

JOINT SUBMISSION

DRAFT TASTAFE (SKILLS AND TRAINING BUSINESS) BILL 2021

Prepared by:

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INTRODUCTION

The Australian Education Union, Tasmanian Branch, represents members employed in public primary, secondary, colleges, early childhood and TasTAFE as teachers, principals, educational leaders and support staff.

We welcome the opportunity to provide feedback on the TASTAFE (SKILLS AND TRAINING BUSINESS) BILL 2021. This submission scrutinises the draft Bill and its powers and impact on the Tasmanian community, as well as the process from which it emerged and the political context in which would operate.

Unions Tasmania, Community and Public Sector Union and United Workers Union have contributed to and support this submission.

EXECUTIVE SUMMARY

The draft Bill, if implemented, would have immediate and severe negative impacts on the current TasTAFE workforce and widespread negative impacts on the Tasmanian community and economy over time.

The legislation is radical with far-reaching consequences and unlike anything previously imposed on Tasmanians. The Bill expels TasTAFE teachers and support staff from the Tasmanian state service and forces them into Fair Work with immediate disadvantage, contrary to Government claims.

The legislation, and the policy agenda that underpins it, will exacerbate existing workforce skill shortages and exacerbate teacher shortages at TasTAFE.

Infrastructure Australia's Infrastructure workforce and skills supply report¹ predicts Tasmania will need to more than double its projected public infrastructure workforce over the next four years.

In the face of these severe and growing workforce shortages the State Government is proposing to degrade, and deskill TasTAFE with the draft bill allowing for the appointment of a homogenised board lacking appropriate skills and diversity. These omissions are even more extraordinary when the reason given for this radical restructure was to create a more "future-focused" organisation.

In addition, the Bill sets a dangerous precedent giving an employer the power to create by-laws which impose extraordinarily large financial fines on employees.

In the Bill, "Foundation Courses", which help struggling Tasmanians, have been removed from TasTAFE's key function, along with a commitment to "high quality" training and vocational education training that results in students achieving "nationally recognised skills and qualifications."

A critique of the process which gave rise to this draft legislation is relevant because – put simply – "garbage in, garbage out".

The draft legislation arose from recommendations of the Premier's Economic and Social Recovery Council (PESRAC) Final Report, and this was a compromised process that lacked transparency and genuine consultation. Legislation does not operate in a vacuum and the PESRAC policy agenda must be understood in consideration of the draft Bill.

The (PESRAC) report², which the Premier has wholly endorsed, details the privatisation model for TasTAFE. It advocates "full cost recovery," which means higher fees charged to students and employers, and for profitable courses to be peeled off for private Registered Training Organisations (RTOs) while TasTAFE delivers the unprofitable training.

PESRAC also encourages contestable skills funding which forces TasTAFE to compete for government funding with for-profit RTOs which are notorious for cutting corners with their training models.

Providers of early childhood education and aged care have raised concerns at the quality of training provided by RTOs. The National Children's Education and Care Workforce Strategy states: "Inappropriately

short duration qualifications, variable RTO quality and insufficient knowledge of the NQF [National Quality Framework] are the most commonly cited reasons for poor quality graduates.”³

In South Australia the concerns have been raised by service providers about the poor quality of private RTO training in early childhood⁴ and aged-care training⁵. Tasmania is expecting exponential growth in demand for skilled workers in these areas and will depend on a strong TasTAFE with the ability to deliver high quality, accredited training.

The experience Australia wide of commercialising TAFEs has been job cuts, campus closures in regional areas, fee increases for students and employers, and casualisation of the workforce. In this environment, the for-profit RTOs flourish at the expense of TAFE which drives up cost and drives down quality of training available.

In NSW 7,700 teachers who were long-term, part-time casual TAFE teachers, employed under Fair Work, were recently refused permanency.⁶ Two major restructures at TAFE NSW will see 10% of education support jobs cut. Restructures in Student Services and Facilities Management and Logistics will result in 678 jobs cuts, including 470 regional jobs. Other TAFE NSW staff have effectively had to re-apply for their old jobs but with salary cuts of up to \$10,000 a year. PESRAC advocates for similar employment outcomes and practices when it talks about creating a workforce that can “flex”.⁷

The Tasmanian Government lists eight key elements for change in its ‘fact sheet’⁸ but seven of them can be done now under the current legislation. New legislation is only required if the priority is to expel TasTAFE employees from the state service.

This radical legislation will degrade and deskill TasTAFE with appalling and far-reaching consequences for our economy and community. Evidence-based reforms for TasTAFE can be done without the need for such destructive legislation and we strongly advocate for the Bill to be rejected.

DRAFT LEGISLATION - ANALYSIS

PROBLEMATIC EXCLUSIONS IN THE DRAFT BILL

Functions of TasTAFE

The following key functions that are in Section 57 of the current Training and Workforce Development Act 2013, have been omitted in the draft Bill:

- (2)(a) to provide to persons vocational education and training that --
 - (i) benefits the Tasmanian economy and **builds the productivity of the Tasmanian workforce** (OMITTED)
 - (ii) is of a **high quality** (OMITTED)
 - (iii) results in those persons obtaining **nationally recognised skills and qualifications** (OMITTED)
- (2)(b) to provide to persons **foundation skills training*** that when successfully completed may lead, or may lead when so completed in conjunction with other training, to those persons obtaining a qualification (OMITTED)
- (2)(c) to develop, in consultation with relevant industry associations, models for the provision of vocational education and training to employed persons for the purposes of developing skills, **including developing skills needed to alleviate or prevent skill shortages in the Tasmanian workforce** (OMITTED)

(2)(h) **to collaborate with principals of schools** in relation to the support of students as they move through school, vocational education and training (VET) and into further education or training and into the workforce. (OMITTED)

*Foundation skills training (see more detail below) is vital in helping disadvantaged Tasmanians back into work and/or further study but it is not a legislatively required function of the 'new TasTAFE'.

Appointments to the TasTAFE Board

In the draft Bill, there is no longer a requirement that the Board has expertise in delivering vocational education and training or be gender diverse or have representation from all regions of Tasmania.

Section 60. Board of Directors of TasTAFE

(4) In appointing a person to the TasTAFE Board, the Minister is to –

- (a)(v)... have regard to the need for the directors together to have..**expertise in the provision of vocational education and training** or other education or training (OMITTED)
- (c) take into account the desirability of having as **directors both men and women**; and (OMITTED)
- (d) take into account the desirability of having as directors **persons from all regions of Tasmania**. (OMITTED)

PROBLEMATIC INCLUSIONS IN THE DRAFT LEGISLATION:

Section 5. Functions and powers of TasTAFE

(3)(a)(ii) TasTAFE has the power to undertake commercial activities, incidental to the provision of education and training.

- o The intent of this section is not clear and should be subject to a caveat that ensures TasTAFE’s Intellectual Property (IP) is not sold off to private providers, as has happened in South Australia.

Section 5 (3)(f)

TasTAFE has the power to create ventures that could compete with itself and need not have employees subject to the Award(s) relating to TasTAFE’s employees.

- o This allows the outsourcing of training and trainers in other states or countries and caveats are needed in the legislation to prevent its misuse.
- o This allows the development of a two-tiered workforce where a subset of TasTAFE employees would be subjected to worse working conditions. Any venture should be subject to the same Award that relates to the TasTAFE’s employees.

TasTAFE staff

Our concerns in this area include the process for appointing staff, protection of basic rights and entitlements of employees, and draconian financial penalties.

- o **Section 11 (2).**
Allows TasTAFE to appoint an employee on “such terms and conditions that TasTAFE considers appropriate”. This is a broad power and removes the transparent and fair process for the appointment of state service employees which is the foundation of the public’s faith in the public sector. It would be more appropriate to ensure that all employees are appointed under the relevant Award/Agreement.
- o **Section 12.**
If someone applies to be appointed to a TasTAFE position they are considered to have authorised obtaining by TasTAFE of a police report. This is an oppressive provision without justification. The requirements of the *Working with Vulnerable People Act* are sufficient to protect the vulnerable. The *Government Business Enterprises Act* contains no similar provision. TasTAFE employees should not be subject to this extraordinary invasion of privacy and collection by an employer of private and personal information.
- o **Section 13 (3)**
This removes Tasmanian TasTAFE employees from the State Service Act to the Fair Work Act. (See below for more details)

Sections 18., 19. and 20.

These effectively ensure government retains control of TasTAFE. We note that the scope of the directions that the Minister can make have expanded to give them more control over TasTAFE. This directly contradicts the Government's pretext for creating a GBE - the PESRAC report stated: "*Tasmanian employers want TasTAFE to succeed but a key reason it's not doing so now is that it's operating with **far too many constraints.***"⁹ The fact that the draft Bill extends the Minister's scope provides yet more evidence of the motivation behind this legislation which is to give the Government the power to unilaterally cut the working conditions of teachers and support staff at TasTAFE.

Section 33. TasTAFE by-laws

It is inappropriate for an extremely broad power to create by-laws, that impose significant financial penalties that are subject to civil enforcement, be given to the TasTAFE Board.

- o The current value of a penalty unit in Tasmania is \$173 and the penalty could be as high as \$3,460 plus another \$865 a day if the alleged offence continues. We note that the University of Tasmania Act 1992 limits the maximum penalty payable in restricted circumstances to \$865. No case has been articulated as to why this power should be transferred to TasTAFE.
- o No penalty unit-based by-laws currently apply to TasTAFE employees that are controlled by the board. We note that Section 24. of the Government Business Enterprises Act (GBE Act) imposes 2000 units or five years' jail for employees in clearly detailed situations only, such as if you gain advantage for self or another or cause damage to the GBE or any of its subsidiaries. And we note that these penalties are required to be managed in accordance with the very detailed rules regarding Civil Penalties S.29. No similar clause is in this Bill, why not?
- o In the GBE Act we note that Section 30, limits the application of action under s.24 regarding any breach of an officer or employees exercise of powers and functions, so that no action is taken unless the State Service Code of Conduct has or may have been breached. TAFE employees and officers should be given the same or similar protection.
- o We know of no private sector employers that have similar rights to fine or imprison staff. Why then are such broad and unfettered powers being given to the TAFE Board? In addition, the lack of provisions to ensure fair and appropriate processes points to hurried drafting of this legislation. If the power to create and impose such penalties is to be retained in this Bill provisions to ensure fair, just and appropriate procedures are necessary.

Section 37. Breaches of child safe code of conduct

This provision fails to meet even the most basic requirements for a fair and just disciplinary process. There are no provisions, such as, regarding representation or the right to reply. This contrasts with the detailed rights in ED5 and with the requirements of the State Service Act see Section 10 (4), which requires that those accused of breaches of the Code of Conduct are to be "afforded procedural fairness in the determination of whether an employee has breached the Code of Conduct".

It is noteworthy that in sub-section (5) of S10 of the State Service Act states: "An officer or an employee must not victimise, or discriminate against, another officer or employee because that officer or employee has reported breaches (or alleged breaches) of the Code of Conduct to the Employer, a Head

of Agency or the Integrity Commissioner.” No similar provision is contained in this Bill, why? State Service provisions designed to ensure a fair and equitable employment processes are missing from this Bill. The lack of protection for employees is disturbing.

Section 38. False and misleading information.

This provision imposes conditions of employment in excess of those in the State Service Act. It imposes significant monetary penalties, up to 100 penalty units equivalent to \$17,300, on employees that do not apply in the private sector.

It is not clear if this is to be assessed on the balance of probabilities or beyond reasonable doubt. No details regarding how this will be assessed are provided. Breaches of the State Service Code of Conduct, in contrast, are determined in a detailed process that provides at least some level of fairness - the maximum fine is 20 penalty units not 100, and that is deducted from the employee's salary. Why are TasTAFE employees singled out for higher penalties and not given a fair and just process?

Section 39.

This provision is very similar to Section 18 of the Teachers Registration Act 2000 with the exception that the time period required for information to be provided has been reduced from 28 days to 7 days. This is an unjustified, unnecessary and deliberate reduction in employees' rights.

Section 40. Complaint's procedures

No provisions are provided to detail how the process of Inquiry is to occur or to ensure procedural fairness to those whose professional conduct is challenged.

Section 41. Suspension of employees.

Firstly, the Act should make it clear that a suspended worker is to be suspended on full pay as per the current situation for TasTAFE employees. Secondly, sub section (2) (c) requires an expeditious inquiry, which prima facie is positive. However, there is no mention of ensuring that the process is procedurally fair and equitable. The result of this is that speed will have to be prioritised over fairness and equity. The Bill must be amended to ensure a procedurally fair and equitable process.

Section 42. Inquiries.

This section in sub section (5) gives the committee of inquiry or CEO an unfettered discretion regarding how Inquiries are managed. They can do it *“in any manner that the person holding it thinks appropriate”*. The Bill must be amended to ensure a procedurally fair and equitable process that gives due process to the accused that does not allow the pursuit of a process that is as conducted as *“expeditiously as possible”*(s.41) to compromise due process.

Section. 46.

The only monetary penalty under the State Service Act relates to a breach of the Code of Conduct. There is also no equivalent broad right to create “by-laws”, as per **Section 33**, that could be subject to a fine.

Employers in the private sector are unable to impose fines and no case has been made to justify TasTAFE having these unprecedented powers. If Section 46 remains it should be limited to those infringements relating to specific breaches of this Bill only.

LACK OF ABILITY TO TRANSFER IN THE STATE SERVICE

If all TasTAFE staff transfer to the Fair Work Act, it will make it near impossible for staff that wish to undertake secondments¹⁰ or interagency work. This is an important consideration to ensure the Tasmanian State Service utilises its staff to its fullest and allows staff the further develop their own capabilities.

This contradicts with the Government's Tasmanian State Service (TSS) review which has identified increased mobility in the TSS as advantageous.

PRECARIOUS EMPLOYMENT AND TEACHERS DEVALUED UNDER FAIR WORK

The Government says no “existing” staff will be worse off at the time of transition but we know this is not true. TasTAFE employees will immediately be worse off when they are placed in Fair Work because they lose industrial rights, and its restrictive nature diminishes the ability of their unions to represent their interests. New employees cannot be employed on the transferred Award but can, or will, be employed on the lesser base “model award”.

We estimate the difference between what a teacher earns now and what they would earn now under the “modern award” is a pay cut of around 30%. TasTAFE already struggles to recruit and retain teachers and demoting the value of their work in this way will compound an existing recruitment problem, putting pressure on course provision.

Existing employees will have entitlements protected for, we understand, a maximum of five years. The period of protection is only for as long as the Award is in place at the time of the change, and for the period of that Award. The Government is seeking a new TasTAFE Teachers Agreement of length between one and three years so in reality protection for current employees could be as little as 12 months.

After the protection periods ends TasTAFE, through the Fair Work process, it will be able to more easily erode pay, conditions and job security. The PESRAC report, endorsed by Government, advocates for this approach though misleadingly refers to it as “flexible” employment practices.

The erosion of pay, conditions and job security from the transfer of state service employees to Fair Work is best illustrated by reviewing the transfer of Sustainable Timber Tasmania employees to Fair Work. In 1994, Premier Ray Groom passed legislation to create Forestry Tasmania (now Sustainable Timber Tasmania), a GBE that replaced the Forestry Commission. Employees were transferred ‘at an equivalent classification level’ into the Forestry Tasmania Agreement. At the bottom of the salary range, Sustainable Timber Tasmanian wages under the Fair Work jurisdiction increased at a lower rate (approximately 0.75% less) than the equivalent salaries in the Tasmanian State Service. These reductions add up over time and the past 26 years - a difference of between \$5,238 to \$12,343 a year in salaries. This pay cut has been accompanied by a reduction in employee numbers, increase in the prevalence of insecure work and the erosion of general working conditions.

MAJORITY OF GOVERNMENT DESIRED CHANGES CAN BE DONE UNDER CURRENT LEGISLATION

In the Government’s ‘Fact sheet’¹¹ it lists eight elements of change for TasTAFE as part of a new model - see below. Seven of these changes can be actioned now and are covered under current legislation. The only requirement for the new legislation is to expel Tasmanian teachers from the state service which sets an appalling precedent.

1. Ministerial oversight,
2. Financial powers
3. Functions and powers
4. Board arrangements
5. Financial capacity
6. Regulatory environment
7. Savings and transitional provision
8. **Employment powers**

New legislation is required to enact “Employment powers” to enable the CEO of TasTAFE to take its workforce out of the State Service Act and force it under the *Fair Work Act 2009*.

There is no automatic additional flexibility regarding management’s power to direct employees that could not be negotiated under the current Tasmanian TasTAFE Awards. The Commonwealth system is time consuming and costly for workers and employers because it is an unduly technical and procedural system. In contrast, Tasmania’s Industrial Relations system operates on consensus and conciliation.

Unions that represent TasTAFE employees expressed their willingness to meet and explore options for the negotiation of new industrial arrangements for TasTAFE employees within the state jurisdiction. The offer of negotiations were never taken up by the Government or the Minister, the Honourable Sarah Courtney.

PRIVATE RTOS AND CASUALLY EMPLOYED TRAINERS

PESRAC clearly advocates for profitable VET activities to be given to private RTOs while the remaining, less profitable training, described as “thin markets”, remains with a downgraded TasTAFE.

Government language in recent promotional material has switched from the use of “teachers” to “trainers” in keeping with their policy of creating a casualised workforce of cheaper-to-employ “trainers” with little regard to maintaining the quality of education outcomes for students. In fact, references to quality training and national accreditation are glaring omissions in the Draft legislation.

Interestingly, in negotiations for a new TasTAFE Teachers Agreement, the State Government has put in its Log of Claims the removal of the cap on the employment of sessional, or casual, teachers. The current cap is for TasTAFE to employ no more than 15 per cent of its teaching workforce as “sessionals” and it is currently operating well under that cap at just one per cent.¹² The only reason to seek an expansion of the cap now is in readiness for a very large increase in its casualised workforce.

SOUTH AUSTRALIA – CUTS TO REGIONAL AREAS

South Australia's TAFE has been forced to a commercial footing with disastrous consequences. Private for-profit RTOs have been encouraged through “contestable funding” which forces TAFE to compete with private providers for funding.

Over the past decade a dozen regional campuses have closed, subsidised courses were cut along with 450 full-time teacher positions. Twenty courses were cut from TAFE's metro campus which included all subsidised childcare, aged care and disability courses – forcing students to study with expensive and poor-quality private providers.

South Australian Industry groups in areas including childcare, aged care and disability services have raised concerns about cuts to TAFE courses and the quality of training being provided by private RTOs. These are areas of growing workforce shortages in Tasmania.

The National Children's Education and Care Workforce Strategy states: “*Inappropriately short duration qualifications, variable RTO quality and insufficient knowledge of the NQF [National Quality Framework] are the most commonly cited reasons for poor quality graduates.*”¹³

Regional communities suffer the most when public services like VET are privatised and this will be case in Tasmania. The Education Minister Sarah Courtney did not rule out campus closures when the question was put to her during an ABC radio interview.¹⁴

The State Government's focus has been on expanding its Virtual Campus where learning is done remotely online. This will provide welcome flexibility for some students but it cannot be a replacement for face-to-face delivery of hands-on, practical courses.

TASTAFE RATES HIGHLY AMONG BUSINESS AND STUDENTS

The most recent annual report for TasTAFE (2019-2020)¹⁵ provides the objective, evidence-backed assessment of TasTAFE's performance in the views of employers, students and accreditation bodies.

Surveys – employer satisfaction¹⁶

TasTAFE is required by the national regulator to report on **employers' satisfaction** with training. In 2020, as in the previous two years, satisfaction was over 85%. Of note were responses to three quality indicator statements:

- Overall, we are satisfied with the training – 86%
- We would recommend TasTAFE to others – 87%
- We would recommend the training to others – 89%.

These results would suggest that the critics of TasTAFE are few but vocal and driven by ideology rather than evidence.

Surveys – student satisfaction¹⁷

The annual National Centre for Vocational Education Research (NCVER) Student Outcomes Survey measures student satisfaction levels. The 2019 and 2018 results show TasTAFE students have better outcomes than the Australian average.

Graduates Agreement with statements for 2019

- Satisfied with teaching: 89.1% Tasmania, 86.9% national average
- Found the training relevant to their current job 81.7% Tasmania, 80.5% national average
- Satisfied with the overall quality of training 91.0% Tasmania, 88.1% national average

No doubt TasTAFE operations have room for improvement but the data does not provide evidence for the radical and destructive policies and legislation being proposed.

Auditing and accreditation

In 2019, the Australian Skills Quality Authority (ASQA) renewed TasTAFE's Vocational Education and Training (VET) and Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registrations for seven years.

The TasTAFE Annual report stated: *“Given seven years is the maximum term for re-registration, this is an extremely positive result for Tasmania. This achievement demonstrates the quality of TasTAFE's training and assessment and is testament to the hard work and commitment of more than 800 teachers and support staff who deliver high quality vocational education and training to our students.”*

DELIVERING FOUNDATION SKILLS

The 2013 Act also sets out the function of TasTAFE to provide foundation skills, including language, literacy, numeracy and general education skills, to those facing barriers to participation in education. It has a range of re-engagement and pathway training products available to its students to help them achieve their educational, professional, and personal goals. TasTAFE offers both specialised learning programs and support to meet the needs of students who are re-engaging with study or developing their language, literacy, and numeracy skills.

These programs include:

- Skills for Education and Employment (SEE) Program
- Vocational Preparation Teams
- Work Pathways Programs
- Literacy and Numeracy Support
- Adult Migrant English Program.

In the draft legislation these are no longer a required function of TasTAFE.

THE DEEPLY FLAWED PESRAC PROCESS

The genesis of this rush to a privatised model for TasTAFE emerged, without warning, from the Premier's Economic and Social Recovery Advisory Council (PESRAC) Final Report – released in March 2021.

Deficiencies in the process were identified from the formation of the Premier's Council, through the consultation process to the delivery of the final report.

Unions Tasmania, the peak body for trade unions in our state representing approximately 50,000 union members across all industries in the private and public sector, has been critical of the PESRAC process from the outset.

Firstly, PESRAC membership contained no trade unions as the representatives of working people – the very people whose livelihoods and jobs were most disrupted by the pandemic. A ‘listening’ consultation phase was the first step in PESRAC’s process.

Unions Tasmania made a submission during this initial phase despite being discouraged from doing so and being given just over a week. The Government promised that there would be further opportunities for deeper consultation and more detailed submissions – this did not happen.

PESRAC changed its consultation process to completely cut out unions and workers and a second phase for detailed written submissions was scrapped.

Unions Tasmania found out in the media that PESRAC had embarked on sector workshops as the key part of their consultation. Despite finding the time to invite over ninety (90) organisations – many of them peak business bodies or industry employer bodies – PESRAC could not find the time to invite Unions Tasmania as the peak body or any of its 23 affiliated unions.

They also ran a ‘community survey’ so poorly publicised and open over the Christmas period when workers are at their busiest that it could not be reasonably expected that they would receive sufficient direct participation. Union calls for PESRAC to expand their consultations and be more inclusive fell on deaf ears.

Unions were afforded no opportunity to comment on the future of vocational education in Tasmania and, if they had, they would have unanimously expressed their support for the retention of TasTAFE in its current form with its staff employed as public sector workers.

Unions Tasmania also opposes business models that further weaken job security. Tasmania already has the highest percentage of casual employees in any state or territory in the country. Moving TasTAFE staff across to the private sector jurisdiction where the Morrison Government have recently made changes that make it easier to employ workers as “casuals” is unacceptable.

Jessica Munday, Unions Tasmania Secretary, submitted to PESRAC, during its ‘listening phase’:
“Prior to the Covid-19 pandemic, workers and unions were advocating to rebalance economic structures that we knew were already placing workers and by extension our communities in a state of precarity. Excessive casualisation of jobs, public sector job cuts and pay caps of recent years and systemic non-compliance with industrial laws by employers have delivered a lower standard of living to many Tasmanians. These structural weaknesses in our labour market impact the capacity of Tasmanians to financially cope during the pandemic and beyond.”

Emily Shepherd, ANMF Tasmanian Branch Secretary believed the consultation process was “...only afforded to those in privileged positions”.¹⁸

The three unions which represents teachers and support staff in TasTAFE, were not consulted on this GBE proposal nor invited to make a submission. The government did not refer to educators or experts from the VET sector for input into the changes. Given the radical nature of what was obviously being formulated behind the scenes, exclusion of relevant unions in this way casts a long shadow over the outcome.

The consultation process was limited, carefully engineered and brief – and in the middle of a pandemic when teachers, and all educators, were preoccupied with student welfare and maintaining learning programs. Speculation at the time was that process was rushed to meet the political timeline for a state election, rather than a timeline in the interests of the community.

The PESRAC Report was released by the Premier on 16th March 2021 and the State Election called just ten days later, on 26 March 2021.

Rick Snell is an Associate Professor in law at the University of Tasmania raised concerns about excessive secrecy of PESRAC, describing its “opaqueness” as unacceptable¹⁹.

It is worth noting that out of 178 submissions to PESRAC, only one was critical of TasTAFE and advocated for a “Jetstar” privatised model. That submission came from NCK Evers Network of which the PESRAC Chair, Don Challen, is one of seven members.

In September 2019, the NCK Evers Network lodged a Submission to the Legislative Council Select Committee on Greater Hobart Traffic Congestion²⁰.

The Submission to the Legislative Council Select Committee is noteworthy for this statement: *“Apart from the principles of good governance, social responsibility and common sense, the Network’s sole reference point is – and will continue to be – its commitment to articulate only those views on which there is unanimous agreement amongst its members.”*

Was the NCK Evers Network commitment to “...*articulate only those views on which there is unanimous agreement amongst its members*” applied to its submission²¹ to PESRAC calling for a “Jetstar” model of TasTAFE?

In a partially redacted copy of Mr Challen’s Notice of Interests²² to PESRAC, obtained under RTI by Nelson MLC Meg Webb, no reference to a connection with the NCK Evers Network is visible.

It is also interesting to note that Mr Challen is a [Senior Advisor](#) to “Flagstaff Partners” – a corporate advisory firm which lists on [its website](#) one of its services as: *“Privatisation of Government owned business enterprises”*. Mr Challen’s employment with Flagstaff Partners Pty Ltd as a Senior Advisor is listed in his Statement of Interests.

CONCLUSION

In continuation of an extremely poor and rushed process, not even 14 working days have been provided for submissions on the draft Bill. According to the Government's own timeline²³, just days after submissions close it will be introducing the legislation to parliament.

For the reasons set out in this submission, the draft Bill if enacted will have widespread and damaging effects on communities, students, teachers and employers in Tasmania.

There is no reason for such as legislative sledgehammer and where credible evidence suggests the need for changes to TasTAFE, this can be done under current legislation or through good-faith negotiations - a process to which unions remain committed.

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