Submission to the inquiry into the *Universities Accord (Opening the Doors of Opportunity) Bill 2026*

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The *Universities Accord (Opening the Doors of Opportunity) Bill 2026* reshapes Australia's higher education funding framework. It restructures how Commonwealth supported places are funded and allocated, introduces a new Needs-based Funding model, significantly expands the role of the nascent Australian Tertiary Education Commission (ATEC) and establishes a legislative framework that would enable future governments to allocate international student places to individual providers.

More fundamentally, it establishes a new governance architecture for Australia's higher education system. The Bill shifts significant decision-making authority to the Minister and the ATEC, with many of the framework's most important features left to Guidelines, non-disallowable instruments and administrative decision-making rather than primary legislation. The ATEC's expanded stewardship role may also involve facilitating collaboration between providers to sustain strategically important or low-enrolment provision, which will need to operate within clear legal and regulatory settings.

Universities Australia (UA), the peak body representing the interests of Australia's 38 comprehensive universities, supports the broad policy direction of the Bill. Australia will need more people, from more backgrounds and more parts of the country, to access and succeed at university if it is to achieve the government's target of 80 per cent tertiary attainment by 2050. The success of these reforms, however, will depend not only on the policy direction, but on whether the enabling legislation provides a clear, durable and predictable framework to deliver them.

Because of the significance of these reforms, the Committee should recommend passage of the Bill with amendments.

UA's assessment is that, while the Bill's policy direction is sound, several aspects of its legislative design warrant amendment before the Bill is enacted. As drafted, the Bill raises important questions about institutional autonomy, legislative certainty, transparency and the appropriate balance between national stewardship and executive decision-making. It also raises concerns that key elements of the government's stated policy intent are not consistently reflected in the legislation itself.

The amendments proposed in this submission are targeted. They preserve the government's policy objectives while strengthening the legislative framework to better protect institutional autonomy, provide greater certainty, improve transparency and accountability, and give Parliament confidence that the new arrangements will operate as intended.

Summary of recommendations

1. **Preserve institutional autonomy** by ensuring the Bill strikes an appropriate balance between national stewardship and the autonomy universities need to fulfil their missions, limiting provider-specific ministerial powers to areas of genuine public interest, subjecting those powers to clear legislative safeguards and parliamentary scrutiny, and protecting students from adverse consequences arising from subsequent course designation or allocation decisions.
2. **Support the full vision of the Accord** by embedding stronger legislative guarantees for future growth and establishing effectively demand-driven places for students from underrepresented backgrounds.
3. **Deliver certainty and reflect the government's policy intent** by establishing clear system- and provider-level funding floors, protecting existing funded student places, requiring allocation decisions to take account of financial sustainability at both system and provider level, and ensuring the allocation framework operates coherently and as intended.
4. **Establish a governance framework with stronger checks and balances** by anchoring the core architecture of the funding system in legislation, subjecting significant system-wide decisions to appropriate parliamentary scrutiny and ensuring consequential administrative decisions are transparent, published and accountable.
5. **Enable responsible collaboration under ATEC's stewardship** by expressly recognising the ATEC's role in facilitating collaborative delivery models and allowing it to work with the sector to establish clear, practical pathways for lawful collaboration without breaching the provisions of competition law.
6. **Ensure Needs-based Funding delivers on its promise** by accurately identifying educational disadvantage, guaranteeing meaningful equity and regional support, providing universities with the flexibility to make effective, sustained and evidence-based investments in student participation and success, and ensuring the broader equity funding framework supports outreach at the scale required to deliver future participation growth.
7. **Subject international student allocation powers to stronger safeguards** by protecting the independence of the ATEC, limiting ministerial intervention in provider-level decisions, establishing a clear annual timetable for allocations, better aligning the international and domestic allocation frameworks, and subjecting the international framework to independent statutory review.

1. Preserving institutional autonomy

At the outset, the Committee should understand that this Bill is about much more than funding. It is about who makes the decisions that shape Australia's higher education system.

UA supports the government's role in setting national priorities. Universities are publicly funded institutions and should be accountable for delivering public value. Government should expect universities to expand opportunity, lift participation, respond to workforce needs and contribute to Australia's economic and social prosperity.

But there is an important distinction between stewardship and control. Australia's universities are successful because they are autonomous institutions. They are governed by independent councils, led by their own missions and deeply connected to the communities they serve. They are best placed to determine how to educate their students, invest in their regions, build research capability and respond to changing local, national and global needs.

This Bill shifts that balance. Taken together with recent reforms, it continues a clear trend towards greater government intervention in the operation of Australia's universities. It gives the Minister and the ATEC greater influence over the number of places universities can offer, the conditions attached to those places and, potentially, the allocation of international students. At the same time, it leaves many of the most important decisions to future ministerial discretion and Guidelines rather than Parliament. Many will not be subject to parliamentary disallowance, while some will not be legislative instruments at all.

The question is not whether government should provide national stewardship or whether the ATEC should play a central role in the system. Both should. The question is whether the Bill strikes the right balance between that stewardship and the autonomy universities need to fulfil their missions. In UA's view, as drafted, it does not yet do so.

This shift in the balance of power is not theoretical. It is reflected in a range of provisions that expand ministerial discretion, allow additional conditions to be imposed on universities outside the compact framework, create new obligations through non-disallowable instruments and administrative determinations, and enable decisions that directly affect universities and students without equivalent parliamentary scrutiny. Collectively, these provisions move beyond strategic stewardship and towards a more interventionist relationship in which government would have excessive power to direct individual universities.

The legislation should also ensure that changes to course designations or provider allocations cannot disadvantage students who have already commenced their studies. A student who begins a course in a Commonwealth supported place should not risk losing that status because of a subsequent ministerial or ATEC decision.

Why amendment is required

- The Bill gives the Minister substantially greater influence over the conditions under which universities receive Commonwealth funding. These powers extend beyond the Mission-based Compact framework and are not accompanied by equivalent requirements for parliamentary scrutiny.
- Section 36–65 would allow the Minister to impose provider-specific conditions on Commonwealth Grant Scheme funding at any time. These conditions would be additional to those contained in Mission-based Compacts and would not be made through a legislative instrument.
- The interaction between course designations and provider allocations may also create unintended consequences for students already enrolled in Commonwealth supported places. The legislation should make clear that no student can lose CSP status partway through their studies (consistent with existing provisions in HESA) because of a subsequent ministerial designation or ATEC allocation decision.

Relevant sections of the Bill	Recommended amendments
Section 36–65: "The Minister may, in writing, determine conditions that a specified higher education provider must comply with … A determination … is not a legislative instrument."	• These conditions are separate and in addition to any conditions imposed through the compact process, which replaces funding agreements. There is no rationale to add such Ministerial powers: they would add nothing useful and would weaken the ATEC's authority and the integrity of the compacts regime. This section should be deleted from the Bill.
Section 30–30: "A higher education course … is a *designated higher education course* in relation to a year if the determination is in force at the end of that year."	• With the removal of funding agreements and the replacement of S36–10(1)(a) with S36–10(1)(i), a provider may be forbidden from advising a student that they are in a CSP if the Minister designates a course but the ATEC allocates no places to a provider with students currently enrolled in that course. The Bill should be amended to protect continuing students by ensuring that a student who commences a course in a Commonwealth supported place cannot lose that status because the course is subsequently designated or because no corresponding places are allocated to the provider. This amendment would preserve the protection currently provided by section 36–25 of HESA, which provides for the continued support of Commonwealth supported students.

2. Supporting the full vision of the Australian Universities Accord

The Bill is an important step towards implementing the Australian Universities Accord, but it should not be viewed as the completion of the reform agenda. Australia's future prosperity depends on expanding participation in higher education and ensuring more Australians — particularly those from underrepresented backgrounds — can access and succeed at university. The Managed Growth Funding and Needs-based Funding systems establish important foundations for achieving those objectives.

However, a managed growth system must be designed to deliver growth. The legislation should do more than give future governments the capacity to increase the number of Commonwealth supported places. It should provide a durable guarantee that existing system capacity will be maintained and establish a clear framework for the additional places needed to meet Australia's future skills needs and participation targets.

This is particularly important for students from underrepresented backgrounds. The Accord envisaged effectively demand-driven places for equity students, recognising that Australia will not achieve its attainment ambitions without substantially increasing participation among groups that remain underrepresented in higher education. That objective should be clearly reflected in the legislation rather than left entirely to future ministerial decisions.

The Bill also leaves other major elements of the Accord reform agenda unresolved. Most notably, the Job-ready Graduates funding model remains in place. From 2027, students in the highest contribution band will pay more than $56,000 for a standard three-year degree, while universities will continue to absorb an $800 million annual funding shortfall. Managed growth is an important reform, but it cannot deliver the Accord's full ambition while the underlying funding model continues to impose inequitable costs on students and undermine the sustainability of university teaching. This Bill should therefore be viewed as one stage of the reform agenda, not its conclusion.

The following amendments would ensure the new funding framework protects existing system capacity, provides a genuine legislative foundation for future growth and better supports the participation objectives at the heart of the Accord.

Why amendment is required

- The Bill does not provide a clear legislative mechanism to give effect to the Accord commitment to effectively demand-driven places for equity students. Access to additional places remains dependent on future ministerial allocation decisions rather than a guaranteed pathway for participation growth.
- More broadly, the Bill establishes maximum allocations for the Total Allocation Pool but does not require the pool to maintain existing system capacity or grow over time. A funding framework intended to support higher participation should not permit the number of available places to contract below the sector's existing core student load.

Relevant sections of the Bill	Recommended amendments
Section 30–5(1): "The Minister must … [specify] the total number of [CSPs] that may be allocated … for a specified year"	• Section 30–5(1) should require the Minister to set the TAP at no less than the sum of the core student loads of all Table A providers. This section should also preclude the TAP from being reduced from year to year.
Section 30–5(7): "In deciding whether to vary a [TAP determination], the Minister: (a) must consider: (i) whether increasing the number of Commonwealth supported places … would promote the objects of this Act; and (ii) any advice received from the ATEC".	• Section 30–5(7) should require the Minister to consider the effect of increasing the TAP on participation rates for all students, particularly those from equity backgrounds. • The Bill should establish a clear legislative mechanism for effectively demand-driven places for students from underrepresented backgrounds, consistent with the objectives of the Accord. The availability of these places should not depend solely on future ministerial discretion. To give effect to this, s.30–5(7) should be redrafted to include a requirement that the Minister increase the total allocation pool to accommodate actual demand from students from equity groups.

3. Delivering certainty and reflecting the government's policy intent

The central test for this legislation is whether it gives effect to the government's stated policy intent through clear and durable legislative provisions. Universities make investment decisions over decades. They require certainty about the funding framework that underpins workforce planning, infrastructure investment, regional delivery and future student growth.

The government's policy promises a stable foundation for existing places and a pathway to future growth. The Bill, however, largely legislates ceilings without corresponding floors.

At the system level, the Total Allocation Pool establishes the maximum number of Commonwealth supported places that may be allocated but does not guarantee a minimum sufficient to maintain existing core student loads. At the provider level, the Domestic Student Profile and core student load provisions describe or limit the number of places that may be allocated without requiring the ATEC to maintain a university's existing funded student load.

This is more than a technical drafting issue. Without clear legislative floors, a future Minister or the ATEC could lawfully reduce the number of places available to the system or an individual university, despite the government's stated intention that existing places will be maintained while the system grows. Universities cannot make long-term decisions about staffing, infrastructure and regional delivery on the basis of policy intent alone.

Allocation decisions must also take account of their impact on the financial sustainability of the sector and individual universities. Commonwealth supported places underpin staffing, infrastructure, course provision and student services, and significant or poorly calibrated changes to funded student load can have consequences well beyond a single allocation year. The ATEC should therefore be required to consider the financial sustainability of both the system and affected providers when setting Domestic Student Profiles and allocating future growth.

The interaction between core student load and demand-driven course designations also requires clarification. Moving a course into a demand-driven category should not leave a university with unutilised core student load or create unintended distortions in the allocation framework. The legislation should provide a clear mechanism to ensure these parts of the system operate together as intended.

Where the government has articulated a clear policy outcome, Parliament should ensure that outcome is secured in law rather than left to future ministerial decisions, Guidelines or administrative practice. The legislation should also ensure that the different components of the funding framework operate coherently and without unintended consequences.

The following amendments would establish clear system- and provider-level funding floors, protect existing student places and ensure the allocation framework operates as the government intends.

Why amendment is required

- At the system level, sections 30–5(1) and 30–5(4) establish maximum allocations but no legislated minimum for the Total Allocation Pool. This does not reflect the Explanatory Memorandum's stated intention that sufficient places will be available to cover the core student loads of all Table A providers and represents a reduction in certainty compared with current arrangements.
- At the provider level, section 30–25 defines core student load but does not require the ATEC to allocate that number of places, while section 30–20 establishes a ceiling for a provider's Domestic Student Profile without establishing a corresponding floor.
- The interaction between core student load and demand-driven course designations may also produce unintended consequences. Where existing enrolments move into a demand-driven category, universities may be left with unutilised core student load unless the legislation provides an appropriate adjustment or transition mechanism.
- The Bill does not expressly require the ATEC to consider the impact of allocation decisions on the financial sustainability of the higher education system or individual providers, despite the potentially significant consequences for institutional capacity, quality, regional delivery and the continued provision of strategically important courses.

Relevant sections of the Bill	Recommended amendments
Section 30–5(1): The Minister must … make a determination … specifying the total number of Commonwealth supported places that may be allocated … for a specified year".	• Amend the provision to establish a legislated minimum Total Allocation Pool that is at least equal to the sum of the core student loads of all Table A providers.

Section 30–5(4): "The total number of Commonwealth supported places allocated ... for a year must not exceed [in 2028 and beyond] ... the number of CSPs that is the higher of: (i) the number of places specified in the most recent total allocation pool determination; and (ii) the number of places that is the sum of the *core student loads for all *Table A providers for the year".	• The legislation should make clear that the pool cannot be set below the level required to maintain existing system capacity.
Section 30–25(1): The *core student load* for a *Table A provider for a year ... is the number of Commonwealth supported places that is: ... if the reference year is 2028 or a later year – the lesser of ... the provider's *domestic student profile for the immediately preceding year; the number of Commonwealth supported places ... provided by the provider in higher education courses during the most recent year for which ... there was *verified student data".	• S30–25(1) describes what core student load is. It places no requirement on the ATEC to allocate this many places to a provider. The section should clarify that the ATEC must allocate to a Table A provider a number of CSPs as core student load that is equal to the lesser of the preceding year's DSP or the latest verified CSP EFTSL. This would ensure that providers cannot have their CSL reduced where they have enrolled students.
Section 30–20(2): "The provider's *domestic student profile for the year must not exceed: [if a compact is in force in that year] the sum of: (i) the *core student load for the provider ... and (ii) the additional growth allocation for the provider ... or otherwise [if no compact is in force for that year] the core student load for the provider".	• Establish a provider-level funding floor by ensuring that a provider's Domestic Student Profile cannot be set below its core student load. Maintaining existing funded capacity should not depend on receiving a discretionary growth allocation.
Sections 30–60(2) and 30–60(3) empower the Minister to specify courses (or kinds of courses) of study as demand-driven courses.	• Include an appropriate adjustment or transition mechanism to ensure that the designation of a course as demand-driven does not leave providers with unutilised core student load or otherwise distort the operation of the allocation framework.
Section 30–25(2): "The ATEC may ... make a determination ... specifying a whole number of [CSPs] in relation to a specified *Table A provider."	• Require the ATEC to have regard to the impact of allocation decisions on the financial sustainability of the higher education system and affected providers, including their capacity to maintain quality, support continuing students, and sustain strategically important provision.

4. A governance framework with stronger checks and balances

The governance framework established by the Bill warrants particular scrutiny because it will shape how Australia's higher education system is managed long after this legislation is enacted. UA supports stronger national stewardship and recognises the important role the ATEC will play in providing independent advice to government.

However, stronger stewardship should be accompanied by stronger safeguards. The more discretion Parliament confers on future governments, the greater the need for transparency, accountability and legislative clarity. Matters fundamental to the operation of the funding framework should be established by Parliament wherever possible, with Guidelines reserved for operational and administrative matters.

UA does not suggest that every funding allocation or administrative decision should be prescribed in primary legislation. The ATEC will require sufficient flexibility to administer the system efficiently and respond to changing circumstances. However, there is an important distinction between routine administration and decisions that determine the size, structure and core operation of the higher education funding system.

System-wide settings with significant consequences for students, universities and public expenditure should be established in legislation or subject to appropriate parliamentary scrutiny. Provider-level administrative decisions should be made according to clear statutory criteria and accompanied by consistent requirements for transparency, publication and accountability.

The Total Allocation Pool is not a minor administrative setting. It determines the overall number of Commonwealth supported places available across the system and therefore has direct consequences for student opportunity, university funding and the Commonwealth's investment in higher education. A decision of that significance should not be insulated from parliamentary scrutiny.

The Bill also adopts an inconsistent approach to administrative decision-making. A number of material decisions may be made simply in writing, only some are subject to publication requirements, and some may be delegated within the ATEC. Flexibility in administration should not mean that consequential decisions can be made without transparency about what was decided, by whom, on what basis and with what effect.

The following amendments would preserve administrative flexibility while ensuring that the core architecture of the funding system remains anchored in legislation, system-wide decisions are subject to appropriate parliamentary scrutiny and significant administrative decisions are transparent and accountable.

Why amendment is required

- The Bill leaves several elements fundamental to the operation of the new funding system to future ministerial or ATEC decisions rather than establishing clear legislative requirements. This reduces certainty about how the framework must operate and expands the scope for its operation to change without further parliamentary amendment.
- The Total Allocation Pool determination and any subsequent variation are expressly exempt from parliamentary disallowance, despite determining the overall number of Commonwealth supported places available across the system.
- A number of other consequential allocations and determinations may be made administratively or simply in writing. Publication requirements are inconsistent, and some decision-making powers may be delegated within the ATEC. The Bill should provide a clear and consistent framework for publication, reasons, accountability and delegation.

Relevant sections of the Bill	Recommended amendments
Section 30-5(9): "Section 42 (disallowance) of the *Legislation Act 2003* does not apply to: (a) a total allocation pool determination; or (b) a variation of a total allocation pool determination".	• Remove the exclusion from section 42 of the *Legislation Act 2003* so that Total Allocation Pool determinations and material variations are subject to parliamentary disallowance. Given their system-wide significance, these decisions should also be published promptly and accompanied by a clear statement of their basis.
Section 30-15(3): "An allocation under subsection (1) is not a legislative instrument."	• The legislation should distinguish between guaranteed core allocations and discretionary growth allocations. The minimum operation of the system, including the protection of core student load, should be secured in the Act. Administrative allocation mechanisms may be retained for discretionary growth, subject to clear statutory criteria and transparency requirements.
Sections 30-25(2), 30-25(4), 30-55(1), 30-65(1), 33-39A(4), 36-65(1): Provide that the Minister and/or the ATEC can make allocations or determinations regarding CSP allocations outside of guidelines or instruments by writing. Only some of these carry a publication requirement.	• Introduce consistent statutory requirements for consequential written decisions to be published, supported by reasons and made according to transparent criteria. The Bill should also specify appropriate limits on the delegation of decisions with material consequences for individual providers or the operation of the system.

5. Enabling collaboration under the ATEC's stewardship

Collaboration will be central to the success of the new stewardship model, but the Bill does not currently address the ATEC's role in facilitating collaboration between providers or the competition law considerations that may arise from that work.

Recommendation 37 of the Australian Universities Accord specifically envisaged the ATEC encouraging and incentivising new models of delivery and collaboration to expand tertiary education and research provision, particularly in regional and underserved areas, and in disciplines where there is high national need but low national enrolment (e.g. Asian languages). Giving effect to that recommendation will require the ATEC to be expressly empowered to facilitate collaboration between universities within clear legal and regulatory settings.

Competition law serves an important purpose in protecting students and the wider community from anti-competitive conduct. However, uncertainty about its application can also inhibit legitimate discussions between universities, including discussions about maintaining strategically important courses, sharing specialist capability, supporting regional provision and avoiding the loss of disciplines with low enrolments.

The *Competition and Consumer Act 2010* provides mechanisms through which collaborative conduct may be authorised. Depending on the nature of the proposed conduct, the Australian Competition and Consumer Commission (ACCC) may grant authorisation where the conduct is unlikely to substantially lessen competition or where the likely public benefits outweigh the likely public detriments. These tests must be applied to each arrangement rather than assumed in advance or applied to broader arrangements (e.g. a broad-based agreement to collaborate between regional universities).

There are strong reasons to expect that carefully designed collaborations aimed at preserving important but low-enrolment provision could produce significant public benefits. In these circumstances, the problem may be insufficient demand to sustain multiple competing offerings, rather than an absence of competition. Collaboration may preserve student choice and access by allowing provision to continue where it might otherwise be withdrawn.

There is already a relevant higher education precedent. In 2024, the ACCC authorised nine universities participating in GEMPASS Australia to continue their shared system for applications and interviews for graduate-entry medical programs. The ACCC found that the arrangements were likely to reduce competition in aspects of the applicant selection process, but that this detriment would be minimal and outweighed by cost savings, time savings and administrative efficiencies. It also noted that participating universities retained discretion over their admissions approaches, continued to compete to attract applicants and remained free to leave the arrangement.

Existing collaborative delivery models also demonstrate the potential benefits. Through the Brisbane Universities Languages Alliance, students at The University of Queensland, Queensland University of Technology and Griffith University can study language courses offered by another participating institution and have those studies credited towards their degree at their home university. This expands the range of languages available to students while enabling institutions to make more effective use of specialist teaching capability.

The absence of provisions dealing with collaboration means the Bill does not yet provide the legislative foundation needed to support this aspect of the ATEC's stewardship role. The legislation should therefore be amended to make clear that facilitating collaboration between providers is an express function of the ATEC and that universities that work with the ATEC on collaboration and reach an agreement approved by the ATEC do not need to separately seek an exemption from the ACCC.

The ATEC should include guidance on information sharing, the circumstances in which authorisation may be required and pathways for coordinated or sector-wide authorisation applications. The ATEC should also be empowered to play a brokering role between participating providers where proposed collaborations advance access, sustainability or other clearly identified public interests.

Relevant sections of the Bill	Recommended amendments
N/A	• Amend the legislation to expressly recognise facilitating collaboration between providers as a function of the ATEC and require the ATEC to establish a clear framework for lawful collaboration. This framework should support arrangements intended to sustain strategically important, specialist, regional or low-enrolment provision and enable collaboration between universities without requiring an exemption from the ACCC.

6. Needs-based Funding must deliver on its promise

Needs-based Funding has the potential to become one of the most significant and enduring reforms arising from the Australian Universities Accord. UA strongly supports the principle that funding should better recognise the additional investment required to support students from underrepresented backgrounds and those studying in regional Australia.

Needs-based Funding must also identify disadvantage accurately and consistently. A student who relocates from a low socioeconomic area to attend university does not cease to experience the effects of that disadvantage simply because their address has changed. Assessing low-SES status each time a student enrols in a unit risks undercounting students who move to study and could cause a student's eligibility for support to change during their degree. Eligibility should instead be determined using the student's first recorded permanent residential address at the commencement of their studies and remain stable throughout their course.

The legislation should also guarantee that the equity and regional components of Needs-based Funding provide meaningful additional support. If the relevant modifiers can be set at zero, the new framework could exist in name while delivering no additional funding for the students and institutions it is intended to support. The Act should require the modifiers to be greater than zero, with the Guidelines determining their precise value.

The broader equity funding framework must also support the work required to bring more students into higher education in the first place. Restricting the funding universities can direct to outreach is difficult to reconcile with an ambition to substantially increase participation. While there is a dedicated funding program for outreach (part of the former HEPPP), the program is small: less than $50 million per year across the sector. This is less than a tenth of the funding available for Needs-based Funding. Universities need sufficient flexibility to scale effective outreach, aspiration-building and pathway programs in the communities where they will have the greatest impact.

The long-term success of the reform will depend on implementation. Needs-based Funding should give universities the certainty and flexibility to make sustained, evidence-based investments in student participation and success. Many of the initiatives this funding will support — including access support, transition programs, academic support and regional delivery — require investment over several years. The framework should therefore enable universities to use funding when it will have the greatest impact, rather than create pressure to spend within an arbitrary timeframe.

Operational detail can appropriately be dealt with through the Needs-based Funding Guidelines. However, core settings that affect universities' ability to plan and deliver long-term investments should be clear, stable and consistent with the objectives of the reform. Wherever possible, core settings should be included in the primary legislation.

The following amendments would provide universities with appropriate flexibility to invest Needs-based Funding effectively over time.

Why amendment is required

- Section 39–25 assesses low-SES status at the time a student enrols in a unit. This may exclude students who have moved from a low-SES community to undertake their studies and risks producing inconsistent eligibility outcomes over the course of a degree.
- Sections 39–40 and 39–55 leave the equity and regional modifiers entirely to the Guidelines and do not prevent either modifier from being set at zero. The legislation should guarantee that both components provide a positive funding contribution.
- Section 39–70(6) requires Needs-based Funding grants to be spent within a period specified in the Guidelines, potentially displacing the ordinary rollover arrangements in HESA. This may limit universities' ability to plan and deliver multi-year initiatives and could create pressure to expend funding according to an administrative deadline rather than when it will achieve the greatest benefit for students.
- The separation of outreach into a distinct and limited funding stream may constrain universities' capacity to scale effective outreach activity in line with the participation growth expected under the Accord. The adequacy and flexibility of outreach funding should be considered alongside the implementation of Managed Growth Funding and Needs-based Funding.

Relevant sections of the Bill	Recommended amendments
Section 39-25(1)(b)(ii) defines low socio-economic status, for the purposes of NBF, with reference to a student's SES status 'at the time the person enrols in the unit'.	• The legislation should be amended to replace 'at the time the person enrols in the unit' with 'at the time the person enrols in the course'. Definitions of low SES made in Guidelines under section 39-25(4) should reference the student's 'first recorded permanent residential address'.
Sections 39-40 and 39-55(4) set out that 'modifiers' of base NBF amounts (for the 'equity component' and the 'regional component' respectively) are set in Guidelines.	• Require the equity and regional modifiers to be greater than zero, with their precise values determined through the Needs-based Funding Guidelines.
Section 39-70(6): "The higher education provider must spend the amounts referred to in subsections (2) and (4) before the end of the period specified in the Needs-based Funding Grants Guidelines."	• Needs-based Funding grants should remain subject to the ordinary rollover provisions in section 41-40 of HESA. The legislation should not permit the Guidelines to impose an expenditure deadline that unnecessarily prevents universities from carrying funding forward to support effective multi-year initiatives. • The government should review the adequacy and flexibility of outreach funding to ensure universities are not prevented from scaling evidence-based outreach and aspiration-building activity needed to achieve the Accord's participation targets.

7. International student allocation powers should be subject to stronger safeguards

The Bill establishes a legislative framework that would allow future governments to allocate international student places should those powers be activated. These are significant powers that could directly affect university operations, student choice and Australia's international education system.

Government has a legitimate role in maintaining the integrity and sustainability of Australia's international education system. However, Australia's global success has been built on institutional quality, student choice and universities' ability to respond to international demand.

If these powers are activated, the government should set the broad policy framework and determine the overall parameters of the system. Provider-level allocations should then be made independently by the ATEC, according to clear and transparent statutory criteria.

There is no justification for giving the Minister greater scope to intervene in provider-specific international allocation decisions than applies to domestic student allocations. The principle should be consistent: the Minister sets policy, while the ATEC applies that policy independently.

Any international allocation framework must also provide universities and prospective students with sufficient certainty. International recruitment and admissions operate on long planning cycles, and universities make consequential decisions about staffing, course delivery, student services and accommodation well before the start of an academic year. Allocations should therefore be determined according to a clear annual timetable and communicated sufficiently far in advance.

The international and domestic allocation frameworks should also be aligned wherever there is no clear policy reason for them to differ. Using a specified year, rather than an undefined period, would provide greater predictability and reduce the risk of irregular or overlapping allocation cycles.

Should these powers be exercised, they should operate within a framework that is transparent, proportionate and predictable. The legislation should preserve the ATEC's independence in provider-level decision-making, establish clear limits on ministerial intervention and provide universities and students with sufficient notice of allocations through a consistent annual process.

Given the significance of these powers, the international student allocation framework should also be subject to independent statutory review. The Bill provides for evaluations of Managed Growth Funding and Needs-based Funding, but no equivalent review of international student allocations.

The following amendments would protect the ATEC from provider-specific ministerial direction, establish a clear timetable for international allocations and better align the international and domestic allocation frameworks.

Why amendment is required

- The Bill gives the Minister broader powers to direct the ATEC in relation to international student allocations than it has in relation to most other ATEC functions, including domestic student allocations.
- The Minister may specify matters with which the ATEC must comply when making international allocations and may direct the ATEC to reconsider decisions affecting individual providers. This weakens the independence of provider-level allocation decisions.
- The proposed amendment to section 71(2) of the ATEC Act would permit ministerial direction in relation to specific providers for international allocation functions, despite equivalent provider-specific direction being prohibited in the domestic framework.
- The Bill does not establish a firm deadline for the international allocation pool determination and allows allocations to be made for a specified "period" rather than a specified year. This creates less certainty than the parallel domestic framework and may permit irregular or overlapping allocation cycles.
- The Bill provides for independent evaluations of Managed Growth Funding and Needs-based Funding but contains no equivalent review mechanism for international student allocations, despite the potentially significant consequences of provider-level allocation decisions.

Relevant sections of the Bill	Recommended amendments
Clause 17, paragraph 71(2)(c): "After "higher education providers", insert "(other than for the purposes of a function of the ATEC under Part 4A)".	• The Minister should not be empowered to direct the ATEC and its Commissioners in relation to their decisions about specific providers. The Minister is precluded from doing so in relation to domestic students, but the same protection is not afforded to international students.
Part 4A-46B: This section provides no firm timeframe for the international allocation pool determination, unlike the parallel domestic section (S30–5(2)).	• Require the Minister to determine the international allocation pool by 30 June in the year preceding the allocation year, aligning with the timing of the domestic Total Allocation Pool. This would give the ATEC sufficient time to consult providers and provide universities with the certainty needed to plan recruitment and make offers to prospective students.
Part 4A-46B (1)(a): "… the number of overseas students that may commence a course of education with ESOS registered higher education providers during a specified period".	• Replace "during a specified period" with "during a specified year" to align the international allocation framework with the domestic framework and provide a clear, predictable annual allocation cycle.
N/A	• Add a new Division requiring an independent evaluation of the international student allocation framework established by Schedule 2. The amendment could be modelled on new Division 37 (requiring evaluation of Managed Growth Funding).

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