UNIVERSITIES AUSTRALIA

Submission to the inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 and a related bill

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The establishment of the Australian Tertiary Education Commission (the ATEC) represents a significant reform in Australia's higher education landscape and Universities Australia (UA) welcomes the opportunity to engage with the Committee in shaping this important reform.

A well-designed and independent ATEC has the potential to help build our country's future by ensuring we have a strong, fair and accessible university system to supply the pipeline of skilled graduates and to drive the innovation through research Australia needs to grow and prosper. UA does not believe that the Universities Accord (Australian Tertiary Education Commission) Bill 2025 (the Bill) and related bill, the legislation to underpin the establishment of the ATEC, will deliver a well-designed and independent system steward.

As currently drafted, the Bill does not deliver on the Australian Universities Accord's (the Accord) aspirations for an independent body to design and drive the longer-term reform agenda for Australia's tertiary system.

With the Committee's backing, we are calling on the government to amend the Bill to ensure the ATEC is independent, fit-for-purpose and capable of delivering impartial advice and recommendations to underpin a thriving tertiary education system into the future.

Our submission includes a series of recommendations to shape the ATEC in a way that best serves the sector and national interest and outlines key priorities to guide the ATEC's early work. UA will also work with the Committee to draft specific amendments to the Bill.

Summary of recommendations

1. **The ATEC must be independent and well resourced.** The proposed model in the legislation does not guarantee genuine independence for the ATEC. Ministerial powers to control its work and publications risk undermining the ATEC's credibility. The legislation also does not provide the ATEC with the staffing and resources it needs to safeguard Australia's long-term prosperity.

   UA recommends changes that will secure the ATEC's independence and authority to publish advice without Ministerial veto, give it control over staffing and resourcing and include additional commissioners from the outset to ensure the ATEC has the right level of experience and expertise it needs to deliver the long-term reforms our sector needs.

2. **The ATEC must focus on policy settings that secure the long-term sustainability of the sector, ensuring it continues to contribute to the national public good.** Under the proposed model, the ATEC does not have the appropriate freedom or powers to establish policy settings that will secure the long-term sustainability of the sector. The costing and pricing remit is limited to advising on Commonwealth contribution amounts. The ATEC cannot initiate the research and inquiries it sees fit without Ministerial direction, restricting its ability to adopt a forward-looking and proactive approach. This risks limiting the ATEC to a reactive and short-term outlook rather than planning for the future.

   UA recommends expanding the ATEC's remit to look at all factors impacting financial sustainability (e.g. student contributions and not just Commonwealth contributions) and a range of possible policy responses. More broadly, it should have the authority to initiate research and policy work independently. These are essential to enable the ATEC to provide evidence-based advice that ensures the sector can continue contributing to the public good of Australia for years to come.

3. **National sector stewardship must be defined and the role of the ATEC properly considered.** The Bill blurs the line between stewardship and regulation, potentially duplicating the role and responsibilities of the Tertiary Education Quality and Standards Agency (TEQSA) and possibly introducing punitive measures that could erode impact and sectoral trust.

   UA recommends changes that clarify the ATEC's role as a strategic steward, not a regulator, minimise duplication with TEQSA and avoid additional regulatory burden.

4. **The ATEC must provide a platform and role to empower First Nations knowledges and leadership meaningfully across the sector.** The Bill does not go far enough to embed First Nations leadership in the ATEC which will prevent it from delivering the long-term benefits envisaged by the Accord.

   UA recommends changes that will strengthen provisions to ensure First Nations voices are active in key activities and decision making undertaken by the ATEC.

5. **The ATEC's role in the stewardship of research must be clearly articulated.** The Bill does not go far enough to ensure the ATEC has the research expertise required to fulfil its role.

   UA recommends changes that strengthen provisions for research capability.

6. **The ATEC must have the ability to encourage innovation and build capacity in the sector.** UA recommends the establishment of a modest innovation fund, empowering the ATEC to seed pilot projects aimed at improving service delivery and the efficiency of the sector. This fund would enable the ATEC to fund independent, forward-looking research that would strengthen its capacity to provide independent, evidence-based advice while incentivising and rewarding novel approaches in the sector.

Why an ATEC?

If designed properly, a legislated ATEC could benefit Australia's future — not just the university sector.

Sitting at arm's length from government, an independent, expert body would ensure advice on skills, research and workforce capacity is given without political pressure and its decisions are based on evidence.

Adopting a model like the independent Productivity Commission, the ATEC could provide clear, credible analysis focused on national benefit. It could strengthen Australia's economy, regions and communities rather than cutting costs or chasing short-term wins to aid political gain.

To work, the ATEC must be staffed by people who understand how universities and other tertiary education providers operate. From major research institutions to small regional campuses, every university plays a vital role in meeting the distinctive needs of its local community and the ATEC's advice must reflect that reality.

Australia needs a single, reliable home for tertiary education data. The ATEC should collect and publish independent evidence to guide funding, skills planning, regional development and research policy.

Long-term, objective advice from the ATEC would bring stability to a system that has endured years of policy volatility. That stability matters for students planning their futures, industries facing skills shortages and communities relying on their local university as an economic engine.

Above all, the ATEC could help government ensure our tertiary system delivers the skilled workforce, research breakthroughs and regional strength Australia needs to remain competitive and prosperous.

Recent years have shown how vulnerable the tertiary system is to abrupt or poorly sequenced policy shifts, many of which continue to affect the sector, including:

- the end of the demand driven system, resulting in student places not being fully funded.
- funding reductions for domestic students under the Job-ready Graduates Package (funding guarantees given by the government have not shielded the sector from the funding reductions).
- less international student revenue during the COVID-19 pandemic, which restricted universities' ability to invest in teaching, research and infrastructure and was exacerbated by the increased regulation and control of international student enrolments over the last two years.

These developments have contributed to an environment of instability that makes long-term planning and investment difficult. For some institutions, the cumulative effect has placed future viability at risk.

Without such a body, Australia risks continuing the cycle of unpredictable tertiary policy settings, eroding trust, weakening research capability and leaving students, institutions and communities vulnerable to sudden shifts in political priorities.

For the ATEC to be the independent body that the future of Australia and the sector needs, it must adhere to the principles we have outlined above. These principles should be reflected in the legislation to underpin any permanent ATEC.

Amending the Bill

UA's recommendations, if adopted, would ensure the legislation to underpin the ATEC creates a system steward that is independent, fit-for-purpose, able to achieve its objectives and serves the national interest.

Recommendation 1: The ATEC must be independent and well resourced

A strong and effective ATEC depends on having the independence and capability to offer credible, evidence-based advice. As currently drafted, the model does not guarantee genuine independence for the ATEC nor the resourcing and expertise it needs to safeguard Australia's long-term prosperity.

UA recommends changes to the Bill that will secure the ATEC's operational independence and authority to publish advice, control over its staffing and resourcing and provide additional commissioners to ensure the ATEC benefits from critical and diverse expertise when making decisions of national importance.

Issues with the draft Bill

- The Bill claims to establish the ATEC as an independent statutory body but builds in provisions that limit its independence.
- The Bill replicates the Jobs and Skills Australia (JSA) model, despite the ATEC's broader mission requiring a higher degree of autonomy (similar to the Productivity Commission).
- Ministerial powers over the ATEC's work program and publications restrict its ability to deliver on its intended role and act as an independent system steward.
- The proposed composition of commissioners allows decisions to rest with a single commissioner, severely limiting the breadth of expertise informing major strategic decisions and creating risks to transparency, accountability and governance.
- UA believes that without control over its financial and staff resourcing, the ATEC will lack the capability and flexibility required to fulfil its objectives, falling short of what the sector and Australia need.

Sections of the Bill	Recommended changes to the Bill
Section 10: "...the ATEC is prescribed in relation to the Department. Note: This means that the ATEC Commissioners are officials of the Department for the purposes of the [PGPA Act 2013]." **Sections 16–21:** Creates the three Commissioner roles (Chief, First Nations, and Part-time) as statutory office holders appointed by the Minister for up to 5 years. **Section 22(1):** ATEC staff will be Department of Education staff made available to the ATEC by the Secretary. **Section 23(2):** The Secretary may second employees from other agencies across the Commonwealth or State and Territory authorities to assist the ATEC in performing its functions. **Section 24:** The Secretary may engage contractors and consultants to assist the ATEC.	• Establish the ATEC as a separate statutory authority with guaranteed control over its finances and staffing to ensure it can recruit and retain the expertise needed to deliver credible advice. • Ensure that commissioners, not the Secretary of the Department of Education, decide which contractors and consultants the ATEC engages. • Allow for the employment of expert employees who are not currently employees of the Commonwealth, State or Territory public services.

Sections of the Bill	Recommended changes to the Bill
Section 9: "The ATEC consists of: (a) The Chief Commissioner; and (b) The First Nations Commissioner; and (c) The Commissioner"	• Require ATEC to consist of a minimum of five commissioners — the Chief Commissioner, the First Nations Commissioner, and no fewer than three other Commissioners. • Appoint at least two additional part-time commissioners, from the outset, to ensure that the commissioners bring deep expertise across higher education, vocational education, First Nations voices, research, funding and regional nuance. • Enable the Minister, in consultation with the Chief Commissioner, to appoint additional roles to the Commission, with the relevant expertise and experience, as required.
Section 11(c),(d): "...provide advice and recommendations, if requested by the Minister to the Minister, in relation to..." **Section 41:** "If requested by the Minister, the ATEC must give advice and recommendations to the Minister in relation to..." **Section 69:** "...the ATEC must seek and obtain the agreement of the Minister before publishing any advice or recommendations given by the ATEC to any person..."	• Remove Ministerial veto powers over publications and enable the ATEC to independently initiate inquiries (including sector research and analysis) and publish reports.
Notes contained in: S27, S31, S34, S36, S38, S43, S44, S45, S46, referring to **Section 70**: "...the ATEC must not publish any information or data that... would be contrary to the public interest, including because the information or data... could reasonably be expected to prejudice relations between the Commonwealth and... a State or Territory."	• Publish relevant decisions and actions made by the ATEC — including agreements with providers and performance reports — in full. • Narrow and clarify the definition of "contrary to the public interest" (S70(b)) to improve transparency and protect against misuse.
Section 71: "The Minister may... give written directions to an ATEC Commissioner about the way in which the ATEC Commissioner is to carry out any of the functions of the ATEC Commissioner or the ATEC."	• Narrow Ministerial directions so they cannot reach into operational matters.

Recommendation 2: The ATEC must focus on policy settings that secure the long-term sustainability of the sector, ensuring it continues to contribute to the national public good

The ATEC must have the authority and tools to fully understand the sector's financial pressures and recommend appropriate policy responses that secure long-term sustainability.

As drafted, the ATEC's remit is too narrow. Its advisory role in costing and pricing is restricted to Commonwealth contribution amounts and it cannot initiate research or inquiries without Ministerial approval. This means the ATEC will be more reactive than proactive and limited in its ability to address long-term structural pressures.

UA recommends expanding the ATEC's remit to have the authority to initiate research and policy work independently and look at all factors impacting financial sustainability — including student contribution amounts — and a range of possible policy responses. These changes are essential for the ATEC to provide robust advice that keeps the sector strong, equitable and aligned with national priorities.

Issues with the draft Bill	
• The Bill restricts the ATEC's costing/pricing role to Commonwealth contributions and prevents the ATEC from initiating research without approval, limiting proactive, long-term analysis. • The Bill fails to give the ATEC the powers or scope needed to build a robust, evidence-based funding framework and address the widening gap between the costs of delivering high-quality education and public funding levels. • The Bill does not give the ATEC the authority to advise government on fair and sustainable ways to share costs between taxpayers and students.	
Sections of the Bill	**Recommended changes to the Bill**
Section 11(d)(ii): "The ATEC has the following functions... to prepare reports, and provide advice and recommendations if requested by the Minister to the Minister, in relation to... the efficient cost of higher education across disciplines and student cohorts and in relation to the Commonwealth contribution amounts for places in funding clusters."	• Empower the ATEC to advise on the true and full costs of delivering high-quality higher education, rather than the limited role currently proposed. • Broaden the ATEC's remit to examine all factors impacting financial sustainability, including student contribution amounts — not just the Commonwealth contribution. • Empower the ATEC to examine financial sustainability beyond the direct costs of teaching (e.g., to research, physical and digital infrastructure, regulatory compliance, community engagement) and make policy recommendations. • Empower the ATEC to explore options for cost-sharing that reflect the true costs in the system and consider how greater institutional diversity could deliver a more financially sustainable future.
Section 11(j): "The ATEC has the following functions: ...to undertake or coordinate research and data analysis activities in relation to any of the above functions." **Section 41(1)(j):** "If requested by the Minister, the ATEC must give advice and recommendations to the Minister in relation to the following: ...higher education data collection and publication."	• Equip the ATEC with a strong and resilient data-gathering function that underpins and strengthens its costing work and evidence-based advice.

Recommendation 3: National stewardship must be defined and the role of the ATEC properly considered

A well-defined stewardship model is essential for developing a coherent, joined-up tertiary education system that meets Australia's skills, knowledge, workforce needs and student demand.

As drafted, the Bill blurs the line between stewardship and regulation by providing the ATEC with a range of regulatory functions, including assessing providers against mission-based compacts, setting and enforcing maximum international student numbers and drafting changes to the Threshold Standards.

Without clear legislative boundaries, the ATEC's stewardship powers may be interpreted as regulatory or punitive, undermining sectoral trust and limiting its ability to guide long-term design.

Stewardship must also include direct engagement with First Nations communities, controlled organisations and Indigenous peak bodies, and recognise First Nations knowledges as foundational to system design.

UA recommends amendments that clarify the ATEC's strategic stewardship role and separate it from regulatory compliance. This will minimise duplication, build trust and enable the ATEC to support long-term performance.

Further commentary regarding the intersections between the ATEC and mission-based compacts and international students can be found at Appendix 1.

Issues with the draft Bill	
• The Bill fails to clearly define the scope of national stewardship, despite the significance of this major structural change potentially positioning the ATEC as a quasi-regulator. • The Bill does not articulate a stewardship approach that actively supports and encourages innovation, differentiation or collaboration across the sector. • The Bill lacks a well-defined stewardship framework. Without this, universities cannot navigate policy and funding volatility effectively, protect their missions or respond confidently to national priorities. • The Bill empowers the ATEC to provide advice and recommendations to the Minister in relation to the Threshold Standards (the Standards) under the TEQSA Act — introducing ambiguity between stewardship and regulation and a potential overlap with TEQSA. • The Bill does not clarify the future of the Higher Education Standards Panel (HESP) or explain how sector trust will be maintained if responsibility for the Standards shifts to staff in the ATEC. • Mission-based compact requirements do not distinguish between Table A and Table B providers, despite their different funding arrangements and obligations.	
Sections of the Bill	**Recommended changes to the Bill**
Section 4: "The purpose of the ATEC is to provide stewardship of the higher education system… by entering into mission based compacts… and preparing reports, and providing advice and recommendations if requested by the Minister." **Section 28(b):** "The purpose of a mission based compact… is to give the provider flexibility to pursue their goals… while also enabling the provider to… contribute to higher education priorities including those set out in the statement of strategic priorities." **Section 37(2)**: "If a default mission based compact is in force… because the provider's mission based compact… is **suspended**, the ATEC may consider the terms of the provider's mission based compact and whether the default mission based compact should contain the same terms." **Section 37(3):** "If a default mission based compact is in force… because the most recent mission based compact… has **expired**, the terms of the default mission based compact… may include the same terms that were in the most recent mission based compact."	• Define stewardship explicitly and distinct from regulatory compliance, making clear that the ATEC's role is to issue recommendations and use its powers to: > build a diverse tertiary system that recognises the full breadth of higher and vocational providers, and > give universities, students and industry confidence through predictable, well-designed arrangements.
Section 41(1)(j): "If requested by the Minister, the ATEC must give advice and recommendations to the Minister in relation to the following: …higher education data collection and publication."	• Designate the ATEC as the national custodian of tertiary education data to strengthen evidence-based policymaking.
Section 11(e),(f): "provide advice and recommendations to the Minister in relation to the [Threshold Standards] under the [TEQSA Act]… on the ATEC's own initiative or at the request of the agency."	• Clarify the boundaries and intersections between the ATEC, TEQSA and other regulators to remove duplication and regulatory ambiguity. • Separate Threshold Standards responsibilities from mission-based compacts to avoid tying compliance with compacts to adherence to the Standards.
Section 4 (Consequential and Transition Provisions Bill): "Omit Higher Education Standards Panel, substitute "ATEC"."	• Retain the HESP as an independent expert advisory body with its existing membership, ensuring its breadth of expertise continues to shape and maintain the Threshold Standards. The Panel may sit within the Department or the ATEC, provided its independence and ability to engage with sector stakeholders is preserved.

Section 43(1): "The ATEC must prepare a statement, in writing, outlining the ATEC's strategic priorities for the tertiary education system every 2 years."	• Adopt a four-year cycle for the Statement of Strategic Priorities, aligning it with mission-based compacts and reducing administrative burden.
Section 29(4): "Without limiting subsection (1), a compact must: (a) Include terms that specify measurable performance indicators relevant to the provider's goals or mission; and (b) Set out the methodologies to be used to assess the provider's performance against the terms of the compact."	• Limit the application of mission-based compacts to only activities supported by Commonwealth funding.
Section 29(2)(e): "The ATEC must… consider the effect (if any) the proposed terms [of the compact] may have on the academic freedom of the provider."	• Ensure the ATEC assesses whether the proposed terms will have a negative impact on the academic freedom of a provider (as defined in the Higher Education Support Act 2003), and amend terms of the compact accordingly. • Embed flexibility and safeguard academic freedom as defined in the *Higher Education Support Act (2003)* by inserting an explicit statutory requirement that mission-based compacts don't limit, qualify or override the definition of academic freedom in HESA 2003.

Recommendation 4: The ATEC must provide a platform and role to empower First Nations knowledges and leadership meaningfully across the sector

For the ATEC to advance the Accord's transformational goals, First Nations voices must be embedded at the centre of its work. First Nations perspectives must guide policy development, system stewardship and progress against Closing the Gap goals.

The Bill establishes important elements, including a First Nations Commissioner and an Advisory Committee, but these mechanisms do not provide the authority or resourcing required to ensure First Nations leadership is genuinely integrated into the ATEC's decision making.

UA recommends strengthening these provisions to ensure the ATEC delivers on the long-term benefits envisaged by the Accord.

Issues with the draft Bill	
• The Bill fails to recognise First Nations knowledges as foundational to Australia's tertiary education system and integral to policy, funding and stewardship design. • The Bill fails to explicitly recognise First Nations authority as decision-embedded rather than advisory. • The Bill does not include stable and quarantined resourcing for First Nations leadership, research, policy capability and community engagement functions.	
Sections of the Bill	**Recommended changes to the Bill**
Section 19 (Functions of the First Nations Commissioner): "The functions of the First Nations Commissioner are…" **Section 29(2) (Forms and Terms):** "In deciding the form and terms of a compact, the ATEC must…"	• Add a function to give the First Nations Commissioner statutory authority in the ATEC's decision making, including concurrence requirements for matters affecting First Nations learners, communities, data, knowledges or institutions. This could be achieved by including a requirement under Section 29(2) that the First Nations Commissioner assess proposed mission-based compacts against key outcomes co-created by the First Nations Commissioner and Indigenous staff and students. • Provide for dedicated, quarantined resourcing for First Nations leadership, research, policy capability and community engagement within the ATEC. • Explicitly recognise the ATEC as a national instrument for achieving Closing the Gap targets in education, employment, research and leadership.

Section 25 (Committees): "...the First Nations Advisory Committee to provide advice and recommendations to the ATEC in relation to..."	• Provide the First Nations Advisory Committee with a statutory function to assist the ATEC to protect Indigenous knowledges from misappropriation, commodification and extraction within tertiary policy, funding and research systems, and uphold Indigenous Data Sovereignty principles — ensuring First Nations peoples retain authority over the collection, governance, interpretation and use of data relating to Indigenous learners, staff, communities and knowledges.

Recommendation 5: The ATEC's role in the stewardship of research must be clearly articulated

Research is fundamental to Australia's economic strength, innovation capacity and international competitiveness. The Bill does not ensure the ATEC has the research expertise and mandate required to advise on research policy and capability.

UA recommends changes to the Bill that more clearly articulate the ATEC's research stewardship role and its expertise to fulfil this role.

Issues with the draft Bill	
• The Bill fails to acknowledge that research and research training are fundamental to high-quality teaching and it does not account for this essential nexus when shaping major decisions about teaching and learning and financial sustainability. • The Bill does not provide for the inclusion of a commissioner (or commissioners) with expertise in research and research training, leaving a critical capability gap in the ATEC's governance arrangements.	
Sections of the Bill	**Recommended changes to the Bill**
Section 3(1)(b): [Object] "to strengthen the higher education system to enable... internationally competitive research and research training."	• Articulate research stewardship clearly, recognising that research operates under different policy and funding settings than teaching and learning. This should focus on a coordination and harmonisation role across government funding bodies and policy agencies and consider the recommendations of the **Strategic Examination of Research and Development**. • Ensure Indigenous research is governed by Indigenous-led ethical, cultural and community-controlled frameworks, including requirements for benefit sharing, community authority and knowledge protection.
Section 5: "Research Minister means the Minister who administers the Australian Research Council Act 2001."	• Embed the concept of "Research Intensive Ministers" to ensure structured communication and consultation with Ministers responsible for health and medical research, climate change and energy, agriculture and defence, where necessary and appropriate.
Section 15(2): "[Before notifying the ATEC of the Minister's strategic priorities], the Minister must: (a) if the priorities relate to VET... seek and obtain the agreement of the VET minister... (b) if the priorities relate to research... consult with the Research Minister and... the Science Minister".	• Require the Minister to obtain agreement from Research and Science Ministers before issuing strategic priorities to the ATEC that relate to research.

Section 59(a): "ATEC Commissioners collectively possess appropriate balance of expertise and knowledge in... (i) higher education; (ii) VET; (iii) tertiary education governance and administration; (iv) stakeholder consultation and engagement; (v) regional Australia" **Section 3(1)(b):** "...strengthen the higher education system... and internationally competitive research and research training"	• Require commissioners to hold expertise in research and research training, consistent with their inclusion in the objects of the Act (S3(1)(b)). Given the breadth of expertise this will require, this recommendation is linked to the recommendation to expand the number of Commissioners (see Recommendation 1).

Recommendation 6: The ATEC must have the ability to encourage innovation and build capacity in the sector

Innovation is essential if the tertiary sector is to meet emerging national needs and respond to demographic, labour market and technological change. To fulfil this role, the ATEC needs the resources to support system-level innovation and fund exploratory work that can inform future reform.

Issues with the draft Bill	
• The Bill does not provide the ATEC with the resources it needs to support system-level innovation or respond to demographic, labour market and technological change. • Without an appropriate mechanism to fund exploratory and forward-looking work, the ATEC cannot drive or test innovative approaches that inform long-term tertiary reform.	
Sections of the Bill	**Recommended changes to the Bill**
Section 3(1)(c): "The objects of this Act are the following... to ensure the higher education system has the capacity and capability required to meet Australia's current and future student, skills and workforce demand." **Section 42(2)(f):** "A report may include the following... the extent to which the higher education system is promoting long-term innovation and creativity that contributes towards Australia's skills and workforce development."	• Establish a modest innovation fund to equip the ATEC to seed pilot projects that improve sector efficiency and ensures the higher education system has the capacity and capability required to meet Australia's current and future needs. • Ensure the funding mechanism is designed to incentivise and reward innovation, enabling the sector to trial and scale novel approaches. • Empower the ATEC to fund independent, forward-looking research that strengthens its capacity to provide independent, evidence-based advice.

Appendix 1: Operational priorities and other considerations

1.1 Operational priorities

While the Accord outlined a wide-ranging role for the ATEC, the work it does in its first years should be focused on the most urgent issues which will help reach the National Tertiary Education Objective:

- secure funding and regulatory settings that underpin the long-term financial viability and sustainability of Australia's universities
- advance tertiary harmonisation to enable frictionless student mobility into and through tertiary education, and
- a sequenced work agenda with student equity, demonstrable community benefit, and sector sustainability at its core.

These essential preconditions will help the ATEC get off to a good start.

UA suggests the following three first steps as critical to enabling the ATEC to deliver on the urgent issues facing the Australian higher education sector.

1. A clearly defined and achievable work program is needed to give it maximum chance of succeeding

The ATEC's work program should be phased and have a defined plan for how its role develops over time to achieve the Accord's longer-term objectives for reform of the tertiary education sector. The ATEC should be given time to acquire and develop additional expertise, with amendments to the legislation to allow for more adequate and specialist resourcing.

2. Costing and pricing the delivery of higher education must be a first-tier priority

In conjunction with examining and making recommendations about the long-term financial viability of the sector, the ATEC should continue the work on understanding the true costs of delivering high-quality higher education within the current regulatory environment, commenced by the interim ATEC. This exercise should inform the ATEC's advice to government on fair and sustainable ways of sharing these costs between students and taxpayers.

The legislation must be clear about the capacity of the ATEC to complete and publish this work, and ongoing work on costing, without prior government approval. It must be able to report on the totality of costs impacting the sustainability of the sector and not just an aspect of them (e.g., the Commonwealth contribution to the cost of degrees).

3. Mission-based compacts must reflect and support the diversity of higher education across Australia

Achievement of the intended outcomes of a world-class higher education system — to further strengthen Australia's economy, regions and communities — requires a diverse range of institutions. This includes universities of different sizes and locations, potentially with unique specialisations and offerings, serving the distinctive needs of their local communities.

Mission-based compacts must be negotiated in this spirit, acknowledging that all universities serve their communities in different ways depending on their compositions and specialisations.

Mission-based compacts tailored to institutional missions and community needs will be central to the ATEC's ability to turn priorities into practical outputs.

1.2 Mission-based compacts

Mission-based compacts are intended to be the primary tool with which the ATEC will steward the tertiary system, supporting long-term planning, institutional differentiation and alignment with national priorities. For this model to work, compacts must function as constructive, forward-looking partnership instruments.

As drafted, the Bill frames compacts in a way that risks them being perceived as punitive or coercive rather than collaborative. The emphasis on demonstrating alignment with Ministerial priorities, combined with the structure of the default compacts and their associated penalties, may undermine institutional autonomy and discourage universities from articulating distinctive missions. In particular, Table B providers which receive little government funding relative to Table A providers are still subject to the full range of requirements in compacts. A principle of proportionality should be applied to ensure compacts do not unfairly disadvantage these providers or discourage them from their differentiated business model.

A well-designed compact framework supported by transparent principles and clear boundaries would enable the ATEC to steward the sector effectively while safeguarding institutional autonomy and promoting diversity. Clarifying the purpose, operation and future integration of compacts with other reforms will be essential to building sector confidence and ensuring they fulfil their intended role.

Mission-based compacts should balance national priorities with institutional diversity. National priorities are an important part of shaping Australia's tertiary education system and must be reflected in compacts. However, they must not come at the expense of flexibility, innovation and the distinct missions of individual universities.

To strengthen Australia's economy, regions and communities, Australia needs a diverse range of institutions with the freedom to innovate and differentiate. To achieve this, compacts should:

- Embed flexibility and safeguard academic freedom as defined in the *Higher Education Support Act (2003)* by inserting an explicit statutory requirement that mission-based compacts do not limit, qualify or override the definition of academic freedom in HESA 2003.
- Support universities to pursue distinctive missions and core functions while contributing to agreed national priorities. They must not include terms that impose uniformity across institutions.
- Introduce a requirement for the ATEC to publish guidance on how national priorities will be operationalised in compacts, including how they will be balanced against institutional missions and existing commitments.

Such measures will ensure that national priorities are advanced in ways that respect institutional autonomy and diversity, fostering a system that is both responsive and resilient.

Legislation should better protect universities by making the default position that the funding arrangements under the previous compact continue until agreement is reached but may not attract indexation or other forms of growth.

Moreover, legislation should clarify that if a mission-based compact expires, the terms of the default compact will be the same as the most recent compact. If not, the legislation must provide further detail as to what it will include and why.

A default compact in this instance should not carry the regular funding penalties, such as:

- reduced domestic student allocation
- ineligibility for demand-driven equity, and
- a lower funding floor of 95 per cent.

Such penalties should be reserved for breached compacts only.

As currently drafted, the mission-based compact requirements within the Bill make no distinction between Table B providers, like Bond University, that do not receive funding through Commonwealth Supported Places (CSPs), and public Table A universities that have government funding agreements in place to underwrite their domestic teaching and learning activities.

To preserve and promote diversity within the sector and enable the ATEC to focus on the effective use of government funding, we recommend that targeted amendments, intended to limit the application of mission-based compact to activities supported by Commonwealth funding, are included in the Bill.

1.3 International students

The Bill includes provisions to limit international student commencements and does not sufficiently recognise the need for the ATEC to consider the particularities of institutional history, size, strategic goals and context when allocating maximum commencements. The Bill does not make clear how these limits will be enforced.

While decisions regarding maximum numbers of international student commencements will be in the remit of the ATEC (as opposed to the Minister), there must still be a clear framework with principles governing the bases for allocations. This should include a clear methodology regarding how maximum numbers will be calculated. Any such methodology must be transparent and co-designed with the sector to ensure that adverse policy implications are avoided.

Additionally, it is not clear whether this will operate as a hard limit or whether there will be some tolerance for natural fluctuations in enrolments, similar to design elements of the managed growth funding system.

- The Bill must make clear that, as per, S71(2), the allocation of maximum numbers of international student commencements is at the discretion of the ATEC and the Minister may not provide specific directions in relation to a higher education provider or any decision of the ATEC.
- The Bill must include both the principles behind the allocations and the formal methodology for how maximum numbers of international student commencements will be calculated at both the sector and provider levels.
- Introduce a requirement that maximum numbers of international student commencements be set at the provider level only, not at the course level to ensure flexibility in enrolment management, avoid unnecessary administrative burden, and support institutions to respond to genuine international demand while maintaining quality.
- Introduce a buffer or tolerance band for providers which inadvertently exceed their student enrolment limit due to normal fluctuations in enrolment activity.
- Ensure that, in allocating maximum numbers of international student commencements, universities and TAFE institutions are categorised separately to achieve sustainable, managed growth in international student enrolments.

The Bill does not include penalty provisions for the contravention for any section. The legislation should therefore make clear what mechanisms the ATEC will employ to ensure providers adhere to their maximum number of international commencements.

As written in the legislation, the only penalty lever available to the ATEC would be to reduce a provider's Commonwealth student places. UA is opposed to any compliance mechanism involving penalties on domestic funding.

The legislation should enshrine a recognition and understanding of the particularities of institutional history, size, strategic goals and context when allocating maximum international student commencements. These principles should also be reflected in the framework for allocating international student commencements when future amendments to the Bill are made.

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