



**Australian Vice-Chancellors' Committee**  
*the council of Australia's university presidents*  
(ACN 008 502 930 - ABN 53 008 502 930)

**Our Ref: I-01-35**

14 March 2005

Mr J Carter  
Secretary  
Senate Employment, Workplace Relations And Education Legislation Committee  
Suite SG.52  
PARLIAMENT HOUSE  
CANBERRA ACT 2600  
Email: [eet.sen@aph.gov.au](mailto:eet.sen@aph.gov.au)

Dear Mr Carter

Please find attached a submission from the Australian Vice-Chancellors' Committee in relation to the Inquiry into the provisions of the *Higher Education Legislation Amendment (2005 Measures No.1) Bill 2005*.

I would be pleased to provide further information should that prove useful.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'John Mullarvey', with a long horizontal flourish extending to the right.

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## **Inquiry into the provisions of the Higher Education Legislation Amendment (2005 Measures No.1) Bill 2005**

The Senate has referred to its Employment, Workplace Relations & Education Legislation Committee the *Higher Education Legislation Amendment (2005 Measures No.1) Bill 2005* for inquiry and report on 16 March 2005.

The Committee has requested the Australian Vice-Chancellors' Committee (AVCC) to make a submission on the Bill with special reference to the proposal to give Table B providers access to the Capital Development Pool and the possibility for this to be used as a precedent for later funding arrangements.

The main purpose of the Bill is to update the total amount of funding for the CGS and Other Grants for various commitments made by the Government. The AVCC supports the increases to the maximum funding amounts permitted under the Act.

The AVCC wishes to comment on the extension of the capital development pool to Table B providers. It also wishes to raise a second matter concerning the Minister's power to exempt providers from the tuition assurance arrangements.

### **In summary the AVCC:**

- **is concerned that the extension of the eligibility for the Capital Development Pool to Table B providers: is not consistent with the intent of Table B; reduces the already limited capacity of the Capital Development Pool to provide for the capital needs of Table A institutions; and opens up the potential for other, non research programs to be extended to Table B institutions; and**
- **recommends that the proposed new section 16-31 be amended to include a requirement that decisions made under it be tabled in Parliament but not be subject to disallowance.**

#### *1. Extension of the Capital Development Pool to Table B providers*

The proposal to extend eligibility for the Capital Development Pool to Table B providers is not consistent with the present purpose of Table B in the *Higher Education Support Act 2003*. The Act is structured to allow different sets of funding to three groups of higher education providers:

1. those on Table A – the 37 publicly-funded universities plus two non university institutions established by Acts of Parliaments which have a more specialised focus than universities (the Australian Maritime College and the Batchelor Institute of Indigenous Tertiary Education). These bodies are all self accrediting bodies.

Table A institutions are eligible for all funding under the Act. Most notably they are the only providers eligible for general Commonwealth supported places and a number of other programs such as equity funding and the Capital Development Pool.

Students at Table A institutions are eligible for all three types of HELP – HECS-HELP for students enrolled in Commonwealth supported places, OS-HELP for students enrolled in Commonwealth supported places who undertake study internationally; and FEE-HELP for students enrolled in fee paying places;

2. those on Table B – Bond University, the University of Notre Dame Australia and the Melbourne College of Divinity. Table B institutions are also self accrediting bodies.

Table B institutions are not eligible for general Commonwealth funded places. The advantage they gain from being on Table B is that they are eligible for Commonwealth research funding. As approved higher education providers they can be allocated national priority student places in fields such as nursing and education.

Students at Table B institutions are eligible for FEE-HELP. If the institution has been allocated national priority Commonwealth supported places then students enrolled in those places are eligible for HECS-HELP; and

3. other higher education providers approved by the Minister. These can be a university, an institution established with the powers to approve its own courses, or a provider whose courses have been accredited by the relevant State or Territory authority.

Students enrolled with these other higher education providers are eligible for FEE-HELP. These providers can also be allocated national priority student places in fields such as nursing and education. If national priority places have been allocated to these providers, students enrolled in those places are eligible for HECS-HELP.

Amendment 2 of Schedule 1 proposes to amend entitlement for the Capital Development Pool to extend it from Table A providers only to include Table B providers. Thus Bond, Notre Dame and the Melbourne College of Divinity would become eligible.

The AVCC is concerned about the extension of eligibility for the Capital Development Pool.

- The extension is not consistent with the intention of Table B. The apparent purpose of this amendment is to allow the Government to make the capital funding it promised in 2004 to Notre Dame for its Sydney development under the Capital Development Pool rather than pay it as a special grant to Notre Dame. Since Table B identifies institutions eligible for research grants, but which are not receiving standard CGS places, it is not a suitable means to extend the eligibility for capital grants not targeted at the support of research infrastructure (for which the Government has a specific program, the National Collaborative Research Infrastructure Strategy).
- The Capital Development Pool does not have sufficient funds to address the extensive backlog of major infrastructure renewal in universities. The Government has not committed to any longer term increase in the funding in the Pool to cater for the greater demand for funding from an extension of eligibility to a further three institutions (possibly four given the Government has also flagged its desire to extend Table B to include Melbourne University Private).
- The proposal could strengthen the potential for the Table B providers to be given eligibility for other programs, now limited to Table A, which also have no direct relevance to research funding. The distinction between the two Tables would then be undermined.

**These concerns should be resolved before the amendments are passed.**

*2. Tabling of decisions to exempt institutions from the tuition assurance requirements*

Amendment 6 of schedule 2 proposes to insert a new 16-31 into the Act to cover the case where the Minister wishes to exempt a body from the tuition assurance requirements in approving the body as a higher education provider. This refines the existing provisions in 16-30(2) which is to be deleted and replaced by 16-31.

The AVCC believes that it is important for the Minister's decision to exempt a provider from the tuition assurance requirements (whether in the initial approval, 16-31 or subsequently under 19-40) be publicly known through a requirement that such decisions be tabled. The AVCC is not, however, arguing that the decision should be disallowable.

**The AVCC recommends that the proposed 16-31 be amended to include a requirement that decisions made under it be tabled in Parliament but not be subject to disallowance.**