



**Joint University Submission To
Senate Legal and Constitutional Affairs References Committee**

25 September 2019

Committee Secretary
Senate Legal and Constitutional Affairs References Committee
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**Submissions in relation to the New Skilled Regional Visas (Consequential Amendments)
Bill 2019 [Provisions]**

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We thank the Senate Legal and Constitutional Affairs References Committee (the 'Committee') for the opportunity to provide this input to your inquiry into the New Skilled Regional Visas (Consequential Amendments) Bill 2019 [Provisions]. We make this submission on behalf of:

- The Australian National University
- Central Queensland University
- Charles Sturt University
- Flinders University
- James Cook University
- The University of Adelaide
- University of Canberra
- UNSW Canberra
- The University of Wollongong

referred to in this submission as the 'Participating Universities'.

We support Government policy that holders of the new provisional skilled regional visas, which come into effect on 16 November 2019, should have access to benefits, welfare payments and/or government services as if they are holders of permanent visas.

Our submissions will address a number of recommendations which serve to ensure new skilled regional visa holders are not disadvantaged compared to holders of permanent skilled visas available for people to work in metropolitan areas; as well as to assist the Australian Government's initiatives to encourage and incentivise new skilled migrants to settle in regional areas.

1. Access to Education Support

Higher Education

We support the proposal to afford new skilled regional visa holders the same rights as permanent visa holders under the *Higher Education Support Act 2003*.

Education support for school aged dependents

Consistent with the support for higher education, dependent new skilled regional visa holders who are of school age should also be afforded the same support in relation to pre-primary, primary and secondary education costs.

With annual school fees costing on average¹ approximately \$7,500 per year, per child, this cost represents a significant financial burden to the household of new skilled regional visa holders compared to holders of permanent skilled visas.

We appreciate States and territories have overarching responsibility for schools in their jurisdiction. Indeed, there is a varied approach across States and Territories in terms of the fees applicable to temporary visa holders, with certain States granting fee exemptions to certain temporary visa holders.

Nevertheless, funding responsibility for schools is shared with the Commonwealth Government.

Recommendation 1: *We respectfully submit that the Commonwealth government is in the position to incentivise a consistent approach across all States and Territories to treat new skilled regional visa holders as if they were Australian permanent residents in relation to payment of school fees for enrolment in public schools.*

2. Establishing a long-term residence - Foreign Investment Review Board

We understand temporary residents generally need to apply for and receive foreign investment approval before purchasing any residential real estate in Australia. The application to the Foreign Investment Review Board also attracts a significant fee, starting from \$5,700 with incremental increases depending on the value of the residential property.

Recommendation 2a: *Consistent with the Australian Government policy to encourage skilled migrants to settle permanently in regional areas, we recommend that the new provisional skilled regional visa holders are afforded the same rights as a permanent visa holder in relation to the purchase of residential property in a regional area.*

Recommendation 2b: *In the alternative, we recommend that a waiver of the fees (as permissible under section 115 of the Foreign Acquisitions and Takeovers Act 1975) is afforded to new provisional skilled regional visa holders, in relation the purchase of residential property in a regional area.*

¹ Mean average calculated based on published 2019 tuition fees across all states and territories.

3. Skilling Australian Fund Levy

Nominating a prospective employee for the new skilled regional subclass 494 visa (Employer Sponsored Stream) will attract the Skilling Australian Fund (SAF) levy.

The rationale for the levy on employing foreign workers is that the SAF will contribute towards skilling Australians. Given that the Participating Universities are all government funded institutions engaged on a daily basis in the business of skilling Australians, the universities respectfully request an exemption from paying the SAF levy when employing highly skilled foreign nationals, who will in turn contribute to the skilling of Australians.

Indeed, the Participating Universities play a key role in educating and skilling Australians, generating and disseminating knowledge which in turn enhances productivity and improves the living standards of all Australians. In undertaking cutting edge research, the universities generate significant contributions to our society.

Despite the great benefit that these institutions contribute to Australia, the higher education sector has been challenged with recent substantial Federal Government funding cuts.

In the face of these setbacks, Australian universities must still continue to remain globally competitive and highly specialised, and enable the ongoing improvement in Australia's innovation performance.

In select areas, to achieve these outcomes, universities have no choice but to recruit highly skilled academics and researchers from overseas, as the required research skills and experience are not available locally.

Hence, it is respectfully submitted that there is a clear case for Australian universities to be exempt from payment of the SAF levy. The cost burden thereby imposed on universities is significant, ultimately undermining their role in skills provision.

***Recommendation 3:** We recommend that regional University employers should be exempt from the payment of the SAF levy in relation to nominating a new skilled regional visa holder.*

4. Age, Skills Assessment, Work Experience Exemptions

With reference to the Migration Amendment (New Skilled Regional Visas) Regulations 2019, the Minister may, by legislative instrument, specify circumstances in which applicants will be exempt from meeting the currently proposed Age, Skills Assessment, Work Experience and English language requirements.

We recommend that the existing exemptions available under the Employer Nomination Scheme (subclass 186) are also made available for **subclass 494 Skilled Employer Sponsored Regional (provisional) visa applicants**. In addition, we recommend an expansion to the existing exemptions in relation to Age, Skills Assessment and Work experience requirements for Australian University sponsors for professional and managerial positions.

4.1 Age Exemption

Recommendation 4.1: *We recommend the following classes of persons are exempt from the age requirement:*

- a) *a researcher, scientist or technical specialist who has been assessed at the ANZSCO skill level one or two and who is nominated for a position by an Australian scientific government agency;*
- b) *an academic who is nominated for a position by an Australian university to be employed at an Academic Level of B, C, D or E in one of the following positions:*
 - i) *University Lecturer (ANZSCO: 242111);*
 - ii) *Faculty Head (ANZSCO: 134411);*
- c) *a person who is nominated for a position by an Australian university to be employed:*
 - i) *as a Professional (ANZSCO Major Group 2) or a Manager (ANZSCO Major Group 1);*
and
 - ii) *who will be paid a salary of at least the Fair Work High Income threshold.*

Exemptions identified in a) and b) already existing under the current Employer Nomination Scheme (subclass 186), as well as the Regional Sponsored Migration Scheme (subclass 187) that will be replaced by the new subclass 494 Skilled Employer Sponsored Regional (provisional) visa.

With respect to the proposed exemption (c), we submit that Australian universities may employ persons in positions that may not be classified as “academic” positions under their respective enterprise agreements but nevertheless require a strong background in academia. The person may otherwise be considered as having the same or higher level of seniority, skill and experience as academics classified at levels B-E but would not be exempt from the Age requirement. The exemption will lead to a benefit to the regional workforce by attracting global expertise to regional Australia and skills transfer within the regional labour market.

The limitation of the Fair Work High Income threshold will ensure that the exemption only applies to senior professional or managerial positions.

4.2 Skills Assessment Exemption

Recommendation 4.2: *We recommend the following classes of persons are exempt from the Skills Assessment requirement:*

- a) *a researcher, scientist or technical specialist who has been assessed at the ANZSCO skill level one or two and who is nominated for a position by an Australian scientific government agency;*
- b) *an academic who is nominated for a position by an Australian university to be employed at an Academic Level of A, B, C, D or E in one of the following positions:*
 - i) *University Lecturer (ANZSCO: 242111);*
 - ii) *Faculty Head (ANZSCO: 134411);*
- i) *a person who is nominated for a position by an Australian university to be employed as a Professional (ANZSCO Major Group 2) or a Manager (ANZSCO Major Group 1).*

Exemptions identified in a) and b) already existing under the current Employer Nomination Scheme (subclass 186). Separately, Skills Assessment are not required under the current Regional Sponsored Migration Scheme (subclass 187) that will be replaced by the new subclass 494 Skilled Employer Sponsored Regional (provisional) visa.

With respect to the proposed exemption (c), we submit that Australian universities are ideally placed to determine whether a person is suitably skilled for the nominated position in relation to Professional and Managerial roles, with many of these occupations requiring a University level qualification (as set out in ANZSCO).

Australian Universities already undergo a rigorous vetting process when recruiting candidates for a position. Candidates are assessed against detailed selection criteria and their suitability will usually be considered by a panel of qualified individuals.

Further information regarding a generalised summary of Australian university practices can be found in the Labour Market Testing section below.

4.3 Work Experience Exemption

Recommendation 4.3: *We recommend the following classes of persons are exempt from having to show 3 years of work experience in the nominated occupation requirement:*

- a) *a researcher, scientist or technical specialist who has been assessed at the ANZSCO skill level one or two and who is nominated for a position by an Australian scientific government agency;*
- b) *an academic who is nominated for a position by an Australian university to be employed at an Academic Level of A, B, C, D or E in one of the following positions:*
 - i) *University Lecturer (ANZSCO: 242111);*
 - ii) *Faculty Head (ANZSCO: 134411);*
- c) *a person who is nominated for a position by an Australian university to be employed as a Professional (ANZSCO Major Group 2) or a Manager (ANZSCO Major Group 1).*

Exemptions identified in a) and b) already existing under the current Employer Nomination Scheme (subclass 186).

With respect to the proposed exemption (c), we submit that Australian universities are again ideally placed to determine whether a person is suitably skilled for the nominated position in relation to Professional and Managerial roles.

Australian Universities already undergo a rigorous vetting process when recruiting candidates for a position. Candidates are assessed against detailed selection criteria and their suitability will usually be considered by a panel of qualified individuals.

Further information regarding a generalised summary of Australian university practices can be found in the Labour Market Testing section below.

5. Labour Market Testing

5.1 University Recruitment and Labour Market Testing

To facilitate their recruitment practices, which address critical skill, research, and expertise shortages, with respect to world-class research and academic experience (within the Higher Education Sector) the Participating Universities make the following recommendations:

Recommendation 5.1a: *Changes be made to the law so that Labour Market Testing (LMT) requirements (pursuant to section 140GBA Migration Act 1958 (Cth)) are not required to be met in circumstances where:*

- i) the nominator is an Australian university; and*
- ii) the position is an Academic Level A – E appointment; and*
- iii) the nominated occupation is University Lecturer ANZSCO 242111.*

Recommendation 5.1b: *In the alternative to Recommendation 1a, the Minister (in accordance with section 140GBA Migration Act 1958 (Cth)) determine by legislative instrument that:*

- i) where the nominator is an Australian university; and*
- ii) the position is an Academic Level A – E appointment; and*
- iii) the nominated occupation is University Lecturer ANZSCO 242111;*

then these will be ‘select positions’ and a ‘select occupation’ for which standard LMT requirements regarding manner, period and timing do not apply. Furthermore, that the only LMT evidence required for the purposes of a 494 nomination application, is the signed employment agreement and position description, indicating that the position is Academic Level A – E.

Given the critical importance of securing world-class, high calibre researchers and academics to the Participating Universities, each has developed an internally prescribed, rigorous and protracted recruitment process which cannot be undertaken within the currently prescribed 4 month period of Australian Immigration Labour Market Testing (LMT) requirements. Indeed, each demonstrate through their prescribed recruitment timeline and practice provided, that the recruitment and selection process takes at least 20 weeks before they reach a point where a university-approved offer can be made to a successful candidate. After this, there is a period of further contract negotiation (amongst other things). Please refer to *Appendix A to C*, which detail the specific timeframes, market testing practices, review protocols, and the panel decision-making processes generally followed by all Australian universities as well as by those who are a party to this submission. Specifically, the disconnect between Government-prescribed LMT and university-prescribed LMT is detailed in Appendix A. The details of the recruitment protocols and practises undertaken at some of the universities that are a party to this submission, are presented in Appendix B. Finally, letters from The Australian National University, The University of Adelaide and The University of New South Wales (UNSW) encompassing UNSW Canberra, that examine the difficulties imposed by Government-prescribed LMT and previously sent to the Senate References Committee charges with reviewing the *Effectiveness Of The Current Temporary Skilled Visa System Targeting Genuine Skills Shortages*, are included in Appendix C

5.2 Competitive Grant-Funded Fellowships and Labour Market Testing

In many instances, researchers at Australian universities are awarded competitive research grant funding from government bodies such as the Australian Research Council (ARC) and the National Medical Health & Research Council (NHMRC). While these grants are awarded to individual researchers they must nominate an administering university at the time of application. This is the institution at which they propose to work to conduct the research for which they will receive grant funding. Consequently if they are successful in receiving funding, they will enter into an employment agreement (or continue employment) at the administering university. While the majority of this competitive grant funding is awarded to Australian citizens/permanent residents, a small percentage of Australian government funded research grants are awarded to foreign nationals. Hence, it is the case that when this competitively awarded government research funding is granted to a foreign national, that they have undergone competitive selection via rigorous review processes and have been recognised as capable of undertaking important, grant-worthy research of excellent calibre.

Indeed, ARC data shows that in 2018 its Future Fellowship Scheme (awarded to outstanding mid-career researchers) received 509 research proposals for consideration. In total, nationally, only 19.6% of these applicants were successful in securing an ARC Future Fellowship and of this 19.6%, only 11% of the successful applicants were foreign nationals (this translates to only 2.2% of all fellowship applications, received and assessed by the ARC, were awarded to foreign nationals). It follows then that the foreign nationals selected by the ARC, are highly and competitively selected on the basis that they have the experience and skill as well as recognised potential to bring a research capability to the Australian setting which is seen as beneficial to the Australian community, thus filling a research skills gap which is deemed worthy of funding. In order, to take up their grant at an administering university, the Fellow must then be employed by the administering university, typically to an academic Level B-E position. However, Australian immigration requirements are such that a university cannot simply appoint a foreign fellowship holder to an Academic Level A-E position without first nominating them for an appropriate work visa. If a regional university were to utilise the new subclass 494 Skilled Employer Sponsored Regional (provisional) visa scheme to fill these positions, LMT requirements dictate that the role must be an advertised role. This results in the contrived situation whereby the university must advertise the fellowship funded position to be filled by a fellowship grant holder; hence successful and promising mid-career researchers who have specific research expertise and grant-worthy (and funded) proposed projects are required to apply for the very roles which have been created as a function of being awarded their competitively funded Fellowships.

Similarly, a number of the Participating Universities run university-funded strategic fellowship programs aimed at attracting and/or retaining internationally competitive, highly skilled, published and cited research/academic fellows.

On the basis that these competitive fellowship programs result in a:

- Small, highly select pool of applicants receiving competitive fellowship funding;
- Very low percentage of government-funded competitive research grants being awarded to foreign nationals;
- Low percentage of university-funded competitive fellowships being awarded to foreign nationals;

and noting that both programs employ rigorous review and selection processes in selecting proposals and in awarding these fellowship grants, we make the following recommendations:

Recommendation: 5.2a: *Changes be made to the law so that Labour Market Testing (LMT) requirements (pursuant to section 140GBA Migration Act 1958 (Cth)) are not required to be met in circumstances where:*

- i) the nominator is an Australian university; and*
- ii) the nominated occupation is any occupation on the STSOL or MLTSSL or subclass 494 list of occupations; and*
- iii) the position is a fellowship funded through Australian Research Council (ARC) grants, National Health and Medical Research Council (NHMRC) grants, and/or similar competitive university, government or industry funded grants and/or fellowships.*

Recommendation: 5.2b: *In the alternative to Recommendation 5.2a, the Minister (in accordance with section 140GBA Migration Act 1958 (Cth)) determine by legislative instrument that:*

- i) where the nominator is an Australian university; and*
- ii) the nominated occupation is any occupation on the STSOL or MLTSSL or subclass 494 list of occupations; and*

iii) *the position is a fellowship funded through Australian Research Council (ARC) grants, National Health and Medical Research Council (NHMRC) grants, and/or similar competitive university, government or industry funded grants and/or fellowships; then these will be 'select positions' and 'select occupations' for which standard LMT requirements regarding manner, period and timing do not apply. Furthermore, that the only LMT evidence required for the purposes of a 494 nomination application, is the signed employment agreement and position description, indicating that the position is funded through Australian Research Council (ARC) grants, National Health and Medical Research Council (NHMRC) grants, and/or similar competitive university, government or industry funded grants and/or fellowships.*

Recommendation: 5.2c: *Changes be made to the law so that Labour Market Testing (LMT) requirements (pursuant to section 140GBA Migration Act 1958 (Cth)) are not required to be met in circumstances where:*

- i) *the nominator is an Australian university; and*
- ii) *the nominated occupation is any occupation on the STSOL or MLTSSL or subclass 494 list of occupations; and*
- iii) *the position has been created from strategic university-funded fellowships aimed at attracting and retaining researchers of exceptionally high-calibre who are either:*
 - a) *Of international high-standing in their research fields with exceptional publication track records; or*
 - b) *Early career researchers with significant promise and who have been identified as future leaders in their fields of research.*

Recommendation: 5.2d: *In the alternative to Recommendation 5.2c, the Minister (in accordance with section 140GBA Migration Act 1958 (Cth)) determine by legislative instrument that:*

- i) *where the nominator is an Australian university; and*
- ii) *the nominated occupation is any occupation on the STSOL or MLTSSL or subclass 494 list of occupations; and*
- iii) *the position has been created from strategic university-funded fellowships aimed at attracting and retaining researchers of exceptionally high-calibre who are either:*
 - a) *Of international high-standing in their research fields with exceptional publication track records; or*
 - b) *Early career researchers with significant promise and who have been identified as future leaders in their fields of research;*

then these will be 'select positions' and 'select occupations' for which standard LMT requirements regarding manner, period and timing do not apply. Furthermore, that the only LMT evidence required for the purposes of a 494 nomination application, is the signed employment agreement and position description, indicating that the position is funded through a university-funded fellowship.

5.3 Professional Appointments at Australian Universities

In the same way that LMT requirements provide significant obstacles to universities in the recruitment of high-value business critical academic staff, LMT requirements also significantly impact the ability of the Participating Universities to fill critical skills gaps amongst the ranks of their professional staff. While the majority of these roles can be filled by Australian citizens or permanent residents, a small number have been traditionally filled by foreign nationals with higher education-specific skill sets and experience obtained internationally and which cannot be recruited locally. These professionals typically bring global expertise in running large-scale operations or cutting-edge processes that have not yet been taken up in Australia. Hence, they assist to replicate and implement internationally successful, established, world-leading processes, programs, technology and/or strategies at Australian universities. Amongst other roles, this includes university

professionals engaged in advancement (philanthropic fund-raising and alumni engagement), education management, university executives (including, in some instances, at the Deputy Vice-Chancellor level), librarians, marketing professionals and records managers, as well as leaders in research and development.

A specific example of a critical skills gap where international experience is essential is advancement. Historically, Australian universities have been well funded via government sources and the need to develop a robust philanthropic revenue stream has not been essential. However, significant cuts in government funding to the Higher Education Sector have made it imperative for Australian universities to harness philanthropic funding. Professional Advancement in Australian universities commenced in earnest only during the last decade. Many universities need further investment in their overall fundraising structure and staff if they are to increase philanthropic revenue. Given that this field is still in its early stages of development in Australia, with relatively little local skills and experience, when compared with the US (which leads the field and has for decades) and the UK which has a moderately developed advancement sector, these skills and expertise must be sourced internationally.

In light of the need for universities Australia-wide to hire professional staff with international skills and experience not readily accessible through local hires, the Participating Universities make the following recommendations with respect to LMT:

Recommendation 5.3a: *Changes be made to the law so that Labour Market Testing (LMT) requirements (pursuant to section 140GBA Migration Act 1958 (Cth)) are not required to be met in circumstances where:*

- i) the nominator is an Australian university; and*
- ii) the position is not an academic appointment, but is nevertheless a highly skilled position and requires the occupant to have at least 2 years of relevant work experience; and*
- iii) the nominated occupation is an occupation on the STSOL or MLTSSL or subclass 494 list of occupations.*

Recommendation 5.3b: *In the alternative to Recommendation 5.3a, the Minister (in accordance with section 140GBA Migration Act 1958 (Cth)) determine by legislative instrument that:*

- i) where the nominator is an Australian university; and*
- ii) the position is not an academic appointment, but is nevertheless a highly skilled position and requires the occupant to have at least 2 years of relevant work experience; and*
- iii) the nominated occupation is an occupation on the STSOL or MLTSSL or subclass 494 list of occupations;*

then these will be 'select positions' and 'select occupations' for which standard LMT requirements regarding manner, period and timing do not apply. Furthermore, that the only LMT evidence required for the purposes of a 494 nomination application, is the signed employment agreement and position description, indicating that the position requires the occupant to have at least 2 years of relevant work experience.

The Participating Universities thank the Senate Legal and Constitutional Affairs Committee for accepting and considering this submission to into the New Skilled Regional Visas (Consequential Amendments) Bill 2019 [Provisions]. All Participating Universities and their representative, Visa Lawyers Australia, are willing to provide further information to the Committee, or to present to the Committee, as required.

For and on behalf of

The Australian National University
Central Queensland University
Charles Sturt University
Flinders University
James Cook University
The University of Adelaide
University of Canberra
UNSW Canberra
The University of Wollongong

Visa Lawyers Australia Ltd is an incorporated legal practice in accordance with the Law Society of Queensland Rules and legislative requirements. Our liability is limited to a scheme approved under professional standards legislation. Legal practitioners employed by Visa Lawyers Australia Ltd are members of the scheme.

Appendix A

Government-prescribed Labour Market Testing (LMT) is hindering university recruitment of outstanding foreign nationals

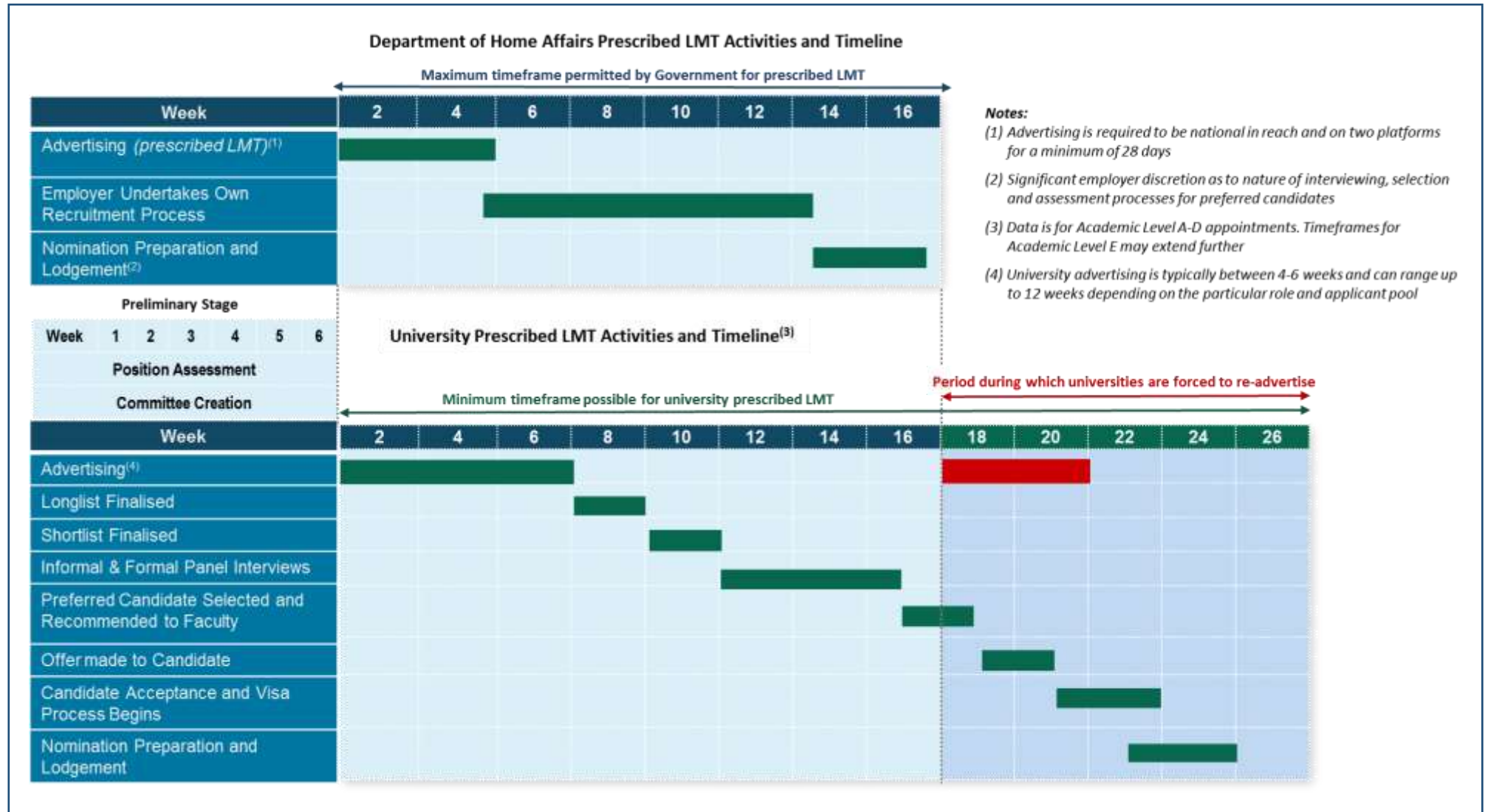
A) Universities are often forced to re-advertise Academic Positions Simply to Meet Government LMT Requirements

- Typically, universities conduct recruitment activities to fill a role over a period of, on average, 24 weeks. The activities undertaken include: gaining approval for the role from a School or Faculty Head; extensive national and international advertising; interview panel appointment made up of senior representatives of various university stakeholders, short-listing candidates, inviting (and often flying) candidates to the university for interviews (the typical timeframe to this point being approximately 14 weeks); putting forward the selected candidate for approval to an appointment committee; making the offer and negotiating with the candidate until that offer is accepted or not.
- Current legislation only permits 16 weeks from date of first advertisement to date of nomination for a temporary work visa when a university wishes to recruit a foreign national into an Academic Level A – E position
 - This means, the university must advertise, recruit and select as well as have an employment agreement signed, within 16 weeks of first advertisement
 - If the 16 week timeframe is exceeded before the contract is signed and the prospective employee is to be nominated for a temporary work visa, then the university is forced to re-advertise the role for 4 weeks, so that the 16 week timeframe begins again
 - This forced re-advertising is potentially damaging to the university’s reputation and places the university and the stakeholders concerned in a difficult position, raising potential employment law issues
 - While there are exemptions to this Government prescribed LMT for Academic Level D & E appointments (via policy provisions for alternative arrangements to LMT where the Position Description requires the applicant to demonstrate ‘*international recognition*’) there are no similar exemptions appropriate to Academic Level A to C appointments
- The discrepancy between the time typically taken by universities to recruit world-class academics and researchers, versus the time prescribed by the Government for these activities, is outlined in *Figure 1* (please refer to next page).

B) Universities are forced to advertise Academic appointments to be taken up by research fellows despite the appointment having been created as a function of a competitively awarded fellowship (eg, ARC-, NHMRC- and university-funded fellowship programs)

- Fellowships are awarded by research funding bodies to specific individuals on a competitive basis and once awarded cannot be transferred to anyone else, yet the Government insists on prescribed LMT for these roles too
- This forced advertising of an academic role which has been created as a function of a fellowship grant, and hence can only ever be taken up by that fellow, is disingenuous and opens up the university to employment law issues

Figure 1. Currently, universities face difficulties in nominating foreign nationals for temporary work visas without first re-advertising roles as they often exceed the maximum period permitted for Labour Market Testing (LMT)



- At a meeting in April 2019, with the Minister for Immigration, The Hon David Coleman MP, attending university representatives explained that
 - While these grants are awarded to individual researchers they must nominate an administering university at the time of application. This is the institution at which they propose to work to conduct the research for which they will receive grant funding.
 - Consequently if they are successful in receiving funding, they will enter into an employment agreement (or continue employment) at the administering university.
 - While the majority of this competitive grant funding is awarded to Australian citizens/permanent residents, a small percentage² of Australian government funded research grants are awarded to foreign nationals, who bring with them exceptional world-class research skills.
 - Hence, it is the case that when this competitively awarded government research funding is granted to a foreign national, that they have undergone competitive selection via rigorous review processes and have been recognised as capable of undertaking important, grant-worthy research of an excellent calibre.
- C) While universities are not opposed to LMT per se, it is the restricted timeframe allowed for the Government’s prescribed LMT and the required method of capturing the evidence for this LMT that is causing great difficulty. The following case studies demonstrate these difficulties and provide evidence of the impact that the restricted timeframe has on university recruitment.

Case Study 1

- A university sought to recruit academics to fill 5 positions within the School of Computer Science, including at the Lecturer (Academic Level B), Senior Lecturer (Academic Level C) and Associate Professor (Academic Level D) levels.
- Prescribed LMT was undertaken over the course of more than 28 days, from 14 June 2018 to 29 July 2018.
- The University made offers to successful candidates to fill the available roles, including an offer to 1 foreign national. The LMT exemptions (relating to the country of citizenship or permanent residence of a successful applicant) and alternative arrangements (on the basis that the position did not require the holder to demonstrate that they had an internationally recognised record of exceptional and outstanding achievement in their field) did not apply to this foreign national.
- Due to the rigorous and protracted recruitment process involved, the interviewing, selection and contract negotiations to fill these positions had taken several months. In the case of the foreign national, the parties were not in a position to sign the final

² For example, in 2018, Australian Research Council (ARC) data showed that from 509 research proposals submitted for consideration for its Future Fellowship Scheme (mid-career researchers) that only 19.6% of applicants were successful in receiving fellowships and of those, only 11% of successful applicants were foreign nationals. Hence, only 2.2% of all applications received and assessed by the ARC were awarded to foreign applicants.

contract until 10 December 2018. This was almost 6 months after the completion of the relevant LMT period and 2 months after the expiry of the relevant LMT period.

- Hence, due to the expiry of the LMT, it was necessary for the University to re-advertise the position offered to the foreign national.
- This resulted in delays to the recruitment process and the commencement of the position, which in turn gave rise to the risk that the selected candidate would withdraw their acceptance. Indeed, the candidate expressed concern regarding the delays and the impact that this had had on her family's plans to relocate, including the timing of her partner's required notice period and resignation with his current employer.
- The situation also raises potential employment law issues, as the candidate had to sign a new employment agreement dated after the completion of the second round of LMT, once it could be demonstrated that no suitable Australian could be found to fill the role.
- It should be noted that this scenario has occurred frequently within the Higher Education Sector.

Case Study 2

- A university sought to recruit academics to fill the positions of Lecturer (Academic Level B) and Senior Lecturer (Academic Level C) from disciplines including Mechatronics, Robotics and/or Automation Engineering.
- Prescribed LMT was undertaken over the course of 28 days during July 2018.
- Due to the interviewing and selection processes, as well as negotiating the terms of the employment, more than 4 months passed after the commencement of the advertising.
- Negotiations were not finalised until 11 December 2018, almost five months after the completion of the LMT and almost 2 months after the expiry of the LMT.
- International candidates were selected for both roles. As in *Case Study 1*, the University had no choice but to re-do LMT, as both of the selected candidates who required nomination for a Temporary Skills Shortage (subclass 482) visa were not eligible for any LMT exemptions and the University was not able to demonstrate that alternative arrangements to LMT were applicable.
- Hence, the University re-advertised for the positions. This resulted in delays to the recruitment process and the commencement of the positions, which in turn gave rise to the risk that the selected candidates may withdraw their acceptance. It also created potential employment law issues, as the candidates were required to sign new employment agreements dated after the completion of the second round of LMT.
- As in *Case Example 1*, this scenario has not been uncommon in the context of university recruitment since the introduction of LMT requirements for nomination under the Temporary Skills Shortage Visa scheme.

Further, requiring LMT prior to appointing a foreign national to an Academic position as a function of their fellowship grant is disingenuous and misleading advertising

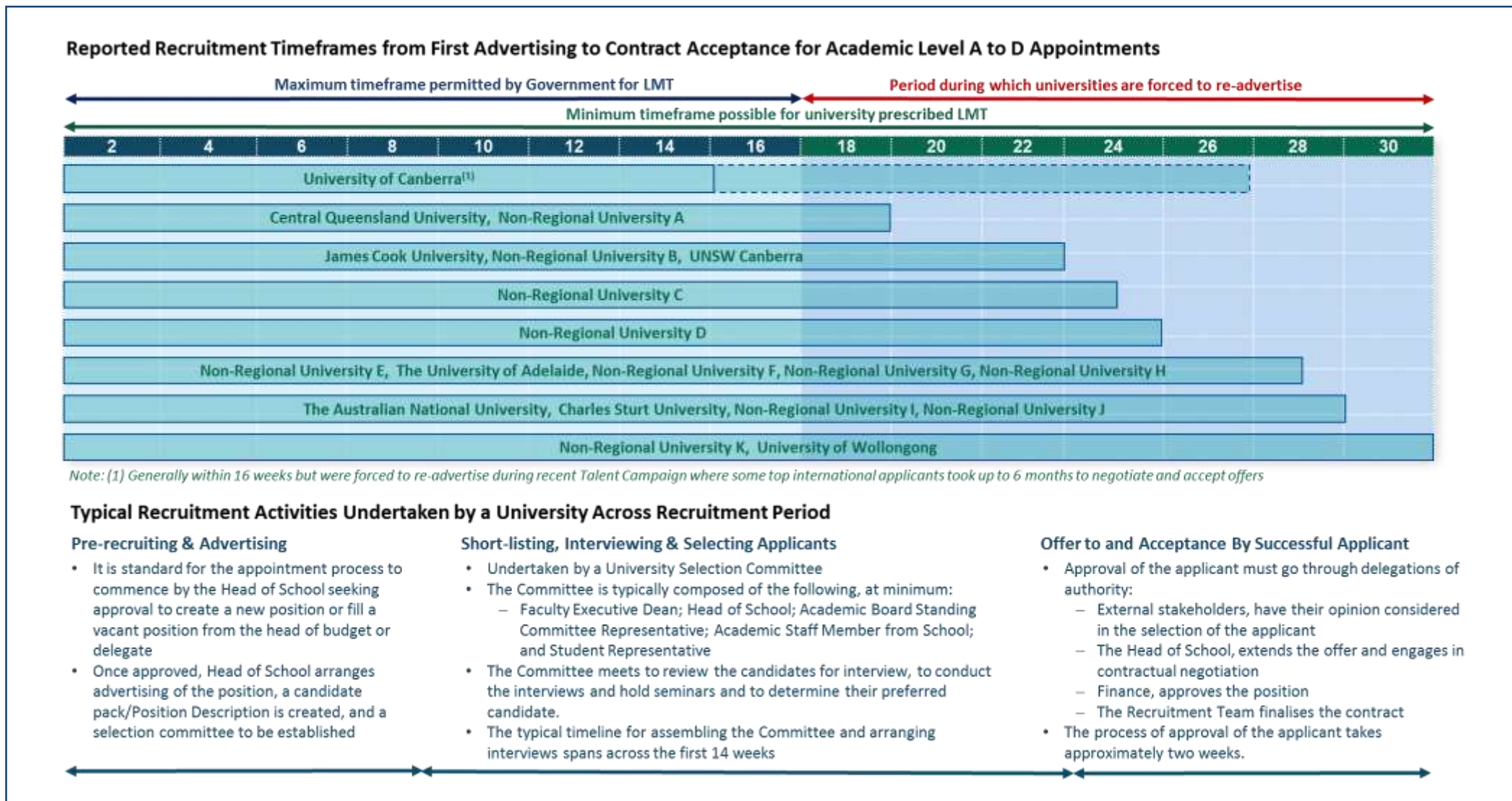
Case Study 3

- A university sought to recruit high-performing mid-career researchers at Academic Levels B and C through their university-funded fellowship grant program.
- The LMT exemptions and alternative arrangements did not apply to these individuals as the roles were for mid-career researchers and not sufficiently senior, with international standing, to meet the requirements of alternative arrangements.
- Some of these researchers were directly approached, given their specific field of highly skilled research, and offered roles.
- The University had no choice but to undertake prescribed LMT over the course of 28 days.
- The LMT caused significant difficulties to the University, which had to review and respond to applications from new as well as previous candidates who were ultimately not as skilled or suitable for the role as the already selected applicants that had previously undergone competitive selection. In addition, the University had to ensure ongoing liaison with the already selected researchers, who had to be convinced and reassured that their positions were still available to them.
- For some of the researchers involved, contract negotiations remain ongoing, more than 2 months after the commencement of the advertising period. The targeted researchers are highly skilled in their fields, and as such are highly sought after by academic institutions internationally.
- Should contract negotiations continue, which appears probable, it is possible that the university will be required to undertake LMT again in order to meet the criteria for the 482 nomination application.

Finally, a survey of 19 Australian universities, demonstrates that all find that they exceed Government-prescribed LMT when recruiting for academic roles at least some, if not all of the time. This places our universities in the difficult position of having to re-advertise post candidate selection, if the successful candidate from the first round of advertising and recruiting is a foreign national. The outcomes of this survey are represented in *Figure 2*.

Details of the robust and protracted recruiting protocols and timeframes adhered to by a number of the universities who are a party to this submission are provided in *Appendix .B*

Figure 2. The typical recruitment practices at Australian universities, which are robust and protracted, mean that all exceed Government-prescribed LMT timeframes that must be adhered to in order to nominate foreign nationals for an Australian temporary work visa.



Appendix B

**Current Labour Market Testing Protocol Employed at
The Australian National University**



Academic Recruitment Timelines for The Australian National University

Level A - D Appointments	
Weeks	Activity
1 - 4	Consideration of role required and the geographic scope and nature of advertising. Further, and especially, the creation of a candidate pack, which includes recruitment documents, such as the position description. Finally, consultation between Faculty members concerning the aforementioned process and the composition of a Selection Committee.
5 - 16	Conducting Advertising. Advertising periods for Level A-D Appointments may range from four to 12 weeks depending on the nature of the role.
17	Confirming and compiling of applications, including consideration for late applications or special consideration, approximately one-week after the advertisement has ended as an administration period.
18 - 20	Candidate shortlisting undertaken by the Selection Committee.
21 - 24	Informal and formal interviews are undertaken by the Selection Committee. Informal interviews occur over call or skype, whilst formal interviews occur on campus.
25 - 26	The Selection Committee checks the referees of the formally interviewed candidates. The opinion of stakeholders may be sought and considered. The preferred candidate is selected by the Selection Committee. Finally, contract negotiations occur.
27 - 28	The preferred candidate is offered the position and given one to two weeks to provide their formal acceptance.

Level E Appointments	
Weeks	Activity
1 - 6	Consideration of role required and the geographic scope and nature of advertising. Further, and especially, advertising materials are included. This constitutes a candidate pack, with a position description as well as an information book detailing the position and aspects of the University. Finally, there is consultation with the school for which the position will be held, regarding the appropriate composition of the Selection Committee. This process usually ranges from four to six weeks.
7 - 18	Conducting Advertising. Advertising periods for Level E Appointments may range from four to 12 weeks.
19 - 20	Confirming and compiling of applications, including a consideration for late applications or special consideration, approximately two weeks after the advertisement has ended as an administration period.
21 - 23	Candidate shortlisting undertaken by the Selection Committee.
24 - 30	Informal interviews occur over call or skype over a period of two to three weeks. Formal interviews occur on campus over a period of two to four weeks also. At this level, the nature of formal interviews includes an interview with the Selection Committee. Further it extends to the preferred candidates meeting with the relevant external stakeholders, and most senior University members.
31 - 32	The Selection Committee checks the referees of the formally interviewed candidates. The opinion of stakeholders may be sought and considered. Finally, contract negotiations occur.
33 - 34	The preferred candidate is offered the position and given one to two weeks to provide their formal acceptance.

Labour Market Testing, Selection & Appointment Processes for The Australian National University

Level A - D Appointments	
Stage 1 – Pre-Recruiting and Advertising	<ul style="list-style-type: none"> It is standard for the appointment process to commence by the nature of the role and its advertising being considered. Then, for a candidate pack to be created in relation of the same. Finally, for a Selection Committee to be established.
Stage 2 – Shortlisting, Interviewing and selecting applicants	<ul style="list-style-type: none"> Undertaken by the University Selection Committee. The Committee is composed of the following, at minimum two internal University academic staff-members and one external person. Often, the Committee is composed of up to six to seven people. The positions of the Committee members generally include: The Dean, the future direct supervisor of the appointed academic, senior member(s) from the relevant School, the position delegate and an external person with experience in the relevant field, as well as HR Recruitment staff. The Committee meets to review the candidates for interview, to conduct the interviews, and to determine their preferred candidate. Timeline for assembling the Committee and arranging interviews: spans across the first 20 weeks.
Stage 3 – Applicant	<ul style="list-style-type: none"> The preferred candidate, whom will be offered the position, is appointed by the Dean, Research School Director or appropriate College level delegate.

Level E Appointments	
Stage 1 – Pre-Recruiting and Advertising	<ul style="list-style-type: none"> It is standard for the appointment process to commence by the nature of the role and its advertising being considered. Then, for a candidate pack and information book to be created in relation of the same. Finally, for a Selection Committee to be established.
Stage 2 – Shortlisting, Interviewing and selecting applicants	<ul style="list-style-type: none"> Undertaken by the Selection Committee The Committee is composed of the following: <ul style="list-style-type: none"> <u>For a Professorial Appointment Only</u>: the same composition as required for Level A-D appointments. <u>For an Appointment that Includes and Extends beyond a Professorship i.e. as well as being Dean or a Head of Research</u>: The Vice-Chancellor, the Provost, a Dean from the prospective appointee’s college as well as another College, external person(s) with experience in the relevant field. The Committee is usually composed of up to six to nine members. If a prospective candidate is indigenous, then the Committee with also include an indigenous representative. The Committee meets to review the candidates for interview, to conduct the interviews, and to determine their preferred candidate. Timeline for assembling the Committee and arranging interviews: spans across the first 23 weeks.
Stage 3 – Applicant	<ul style="list-style-type: none"> The preferred candidate, whom will be offered the position, is appointed by the Provost and Vice Chancellor as delegate for Level E.

Current Labour Market Testing Practices Employed at
CQUniversity Australia



Academic Recruitment Timelines for CQUniversity Australia

Level A - D Appointments	
<i>Weeks</i>	<i>Activity</i>
1 - 2	Discussing position requirements, creating a new position in the system and developing and evaluating the position description.
3 - 6	Advertise position to market to cover 28-day LMT requirement.
7 - 9	Panel members review applications and complete shortlisting of applicants.
10 - 12	Find a suitable time for all panel members to interview applicants and formally schedule these allowing applicants 5 days' notice of their interview.
13 - 14	Conducting reference checks and preparing recommendation of appointment documentation.
15 - 16	Preparing a formal letter of offer and receiving signed acceptance supported by all other requirement documentation.
17 - 18	Discussing visa requirements and preparing visa nomination.

Level E Appointments	
<i>Weeks</i>	<i>Activity</i>
1-2	Discussing position requirements, creating a new position in the system and developing and evaluating the position description.
3-6	Advertise position to market to cover 28-day LMT requirement.
7-9	Panel members review applications and complete shortlisting of applicants.
10-12	Find a suitable time for all panel members to interview applicants and formally schedule these allowing applicants 5 days' notice of their interview.
13-14	Conducting reference checks and preparing recommendation of appointment documentation.
15-16	Obtaining approval from the Vice-Chancellor for the successful applicant to the appointment of a Professor level, prior to a formal offer being issued.
17-18	Preparing a formal letter of offer and receiving signed acceptance supported by all other requirement documentation.
19-20	Discussing visa requirements and preparing visa nomination.

Labour Market Testing, Selection & Appointment Processes for CQUniversity Australia

Level A-E Appointments	
<p>Stage 1 – Pre-Recruiting and Advertising</p>	<ul style="list-style-type: none"> • The recruitment process is initiated by the area (School/Directorate) sending a completed request to fill and relevant approvals through to the employment team to action a recruitment process. Depending on the area and position the general approvals that will be required is (Dean/Director/PVC, DVC/Provost, and Budget). • In some cases, a new position is required to be created by our HR Systems team. Additionally, new position description may be required to be drafted and evaluated or updated. • An employment consultant will have a discussion with the supervisor of the area to determine a recruitment strategy. This will highlight advertising platforms, panel composition, identify issues that may be experienced. • Position will then be advertised (the standard for these levels of appointments is 4 weeks, in some cases could be longer).
<p>Stage 2 – Selecting and Interviewing Applicants</p>	<ul style="list-style-type: none"> • The chosen selection panel will conduct and hold the interview. Most panels will consist of 3-4 members (at least one panel member must have competed our recruit for success training). Level D and E appointments require the Provost or the DVC (Research), or their nominee to be invited to participate on the panel. Senior leadership roles will also require the Associate Vice Chancellor of that campus to be invited onto the panel. • Once the position has closed that panel will review the applications and completed their shortlisting. • The panel will complete an interview details form so interviews can be arranged and conducted. Once this has been completed, a preferred applicant is selected.
<p>Stage 3 – Applicant</p>	<ul style="list-style-type: none"> • Formal letter of offer is drafted to be issued to the first preferred applicant. If relocation or a visa is required, we will seek Dean / Director approval for the cost involved. • Await signed acceptance and documentation from applicant (we generally allow for a 1-week response period). • Note: If this is a level E appointment – we are required to seek the Vice-Chancellor’s approval for the preferred applicant prior to issuing an offer.

Central Queensland University

CQUniversity – Notes on the Impact of Required LMT Timeframes

We would like to provide an example where the 4-month LMT period has caused a great amount of frustration and anxiety for CQUniversity Australia.

We were recruiting for a Senior Lecturer in Chiropractic at our Brisbane campus. The position was advertised for 28 days to meet LMT requirements. Shortlisting and interviews were conducted quickly – within 2 weeks of the vacancy closing.

The successful applicant was in Texas, United States and therefore required Australian work rights and an international relocation to take up the position – both large budget considerations that needed to pass through the Dean of School for approval. The Dean was on leave and it took quite some time to finally receive approval for the visa and relocation costs associated with the appointment.

It was then later identified that the successful applicant held a qualification where verification was required to determine whether it met the requirements of the Australian Qualifications Framework (AQF) for a Level C appointment. A professional experience equivalency assessment was then conducted on the successful applicant, requiring extensive investigation and research, and then finally Dean and Provost approval.

Both these processes took up a significant amount of the maximum 4-month LMT period.

A formal offer was then prepared and sent to the successful applicant which was then heavily scrutinised by the applicant. They requested fortnightly pay breakdowns, questioned superannuation options and explored salary packing. They then requested a higher step level, which required panel consideration. By the time the formal offer was amended, sent and accepted by the applicant, another 6 weeks had passed.

By the time the offer was accepted, the 4-month LMT period had expired requiring CQU to either re-advertise or to determine whether alternative arrangements to LMT could be utilised. More than 8 months have passed in recruiting this important position for CQU. The issue is not that CQU has not undertaken adequate LMT but rather that our LMT process has been extensive and protracted to ensure that the labour market has been properly tested. For this reason, CQU like many other universities, would benefit from not having a maximum timeframe imposed on its LMT activities which are dictated by internal university protocols and requirements.

**Current Labour Market Testing Practices Employed at
Charles Sturt University**



Academic Recruitment Timelines for Charles Sturt University

Level A - C Appointments	
Weeks	Activity
1 - 4	Recruitment consultation and scoping of role. Review position requirements, workforce requirements and develop advertising and assessment strategies.
5 - 10	Advertise, typically between 4-6 weeks
11	Compile applications and send to the selection committee to review. Provide advice re: special conditions or special requirements. Facilitate the acceptance of late applications.
12 - 13	Selection committee review applications, including the consideration of any late applications. Finalise administrative requirements.
14	Invite candidates to interview Administer any required assessments Facilitate interview bookings and travel requirements.
15 - 16	Selection Committee undertake interviews either face to face or via web/phone interview
17 - 18	Reference checks undertaken
19	Verbally offered position and negotiate terms and conditions
20 - 28	Formal offer of employment issued and given 7-10 days to consider (usually extended for a further 4 -8 weeks for deliberations)
29	Offer accepted or declined and move to eligibility list.

Level D - E Appointments	
Weeks	Activity
1 - 6	Recruitment consultation and scoping of role. Review position requirements, workforce requirements and develop advertising and assessment strategies.
7 - 14	Advertise, typically between 4-8 weeks
15	Compile applications and send to the selection committee to review. Provide advice re: special conditions or special requirements. Facilitate the acceptance of late applications.
16 - 17	Selection committee review applications, including the consideration of any late applications. Finalise administrative requirements.
18	Invite candidates to interview Administer any required assessments Facilitate interview bookings and travel requirements.
19 - 22	Selection Committee undertake interviews either face to face or via web/phone interview
23 - 25	Reference checks undertaken
26 - 31	Site visit or second round interviews and/or further assessment/s undertaken for candidates
32 - 33	Verbally offered position and negotiate terms and conditions
34 - 41	Formal offer of employment issued and given 7-10 days to consider (usually extended for a further 4 -8 weeks for deliberations)
42	Offer accepted or declined and move to eligibility list.

Labour Market Testing, Selection & Appointment Processes for Charles Sturt University

Level A - C Appointments	
<p>Stage 1 – Pre-Recruiting and Advertising</p>	<ul style="list-style-type: none"> • Hiring manager initiates a recruitment consultation with the recruitment team/HR, where workforce needs are considered and advertising/assessment strategies are discussed prior to approval. • Approval is sought based on this conversation and recommendations. • Advertising commences once approved by the delegated officer.
<p>Stage 2 – Selecting and Interviewing Applicants</p>	<ul style="list-style-type: none"> • Undertaken by nominated selection committee approved by the Delegated Officer prior to advertising. Usually constituted by: <ul style="list-style-type: none"> – The Executive Dean/Centre Director with direct line responsibility for the vacant position (Presiding Officer) and/or; – The Head of the relevant School (Presiding Officer in the event the Executive Dean/Centre Director elects not to be on the selection committee); – A specialist in the discipline/vocational area to which the appointment is to be made; and – May also include another person external to the School/ Faculty/Centre or external to the University who is a specialist in the discipline/ vocational area to which the appointment is to be made. • The committee review applications, shortlist applications and interview applicants and make recommendations on preferred candidates. • The timeframe between a position closing and interview date is dependent on selection committee and candidate (both domestic and international) availability. • Other forms of assessment such as skills, presentation or psychometric tests are also review and considered by the selection committee either pre or post interview. • Reference checks are conducted by the selection committee presiding officer or delegate. Finalisation of these checks are also impacted by availability of the referee (domestic or international).
<p>Stage 3 – Applicant</p>	<ul style="list-style-type: none"> • Approval to appoint an applicant must be approved by the delegated officer prior to written contracts being offered. • Typically a contract of employment is issued within 5 days of formal approval. • Once a contract is issued a candidate is given 7-10 days to consider. International candidates often seek an extension of this up to 4-8 weeks.

Level D - E Appointments	
<p>Stage 1 – Pre-Recruiting and Advertising</p>	<ul style="list-style-type: none"> • Hiring manager initiates a recruitment consultation with the recruitment team/HR, where workforce needs are considered and advertising/assessment strategies are discussed prior to approval. • Approval is sought based on this conversation and recommendations. • Advertising commences once approved by the delegated officer.
<p>Stage 2 – Selecting and Interviewing Applicants</p>	<ul style="list-style-type: none"> • Undertaken by nominated selection committee approved by the Delegated Officer prior to advertising. Usually constituted by: <ul style="list-style-type: none"> – The Deputy Vice-Chancellor with direct line responsibility for the vacant position Presiding Officer; – The Executive Dean/Centre Director of the relevant Faculty; – An Executive Dean/Centre Director, Professor or Associate Professor from another Faculty/Centre; and – May also include another person external to the University of professorial rank (or equivalent) who is a specialist in the discipline/vocational area to which the appointment is to be made. <i>Notes: The Vice-Chancellor may elect to serve on this committee as Presiding Officer. The relevant Head of School may also be considered as an addition to the committee.</i> • The committee review applications, shortlist applications and interview applicants and make recommendations on preferred candidates.

	<ul style="list-style-type: none"> • The timeframe between a position closing and interview date is dependent on selection committee and candidate (both domestic and international) availability. • Other forms of assessment such as presentations or psychometric tests are also review and considered by the selection committee either pre or post interview. • Reference checks are conducted by the selection committee presiding officer or delegate. Finalisation of these checks are also impacted by availability of the referee (domestic or international). • If candidate is not interviewed face to face, a follow up site visit/second round interview is arranged. This can often add 4-8 weeks to the selection process.
<p>Stage 3 – Applicant</p>	<ul style="list-style-type: none"> • Approval to appoint an applicant must be approved by the delegated officer prior to written contracts being offered. • Typically a contract of employment is issued within 5 days of formal approval. • Once a contract is issued a candidate is given 7-10 days to consider. International candidates often seek an extension of this up to 4-8 weeks.

Charles Sturt University – Notes on the Impact of Required LMT Timeframes

Charles Sturt University gives careful consideration to the labour market when determining whether to make a position available to international candidates. If our market intelligence and experience suggest that we may not be able to find an academic with the specialist discipline knowledge required from within the Australian labour market, we open the position to foreign applicants to ensure that critical positions are filled in support of our teaching and research programs. Given our careful consideration of the Australian labour market in the first instance and our rigorous and lengthy recruitment process, the current LMT requirement of reaching the nomination point within 16 weeks of first advertising for at least 28 days places unrealistic and difficult to achieve time pressure on our thorough and comprehensive recruiting processes.

Current Labour Market Testing Practices Employed at
James Cook University (JCU)



Academic Recruitment Timelines for James Cook University

Level A - E Appointments	
Weeks	Activity
1 - 2	Complete the request to advertise process gaining Dean, Finance and DVC approvals – request is submitted to HR for action.
3 - 4	Upon receipt of approved request, HR hold initial client discussions to determine hiring needs including undertaking the advertising and candidate brief. Review the Academic Duty Descriptor and make adjustments as required. Create/develop the advertising proposal, advertisement and application guide for Hiring Manager’s consideration and amendment.
5 - 8	Upon finalisation of attraction documentation, undertake advertising on external job boards and through university networks.
9 - 11	Once the vacancy closes the Panel Assistant compiles applications and distributes to the panel. The panel undertake shortlisting and initial screening process. The Panel Assistant invites candidates to interview and notifies unsuccessful candidates.
12 - 13	Panel undertakes interview process – this can be extended where candidates are travelled to participate in the interview, or reduced where candidates are interviewed via Skype.
14	Reference checks and other appropriate pre-employment checks are undertaken
15 - 16	Approval to appoint process undertaken seeking Dean, Finance and DVC approvals Verbal offer and negotiations undertaken once approval received
17	HR generate an offer of employment contract and produce the JCU new starter information pack
18 - 19	Candidate has 10 days to consider offer and return documentation
20 +	On-boarding process for sponsorship and relocation commences and will vary dependent upon visa type, location of origin, candidate notice period and relocation requirements. Where a familiarisation visit is offered to the preferred candidate this can extend the period for an additional 2-3 weeks.

At JCU the process to recruit all academic levels is the same with the exception of ‘hard to fill’ or niche academic roles when an executive search firm may be engaged at the discretion of the hiring manager.

Labour Market Testing, Selection & Appointment Processes for James Cook University

Level A - E Appointments	
Stage 1 – Pre-Recruiting and Advertising	<p>Prior to recruiting positions at JCU a recommendation is put forward by the Head of Academic Group to the College Dean. The College Dean obtains Finance approval which is then approved by the Deputy Vice Chancellor.</p> <p>This process provides approval to fill the vacancy, plus allocate funding for advertising and determines the attraction strategy required to fill the position ie. internal, external or executive search firm recruitment.</p> <p>All recruitment processes require the HR team to have completed a candidate brief discussion with the Hiring Manager to determine the degree of difficulty to fill the role and determine an appropriate attraction/marketing strategy.</p> <p>Advertising is undertaken through standard online and print mediums however is tailored to suit the discipline area and target audience and budget.</p> <p>Hiring managers are required to cover the cost of all advertising and agency engagements. There is no centrally held budget for recruitment.</p>
Stage 2 – Selecting and Interviewing Applicants	<p>JCU have a decentralised selection process whereby the Hiring Manager acts as the Panel Chairperson and leads the selection process with their panel. This is undertaken with guidance as required from HR in accordance with JCU Policy, Procedure and Guidelines. Panel composition is detailed in the JCU HR Best Practice Recruitment, Selection and Appointment Guide and varies depending on the level of the position.</p>
Stage 3 – Applicant Approval	<p>Once the selection process is complete, approval is required prior to appointing the candidate. The Hiring Manager / Head of Academic Group puts forth the recommendation to the Dean who gains Finance and DVC approval prior to submitting to HR for processing.</p> <p>The Dean will allocate funding for sponsorship or relocation in line with procedures and as needed.</p>

James Cook University – Notes on the Impact of Required LMT Timeframes

- As part of the on-boarding process prior to contract acceptance, the candidate may be invited to visit campus for a familiarisation visit given Townsville and Cairns are in regional areas and offer a different lifestyle to universities in major centres. In many instances this is for senior academic or niche academic roles which are difficult to fill. The familiarisation visit can extend the on-boarding process by 2-3 weeks depending on the country or state of origin of the candidate, their availability and the availability of the hiring manager. This can also be impacted by semester timeframes.
- For senior academic roles, candidates may have an extended notice period of up to 6 months or are required to finish the semester of teaching. This can impact their ability to accept a contract within the 10 days as they often have to negotiate with their current employer which can also protract the recruitment timelines.
- Where an executive search firm (or ‘headhunter’) is engaged to recruit niche or senior academic roles the recruitment timeframe is undertaken over a minimum 20 week period which includes the advertising period, with the contract negotiation occurring post the 20th week. Given JCU’s location it is not unusual to engage an executive search firm for all levels of Academia with appropriate approvals and budget.
- The timeframes provided above are based on best-practice but can alter significantly depending on the panel availability and whether recruitment is occurring before or during semester.
- The current LMT timeframes are restricting JCU’s academic recruitment particularly for niche or hard to fill roles which are difficult to fill without the added level of restriction applied by the LMT timeframes and more so given the added difficulty of filling within 4 months. Given the regional location of JCU campuses we have difficulty encouraging suitable candidates to relocate and in many instances, they request we provide travel either for an interview or during the contract negotiation process. This can protract the selection process and mean that the 3 months to complete the selection process is not viable. The levels of approvals required can also protract the timeframes and given the panel composition requirements securing senior leaders to act as panel members can mean interviews cannot be held for up to 6 weeks post the closing of the vacancies. Academics are accustomed to protracted selection timeframes which can often work in their favour given their teaching and research workloads and commitment to student facing work during semesters, however does not fit within the Department’s LMT timeframes and this limits JCU’s ability to provide a positive candidate experience.

Current Labour Market Testing Practices Employed At
The University of Adelaide



Academic Recruitment Timelines for The University of Adelaide

Level A - D Appointments	
Weeks	Activity
1 - 4	Consideration for scope and nature, of role to be recruited. This includes, whether the role will be advertised nationally and/or internationally. Further, developing associated documents for recruitment; such as the position description. This is usually undertaken by the Head of Department.
5 - 8	Advertise the role for a duration of 28 days.
9 - 10	Shortlist applications and book candidates to interview.
11 - 16	Interview candidates by Skype. Candidates may be flown in for interview and presentation.
17 - 18	Reference checks and contract negotiations.
19 - 23	Approval of appointment and offer sent. For international appointees, a visit to the University may be arranged.
24 - 27	Formal acceptance received. Visa process begins.

Level E Appointments	
Weeks	Activity
1 - 4	Consideration for scope and nature, of role to be recruited. This includes, whether the role will be advertised nationally and/or internationally. Further, developing associated documents for recruitment; such as the position description.
5 - 6	Develop a recruitment strategy and seek proposals from executive search firms.
7 - 8	Engage an appointment committee and create advertising documentation. Choose an executive search firm.
9 - 14	Advertise through print and online resources (minimum 29 days to meet LMT).
15 - 16	Longlist presented.
17 - 19	Shortlist presented. Book candidates to interview, including travel and accommodation.
20 - 21	Zoom/Skype initial interviews with candidates.
22 - 23	Formal interviews with candidates in Adelaide
24 - 26	Conduct reference checks and contract negotiations. Approval of appointment and offer sent.
27	Formal acceptance received. Visa process begins.
28	Announcement made to University community, dependant on candidate's resignation status.

Labour Market Testing, Selection and Appointment Processes for The University of Adelaide

Level A - D Appointments	
Stage 1 – Pre-Recruiting and Advertising	<ul style="list-style-type: none"> It is standard for the appointment process commences by the Head of Department seeking approval to create a new position or fill a vacant position from the head of budget or a delegate. Then, for the Head of Department to arrange for the advertising of the position.
Stage 2 – Shortlisting, Interviewing and selecting applicants	<ul style="list-style-type: none"> Undertaken by an Appointment Committee / Selection Panel. It is standard for the Committee to be composed of approximately 15 people. This is usually constituted by the Head of School; an associate Dean; a Head of Department; and, director of gender diversity. The Committee meets to review the candidates for interview, to conduct the interviews, and to determine their preferred candidate. Timeline for assembling the Committee and arranging interviews: spans across the first 10 weeks and takes, at minimum, 4-6 weeks. This is significantly influenced by balancing the availability of Committee members; and, domestic and international applicants.
Stage 3 – Applicant	<ul style="list-style-type: none"> Approval of the applicant must go through delegations of authority: <ul style="list-style-type: none"> External stakeholders, have their opinion considered in the selection of the applicant. The Head of School, extends the offer and engages in contractual negotiation. Finance, approves the position. The Recruitment and Strategic Appointment Manager, finalises the contract. The process of approval of the applicant takes approximately two weeks.

Level E Appointments	
Stage 1 – Pre-Recruiting and Advertising	<ul style="list-style-type: none"> It is standard for the appointment process commences by the highest academic members of the University considering the need for a new appointment. Then, by arranging advertising for that same position.
Stage 2 – Shortlisting, Interviewing and selecting applicants	<ul style="list-style-type: none"> Searching for candidates is undertaken by an executive search firm selected by the University. An Appointment Committee / Selection Panel of the University then reviews the lists provided by the executive search firm. These lists are narrowed down to a short list of four candidates which are interviewed by the Committee. The Committee is composed of the following: The Vice Chancellor; Deputy Vice Chancellors; the Provost; the Executive Dean; and, external stakeholders. The Committee meets at all stages of list review, and selection being at least three to four times. Timeline for assembling committee and arranging interviews: spans across the first 19 weeks.
Stage 3 – Applicant	<ul style="list-style-type: none"> Approval of the applicant must go through delegations of authority: <ul style="list-style-type: none"> External stakeholders, have their opinion considered in the selection of the applicant. A senior member extends the offer and engages in contractual negotiation. Finance, approves the position. The Recruitment and Strategic Appointment Manager, finalises the contract. The process of approval of the applicant takes approximately two weeks.

The University of Adelaide – Notes on the Impact of Required LMT Timeframes

1. The University of Adelaide affirms that the University takes seriously its academic recruitment. The University often engages domestic and international advertising to seek highly-skilled labour for their academic appointments. This is particularly true of senior appointments.
2. Regarding senior appointments, the key interests taken into consideration are those of the Institution, its commonly-Australian external stakeholders, and the needs of the University's preferred candidate. In a particular instance, balancing these interests has caused the recruitment process to take a year.
3. It is naturally in the interests of the Australian University to expedite its recruitment process as well as recruit the highest-skilled talent for its academic positions. However, it is the University's opinion that to be globally competitive, interests of expedition cannot outweigh interests of selecting the best talent.
4. The University of Adelaide has repeatedly found that the timeframe imposed by LMT requirements to be overly restrictive. This is owing to the need for its recruitment to be more comprehensive, and therefore take a longer period, than the legal position will allow.

Current Labour Market Testing Practices Employed at
University of Canberra



Labour Market Testing, Search, Selection & Appointment Processes for University of Canberra

Level A-D Appointments	
<p>Stage 1 Planning Phase & Promoting Role to Market (Advertising)</p>	<ul style="list-style-type: none"> • Selection process commences by Head of Faculty/Discipline seeking approval to create new position or fill a vacant position from Delegate and/or HR Delegate. • Position description and attraction strategy confirmed, advertisement developed, and role advertised. <p>Timeline to undertake Planning Phase 1 – 2 weeks.</p> <p>Roles requiring highly specialist academic expertise will be advertised for at least 3 to 4 weeks, process may be longer should comprehensive and targeted academic search undertaken.</p>
<p>Stage 2 – Selection Process</p>	<ul style="list-style-type: none"> • Shortlisting of applicants undertaken by Selection Panel/Committee. • Initial shortlisted applicants may be asked to undertake further assessment to support claims to role (One-way video interview, Written Tests, psychometric testing). • Applicant’s further assessment is considered by Selection Panel and with further shortlisting is undertaken to determine candidates who will be then invited to formal interview with Selection Panel. Panels may have up to 6 to 8 members, depending on role. • Preferred candidate determined, with validation of credentials/reference checks undertaken. <p>Timeline to undertake selection process can be up to 4 to 6 weeks although can be directly impacted by availability of applicants and panel members.</p>
<p>Stage 3 Offer and Appointment</p>	<ul style="list-style-type: none"> • Hiring Manager must get approval to progress to offer. • Approval granted; Hiring Manager progresses to offer/contractual negotiation. • Applicant accepts verbal offer, formal offer contract produced. • Applicant accepts formal contract. <p>Timeline to undertake offer and appointment process is generally 1-2 weeks</p>

Level E Appointments	
<p>Stage 1 Planning Phase & Promoting Role to Market (Advertising)</p>	<ul style="list-style-type: none"> • Selection process commences by Head of Faculty/Discipline seeking approval to create new position or fill a vacant position from Delegate and/or HR Delegate. • Position description and attraction strategy confirmed, dependent on role: <ul style="list-style-type: none"> - Advertisement will be developed, and role advertised - In addition to advertisement the University may engage a specialist search firm to undertake a targeted search. <p>Timeline to undertake Planning Phase 1 – 2 weeks.</p> <p>Roles requiring highly specialist academic expertise will be advertised for at least 3 to 4 weeks, process may be longer should comprehensive and targeted academic search undertaken, this could add 4-6 weeks to the process.</p>
<p>Stage 2 – Selection Process</p>	<ul style="list-style-type: none"> • Shortlisting of applicants undertaken by Selection Panel/Committee. The Selection Panel consists of Senior Executives including the Vice Chancellor, Deputy Vice Chancellor, Chief Executive People and Diversity or delegate, Executive Dean and external stakeholders. All participants are actively involved in the shortlisting and recruitment process. • Initial shortlisted applicants may be asked to undertake further assessment to support claims to role (One-way video interview Written Tests, psychometric testing).

	<ul style="list-style-type: none"> • Applicants further assessment is considered by Selection Panel and with further shortlisting is undertaken to determine candidates who will be then invited to formal interview with Selection Panel, Panel's may have up to 6 to 8 members, depending on role. The Committee will meet at various stages during the process. • Preferred candidate determined, with validation of credentials/reference checks undertaken <p>Timeline to undertake selection process can be up to 8 to 10 weeks although can be directly impacted by availability of applicants and panel members.</p>
<p>Stage 3</p> <p>Offer and Appointment</p>	<ul style="list-style-type: none"> • Hiring Manager must get approval to progress to offer • Approval granted; Hiring Manager progresses to offer/contractual negotiation • Applicant accepts offer, contract produced • Applicant accepts formal contract <p>Timeline to undertake offer and appointment process is generally 1-2 weeks</p>

University of Canberra – Notes on the Impact of Required LMT Timeframes

- Recruitment processes relating to Academic appointments can be sometimes protracted due to the level and speciality of the role, applicants are generally not immediately available to attend multiple interviews, undertake specific assessments and/or commence in positions due to employment commitments and particularly work/academic commitments for example it can take up to 6 months from acceptance until commencement.
- Recruitment obligations in relation to current labour market testing do not naturally or easily align with the reality of recruitment, the lead time to engage with and for candidates to consider the opportunity may take several months, particularly if candidates need to relocate from international locations.
- Notice periods for Academics could be as long as 12 months, hence processes need to commence well in advance to enable business requirements to be met.
- The recruitment of specialist academics is highly competitive with individuals not restricted by location, with many international University's competing for Australian Academics and vice versa Australian University's competing for global talent. The current labour market testing framework requiring roles to be advertised for up to 28 days with a successful candidate accepting within 4 months of commencement is prohibitive in a competitive market.

**Current Labour Market Testing Practices Employed
UNSW Canberra and other Faculties at UNSW Sydney**



Academic Recruitment Timelines for UNSW Canberra and other Faculties

Level A - D Appointments	
Weeks	Activity
1 - 4	Faculty identify need for new employee. Create business case to support the appointment. Create position in system, create Position Description. Approval to recruit via Faculty & Management Board. Briefing of the internal Recruitment team. Confirm selection panel
5 - 12	Advertising – most academic roles are advertised for 4-8 weeks, sometimes 12 weeks. At the same time we also proactively reach out to suitably qualified candidates to encourage them to apply.
13 - 14	Review of applications by the Recruitment team
15 - 16	Shortlisting – the Selection Panel meets to review longlisted candidates and choose shortlist of candidates to interview.
17 - 18	Interviews – the candidates are interviewed by the panel. The candidates usually stay for up to a week to meet Faculty and make presentations
19 - 20	Negotiation of contract terms / References / Background checks
21	Approval by Faculty
22	Offer, Offer acceptance & Commence Visa process

Level E Appointments	
Weeks	Activity
1 - 4	Faculty identify need for new employee. Create position in system, create Position Description. Approval to recruit via Faculty & Management Board. Briefing of the internal Recruitment team. Confirm selection panel
5 - 16	Advertising – Professorial roles are advertised for 8-12 weeks. At the same time we also proactively reach out to suitably qualified candidates to encourage them to apply. Sometimes this is outsourced to a Search firm.
17 - 18	Review of applications by the Recruitment team
19 - 20	Shortlisting – the Selection Panel meets to review longlisted candidates and choose shortlist of candidates to interview.
21 - 22	Interviews – the candidates are interviewed by the panel. The candidates usually stay for up to a week to meet Faculty and make presentations
23 - 28	Negotiation of contract terms / References / Background checks. Professorial negotiations tend to be more complex as there is often a requirement to build a business case to hire additional people or purchase equipment to support their research,
28 - 29	Approval by Faculty
29 - 30	Approval by Management Board
31	Offer, Offer acceptance & Commence Visa process

Labour Market Testing, Selection & Appointment Processes for UNSW Canberra and other Faculties

Level A - D Appointments	
Stage 1 – Pre-Recruiting and Advertising	The Faculty will either have a resignation or a plan to grow in a field of research. A business case will be created to support the need for the role. The position Description is created and approved. Band level is approved. Strategy for filling the role is agreed. Approvals to recruit are granted. Advertising is always a minimum of 4 weeks, often 8 weeks, sometimes 12 weeks.
Stage 2 – Shortlisting, Interviewing and selecting applicants	Selection Panel members review all suitably qualified applicants against the selection criteria. The shortlist is chosen and candidates invited to interview. Formal interviews are followed by meetings with Faculty and presentation of at least 1 seminar. Panel composition: Presiding Member: Dean (for Associate Professor), Deputy Dean or Head of School (for other levels) Other Selection Committee Members: <ul style="list-style-type: none"> • Head of School or Research Centre or another senior academic staff member external to the School /Centre if HOS/HOC is the Presiding Member • Another member of the academic staff of the School
Stage 3 – Applicant	Levels A-C are approved within the Faculty. Level Ds are approved by the Faculty and also the DVC Education

Level E Appointments	
Stage 1 – Pre-Recruiting and Advertising	The Faculty will either have a resignation or a plan to grow in a field of research. A business case will be created to support the need for the role. The position Description is created and approved. Band level is approved. Strategy for filling the role is agreed. Approvals to recruit are granted. Advertising is usually 8 weeks, sometimes 12 weeks.
Stage 2 – Shortlisting, Interviewing and selecting applicants	Selection Panel members review all suitably qualified applicants against the selection criteria. The shortlist is chosen and candidates invited to interview. Formal interviews are followed by meetings with Faculty and presentation of at least 1 seminar. Panel composition: Presiding Member: Dean Other Selection Committee Members: <ul style="list-style-type: none"> • An academic member of the Management Board (VC, SDVC, DVC's or Academic Lead for EDI) • Head of School or Research Centre
Stage 3 – Applicant	Once the preferred candidate has been identified, and the business case for any additional resources agreed, the Academic member of the Management Board who sat on the panel presents the candidate to the Management Board for approval.

UNSW Canberra and Other Faculties at UNSW Sydney – Notes on the Impact of Required LMT Timeframes

1. UNSW's academic recruitment processes often extend beyond the 4 month time limit for Labour Market testing. In these instances we are currently required to readvertise the role even though we have already identified the preferred candidate. This is damaging to the reputation of both UNSW and the broader Australia Higher Education industry.
2. Whilst the timing of recruitment processes listed above is our target, over the past 12 months we have had 102 academic recruitment processes extend beyond the 4 month advertising limit. The average time to offer acceptance for those roles that extended beyond 4 months was 28 weeks.



Current Labour Market Testing Practices Employed at University of Wollongong (UOW)

Academic Recruitment Timelines for UOW

Level A - D Appointments	
Weeks	Activity
1 - 4	Scoping of position completed by Hiring Manager (usually Head of School) including, job briefing / position information, candidate information pack, advertising requirements (national or international), completion of recruitment request, faculty consultation and approval processes, composition of selection committee (specified by level of position and embedded in Recruitment and Selection Policy), determination of requirements for recruitment process (interviews, presentations, other selection tools)
5	All documentation finalised, final approval processes completed
6 - 9	Advertising for position
10	Applications compiled and provided to selection committee for review
11 - 13	Selection committee convened for shortlisting
14	Interviews for shortlisted candidates scheduled
15 - 18	Interviews held (includes face to face and remote), for international applicants this may include a university visit
19 - 21	Presentations and other appropriate selection processes completed
22	Selection committee reconvenes to determine preferred candidate/s
23 - 24	Reference checking completed
25	Reference checks provided to selection committee to make final selection determination
26	Contract negotiations, which may include provision of research/lab space, staffing requirements, funding grants and other resources
27 - 28	Formal offer, candidates provided with 2 weeks to consider offer and provide formal acceptance
29	Formal acceptance of offer
30	Commencement of visa application process

Level E Appointments	
Weeks	Activity
1 - 6	Scoping of position completed by Hiring Manager (usually Head of School) including, job briefing / position information, candidate information pack, advertising requirements (national or international), completion of recruitment request, faculty consultation and approval processes, composition of selection committee (specified by level of position and embedded in Recruitment and Selection Policy), determination of requirements for recruitment process (interviews, presentations, other selection tools)
7	All documentation finalised, final approval processes completed
8 - 12	Recruitment strategy determined including tender process, selection, engagement and briefing of executive search firm (common for Level E and senior positions)
13 - 20	Advertising and executive search activities undertaken (minimum 4 weeks, but may be 8-12 weeks depending on specific academic discipline and the size of the talent pool)
21 - 22	Longlist presented
23 - 24	Shortlist presented
25	Interviews for shortlisted candidates scheduled
26 - 28	Interviews held (includes face to face and remote), for international applicants this may include a university visit
29 - 30	Presentations and other appropriate selection processes completed
31	Selection committee reconvenes to determine preferred candidate/s
32 - 33	Reference checking completed

University of Wollongong

34	Reference checks provided to selection committee to make final selection determination
35 - 37	Contract negotiations commence which may include provision of research/lab space, staffing requirements and other resources, Vice-Chancellor approval (policy requirement for all Level E positions)
38	Formal offer, candidates provided with 2 weeks to consider offer and provide formal acceptance
39	Formal acceptance of offer
40	Commencement of visa application process

Labour Market Testing, Selection & Appointment Processes for UOW

Level A - D Appointments	
Stage 1 – Pre-Recruiting and Advertising	Recruitment processes are commenced by the faculty, usually the Head of School. The selection process and requirements are determined in consultation with the Executive Dean of the Faculty. This may include presentations to the selection committee, the school or the whole faculty. Documentation prepared includes a position description, candidate information specific to the discipline/school and faculty.
Stage 2 – Selecting and Interviewing Applicants	<p>The selection committee is responsible for choosing applicants to be interviewed. The interview process includes at least 1 interview, but may include a presentation or similar (as outlined above). Second and subsequent meetings may also include presentations to faculties and schools. The logistics for these forums need to be considered around teaching schedules and availability. The selection committee composition is prescribed by policy and must include the Vice-Chancellor or designate, leadership and faculty representatives and an external/independent staff member. It is not uncommon for universities to include external panel members as part of their process, and indeed this is a requirement of many university recruitment and selection policies. Similar to reasons stated above, and consideration of their own teaching workloads, this adds more complexity to the interview process. The committee convenes to shortlist, interview and determine preferred candidate/s who will proceed to the next stage of the process. The process also include reference checking, normally 2 references. Given the nature of the global academic labour market, candidates will often be based overseas or travelling for teaching and/or research purposes. This makes the scheduling of interviews (for both candidates and panel members) more complicated. In our experience, reference checking for academic positions also takes longer. Global mobility of academics means that referees are often located overseas, and given time differences this delays completion of reference checking</p> <p>A typical selection committee includes the following members as a minimum:</p> <ul style="list-style-type: none"> • Executive Dean of Faculty • Faculty Associate Dean (Research) • Head of School/Academic Unit • Representative of Faculty • External person or Independent Staff Member
Stage 3 – Applicant	Final approval to make an offer to the preferred candidate is agreed by the selection committee and the Executive Dean of the faculty. During contract negotiations, where additional resources (staffing, lab space etc.) are discussed, additional financial approvals must be obtained before proceeding. This can result in additional delays to the hiring process, and being able to finalise an offer for the preferred candidate.

Labour Market Testing, Selection & Appointment Processes for UOW (Continued)

Level E Appointments	
Stage 1 – Pre-Recruiting and Advertising	Recruitment processes are commenced by the faculty, usually the Executive Dean. This will include interviews, but also may include presentations to the selection committee, the school or the whole faculty. Documentation prepared includes a position description, candidate information specific to the discipline/school and faculty. Where ‘search’ firms are engaged, the timeframe extends as their outreach activities go beyond the usual advertisement, application process. Their processes include extensive screening which takes several weeks.
Stage 2 – Selecting and Interviewing Applicants	<p>The selection committee is responsible for choosing applicants to be interviewed. The interview process includes at least 1 interview, but may include a presentation or similar (as outlined above). Second and subsequent meetings may also include presentations to faculties and schools. The logistics for these forums need to be considered around teaching schedules and availability. The selection committee composition is prescribed by policy and must include the Vice-Chancellor or designate, leadership and faculty representatives and an external/independent staff member. It is not uncommon for universities to include external panel members as part of their process, and indeed this is a requirement of many university recruitment and selection policies. Similar to reasons stated above, and consideration of their own teaching workloads, this adds more complexity to the interview process. The committee convenes to shortlist, interview and determined preferred candidate/s who will proceed to the next stage of the process. The process also include reference checking, normally minimum 2 references. Given the nature of the global academic labour market, candidates will often be based overseas or travelling for teaching and/or research purposes. This makes the scheduling of interviews (for both candidates and panel members) more complicated. In our experience, reference checking for academic positions also takes longer. Global mobility of academics means that referees are often located overseas, and given time differences this delays completion of reference checking</p> <p>A typical committee includes the following members as a minimum:</p> <ul style="list-style-type: none"> • Vice-Chancellor • Deputy Vice-Chancellor or nominee • Chair of Senate • Executive Dean of Faculty • Representative of Faculty • External person or Independent Staff Member
Stage 3 – Applicant	Final approval to make an offer to the preferred candidate is agreed by the selection committee and the Executive Dean of the faculty, and ultimately approved by the Vice-Chancellor. During contract negotiations, where additional resources (staffing, lab space etc.) are discussed, additional financial approvals must be considered and obtained before proceeding. This can result in additional delays to the hiring process, and being able to finalise an offer for the preferred candidate.

University of Wollongong – Notes on the Impact of Required LMT Timeframes

The imposition of a maximum period in which LMT must be undertaken poses significant issues for university recruitment in general and UOW in particular. We note the below detailed logistical issues that must be addressed when undertaking a recruitment exercise and how all contribute to extending UOW's recruitment timeframes to well beyond 16 weeks:

- UOW's recruitment and selection processes have been designed to ensure that we optimise our capability to recruit and select the best possible staff in order to support the achievement of strategic goals. Recruitment strategies are focussed on attracting high quality candidates and selection processes are robust, reflecting best practice.
- The practical aspects and timing of recruitment processes must also take into consideration teaching obligations of participants in selection committees, to minimise conflicts with student facing activities. Requirements to include external panel members, coordinate international reference and background checking are further elements that extend the timeframe to complete an academic recruitment process.
- Where **'search' firms** are engaged, the timeframe extends as their outreach activities go beyond the usual advertisement, application process. Their processes include extensive screening which takes several weeks
- Arranging **interviews** is more complex. Given the nature of the global academic labour market, candidates will often be based overseas or travelling for teaching and/or research purposes. This makes the scheduling of interviews (for both candidates and panel members) more complicated.
- **2nd and subsequent interviews** are a normal part of the interview process. 2nd and subsequent meetings may also include presentations to faculties and schools. The logistics for these forums need to be considered around teaching schedules and availability.
- It is not uncommon for universities to include **external panel members** as part of their process, and indeed this is a requirement of many university recruitment and selection policies. Similar to reasons stated above, and consideration of their own teaching workloads, this adds more complexity to the interview process.
- In our experience, **reference checking** for academic positions also takes longer. Global mobility of academics means that referees are often located overseas, and given time differences this delays completion of reference checking.

Appendix C



1 February 2019

Dr Nadine White
Director – Human Resources

Human Resources Division

Joint Standing Committee on Legal
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CRICOS Provider No. 00120C

To the Joint Standing Committee on Legal and Constitutional Affairs,

Re: The Australian National University's letter of support accompanying the joint university submission to the Inquiry into the Effectiveness of the Current Temporary Skilled Visa System in Targeting Genuine Skills Shortages

Thank you for the opportunity to contribute to the submissions considered by the Committee. This letter is provided by The Australian National University (ANU) in support of the joint Universities Submission to the Inquiry.

As Australia's national university, ANU works with government, private sector and other research institutes to explore, investigate and develop ideas and solutions to major issues facing Australian society and the world. While our focus is Australia, our horizons are global. The legacy of our long-standing international engagement and expertise has delivered us unrivalled impact beyond our borders, particularly throughout Asia and the Pacific.

The ANU is currently educating 12,827 undergraduate and 12,534 postgraduate students. While playing an important role in educating and skilling Australian students, 36% of the University's students are attracted from overseas, driving significant revenue for the ANU. The University's annual revenue exceeds \$1.0 billion and together with Australia's other universities contributes significantly to Australia's third largest industry - the Higher Education Sector ('the Sector')- by GDP. The University has strong links with leading research institutions in Australia and overseas. It is a founding member of the International Alliance of Research Universities, a co-operative network of 10 eminent international research-intensive universities including: University of Cambridge; University of Oxford; University of California, Berkeley; Yale University; Peking University; National University of Singapore; University of Tokyo; University of Copenhagen; and ETH Zurich.

Our academic staff are at the forefront of technology development and exploration, whether it be in human health, chemical and earth sciences, public policy, the arts or the computer sciences. All are engaged in pursuing one of our key pillars of our vision: to be renowned for the excellence of our research, which will be international in scope and quality, always measured against the best in the world. Our research investment is strategic, taking a long-term view and focus on high-quality activities, high-impact infrastructure and areas of high national importance. To achieve this we seek to recruit the most

highly skilled researchers, academics and professionals working in the Sector around the globe. For many roles, local candidates are exceptionally well qualified. Therefore, for the most part the ANU recruits locally to maintain an academic and professional workforce of approximately 4,800 people. However, for 7.6% of positions recruited and sponsored for Temporary Skill Shortage visas, the local skills and experience available are not of the calibre of those working in the Sector internationally. Consequently, for these roles world-class and/or highly skilled and specialist candidates, typically employed by world-leading universities around the globe, are actively pursued by the ANU.

In order for the ANU to continue on a growth trajectory with respect to its high standing and recognition on a global scale, the ability to source and secure world-class talent is imperative. Recruitment to achieve these goals at the ANU as well as other Australian universities can only be facilitated by a Temporary Skilled Visa program that removes the current obstacles faced by Labour Market Testing (LMT) which is placing the ANU and other universities at risk of losing highly skilled and qualified candidates that cannot be sourced locally. LMT within 4 months of nomination, introduces delays and complexities to an already protracted and involved recruitment process followed by the ANU for all appointments. While it often takes up to 20 weeks to select and secure the best qualified candidate for a role, the post-selection requirement to then undertake further LMT to meet nomination requirements not only introduces the risk of alienating and losing selected candidates and potentially exposes the University to industrial action. Hence, to remain globally competitive, the Australian Higher Education Sector seeks adjustments to the current requirements in nominating already competitively and highly selected candidates for Temporary Skilled Visas.

Consequently, the ANU supports the recommendations made in our joint university submission with respect to the exemptions and amendments to immigration law and LMT requirements requested for academics and professionals employed at Australian universities. Adoption and implementation of these recommendation will greatly facilitate addressing skills shortages that the Sector currently seeks to address.

We express our sincere appreciation to the Joint Standing Committee on Legal and Constitutional Affairs for this opportunity to provide this input into its considerations around the effectiveness of the current Temporary Skilled Visa Scheme, particularly with respect to the effectiveness of the current system in targeting genuine skills shortages within the context of university recruitment and the Sector more broadly.

Sincerely,

Dr Nadine White
Director – Human Resources



Joint Standing Committee on Legal and Constitutional Affairs
100
Parliament House
100
Email: con@sen.ach.gov.au

February

Dear Joint Standing Committee on Legal and Constitutional Affairs

SUBJECT: The University of Adelaide letter of support to joint university submission to Inquiry into the Effectiveness of the Current Temporary Skilled Visa System in Targeting Genuine Skills Shortages.

Thank you for the opportunity to contribute to the inquiry.

This letter is in support of the joint universities submission coordinated by the Australian Government. The University of Adelaide endorses the recommendations put forward in the joint submission.

The University of Adelaide is a group of eight universities with a growth agenda which will require significant staff recruitment over the next ten years to realise our aspirations. The University will invest heavily in drawing outstanding talent from Australia and around the world. The profile of our staff, the quality of teaching, research and infrastructure, the relevance and quality of our programs and courses is critical to our success in attracting talented students. The University therefore must focus on attracting the best and brightest staff to Adelaide from the domestic and global market.

The University currently employs around 10,000 staff including 10,000 on permanent visas and nominate around 10,000 visas per annum. Our focus on top talent means the University of Adelaide expects to bring increasing staff numbers from both within Australia and globally. Due to increasing competition for talent in a relatively small domestic talent pool we often have to look internationally to bring suitable expertise to the University of Adelaide.

In the University context, the Labour Market Testing requirements imposed in 2008 are unrealistic and result in significant effort to fit a long and often complex recruitment process into a short and inflexible procedure, or making it difficult to fill positions where there are local shortages of a specific skill set. There may be an initial advertising period but if no suitable candidates are identified, a lengthy period of targeted local search may commence. Our senior academics will play an active part in engaging with potential staff over an extended period of time. If a suitable international candidate is identified through this search activity and more than

□ months have passed the university is then required to commence the advertising campaign for a further □□ days to satisfy □M□ even though sourcing has been active throughout this period. This is not just an onerous administrative burden, we are unable to make an offer to the candidate until that process is concluded and risk losing them to other institutions either within Australia or overseas. This is a scenario which has been repeated many times since the introduction of □M□ requirements for university lecturer positions.

The current □M□ requirements do not consider the competitiveness of international academic recruitment or the timelines associated with sourcing candidates from overseas or the possibility that an offer of employment may be declined. We would recommend that the current 3 month timeframe increase to at least □□ months or better yet removed completely for the Higher Education Sector to allow universities to focus on finding the best candidate for the role whether that is from the domestic or global market.

The University of Adelaide would like to thank the Joint Standing Committee on Equal and Constitutional Affairs for the chance to provide input into considerations in respect to the effectiveness of the current temporary skilled visa program and the □M□ requirements associated with it.

Yours sincerely,

Janessa Jones
Recruitment and Strategic Appointments Manager

On behalf of the Director, Human Resources



UNSW has the following specific areas we would like to request amendments to

- Universities are exempt from the MTE requirement
- All academic roles levels from associate lecturer to professor are exempt from MTE
- That fellows who are recipients of national funding grants are exempt from MTE
- That fellows who are recipients of funded strategic programs are exempt from MTE
- That specialist higher education professional roles (e.g. development philanthropy curriculum management research management etc) are exempt from MTE

The reason for the request to exempt from the MTE requirement is that our recruitment and selection processes are extensive to ensure we are securing the best talent

A "standard" academic recruitment process for a Level A role often exceeds the current 12 month industry specialist programs such as our Scientia fellow program for high potential elite mid career researchers has a defined process that runs over the course of 18 months. Our industry program for recruitment of elite researchers operating as global leaders in their field regularly run over an 18 month period

For specialist professional roles our talent market since the visa changes has been limited to targeting other Australian universities – this does not bolster the development of a strong and progressive Australian higher education industry

Please find appended as an example our program of recruitment for our Scientia fellow recruitment campaign that has resulted in offers to 10 elite mid-careers researchers. 8 of these offers have been made to foreign nationals

Thank you again to the Joint Standing Committee on Legal and Constitutional Affairs for the opportunity to provide this input into its considerations around the effectiveness of the current temporary skilled visa system and particularly with respect to the effectiveness of the current system in targeting genuine skills shortages within the context of higher education

Sincerely

Marcus Clark
Head of Talent Acquisition



Appendix: Example Recruitment timeline for elite researcher recruitment

	Scientia Fellowship Recruitment Schedule - 2018	Date
1	SHARPer Committee meeting: review 2017 and confirm 2018 process	28 February
2	Marketing campaign commences Applications open	April May 14
3	SHARPer Committee meeting: mid campaign application reviews	26 JUNE
4	Applications close	July
5	Applications reviewed and separated into complete and incomplete talent acquisition	July
6	Complete applications distributed to faculties, committee and senior scientia advisor	July
7	Faculties create a longlist	from July
8	Faculties score remaining applications to create a longlist and provide to NOTE: Applicants for which BORIS metrics are not appropriate have until 22 August to provide qualitative measures	August
9	Metrics collected on applicants (for metricised disciplines only)	August
10	Moderate confederated applications	August
11	Moderated list of confederated applications provided to	August
12	Faculties send ring-fenced shortlists to	August
13	Faculties notify their business partner of non-competitive applicants	September
14	Notify 1st round of unsuccessful applicants	September
15	Collate and distribute faculty shortlists and committee papers	September
16	SHARPer Committee to determine the applicants shortlisted for confederated positions. Ring-fenced shortlist for review	10 SEPT
17	Faculties run interview process for applicants (including those considered for both ring-fenced and confederated positions)	Sept - Oct
18	Faculties to provide a shortlist of a limited number of confederated candidates	October



19	Faculty collates and distributes faculty shortlists to SHARPer Committee	1 October
20	Confederated selections are finalised by SHARPer Committee	24 October
21	Faculties notified of successful confederated candidates	1 October
22	Faculty notify their staff to commence offer process to both ringfenced and confederated applicants	1 October to 1 November
23	All appointments finalised subject to negotiations	1 November
24	Faculty panel re-contacts unsuccessful applicants who have been interviewed	1 November
25	Faculties notify their staff of remaining applicants not offered positions	1 November
26	Staff to notify 2 nd round of unsuccessful applicants	1 December