



Hon. Mike Rann MP
Premier of South Australia

Mr John Carter
Secretary to the Senate Employment, Workplace Relations
and Education Committee
Suite SG 52
Parliament House
CANBERRA ACT 2600

Dear Mr Carter

I am pleased to provide a submission to the Senate Employment, Workplace Relations and Education Committee to assist with the Committee's consideration of the *Higher Education Legislation Amendment (2005 Measures No 4) Bill 2005* and the *Education Services for Overseas Students Amendment Bill 2005*.

I have strongly supported establishing a branch of Carnegie Mellon University in Adelaide.

Attracting Carnegie Mellon represents a groundbreaking opportunity for South Australia. My Government has provided up to \$20 million to assist Carnegie Mellon's establishment because it believes the project will have long term transformational benefits for our state.

My vision for South Australia and for our nation is to see creativity, prosperity and wellbeing flourish. Carnegie Mellon has an important role to play in helping us achieve these goals.

Carnegie Mellon is the No.1 university in the world in specific areas of teaching and research and it annually ranks among the US's top national universities. According to US News and World Report magazine it is ranked first among computer science programs in the US, and its Heinz school is first in the US for its information and technology policy management, first for criminal justice policy and management as well as fourth in public policy analysis. According to the 2005 Shanghai Jiao Tong University's ranking of the top 500 world universities Carnegie Mellon ranked 54th, ahead of all Australian universities.

An Advisory Board to support the new branch is to be established and a number of eminent people have agreed to be involved, including:

Rupert Murdoch, Chairman and CEO of News Corporation;
Baroness Susan Greenfield, Director of Britain's Royal Institution;
H L Kam, Deputy Managing Director Cheung Kong Holdings;
Hon Tim Fischer, Former Deputy Prime Minister;
Hon Mike Moore, Former WTO Director General;
Margaret Jackson, Chair of Qantas.

I initially discussed the HESA and ESOS legislative inconsistencies with the Foreign Minister and, with the support of the Education Minister, it was agreed that these legislative amendments would be introduced.

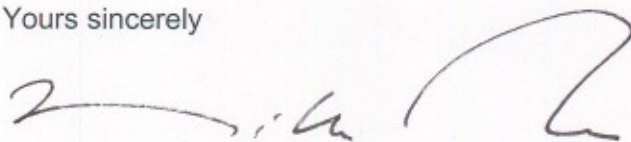
The Government of South Australia notes that any delay in the passage of these Bills will significantly delay CMU's plans to open its branch campus in time for its first planned student intake in early 2006.

Carnegie Mellon University cannot market to international students unless changes to the ESOS Act occur nor can they market to eligible Australian students that FEE-HELP will be available for studying at the Australian campus unless the changes to HESA occur.

These two Amendment Bills are critical to the effective operation of Carnegie Mellon University's branch campus in South Australia, which is planned to open in March 2006. Early in discussions with CMU, the State Government identified that while Protocol 2 of the *National Protocols for Higher Education Approval Process* (the National Protocols) allows for the operation of foreign universities, Commonwealth legislation imposes other requirements (such as Australian residency) that effectively constrain or require a foreign university to be established in Australia in a particular way. This is especially the case for CMU, a private non-profit United States University, where it pertains to the US-Australia Free Trade Agreement, which came into effect on 1 January 2005. Specifically, in their current form, the *Education Services for Overseas Students Act 2000* (ESOS) and *Higher Education Support Act 2003* (HESA) require providers of education in Australia to be resident in Australia in order to market to and enrol overseas students and offer eligible Australian students studying at the Australian campus access to Commonwealth loans (eg. FEE-HELP), respectively.

I commend these Amendment Bills to the Committee and seek your support in a timely and supportive report to the Senate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Rann', written in a cursive style.

MIKE RANN
Premier

28/10/2005

Submission regarding the Higher Education Legislation Amendment (2005 Measures No 4) Bill

1. This is the first such application by an offshore provider and it has ramifications

It is true that this is the first such application by a foreign higher education provider, but this fact positively enriches the understanding policy makers have about the process and should not be seen as a matter which has negative "ramifications".

Carnegie Mellon University (CMU) was approved to operate in Australia under the existing *National Protocols for Higher Education Approval Processes*¹ (the National Protocols), which were approved by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) in 2000. CMU may be the first such application received in Australia, however the ability for overseas providers to make such an application has been existence in for five years.

On 4 July 2005, the South Australian Minister for Employment, Training and Further Education, the Hon Stephanie Key MP, declared Carnegie Mellon University of Pittsburgh, Pennsylvania USA to be a university for the purposes of the South Australian Training and Skills Development Act 2003.

Specifically, Protocol 2 – 'Overseas higher education institutions seeking to operate in Australia' of the National Protocols enabled CMU to obtain approval to establish a branch in Australia. This Protocol specifies the criteria that the overseas provider must satisfy to obtain and retain approval, which ensure the quality and viability of the operation in Australia. Risks or possible negative ramifications of overseas providers were considered prior to MCEETYA approving the National Protocols and is evident in the requirements for such providers to meet stringent quality, accountability and viability requirements, both initially and in ongoing reviews. An independent assessment panel, chaired by Professor Gus Guthrie, found that CMU satisfies all such criteria.

Allowing quality overseas providers to operate in Australia in this manner will act to enhance Australia's reputation as a high quality provider of education services in an increasingly competitive global marketplace. A greater range of high quality choices for overseas and Australian students, should promote growth in Australia's share of overseas students globally as well as participation of Australian students in higher education. Both effects would have positive implications for the Australian economy.

2. The issue of subsidies – FEE-HELP – to overseas providers

FEE-HELP is a loan scheme that assists eligible (Australian or relevant visa holding) students to pay their tuition fees. Although the Australian Government would pay the amount of the loan directly to CMU, this State rejects the assertion that this constitutes a subsidy to CMU. The *Higher Education Legislation Amendment Bill (2005 Measures No.4) 2005* does not enable CMU to access Commonwealth subsidies under that Act. For example, CMU will not be able to offer Commonwealth supported places or access research grants under the *Higher Education Support Act 2003* (HESA). The *Higher Education Legislation Amendment Bill (2005 Measures No.4) 2005*, only enables eligible Australian students to access FEE-HELP and OS-HELP at CMU's Australian campus.

¹ Ministerial Council on Education, Employment, Training and Youth Affairs (2000). *The National Protocols for Higher Education Approval Processes*. Commonwealth of Australia: Canberra.

Allowing eligible students at CMU's Australian campus to access FEE-HELP will enable more Australian students who could not have paid up-front fees, to exercise choice about which university in Australia they wish to study at, without leaving Australia. CMU's Australian branch, while clearly not an 'Australian university', will be a university in Australia, awarding qualifications that are accredited both in Australia and in the US. Without this Amendment, Australian students will be limited in the choice they have. In addition to the overseas students that may wish to seek a US qualification, being able to obtain a US qualification in Australia is likely to see Australia retain students who might have otherwise travelled to the US to study. The Bill also ensures a level playing field for competition among private institutions operating in Australia, who are also eligible for access to FEE-HELP, whether they are overseas institutions or Australian institutions. This is consistent with the Australian Government's commitment to diversity in the higher education sector.

3. *Transparency surrounding Carnegie Mellon's application and establishment in Australia*

The matter of CMU expanding its operation to Australia was made public from very early in discussions between the SA Government and CMU. The South Australian Premier has kept the public informed through a number of media releases.

The SA Government supports the view that the process for assessing applications needs an appropriate level of transparency and procedural fairness as per the requirements under the National Protocols. To this end, the '*Guidelines for declaration of an institution as a University for the purposes of the Training and Skills Development Act 2003, as determined by the Minister for Further Education, Employment and Training*' approved under Section 5 of the *Training and Skills Development Act, 2003* (the Guidelines), and information regarding the application and assessment process, are publicly available on the Department for Further Education, Employment, Science and Technology (DFEEST) website².

Advice on the application was provided by a five person expert panel comprising eminent academics active in higher education, including three former vice chancellors of Australian universities and two senior subject specialists currently in employment at Australian universities. Professor Gus Guthrie chaired the panel. The panel assessed CMU's status as a university in its country of origin, its courses and its capacity to delivery the courses in Australia against the Guidelines.

On receiving the panel's advice, the South Australian Minister responsible for Higher Education, made a statement in Parliament and recorded in Hansard the reasons for the approval of CMU (Attachment 1). Also, the Minister, as required by section 5 of the *Training and Skills Development Act, 2003*, made public the declaration of CMU as a university under the Act, by Gazettal (Attachment 2).

To date, an appropriate level of confidentiality has been applied to CMU's application for approval to operate as a university in South Australia and the assessment panel's evaluation of that application.

With the Minister's declaration of 4 July, CMU was given approval to operate as a university in South Australia subject to CMU receiving its registration as a registered training organisation in relation to higher education, pursuant to Part 3 of the *Training and Skills Development Act 2003*. This registration is pending the finalisation of all relevant matters. In addition, CMU's registration on the Commonwealth Register of Institutions and Courses

² <http://www.training.sa.gov.au/OVETorgs/>

for Overseas Students (CRICOS) is pending the amendment to the ESOS Act 2000. While such matters remain pending, the contents of CMU's application and assessment remain commercial-in-confidence.

Information about CMU's application and establishment in Australia will be disclosed as soon as possible, subject to usual issues of Cabinet-in-Confidence, Commercial-in-Confidence and contractual confidentiality clauses. The details of the SA Government's contribution to the establishment of CMU's branch will also be presented to the SA Parliament's Industries Development Committee.

4. The implications for the accreditation regimes in other States and Territories

There are no negative implications for the accreditation regimes in other States and Territories. Given this is the first such application under National Protocol 2, receipt of this application and the developmental process can only serve to positively inform any similar future applications.

CMU's application and establishment and SA's assessment process were made under existing National Protocols. In an era of the transnationalisation of education and educational delivery, it is inevitable that the accreditation regimes in other jurisdictions will be confronted with the challenge of processing applications from overseas higher education institutions. The experiences in the recognition of CMU set valuable precedents informing the interpretation for the National Protocols and will be significant in assisting the accreditation regimes of other jurisdictions in meeting the challenge.

SA's tested Guidelines for approval under Protocol 2 are publicly available and can be used by other States and Territories. SA has a detailed knowledge in assessing such applications and through MCEETYA will share such knowledge with other States and Territories. Over the coming years, CMU will serve as a rich case study for the establishment of overseas higher education providers in Australia.

CMU will be required to report to both the SA and Australian Governments on various matters and SA would be prepared to share relevant information and experience with the higher education recognition authorities in other States and Territories to aid in the interpretation of the National Protocols and the enhancement of nationally consistent higher education quality assurance processes.

5. The implications for the National Protocols

As with implications for the accreditation processes of other states, there are no negative implications for the National Protocols in progressing these Amendment Bills.

CMU's application was made pursuant to the National Protocols, which were approved five years ago.

The experience of processing CMU's application against Protocol 2 will be invaluable to the discussion that the Ministers will have at the MCEETYA meeting set down for 17 November 2005 on the National Protocols.

6. The implications for other providers – in this case the three SA universities

The South Australian Strategic Plan has a target to double SA's share of overseas students within 10 years (by March 2014). The primary objective for establishing a branch of CMU in

SA is to contribute to the achievement of this target by *increasing* SA's share of overseas students. It is not anticipated that CMU will compete with the three existing SA universities. Rather, it is the SA Government's belief that CMU will project Adelaide as a focal point for higher education in Australia. By drawing more attention to Adelaide, the three SA universities stand to benefit from CMU's presence.

CMU will, in large part, be targeting a different market segment than SA's three existing universities. The higher price point of CMU's programs reflects this. CMU students will be paying a premium for qualifications that carry US as well as Australian status.

The three SA universities have been briefed regularly on the introduction of CMU to SA through the Higher Education Council, an advisory body comprising, among others, the three Vice-Chancellors and chaired by the Minister for Employment, Training and Further Education. CMU has been invited to attend a number of meetings of the Higher Education Council and has developed relationships with all three SA universities. While expressing some early concerns, the SA universities are now generally supportive of the new University and are looking at ways of working with CMU once it is established in SA.

As an example, the H. John Heinz School of Public Policy and Management, CMU and Flinders University (the only SA university also offering public policy programs) have agreed a draft Memorandum of Understanding (MoU) that will enable a number of benefits for both parties, including joint teaching and research and sharing of facilities.

Submission regarding the Education Services for Overseas Students Amendment Bill 2005

1. Implications of the Bill on the overseas student market

Allowing foreign providers to deliver education to overseas students from within Australia has the potential to increase Australia's share of the overseas student market. Branches of quality overseas universities in Australia will attract more overseas students to Australia, particularly where Australia has the advantages of being geographically closer to students' home country and/or has less restrictive immigration requirements (compared to the United States, for example). However, where quality providers – such as Carnegie Mellon University (CMU) – want to establish a 'branch' of their main campus in Australia, they require the current amendment Bill in order to avoid the costly and complex process of establishing wholly owned subsidiaries or other corporate structures in Australia.

The proposed amendment Bill enables such providers to enjoy the benefits of 'corporate residency' without the potential negative effects of creating satellite entities and thus diluting their educational regulatory accreditation in their home country, or their taxation and ownership status. Further, this enhancement of the higher education sector in Australia from the collaborations and cross-fertilisation of ideas, teaching and research practices, will also have the effect of increasing overseas student numbers to Australia.

Any risks that such branches could lower the standard of education and support services provided to overseas students in Australia, or in any way harm Australia's reputation for education, are effectively mitigated by the requirement that all providers must comply with the ESOS Act and *The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (The National Code)*³

2. Implications of foreign owned education providers being registered within the meaning of the ESOS Act

The ESOS Act in its current form already allows foreign owned education providers to be registered within the meaning of the ESOS Act. Paragraph 13.6 of the National Code states:

"Australian residency

13.6 A provider must be resident in Australia to be registered on CRICOS. If the provider is a company, it must be a company incorporated in Australia, that carries on business in Australia and that has its central management and control in Australia. If it is an unincorporated body, it must carry on its business and have its central management and control in Australia. **This does not preclude foreign ownership** (see S5 and ss9(2) of the ESOS Act 2000)."

The *ESOS Amendment Bill 2005* allows for providers that are not resident in Australia to deliver education to overseas students in Australia. The existing requirement for Australian residency in the ESOS Act 2000 is in countenance to the US-Australia Free Trade Agreement (FTA), the spirit of which encourages CMU, being an American University, to be able to operate in Australia, provided it meets appropriate standards of quality. Specifically, this is addressed in Articles of the FTA, including:

³ Australian Government (2001). *The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (The National Code)*. Commonwealth of Australia: Canberra.

Article 10.2 : National Treatment

Each Party shall accord to service suppliers of the other Party treatment no less favourable than that it accords, in like circumstances, to its own service suppliers.

Article 10.5 : Local Presence

Neither Party may require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

Article 10.4 : Market Access

Neither Party may adopt or maintain, either on the basis of a regional subdivision or on the basis of its entire territory, measures that:

(b) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

The proposed amendments to the ESOS Act 2000, as they relate to overseas universities operating in Australia, are only to the residency requirement of the provider. Foreign higher education providers must satisfy the same educational audit and performance requirements as Australian providers. As part of the SA Government process for considering a recommendation to the Commonwealth about CMU's registration on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS), an independent assessment panel, chaired by Professor Gus Guthrie was established to examine CMU's compliance with the National Code and the *ESOS Act 2000*. This independent panel believed CMU would meet all of its course and course delivery requirements, which are fundamental to compliance with the National Code and the *ESOS Act 2000*.

TRAINING AND SKILLS DEVELOPMENT ACT 2003

Declaration of Carnegie Mellon University of Pittsburgh

PURSUANT to section 5 of the Training and Skills Development Act 2003 ('conditions: the Act'), I declare Carnegie Mellon University of Pittsburgh, Pennsylvania, USA ('CMU') to be a university for the purposes of the Act, subject to the following:

1. That this declaration shall not come into force unless and until CMU is registered as a training organisation in relation to higher education pursuant to Part 3 of the Act;

and

2. That this declaration, having come into force, shall continue in force for a period of five years provided that:

- (a) CMU remains registered as a training organisation in relation to higher education under Part 3 of the Act;
- (b) CMU complies with the accreditation requirements of Part 3 of the Act in relation to any degree course or other higher education it offers in South Australia; and
- (c) CMU participates in periodic review processes, including national quality assurance processes, as required by me.

S. KEY, Minister for Employment, Training and Further Education

NOTICE TO MARINERS

No. 23 OF 2005

*South Australia—Kangaroo Island—Christmas Cove—
Lights Established*

MARINERS are advised that the following lights have been established on the breakwaters at the entrance to Christmas Cove:

Western Breakwater in position:

Latitude 35°43.099'S, longitude 137°56.057'E, FIG5secs on a 2 m pole 6 m above HAT.

Eastern Breakwater in position:

Latitude 35°43.085'S, longitude 137°56.057'E, FIR5 secs on a 2 m pole 6 m above HAT.

Navy Chart affected: Aus 345

Publications affected: Australian Pilot, Volume 1 (7th Edition, 1992) page 120. Vol. K not listed.

Adelaide, 11 July 2005.

P. CONLON, Minister for Transport

FP 2001/1439

TSA 2005/00419

NOTICE TO MARINERS

No. 24 OF 2005

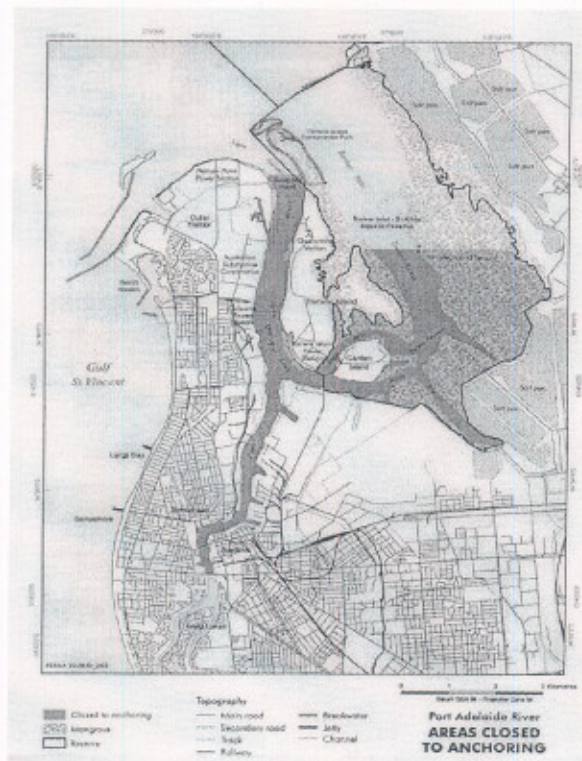
*South Australia—Gulf St Vincent—Port Adelaide River—
Control of Caulerpa Taxifolia—Variation of Regulations under
Harbours and Navigation Act 1993—Restricted Waters—
Prohibition of Anchoring*

MARINERS are advised that in an effort to stop the spread of the noxious aquatic weed *Caulerpa taxifolia*, regulations have been enacted (Part 2—Variation of Harbours and Navigation (Control of *Caulerpa taxifolia*) Variation Regulations 2005) which prohibits vessels from anchoring within the following areas: All waters of the Port River south of an east-west line from Snapper Point to Torrens Island and all waters of the North Arm, Eastern Passage, Angas Inlet, Torrens Reach and Barker Inlet south of an east-west line passing through the Middle Ground Beacon, (see attached map). Breaches of this regulation will be prosecuted and a penalty of \$1 250 applies for an infringement of this regulation.

Mariners are further advised that this prohibition does not apply to:

- (a) the Port Operator or a person authorised by the Port Operator, in carrying out activities necessary for the operation and maintenance of the port, or;

- (b) in any case—an authorised person in the exercise of powers under the Act or regulations under the Act.



Charts affected: Aus 137 and Aus 781

Publications affected: Australian Pilot Vol. 1, 1992 edition pages 125 to 130.

Adelaide, 8 July 2005.

P. CONLON, Minister for Transport

TSA 2005/00419

SEWERAGE ACT 1929

Addition of Land to Adelaide Drainage Area

PURSUANT to section 18 of the Sewerage Act 1929, the South Australian Water Corporation:

- (a) adds to the Adelaide Drainage Area all the land contained in:
 - (i) allotments 1 to 28 inclusive, 801 and 802 (roads), 901 and 902 (reserves) in Deposited Plan 67256;
 - (ii) allotment 54 in Filed Plan 152430; and
- (b) declares that this notice will have effect from 1 July 2005.

Dated 7 July 2005.

Signed for and on behalf of the South Australian Water Corporation by a person duly authorised so to do:

A. POPPLEWELL, General Manager Shared Services

In the presence of:

C. J. MCNAMARA, Billing Manager

SAWATER 05/04621 D1276

Mr McCann, appointed by the former government, sought independent legal advice in the preparation of his report. Mr Ron Beazley SC (that is Senior Counsel, the same as a QC), the former Victorian government's solicitor, the Crown Solicitor of Victoria, was engaged to provide advice. Mr Beazley in turn retained Mr James Judd QC of Victoria to assist him. Mr McCann also informed the Auditor-General of the matter and the investigation.

On 2 December 2002 Mr McCann delivered his report to me. The reported concluded that:

1. There are no reasonable grounds for believing that the Attorney-General's conduct was improper or that he breached the Ministerial Code of Conduct.

2. There are no reasonable grounds for believing that Mr Ashbourne's conduct was improper or that he breached the Code of Conduct for South Australia's Public Sector Employees, although his actions may have been inappropriate.

3. Although there are some inconsistencies in evidence, further investigation would be most unlikely to change the findings. It would be expensive and is unwarranted.

On receiving Mr McCann's report I issued a formal reprimand and warning to Mr Randall Ashbourne, which I intend to table today. At the conclusion of Mr McCann's preliminary investigation I referred the report and all relevant material to the Auditor-General of South Australia, the state's probity watchdog.

Members interjecting:

The Hon. M.D. RANN: Are you going to listen? The Auditor-General responded on 20 December 2002 and advised:

In my opinion, the action you have taken with respect to this matter is appropriate to address all of the issues that have arisen. The arrangement for all ministerial advisers to attend a briefing session early in the new year about the standards of conduct expected of them is an important initiative and should obviate the potential for any repetition of the difficulties that have arisen with respect to this matter.

The Auditor-General also dealt with this matter in his annual report to the parliament in October 2003. On Mr McCann's advice, the report and its attachments were not released 'because of the potential for causing harm to people who have not had the opportunity to respond to things attributed to them by others.' We informed the Auditor-General.

Compare that with the actions of the former government with respect to its inquiries, when the Liberal Party had to be dragged screaming to do the right thing. At the time the matter was raised in parliament in June 2003 the matter was referred to the police for investigation, and it was not then appropriate to release the report while police inquiries were under way.

Since the completion of the resulting criminal proceedings, I have obtained advice from the Crown Solicitor, who confirmed that the release of the report raises issues of natural justice. However, the matters that require certain people to be accorded natural justice have been canvassed to some extent in the criminal proceedings. Therefore, the issue of natural justice is not so acute since the completion of the Ashbourne trial. Accordingly, I have now determined that the entire report be tabled in parliament. The release of this report will facilitate the debate on the matter of establishing an inquiry into the handling of the allegation.

The Minister for Transport, Infrastructure and Energy will today give notice of a motion which will result in the establishment of an inquiry into the handling of the allegations. The establishment of the inquiry will fulfil the undertaking I gave to establish such an inquiry at the end of the criminal proceedings against Mr Ashbourne. I look forward

to the support of the opposition and, in particular, the Leader of the Opposition, for the motion and for the legislation which will be introduced today to provide the inquiry with powers and immunities.

The Hon. R.G. Kerin interjecting:

The Hon. M.D. RANN: That's what we are doing. We are tabling it for a day to give you the consultation you wanted, unlike what you did to me when you were in government. The procedure that the government has adopted in relation to the establishment and granting of powers and immunities to the inquiry is identical to those adopted by the former Liberal government, in which the Leader of the Opposition was a minister and deputy premier, when it established an inquiry conducted by Mr Clayton QC into the Motorola side deal. Given the results of that inquiry—and all members remember the Motorola inquiry—none of the honourable members opposite could now say that that inquiry, which was conducted quite properly, was ineffectual. The inquiry, of course, cannot look into the conduct of the trial which resulted in the unanimous acquittal of Mr Ashbourne—he was found not guilty. I am sure I can look—

Members interjecting:

The SPEAKER: Order! The house will come to order.

The Hon. M.D. RANN: Oh, now they are criticising me for sacking him. They change their position every day. I am sure I can look forward to the—

Members interjecting:

The Hon. M.D. RANN: I think you need to hear the Leader of the Opposition's own words. I am sure I can look forward to the Leader of the Opposition's support. He is on the public record as stating on ABC radio on 17 June 2005:

We're not so much worried about what happened in the court, we're worried about what the Government did in late 2002, why it was covered up and whether or not totally inappropriate actions were taken at the time.

I repeat once again that this inquiry will have the same powers as the one which was backed by the Leader of the Opposition and which investigated the background of the Motorola ordeal. I table the report, and I also table my letter of reprimand to Mr Ashbourne dated 4 December 2002.

Members interjecting:

The SPEAKER: Order! The house will come to order.

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

Mr BRINDAL: I rise on a point of order, Mr Speaker. The member for Mount Gambier made offensive remarks across the chamber, and I ask that he withdraw them.

An honourable member interjecting:

Mr BRINDAL: I am not going to repeat them. If he wants to, let him.

The SPEAKER: Order! I did not hear the comment, so I do not know what the comment was.

Members interjecting:

The SPEAKER: Order! The house will come to order. Members on either side should not engage in provocative comments across the chamber.

CARNEGIE MELLON UNIVERSITY

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.W. KEY: On 4 May this year an application was received from Carnegie Mellon University's Provost,

Professor Mark Kamlet, seeking approval to establish a branch of that university in Adelaide. The application sought authority to operate as an overseas higher education institution in Australia and was made pursuant to Protocol 2 of the National Protocols for Higher Education Approval Processes. Carnegie Mellon's application is the first made in Australia since the establishment of these protocols by the Ministerial Council on Education, Employment, Training and Youth (MCEETYA) in 2000.

In addition to this Protocol 2 application, Carnegie Mellon is seeking recognition under national Protocol 3. This will enable its courses to be accredited in Australia and listed on the Australian Qualifications Framework, and is required to give approval to deliver education to overseas students through registration on the Commonwealth Register of Institutions and Courses for Overseas Students.

In accordance with the national protocols and pursuant to South Australia's Training and Skills Development Act 2003, an independent panel was established to consider and make recommendations to me with respect to Carnegie Mellon's application. This panel was chaired by Professor Gus Guthrie, former vice chancellor of the University of Technology, Sydney, and lead author of the commonwealth's report on the further development of the national protocols. The other four voting members of the panel were Professor Peter Boyce, Deputy Chair of the panel and former vice chancellor of Murdoch University in Western Australia; Professor Linda Rosenman, Executive Dean, Faculty of Social and Behavioural Sciences at the University of Queensland; Professor Geoff Wilson, former vice chancellor of Deakin University in Victoria and the University of Central Queensland; and Professor John Hughes, Professor of Computing and Director of the Research Institute for Information and Communication, University of Technology, Sydney.

Pursuant to section 5 of the Training and Skills Development Act 2003, I have considered the panel's report and recommendations and made a determination. My determination is to accept the recommendation of the panel and approve Carnegie Mellon's section 5 application, granting it recognition as a university for the purposes of the act. I advised the Premier this morning that notice of my determination is being forwarded for gazettal. Formal advice about this determination also is being sent to the commonwealth education minister, the Hon. Brendan Nelson.

The commonwealth government's support of this Australia-first treatment of an application under the national protocols should be recognised. I also acknowledge minister Nelson's commitment to make necessary legislative changes to the Higher Education Support Act 2003 and the Education Services for Overseas Students Act 2000 that will support the establishment of the South Australian branch of Carnegie Mellon University.

There will now be no need to enact South Australian legislation. However, changes to the commonwealth legislation and various other regulatory matters need to be resolved prior to the commencement of Carnegie Mellon's operations in 2006. My section 5 determination is also contingent upon the registration of Carnegie Mellon University as a registered training organisation in higher education in accordance with part 3 of the Training and Skills Development Act 2003. A determination under part 3 of the act is the responsibility of the delegate of the Training and Skills Commission. I will advise parliament of further significant developments as they arise.

QUESTION TIME

ASHBOURNE, CLARKE AND ATKINSON INQUIRY

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Attorney-General. What was the specific nature of the complaint made by the DPP in his confidential memo to the Attorney arising out of the telephone call between the Premier's staffer Nick Alexandrides and the Attorney's office?

The Hon. M.J. ATKINSON (Attorney-General): After the Ashbourne matter came back from the office of the DPP and, I think, August 2003, a protocol was put in place, so that all matters related to Mr Ashbourne's trial—and also matters related to his unfair dismissal claim—were handled by the Hon. Paul Holloway. That was requested by the office of the DPP (as I recall, Wendy Abraham and Pauline Barnett). The Premier assented to that, and that became an established protocol. So, in my meetings with the DPP (whomever the DPP was at any particular time), the Ashbourne matters were not raised with me.

Similarly, in my meetings with the Crown Solicitor, Mr Ashbourne's claims for unfair dismissal were not raised with me, either; neither they should be. Some 20 minutes before I was due to give evidence in the trial, Mr Pallaras and Ms Barnett came to my office and said that they wanted to see me about a matter, which turned out to be about the Ashbourne case; that is to say, 20 minutes before I was due to give evidence in the trial, I was approached—I am a witness—just before giving evidence, by Ms Barnett and the DPP—and, on top of that, in complete and flagrant breach of the protocol that had been established surrounding this case.

If I had gone along with breaching the protocol, I can imagine what the first question today would have been. What would the first question today have been? So, quite properly—

Ms Chapman interjecting:

The SPEAKER: The member for Bragg will come to order.

The Hon. M.J. ATKINSON:—I declined to see Ms Barnett and Mr Pallaras (who came along also). I made arrangements for the minister responsible for this matter, namely, the Hon. Carmel Zollo (who was representing the Hon. Paul Holloway, who was in Japan on a trade mission) to meet the DPP. My understanding is that, again in breach of protocol, Ms Barnett and Mr Pallaras refused to disclose to the responsible minister (namely, the Hon. Carmel Zollo) what the matter was all about. Later in the day, I was handed a memo about this matter in an envelope which I refused to accept and which I conveyed to Mrs Zollo; and, to this very day, I have not read it.

NAIDOC WEEK

Ms BREUER (Giles): My question is to the Acting Minister for Aboriginal Affairs and Reconciliation. What is the significance of NAIDOC Week, and what has been the involvement of the state government in this important week?

The Hon. J.W. WEATHERILL (Acting Minister for Aboriginal Affairs and Reconciliation): I acknowledge the member for Giles' powerful advocacy on behalf of the interests of people—

An honourable member interjecting: