



**SUBMISSION TO**

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE**

**ON**

**HIGHER EDUCATION SUPPORT AMENDMENT  
(ABOLITION OF COMPULSORY UP-FRONT UNION FEES) BILL 2005**

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James Cook University is pleased to accept the invitation from the Committee Secretary to present a submission on the anticipated consequences of the provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005.

As requested, this submission will broadly address an assessment of the likely effect of the legislation on the provision of student services at JCU, and any potential flow-on effects. As a Queensland university, JCU is as yet unable to offer any direct experience of the practical implications of the adoption of legislation regulating student unionism.

**ABOUT JAMES COOK UNIVERSITY**

- JCU is a multi-campus, medium-sized Australian regional university with a broad curriculum and a very strong research focus.
- It is one of the most successful research universities in regional Australia, and receives high levels of international recognition for a number of its areas of research. It also has a relatively high proportion of research students.
- JCU plays a major part in the enhancement of the intellectual capital of the region. It is the region's premier provider of professional graduates, most of whom choose to practise and work in the region.
- A significant number of JCU students are amongst the first generation of their families to have gained access to university education. JCU also has a high proportion of Indigenous students and is particularly alert to the need to enhance cultural and intellectual understanding between Indigenous and non-Indigenous Australians.
- The University has the major responsibility in its very large catchment area for the teaching of a broad range of disciplines, and it will continue to determine the breadth of its coverage according to strategic decisions informed by changing societal demands and the resources available.
- JCU is, through its strategic commitment to internationalisation, becoming a major provider of higher education to overseas students, not only by bringing students from other countries to study at its campuses and study centres in Australia, but also by teaching in offshore centres in partnership with in-country institutions.

## **JAMES COOK UNIVERSITY STUDENT ASSOCIATION (JCUSA)**

The James Cook University Union (known as the JCU Student Association) is established under Section 34 of the *James Cook University Act 1997*. The Act will continue to recognize the existence of the JCUSA, with a constitution, role and powers as determined by the Council of James Cook University Council. The JCUSA, however, is not the employee or agent of the Council.

JCUSA, through a combination of steadily increasing student numbers and a compulsory Association Services Fee, had an annual turnover of \$3million in 2004, with a fee-revenue of \$2.6million. The balance of the Association's turnover is generated from the operation of a mix of commercial activities operated out of University buildings and facilities.

The Association Services Fee is currently set at \$275 for full-time students, \$137 for part-time students and \$77 for remote residence students. This has enabled JCUSA to not only provide essential services and support to James Cook University students but also to contribute to the construction, refurbishment and maintenance of buildings and facilities sited on University land. Ownership of newly-constructed buildings and capitalised refurbishments is transferred to the University and equity contribution simply recognized as an expense.

James Cook University is currently committed to providing the above buildings and facilities to the JCUSA under lease but on a peppercorn rental basis.

### **VOLUNTARY STUDENT UNIONISM – LIKELY IMPACTS**

#### ***Funding Shortfall***

Under the proposed legislation, the levying of a compulsory Association Services Fee will be abolished, and the University will be prohibited from charging any alternative services fee.

Market research has indicated that, under this scenario, JCUSA membership will drop to between 5% and 30% of existing levels, with those students willing to pay fees in the range of \$75 to \$150. This would generate fee income of between \$40,000 and \$450,000, depending upon membership take-up rates, rendering JCUSA incapable of continuing to provide the same quality, extent and availability of services to students.

The University is not in a position to fund the immediate shortfall of up to \$2.5million annually. Those with the most to lose under this arrangement are the students themselves.

## **Service Provision**

JCUSA currently provides a wide range of services for students not only in Townsville and Cairns, but also in Mt. Isa, Mackay, Thursday Island, and other rural and remote areas. These include, but are not limited to:

- Response to specific and general information queries;
- JP services;
- Welfare Support – Centrelink, Tax Help, Legal advice and advocacy, harassment support, tenancy advice, budgeting advice, crisis loans, lost property, Student Alerts, Survival week, Exam Plan;
- Student accident insurance;
- Academic support and appeals, Show Cause, Class Actions;
- Remote student support and information;
- Resources and academic support for postgraduate students;
- Publications and communication;
- Orientation Week activities;
- Support to students resident in Halls and Colleges;
- Student employment;
- On-campus sporting competitions;
- Social Sport;
- Participation in Northern University Games and Australian University Games;
- Clubs and Societies;
- Grounds maintenance in respect of sporting and leisure facilities.

In addition, through its Commercial Service Division, JCUSA provides services such as:

- Food and beverage;
- Child Care Centre;
- Fitness Centre;
- Swimming Pool (not for profit);
- Shop, including graduation gown hire and University memorabilia.

The University is also a contributor to and/or provider of many of the services listed above and, while acknowledging the opportunity for consolidation and streamlining across some of the areas of service provision, notes that many areas would be unable to be funded.

JCU would endeavour to ensure limited funding was available for sporting facilities, welfare services and student grievance resolution but is unable to make any funding commitments in respect of other services without significant impact on its own budgetary situation.

### ***Financial Implications***

The continued existence of the JCUSA in its current form is under threat. The assessed probability of the JCUSA (or any successor body) failing to attract significant membership in 2006 is high.

The Association presently employs 35 staff, and contributes over \$2 million to the provision of services for students. As observed above, the University would attempt to secure the provision of essential services within its limited means.

The University and the JCUSA continue to share a dialogue over how student services may be continued in the event of VSU being introduced 1 Jan 2006. A range of models is being assessed with the ultimate aim of securing the continuation of a reasonable level of amenity and service to students.

### ***Commercial Imperatives V Universal Benefits to all Students***

The introduction of VSU would likely result in the existing subsidy arrangements being removed and students ending up having to pay increased prices for the same products and services. In addition, the existing cross subsidization between activities and across campuses would likely disappear resulting in the closure of some essential services that are non-profit making in order to generate maximum short-term profits rather than the long-term growth and development of services needed for all students on all JCU campuses and centres. Furthermore with the University unable to make any funding commitments it would not be possible for such non-profit making activities to be absorbed back into or taken over by the University.

The introduction of VSU will act as a severe impediment to the continued development of a broad range of services and facilities on to the University's various campuses and centres.

### ***Engagement with the Community***

Through its strategic focus of engagement, particularly with the community, many of the University's facilities, are also made available to and accessed by the local community and sporting clubs. A large number of such facilities are currently maintained and improved by the Student Association.

The impact of the VSU will likely cause a significant reduction in funds available for the maintenance and upkeep of such facilities and should alternative funding sources not be found, would result in such facilities either being run on a user-pays basis or if not successful, being closed. Closure would mean access by the public to such facilities on a subsidised or free basis would no longer be possible.

The introduction of VSU legislation in its current form will adversely affect the University's ability to achieve its community engagement objectives.

## ***Campus Life***

The Student Association, because of its unique relationship with students plays a major role in the Campus Life experience enjoyed by all students that would be difficult for the University to recreate in the event that the VSU forced a major cutback in services provided by the Association.

### ***The Winding Up of the Student Association.***

One possible consequence of the introduction of the VSU legislation in the current form is the winding up of the Student Association.

It was well publicised that several Student Guilds were wound up in Western Australia following the introduction of VSU legislation similar to that being proposed. Market research also suggests that the Student Guilds that continued to operate required the infusion of supplementary funding from the University either in the form of operating grants, loans or subsidies for many years before the Guild could be self-sustaining.

With such supplementary funding unable to be provided by JCU, should voluntary membership in the association cause a serious and sudden drop in revenue the following consequences could be experienced:

- a) winding down and scaling back of all non-profit making activities
  - (i) staff redundancies estimated to cost up to \$650,000 in addition to the payout of all existing employee entitlements;
  - (ii) termination of staff; and
  - (iii) disposal of facilities, equipment etc legally owned by the Association.
  
- b) discontinuation of key support services to students in areas of advocacy, welfare support, insurance, health and fitness, academic support resulting in:
  - (i) student retention rates reducing
  - (ii) increased litigation by students unable to resolve issues or concerns through the use of independent Association Staff/Officers; and
  - (iii) cancellation of scholarships.

### ***Loss of Association's Capacity to Represent JCU Students***

The University's decision-making and governance processes incorporate a collegiate approach. The University's governing body Council, its committees and sub-committees, review and appeal processes nearly all involve some form of student representation from the Association's governing body. The University relies on the fact that the appointed/elected student representatives involved are there not only in the best interests of the University but also bring to the table the views of the Association which reflect the best interests of students.

Under the proposed VSU legislation, the student membership of the Association as a percentage of total students could reduce to as low as 6% as was experienced in a Western Australian University following the introduction of VSU legislation in that state.

The University would find it increasingly difficult to recognise either the involvement of students or their views as sufficiently representative of the entire student body with less than a 40% membership let alone a 6% membership.

Other issues considered being of significance and worthy of consideration by the Senate Committee are as follows:

### **1. The Benefits of a Victorian Style VSU**

In Victoria, legislation aimed at ensuring any fee charged was spent only on activities providing facilities and services of direct benefit to students has operated for a number of years successfully.

The benefits of such arrangements are as follows:

- a) such an arrangement would ensure that JCU students continue to be provided with high-quality facilities and services of direct benefit and in support of students;
- b) the government could carefully regulate the use of any fees collected;
- c) any such fee would operate independently of membership in a student association thereby ensuring students had “freedom of association”;
- d) students who chose not to avail themselves of the facilities and services offered by the University could still enjoy “freedom of choice” and access alternative services at their own additional expense;
- e) the cost effectiveness, efficiency and continuity of services provided through the charging and collection of a fee can be better managed in contrast to the difficulties associated with engaging service providers on a user-pay basis.

### **2. Regulating the Responsible Use of a Facilities and Resources Charge**

During 2004 the University developed in collaboration with the JCUSA, a Memorandum of Understanding for the purpose of providing “a framework for JCU and JCUSA to work together for the benefit of students at JCU in a way that optimises the benefit to students of facilities, services and resources provided by both Parties”.

Underpinning the MOU was a Statement of Principles. The principles recognise the critically important and in some instances unique role of a student association in ensuring the wellbeing of students and also reinforce the University’s duty to ensure accountability, transparency, and the optimal use of resources in the provision of services to students.

Should the VSU legislation be amended to permit the levying by Universities of a facilities and resources charge and to impose prohibitions on the use of those funds on any activity not providing facilities or services of direct benefit to students, then the MOU would provide the University with the means to ensure full compliance in relation to funds allocated to the Student Association.

### **3. Timing of Introduction of VSU Legislation**

Universities operate on a calendar year basis. However student recruitment processes commence as early as 6 months prior to the commencement of the year. Such processes include the advertising, marketing and offering of tertiary courses of study to existing and potential students. These recruitment activities occur in all forms of the media.

Recruitment processes for international students often take place overseas at trade fairs or exhibitions. A large proportion of international students are issued with offers for enrollment in a course of study in the following year on the basis of the University's commitment to not only providing tuition to those students but also a whole range of facilities and services.

Should the VSU be introduced in its current form with effect 1 January 2006 the University will be exposed to a number of serious consequences, especially in view of the University's inability to fund the immediate shortfall of up to \$2.5 million annually and thereby to meet the commitment to provide facilities and services.

1. potential litigation by students for alleged breaches of contract;
2. potential action by students in relation to alleged misleading and deceptive conduct under Trade Practices law.

These same issues were raised with the ACCC in relation to the University's Exclusive Dealing Notification. The ACCC had initially ruled against JCU and had canvassed options with the University in relation to an appropriate period of time in which the University might reasonably require in order to get its marketing, advertising, student handbook and other contractual material in order. The Commission and the University had informally reached consensus that a period of 12 months would be a reasonable period. The ACCC eventually ruled in favour of JCU.

Accordingly any VSU legislation introduced should provide for a 12 month lead time to permit University to make appropriate adjustments to its student recruitment arrangements and associated work practices.

### **4. Provision of Restructuring Loan Funding Arrangements**

The government could consider making available to Student Associations access to loan funding either directly or through universities, to assist the Association in the process of restructuring and reorganising business affairs and to optimise the likelihood of the Association's survival in the future.

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