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Mr Tim Watling
Committee Secretary
Senate Education, Employment and Workplace Relations Committees
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Dear Mr Watling

Thank you for the opportunity to provide a submission to the Senate Inquiry into the Australian Education Bill 2013 (as amended) and the Australian Education (Consequential and Transitional Provisions) Bill 2013.

Tasmania considers that the Bill extends beyond the agreement reached by States and Territories during negotiation on the National Education Reform Agreement (NERA) in that it represents a significant shift in responsibility for education from the States and Territories to the Commonwealth.

During Tasmania's negotiations with the Commonwealth Government on school funding reform, it was understood that the Bill would give legislative effect to the National Education Reform Agreement (NERA) by:

- establishing a new needs-based funding model;
- outlining the funding arrangements for the non-government schools and, for those jurisdictions choosing to participate in the NERA, government schools; and
- setting out the broad reform directions for Australian schooling as agreed by the Standing Council on School Education and Early Childhood (SCSEEC);

in a manner that supported the differing roles and responsibilities of the Commonwealth and the States and Territories for education, as acknowledged in the NERA.

The NERA (as signed by the Prime Minister and NSW) acknowledges that the States and Territories maintain the primary responsibility for the delivery and regulation of education in Australia. It also recognises that the Commonwealth and States and Territories have a shared responsibility to develop, progress and review agreed national objectives, outcomes and reform directions.

The NERA also recognises the primary role of States and Territories in developing policy and managing government school systems to work towards the national objectives and achieve outcomes in ways that are compatible with local circumstances and priorities.

The Bill, as drafted, ignores the roles and responsibilities as agreed, providing the Commonwealth with the ability to impose prescriptive policy and operational requirements on school systems and schools (both government and non-government) that participating jurisdictions must implement as a condition of any Commonwealth financial assistance for schooling.

The Bill also goes beyond the NERA, and the existing National Education Agreement (NEA), by requiring States and Territories *not* signing up to the NERA to implement the national policy initiatives and ongoing policy requirements as a condition of accepting ongoing Commonwealth funding for schooling under the NEA. This arrangement has never previously been discussed by the Commonwealth with Tasmania.

As drafted, the architecture of the Bill provides the Commonwealth with the potential, through the regulations, to exercise a high degree of control over the way in which government, Catholic and independent education systems, and schools, deliver education.

The Bill provides the Commonwealth Minister for Education with a high degree of power and control over the establishment and amendment of any national policy initiatives without requiring negotiation and agreement of State and Territory education Ministers or through existing bodies such as COAG or SCSEEC.

The full impact on schools and education systems is not yet known because key elements of the reforms will be in the regulations and are at the discretion of the Minister. For instance the regulations will include: the national policy initiatives; ongoing policy requirements; the requirements for school improvement plans; the content and format of school reports to parents; and the information that a school must publicly report on.

The current federal financial landscape is based on negotiation through relevant bodies such as the Council of Australian Governments (COAG) and SCSEEC to reach agreement on national policy initiatives and directions.

Tasmania notes that, at most, the Bill only requires the Minister to 'have regard to' any decisions of the Ministerial Council relating to national policy initiatives or any relevant arrangements of a State or Territory (s22(2)). 'Having regard to' a matter does not impose any requirement on the Minister to reach agreement on national policy initiatives.

Section 77 of the Bill also sets out the ongoing policy requirements for 'approved authorities'. The Bill does not require the Minister to even have regard to any decisions of the Ministerial Council in relation to determining the ongoing policy requirements.

Tasmania is strongly of the view that the Bill should recognise the benefits of State and Territory involvement in developing and agreeing the national policy initiatives and ongoing policy requirements, requiring the Minister to reach agreement on national policy initiatives and the ongoing policy requirements with all jurisdictions through existing decision making bodies such as SCSEEC. The Minister should also be required to reflect existing SCSEEC arrangements or decisions in the regulations.

Thank you once again for the opportunity to make a submission.

Yours sincerely

Hon Nick McKim MP
Minister for Education and Skills