assurance and contribution and fee requirements. This approval may be revoked if a HEP:

     a.   is found to have provided false information in its application for approval; or
     b.   ceased to have education and/or research as its principal purpose; or
     c.   has a change of status or accreditation; or
     d.   breaches the quality and accountability requirements.

An approved HEP is not required to provide financial information for a financial year in which it did not receive FEE-HELP assistance for its students.

The *National Protocols and National Guidelines for Higher Education Approval Processes*

In October 2007, the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) agreed to revised National Protocols for Higher Education Approval Processes (National Protocols) after extensive consultation with stakeholders.

The National Protocols are available at:

> http://www.mceetya.edu.au/mceetya/national_protocols_for_higher_education_mainpage,15212.html .

MCEETYA tasked the Joint Committee on Higher Education (JCHE) with developing National Guidelines to set out necessary matters of detail for implementation and to increase the consistency of approval processes for higher education institutions and courses across jurisdictions. The National Guidelines were developed with comment and input from a wide range of higher education stakeholders.

The National Guidelines have been agreed to by the relevant ministers in all jurisdictions. The National Guidelines are available at:

> http://www.mceetya.edu.au/mceetya/national_protocols_for_higher_education_mainpage,15212.html.

The National Protocols and National Guidelines impose obligations on providers and potential providers of higher education through the state and territory legislation giving them effect in the respective jurisdictions. The obligations imposed include application, assessment, approval and fees according to the specific provisions of the jurisdictional legislation.

    o   This response does not cover state and territory responsibilities.

The *Higher Education in the external Territories Guidelines* made under the HESA 2003

The Higher Education in the external Territories (HEET) Guidelines give effect to the National Protocols and National Guidelines in Australia's external Territories. They impose obligations of application, assessment, approval and fees on providers and potential providers of higher education from and in Australia's external Territories. The obligations imposed by the HEET Guidelines are comparable with those of other jurisdictions.

Protection of the title 'university'

Guidelines for the use of the word 'university' in company names have been established under the *Corporations Regulations 2001* and *Guidelines for the use of the word 'university' in Australian domain names* have been established in accordance with the Australian Domain Name Administrator *Reserved List Policy*. These guidelines restrict the use of the word 'university' or similar words in Australian company and domain names, giving effect to the requirement in the National Protocols to protect the title 'university'.

2. DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.

Efforts have been made since the introduction of the Act, including through amendments to the Act and its guidelines as well as to administrative practices to streamline and remove unnecessary requirements upon higher education providers. Significant further changes to the obligations on higher education providers imposed under the legislative scheme would require policy change, for example, in regard to the extent to which the Australian Government seeks to regulate higher education providers' access to Commonwealth supported (ie funded) student places, the number and type of places that they may offer and the prices that they may charge students.

DEEWR invites higher education providers on an ongoing basis to make suggestions for changes to the approach to administration of the legislative scheme within current policy settings and a number of the changes referred to above have been made in response to these suggestions. There are currently no outstanding issues that providers have asked DEEWR to address.

While VET FEE-HELP has only recently been implemented, a review of existing VET provider approval processes is being undertaken in response to some concerns raised by the sector.

3. Concerns raised by sectors about regulatory burdens.

In October 2005 the Australian Vice-Chancellor's Committee (AVCC) commissioned PhillipsKPA to review the impact of the Backing Australia's Future (BAF) reforms on the reporting requirements of universities. In January 2006 the Banks Report recommended that the Department of Education Science and Training and other relevant agencies should work with the AVCC to address issues identified in the PhillipsKPA report to reduce red tape. This work was subsequently overtaken by the Bradley Review of higher education.

The VET sector has sought the review of the requirements surrounding approval as a VET provider and also the administrative requirements following approval as a VET provider.

4. Recent and ongoing reviews of regulation.

The Bradley Review of Australian Higher Education (Report released on 17 December 2008 contains a number of recommendations that could impact on the regulatory framework surrounding higher education providers. Also refer to the PhillipsKPA report referred to above. The Bradley report is available at;

http://www.deewr.gov.au/HigherEducation/Review/Pages/ReviewofAustralianHigherEducationReport.aspx

External review of VET provider approval processes undertaken by TVET Australia in November-December 2008.

5. Industry associations and other key stakeholder groups.

Universities Australia
Australian Council for Private Education and Training (ACPET)
TAFE Directors Australia
Council of Private Higher Education Inc (COPHE)
TAFE Directors Australia
Individual providers and groupings (Group of Eight, Australian Technology Network of Universities (ATN) etc)
Students and the National Union of Students

TERTIARY SKILLS AND PRODUCTIVITY GROUP
INDUSTRY SKILLS GROUP

1. **Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors.**

- **Australian Quality Training Framework (AQTF)**

  Regulation of registered training organisations is the constitutional responsibility of the states and territories but operates under nationally agreed standards and operating protocols encompassed in the Australian Quality Training Framework (AQTF). DEEWR, as a member of the National Quality Council (NQC) which is a body of the Ministerial Council for Vocational and Technical Education (MCVTE) and which oversights national quality arrangements such as AQTF, participates in policy development and deployment.

- **Trades Recognition Australia (TRA) is an assessing authority responsible for providing two separate streams of skills recognition services:**

1. Skills assessments for eligible Australian residents with work rights (Domestic Skills Assessments) under the *Tradesmen's Rights Regulation Act 1946*. This includes people in Australia under temporary visa arrangements with work rights.

2. Pre migration skills assessments for potential migrants to Australia (International Skills Assessments) under the *Migration Act 1958*.

Domestic Skills Assessment
TRA conducts skills assessment for 49 metal and electrical trades under the authority of the *Tradesmen's Rights Regulation Act 1946*.

Assessment criteria have been developed by Central Trades Committees established under the Act to determine the conditions under which a person may be recognised as a tradesperson. The Criteria is based on the recommendations of a number of tripartite missions to various countries to study the training and employment of metal and electrical trades.

International Skills Assessment
A person intending to migrate to Australia under a general skilled migration category, must have had their skills assessed by the relevant Australian assessing authority before lodging an application with the Department of Immigration and Citizenship (DIAC).

TRA is the relevant assessing authority for a range of trade and associate professional occupations under the *Migration Act 1958*.

The Minister for Immigration has specified TRA as an assessing authority for skilled occupations listed on the Skilled Occupation List (SOL) and the Employer Nominated Occupation List (ENSOL) (Regulation 2.26B(1) of the Migration Regulations 1994).

TRA is required to determine whether the skills of a person are suitable for a skilled occupation (Regulation 136.222 of Schedule 2 of the Migration Regulations) and sets the standards against which the skills of a person are assessed (Regulation 2.26B(2) of the Migration Regulations).

- National Standards for Group Training Organisations 2006

  The regulation of Group Training Organisations (GTOs) is the responsibility of states and territories. GTOs are employers of Australian Apprentices. A national quality process for registration under the National Standards for GTOs allows governments to determine the capacity of GTOs to deliver Group Training services and their eligibility for Australian Government and state and territory Government funding.

  The Australian National Training Authority Ministerial Council agreed that the National Standards for Group Training Organisations be adopted and implemented as of 1 January 2003 as the quality arrangements for Group Training in each state and territory. Following a review of the National Standards for Group Training Organisations in 2005, minor changes were endorsed by NQC and implemented as of 1 January 2006 and are known as the National Standards for Group Training Organisations 2006.

2.   DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.

Australian Quality Training Framework

A revised AQTF was introduced in 2007 to bring it into line with an outcomes focused model, measuring and monitoring skills outcomes rather than verifying processes and administrative inputs. The changes aimed to streamline the regulatory system which had become complex and burdensome, and expensive for all parties involved.

A recent evaluation of the implementation of the new arrangements conducted by KPMG indicated that there was still some way to go to embed the changes and achieve national consistency in the application of the AQTF.

Each state and territory has its own registering body responsible for registering, monitoring and auditing training organisations. Although each registering body accepts the registration decisions made by any other registering body, RTOs operating in multiple jurisdictions still need to comply with the legislation and licensing arrangements of each of the jurisdictions within which they operate.

To avoid multiple audits in different jurisdictions, training providers operating in more than one jurisdiction have the option of having their registration and audit arrangements managed by the National Audit and Registration Agency (NARA).

However, to date only a limited number of registering bodies have delegated responsibility to NARA. The regulatory burden on training providers would be reduced if all RTOs were able to register with a national regulatory body.

Review of Tertiary Regulations

In order to understand the impact of varying regulatory requirements, DEEWR is undertaking a project *(Future Directions for Quality Oversight of Tertiary Education Services in Australia)* to analyse the current approaches and processes for regulation and oversight of quality assurance of tertiary education services across the higher education, VET and international education sectors.

There is a range of regulatory requirements directed to the quality assurance of tertiary and vocational education in Australia for both domestic and international students. In the VET sector these requirements are principally specified in the AQTF. Overseas students studying in Australia are further protected by the *Education Services for Overseas Students Act 2000* (ESOS Act).

National Standards for Group Training Organisations 2006

In 2008 an audit moderation workshop, which included representatives from State Training Authorities, auditors, Group Training Australia and DEEWR, considered the currency and effectiveness of the current National Standards for Group Training Organisations. Consultations were also undertaken with state and territory government authorities responsible for education and training and other Group Training stakeholders, including GTOs. A view was formed that the National Standards for Group Training Organisations needed to be brought into line with the current focus on outcomes-based quality frameworks. It was agreed that a new model should replace the existing compliance-based model which was based on the original Registered Training Organisation (RTO) Standards which have now been replaced by the AQTF. A consultant was engaged by DEEWR in October 2008 to conduct the review. The review included the conduct of broad consultations with all Group Training stakeholders and the development of recommendations for the implementation of a quality management model and an implementation strategy for the introduction of a quality model which would provide a basis for the registration, re-registration, funding and monitoring of GTOs to ensure that they are able to deliver Group Training services.

3.   **Concerns raised by sectors about regulatory burdens.**

Australian Quality Training Framework

There is strong support from key VET stakeholders for the shift to an outcomes-focused AQTF model. However, many RTOs are subject to audits for other areas of activity, such as ESOS, User Choice and Group Training Organisation functions and see significant overlaps in these audits.

National Standards for Group Training Organisations 2006

Concerns were raised by GTOs that also operated as a Registered Training Organisation (RTO). GTOs which are also RTOs reported that some auditing requirements were duplicated because of the need for a quality audit to meet both the National Standards for GTOs and AQTF standards. This imposes an additional financial burden on the organisation as both audits are required.

In support of those GTOs with dual roles, the Banks Taskforce report *Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business* (Banks 2006), included a recommendation (4.34 b) to "*align the audit requirements for group training organisations with the audit process for registered training organisations to reduce duplication of information and the reporting burden on group training businesses.*"

Concerns were also raised by GTOs that operate in multiple jurisdictions about the requirement to undertake registration and audit processes in each jurisdiction and the lack of consistency in application of the standards across jurisdictions.

4.   Recent and ongoing reviews of regulation.

Australian Quality Training Framework

The revised AQTF includes a risk based approach to managing the quality of training and assessment, an outcomes-based auditing model, and nationally agreed quality indicators. The KPMG evaluation found that more needed to be done to achieve national consistency in the application of the new model. The evaluation identified the need to strengthen the risk management approach and outcomes auditing model to enable greater efficiency and reduced regulatory burden.

Review of Tertiary Regulations

The *Future Directions for Quality Oversight of Tertiary Education Services in Australia* project aims to identify the approaches to regulation directed to quality assurance of tertiary education services in Australian, including registration and consumer protection.

The project will research and map the legislative basis for the quality assurance arrangements within each sector; the quality frameworks; and respective areas of responsibility for levels of government, including statutory bodies and joint committees of oversight.

The project will also consider the principles employed in managing quality assurance in each sector; the operation of quality arrangements and any operational differences between states and territories; the overlap of government funding/purchasing accountability arrangements; and the level of transparency and oversight of the quality assurance arrangement.

National Standards for Group Training Organisations 2006

A number of drivers provided the stimulus for the Review of the Currency and Effectiveness of the National Standards for Group Training Organisations 2006. These included the outcomes of an audit moderation workshop, and other key changes in the regulatory policy environment such as the Banks Report and the COAG skills and regulatory reform agenda.

A consultant was commissioned by DEEWR (October 2008) to conduct a review of the currency and effectiveness of the National Standards for Group Training Organisations 2006 (Review). The Review's findings and recommendations were delivered to DEEWR in March 2009. DEEWR will present the Review's recommendations to the Ministerial Council for Vocational Training and Education (MCVTE) for endorsement. On agreement to the Review's recommendations by MCVTE, a co-ordinating body will be appointed to progress the redrafting of the National Standards for GTOs and the implementation of the new Quality Assurance model for Group Training Organisations.

5.   Industry associations and other key stakeholder groups.

Australian Chamber of Commerce and Industry (ACCI)
Australian Industry Group (AIG)
Business Council of Australia (BCA)
National Farmers Federation (NFF)
Australian Council of Trade Unions (ACTU)
Australian Council for Private Education and Training (ACPET)
TAFE Directors Australia (TDA)
Enterprise Registered Training Organisations Australia (ERTOA)
National Association of Australian Apprenticeships Centres (NAAAC)
Registered Training Organisations (RTOs)
Group Training Australia (GTA) and Group Training Organisations (GTOs)
State and territory governments

<div align="right">**ATTACHMENT F**</div>

<div align="center">**INTERNATIONAL GROUP**</div>

1. Regulations administered by DEEWR or portfolio agencies that impact on social and economic infrastructure services sectors

DEEWR regulates the international education industry through the Education Services for Overseas Students (ESOS) legislation. The ESOS legislation is composed of:

- The *Education Services for Overseas Students Act 2000* (ESOS Act) – protects and enhances Australia's international education industry and ensures that overseas students receive the tuition for which they have paid. The ESOS Act also supports the Government's migration policies through its close relationship with the student visa program which is administered by the Department of Immigration and Citizenship (DIAC)
- The ESOS Regulations 2001 – set out the detail and administrative framework governing delivery of education to overseas students studying in Australia on a student visa.
- The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (National Code) - provides nationally consistent standards for the conduct of registered providers and the registration of their courses. The standards set out specifications and procedures to ensure that registered providers of education and training courses can clearly understand and comply with their obligations under the National Code. It also identifies the roles and responsibilities of the Australian Government and state and territory governments in discharging their regulatory functions.

Other related legislation includes:

- *ESOS (Registration charges) Act 2000* - obliges providers to pay an annual fee to remain registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).
- *ESOS (Assurance Fund Contribution) Act 2000* - financial protection for students if their provider, or a substitute provider, cannot teach the course they have paid for; and imposes the requirement to pay annual contributions and special levies to the Assurance Fund.

The ESOS framework complements domestic quality assurance frameworks that are administered by state and territory governments.

An education provider may only offer courses to overseas students if they are registered to do so under the ESOS Act. Under the Act, the designated authorities of the states and territories are responsible for recommending approved providers to the Commonwealth for registration. Providers will only be recommended for registration where they comply with the requirements of the National Code. Subsequently the Commonwealth undertakes additional compliance checks under the ESOS Act before granting ultimate approval for registration.

2. DEEWR's views about those regulations that are unnecessarily burdensome and ways they could be reformed.

An independent evaluation of the ESOS Act was conducted in 2004 and the evaluation report was released on 10 June 2005. The evaluation considered the effectiveness and efficiency of the ESOS regulatory framework. It considered the effectiveness in terms of the extent to which the following outcomes are achieved: assured quality, appropriate consumer protection and support of Australia's migration policy. It considered the efficiency in terms of the administration of the legislation and framework, including their financial and regulatory costs.

The evaluation found that the ESOS framework was generally effective but recommended major reform of the National Code by converting in into a set of standards, clarifying the different roles of the Australian, state and territory governments; achieving national consistency in registration and auditing and improving support services for international students.

The new National Code was introduced in July 2007. While most of the changes including the new National Code are operating effectively, a small number of provisions have been identified as either as having unreasonable or inequitable consequences, or are in need of clarification and/or administrative correction, or could be enhanced to achieve greater efficiencies from the Act. These aberrations are currently being dealt with in the Department's legislative process, while a process of consultation will be instigated around improvements that may be required to the National Code.

3. Concerns raised by sectors about regulatory burdens

Regular formal and informal communications are maintained with the different sectors of the industry and implementation and ongoing issues are raised from time to time. For further information on the consultations and workshops held with industry please refer to Q4.

4. Recent ongoing reviews of regulation

There are no formal proposals to review the National Code, however DEEWR maintains regular informal communication with the industry as a whole through workshops and other tripartite meetings held with stakeholders from each state.   During May and June of 2008, DEEWR, in conjunction with state/territory designated authorities and involvement from DIAC, held a series of workshops across Australia. The workshops were designed to facilitate discussion between providers about good practice principles in relation to the National Code 2007. The workshops were not intended to be a series of information sessions but rather a chance for those who know about education to discuss the best way to work within the National Code to provide quality education to overseas students. By promoting this discussion, networking and mutual problem solving the workshops aimed to give education providers ownership of the National Code and the best procedures to work with it in an educational setting.

Overall, the response to the workshops was very positive. In particular, providers responded very well to the opportunity to discuss best practice solutions to common problems and issues that they experience as education providers to overseas students. Many commented that they learnt from other providers during the discussion table sessions suggesting that solutions can come from within the industry as well as from the regulatory bodies. Participants also appreciated the opportunity to provide informal feedback on issues with the National Code 2007.

DEEWR is proposing to conduct another round of workshops in 2009.

5. Industry associations and other key stakeholders groups

State designated authorities

Department of Education and Training, ACT Accreditation and Registration Council

NSW Department of Education and Training (VETAB)
NSW Department of Education Higher Education Directorate (Non-Self accrediting providers)

Northern Territory Department of Employment, Education and Training, International Services Branch

Office of Non-State Education, Qld Department of Education

Department of Education and Children's Services SA

Tasmanian Qualifications Authority

The Victorian Registration and Qualifications Authority

Department of Education Services, Non-Government & International Education Directorate WA

Peak bodies

Australian Council of Independent Vocational Colleges
Australian Council for Private Education and Training
Western Australian Private Education and Training Industry Association
Melbourne College of Divinity
Sydney College of Divinity
Universities Australia
National Liaison Committee for International Students in Australia
English Australia
TAFE Directors Australia
IDP Education Australia