

Submission

to

Senate Employment, Workplace Relations and Education
Committee

Inquiry into the Higher Education Endowment Fund Bill 2007 and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007

Submitter: Department of Education, Science and Training

Address: GPO Box 9880
Canberra ACT 2601

Contact: Anne-Marie Lansdown

Phone: (02) 6229 4162

Fax: (02) 6123 6018

Email: Anne-Marie.Lansdown@dest.gov.au

Cleared by: Evan Arthur
Group Manager
Innovation and Research Systems Group



Australian Government

Department of Education, Science and Training

**Submission to the Senate Employment, Workplace Relations
and Education Committee**

**Inquiry into the Higher Education Endowment Fund Bill 2007 and
the Higher Education Endowment Fund (Consequential Amendments)
Bill 2007**

27 August 2007

Introduction

The purpose of this submission is to provide information concerning the Higher Education Endowment Fund Bill 2007 (the HEEF Bill) and the Higher Education Endowment Fund (Consequential Amendments) Bill 2007 (the Consequential Amendments Bill).

Background

The Higher Education Endowment Fund (HEEF) was announced by the Australian Government in the 2007-08 Budget, as part of its higher education funding package *Realising our Potential*. The Government committed to provide the HEEF with an initial investment of \$5 billion at this time. On 21 August 2007, it announced an additional \$1 billion investment also funded from the 2006-07 surplus. This \$6 billion investment more than doubles the existing financial investment and endowments currently held in the university sector.

The Bills give effect to the Government's announcement to establish the HEEF as a perpetual endowment fund that generates earnings for capital expenditure and research facilities in higher education institutions taking into account the advice of an independent Advisory Board.

Subject to the passage of the Bills, earnings from the HEEF will be available for distribution in 2008-09. The Government has announced that for cash management reasons, transfers to the HEEF will be made at the end of October 2007 (\$3 billion) and the end of January 2008 (\$3 billion).

Consultation with the higher education sector on the design of HEEF funding programme will take place in the coming months.

Other higher education funding programmes such as the National Collaborative Research Infrastructure Strategy (NCRIS) and Capital Development Pool (CDP) will continue in line with government policy.

Purpose

The objective of the HEEF is to promote the development of a truly world class Australian university system, by providing an ongoing programme of support for significant, targeted and strategic investments in capital expenditure and research facilities in the higher education sector. The HEEF also supports the government's broader policy objective to encourage philanthropic support in Australian universities.

Overview of the Bills

The HEEF Bill provides for the establishment of the HEEF. It sets out the governance arrangements which will support the management of the \$6 billion capital investment and describes the process relating to the making of grants which will be directed to building world-class facilities.

The Consequential Amendments Bill amends the *Future Fund Act 2006* and the *Income Tax Assessment Act 1997* to support implementation of the Higher Education Endowment Fund. It extends the operations of the *Future Fund Act 2006* (Future Fund Act) to deal with the expansion of the Future Fund Board of Guardians' investment functions in relation to the HEEF. It also makes amendments to the *Income Tax Assessment Act 1997* to allow deductible gifts of money to be made to the HEEF.

Fund Management

The provisions of the HEEF Bill are modelled on the Future Fund Act. The Bill provides the Future Fund Board of Guardians with powers to manage the investments of the HEEF with operational support provided by the Future Fund Management Agency. The Treasurer and the Minister for Finance and Administration (the Finance Minister) are the responsible

Ministers and will issue directions to the Future Fund Board of Guardians about the performance of its investment functions.

The Future Fund Board of Guardians will be accountable to the responsible Ministers for meeting its obligation to manage the HEEF. The Future Fund Management Agency will remain accountable to the Finance Minister. These accountability arrangements remain the same as those that operate for the Future Fund.

The HEEF Bill also provides that, consistent with the Future Fund Act, the Future Fund Board of Guardians will be guided in its activities by an investment mandate – a collection of Ministerial directions - issued by the responsible ministers. The Investment Mandate will set out the benchmark return expected by the responsible Ministers.

Both the HEEF Bill and the Consequential Amendments Bill specify that the responsible Ministers cannot direct the Future Fund Board of Guardians to use the assets of the HEEF to invest in a particular financial asset, for example, shares in a particular company. It also prevents the responsible Ministers from issuing a ministerial direction that has the effect of requiring the Board of Guardians to use the assets of the fund to support a particular business entity, a particular activity or a particular business.

Grants

The Government has made a commitment that the HEEF will be a true endowment fund. The real value of the Government contributions to the Fund will be maintained and only accumulated returns are made available each year for payment to higher education institutions.

The returns available for distribution to the sector will be linked to the performance of the HEEF and in turn the market. International experience suggests that in using such a strategy over the medium term, around five years, the level of grants that can be made from the fund should become predictable. However, in the short term there may be some volatility.

The HEEF Bill provides for the responsible Ministers to determine rules for the maximum level of payments from the HEEF (that is, Maximum Grants Rules). In determining these rules the Ministers are required to ensure that the maximum grants amounts do not exceed accumulated nominal earnings, and have regard to the need to retain the real value of Government contributions to the fund over the medium to long term.

The Bill further provides that the total amount that the Education Minister can spend on grants to the higher education sector in any financial year, the maximum grants amount, will be calculated by the Future Fund Board of Guardians. This calculation will be made in accordance with the maximum grants rules specified by the responsible Ministers. This ensures that the determination of the payment amount is made by the Future Fund Board of Guardians and not by Ministerial direction.

Advisory Board

The HEEF Bill provides for the establishment of an Advisory Board to provide advice to the Education Minister on matters that relate to making grants to eligible higher education institutions. Further, the Advisory Board will advise on the best strategic investment proposals which provide quality infrastructure and support Australian Government policy with respect to diversity, specialisation, and responsiveness to labour market needs.

The Education Minister has announced that the Advisory Board will have a chair and six members, with the Chief Scientist and the Secretary of the Department of Education, Science and Training participating in an ex-officio capacity.

Eligible Institutions

Consistent with the Government's aim of encouraging diversity within the sector, the HEEF Bill provides that institutions eligible to apply for HEEF funding are those institutions listed under Table A and Table B of the *Higher Education Support Act 2003* which are currently eligible to receive capital funding from the Government.

This includes all Australian universities plus the Australian Maritime College (which is scheduled to merge with the University of Tasmania on 1 January 2008), the Batchelor Institute of Indigenous Tertiary Education and the Melbourne College of Divinity.

Philanthropy

With the establishment of the HEEF, the Government has created a new avenue for business and the general public to make philanthropic donations to the sector and signalled to the community that greater philanthropic support to universities should be provided.

Currently, less than 2 per cent of Australian universities' income comes from philanthropic donations compared to 15 per cent in the USA.

In the first instance, the Government has determined that gifts of money to the HEEF will only be able to be accepted on an unconditional basis. The Consequential Amendments Bill provides for such gifts to be tax-deductible under the *Income Tax Assessment Act 1997*.

The Government indicated at the time the HEEF was announced that contributions could be earmarked for particular universities and could be managed along with the HEEF funds. This issue will be addressed following more detailed consultation with the higher education sector. The Government may then consider amendments to the legislation.

Amendments to the Future Fund Act 2006

The consequential amendments to the Future Fund Act make it clear that the Future Fund Board of Guardians will have two distinct investment functions, one for the Future Fund and one for the HEEF. There will also be two investment mandates that the responsible Ministers can issue to the Future Fund Board of Guardians – one for the Future Fund and one for the HEEF.

The investment mandate of the Future Fund, and the general operation of the Future Fund, will remain the responsibility of the Treasurer and the Finance Minister, as supported by the Future Fund Act.

The Finance Minister will remain responsible for the administration of the Future Fund legislation, including the expanded functions of the Future Fund Board of Guardians for the investment of the HEEF.

In accordance with the Government's commitment to responsible governance and reviewing and updating legislation as necessary, the Consequential Amendments Bill supports a change to the Future Fund Act which is mirrored in the new legislation for the HEEF.

As described in the HEEF Bill and outlined above, the Consequential Amendments Bill also provides that investments made by the Future Fund Board of Guardians will be determined by the Future Fund Board of Guardians, not by ministerial direction, within the broad guidelines of the investment mandate.

Further, the Consequential Amendments Bill also specifies that the responsible Ministers cannot direct the Future Fund Board of Guardians to use the assets of the Future Fund to invest in a particular financial asset, for example, shares in a particular company. It also prevents the responsible Ministers from issuing a ministerial direction that has the effect of

requiring the Future Fund Board of Guardians to use the assets of the fund to support a particular business entity, a particular activity or a particular business.