



INDEPENDENT  
HIGHER EDUCATION  
AUSTRALIA

# **IHEA SUBMISSION**

**SENATE INQUIRY INTO THE  
UNIVERSITIES ACCORD (AUSTRALIAN  
TERTIARY EDUCATION  
COMMISSION) BILL 2025 AND THE  
RELATED CONSEQUENTIAL AND  
TRANSITIONAL PROVISIONS BILL  
2025**

15 January 2026

## IHEA Submission

# Senate Inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 and the Universities Accord (Australian Tertiary Education Commission) (Consequential and Transitional Provisions) Bill 2025

### Introduction

Independent Higher Education Australia (IHEA) welcomes the opportunity to provide input to the Senate Inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 (the Bill) and the associated Consequential and Transitional Provisions Bill 2025 (C and T Bill), for which submissions are due by 15 January 2026.

The Bills establish the Australian Tertiary Education Commission (ATEC) as the central system “steward” for Australia’s tertiary education sector. It is in fact a regulator in all but name. ATEC’s remit will span consultation, strategic policy advice, system oversight, data reporting and regulation–related advisory functions. Through these powers, the ATEC will have significant influence over the funding, regulatory and operational landscape for all higher education providers, including independent higher education providers (private universities and NUHEPs). It is therefore essential that ATEC’s stewardship does not just default to the needs and requirements of public universities.

Although stated to the contrary by the Government, as outlined below, ATEC has a clear regulatory function through establishing, monitoring and, if necessary, replacing a university’s compact as well as determining the number of domestic and international places a provider has. These functions are also surrounded by a range of monitoring, reporting and advisory roles. As an additional regulator and more legislation to an already highly regulated sector, it will be important that ATEC delivers on one of its core functions, as outlined in Section 11 (d)(iii) to actively identify “opportunities to streamline the regulation of higher education providers”.

Finally, it is important to note that future amendments to HESA and the ATEC’s enabling legislation will be required to establish the ATEC’s role in the implementation of domestic managed growth and needs–based funding for higher education providers. Intended future amendments to the ATEC’s enabling legislation will also provide a framework for the ATEC’s role in allocating international student commencements to higher education providers, when directed by the Minister. It will be important that there is clarity and fairness around the development of these subsequent legislative frameworks, which will be critical to protecting system diversity and equity across all higher education provider types.

### Objectives of ATEC

The Bills outline the objectives of ATEC as follows:

- Provide stewardship to the higher education sector.
- Strengthen the higher education sector to enable the delivery of quality teaching and learning and internationally competitive research and research training.
- Ensure the higher education sector has the capacity and capability required to meet current and future student, skills and workforce demand.
- Increase equitable and affordable access to, and participation in, the higher education sector by all students, including the role of non–university providers.
- Improve coordination and collaboration between the higher education sector and the vocational education and training (VET) sector (although for matters relating to the tertiary education system, the ATEC’s role will be advisory only).

In doing so, it is understood that the ATEC's operations and functions will be underpinned by the Australian University Accord's (Accord) National Tertiary Education Objective (NTEO), which is to achieve equitable and resilient democracy and drive national economic and social development and environmental sustainability. It is understood that this objective would underpin ATEC's operations and functions.

### Functions of the ATEC

The core statutory functions of the ATEC can be grouped into two categories; those which take effect once the Bill receives Royal Assent, with others subject to future, additional legislation. Immediately below are the functions that come into effect once the Bill receives Royal Assent:

- Consultation with stakeholders across the tertiary education system.
- Advisory functions on tertiary policy, higher education policy, equity outcomes and system performance.
- Advisory functions to the Minister on the efficient cost of delivery across disciplines.
- Advisory functions relating to the Higher Education Standards Framework (including drafting proposed amendments).
- Entering into mission-based compacts with Table A and B universities (as defined in the *Higher Education Support Act 2003* (HESA)) for the 2027 transition year (which will be light-touch compacts).
- Powers to request information necessary for ATEC's advisory and compact-related functions.
- Publishing its annual Higher Education Sector Update.
- Establishing advisory committees, appointing staff and engaging contractors.
- Issuing reports, including the four year State of the Sector Report.
  - Preparing and publishing the Statement of Strategic Priorities (SSP) and a four year workplan. The SSP will articulate the ATEC's strategic vision and priorities and will inform compact negotiations with Table A and B providers. The SSP will cover a 4 year period, with the first SSP spanning 2027–2030. The ATEC will update the SSP as necessary, for example, in the event of emerging or urgent priorities.
- Providing advice and drafting recommendations on amendments to the Higher Education Standards Framework (Threshold Standards) 2021, noting that the Bill abolishes the Higher Education Standards Panel (HESP) and transfers this responsibility to ATEC.
- ATEC will also perform a significant standards and regulatory advisory function. It will advise both the Minister and TEQSA on the Threshold Standards and undertake research, reporting and public data publication on tertiary sector performance.

The above functions will take effect once the Bill receives Royal Assent, however, the following functions of ATEC are subject to future legislation:

- Allocation of domestic student profile allocations under the Managed Growth Funding System and Needs-Based Funding.
  - It is expected that the ATEC will allocate domestic student profiles for the higher education sector, but ostensibly public universities who are the principal beneficiaries of Commonwealth Supported Places (CSPs). The total number of student places allocated to a higher education provider will constitute their "student profile." The ATEC will determine domestic student profiles for publicly funded universities and other eligible non-university higher education providers within a Total Allocation Pool, which will be a whole of sector pool of CSPs set annually by the Government. The domestic student profile will be an overall cap on CSPs based on equivalent full

time student places under the Managed Growth Funding System, compared to the funding cap that exists under the current system.

- Allocation of international student commencement allocations for all higher education providers.
  - At the Minister’s direction, ATEC will determine the maximum number of international student commencements for *Education Services for Overseas Students Act 2000 (ESOS)* registered providers.
- Linking compacts to funding as well as a provision for ATEC to replace a university’s compact with a default compact.

It is intended that future amendments to HESA and the ATEC’s enabling legislation will establish its role in the implementation of domestic managed growth and needs–based funding for higher education providers. Intended future amendments to the ATEC’s enabling legislation will also provide a framework for the ATEC’s role in allocating international student commencements to higher education providers, when directed by the Minister. Following these amendments, it is intended that compacts will comprise two interrelated components: mission alignment and the allocation of places. We understand that this is intended to explicitly link institutional actions and commitments related to mission with the allocation of student places.

Taken together, the immediate (Royal Assent of this Bill) and deferred functions (contingent on future legislation), give ATEC a major role in shaping the composition of the higher education market, settings for growth, institutional missions and the SSP to guide the entire sector. This is likely why the terms “steward” and “stewardship” are frequently used with respect to ATEC’s overarching role, although they are not defined in the legislation. However, in practice, ATEC’s functions, including allocation of domestic and international places, establishment and oversight/monitoring of compacts and influence on the Threshold Standards, give it a regulatory role. It is stated that ATEC will operate alongside, but remain distinct from, the Department of Education (DoE), TEQSA, Jobs and Skills Australia (JSA) and the Australian Research Council (ARC). To avoid duplication, regulatory burden and confusion, it will be essential that these bodies maintain clear mandates, boundaries and points of interaction.

In this submission, IHEA provides detailed feedback on key components of the Bills and functions and operation of ATEC, with a particular focus on:

- Ensuring full and equitable recognition of the independent higher education sector.
- The need for genuine consultation and representation across all provider types, including independent higher education providers.
- The implications of ATEC’s advisory role on the Threshold Standards, with the removal of the HESP.
- The design and operation of mission–based compacts, in particular, to reflect the differences between Table A and Table B providers, as well as balancing potentially competing priorities such as institutional missions and the Minister’s strategic priorities.
- The allocation of international student commencements to occur in a fair way that does not bias against independent higher education providers.
- The treatment and visibility of NUHEPs within ATEC’s stewardship functions, which should not be about meeting additional requirements but not gaining access to Commonwealth finding.
- The continued inequity created by the 20 per cent FEE–HELP loan fee, which disproportionately affects students studying at independent higher education providers.

ATEC's complete functions are outlined in Section 11 of the Bill and below.

### **Section 11: Functions of the ATEC**

The ATEC has the following functions:

- (a) to consult and collaborate with participants and stakeholders in the tertiary education system;
- (b) to enter into mission based compacts with Table A and Table B providers and assess providers against the terms of their compacts;
- (c) to prepare reports, and provide advice and recommendations if requested by the Minister to the Minister, the VET Minister and the Ministers for each State and Territory responsible for higher education or VET, in relation to the higher education system and the tertiary education system;
- (d) to prepare reports, and provide advice and recommendations if requested by the Minister to the Minister, in relation to:
  - (i) improving higher education access, participation and outcomes for persons facing systemic barriers to education, including Aboriginal persons and Torres Strait Islanders, persons with disability, persons of a low socioeconomic background and persons living in regional Australia; and
  - (ii) the efficient cost of higher education across disciplines and student cohorts and in relation to the Commonwealth contribution amounts for places in funding clusters; and
  - (iii) opportunities to streamline the regulation of higher education providers;
- (e) to provide advice and recommendations to the Minister in relation to the Higher Education Standards Framework under the *Tertiary Education Quality and Standards Agency Act 2011*;
- (f) to provide advice and recommendations to the Tertiary Education Quality and Standards Agency in relation to the Higher Education Standards Framework under the *Tertiary Education Quality and Standards Agency Act 2011*, either on the ATEC's own initiative or at the request of the agency;
- (g) to report and publish information in relation to the tertiary education system and higher education providers;
- (h) to allocate a maximum number of international student commencements to ESOS registered providers at the direction of the Minister;
- (i) any other functions conferred on the ATEC by this Act, the rules or any other law of the Commonwealth;
- (j) to undertake or coordinate research and data analysis activities in relation to any of the above functions;
- (k) to do anything incidental or conducive to the performance of any of the above functions.

## IHEA Feedback

### **Part 2 – Establishment and functions of the Australian Tertiary Education Commission**

#### Division 2: The Australian Tertiary Education Commission

##### *Section 12: Consultation when performing functions and exercising powers*

#### **Section 12: Consultation when performing functions and exercising powers**

This section provides that, in performing its functions or exercising its powers, the ATEC may consult with any of the following persons or bodies:

- a. the Minister;
- b. if the Minister is not the VET Minister – the VET Minister;
- c. if the Minister is not the Research Minister – the Research Minister;
- d. if the Minister is not the Science Minister – the Science Minister
- e. the Ministers for each State and Territory responsible for higher education;
- f. the Ministers for each State and Territory responsible for VET;
- g. higher education system stakeholder representatives;
- h. higher education student representatives;
- i. any other person or body that the ATEC considers appropriate.

Under Section 12 of the Bill, it states that in performing its functions or exercising its powers, the ATEC may consult with any of a range of persons or bodies, including at (g) higher education system stakeholders. IHEA recommends that this wording should be more detailed and specific and require that consultation must be undertaken with higher education system stakeholders which is comprehensive and reflective of the diversity of the sector.

Australia's higher education system consists not only of public universities but also a broad range of independent higher education providers, including private universities, university colleges, and both not-for-profit and for-profit NUHEPs. This diversity must be explicitly recognised in the legislation to ensure that ATEC's engagement obligations extend across the full breadth of the sector.

These providers operate under distinct governance, regulatory, funding and business models and serve different student cohorts. Accordingly, meaningful, early and ongoing consultation with the independent higher education sector is essential to ensure ATEC receives a full, accurate and balanced understanding of issues across the higher education system for which it has been given stewardship.

Meaningful engagement with independent providers will help ensure that ATEC's advice and decisions:

- Reflect the experiences, priorities and needs of all provider types, not only publicly funded universities.
- Properly account for the operational, regulatory and financial differences affecting independent providers.
- Support system stewardship that is equitable, evidence-based and inclusive across the entire tertiary landscape.

We also note that ATEC must prepare a written statement outlining its SSP for the tertiary education system every two years under Section 43 (SSP). In doing so, ATEC must consult with higher education system stakeholder representatives. IHEA recommends that the Bill be strengthened to explicitly require that this consultation also includes independent higher education providers, consistent with the broader consultation obligations outlined above.

To ensure transparency and accountability, IHEA recommends that the ATEC Bill be amended to expressly require consultation with independent higher education providers and their representative bodies, as follow:

**Amendment One: Part 2 — Establishment and functions of the Australian Tertiary Education Commission, Division 2: The Australian Tertiary Education Commission**

**Section 12 Consultation when performing functions and exercising powers**

- (1) Page 10 (lines 2 to 3), replace “ATEC may consult” with “ATEC must consult”.
- (2) Page 10 (line 14) (g) after “higher education system stakeholder representatives”, add “including independent universities and non–university higher education providers and their peak bodies”.

***[makes it a requirement to consult and to include independent providers in that consultation]***

*Section 14: Objective of improving outcomes for certain persons*

Section 14 of the Bill outlines ATEC’s objective to improve outcomes for persons facing systemic barriers. This reflects the Accord’s focus on addressing equity gaps and ensuring all students can access and succeed in higher education. In this context, there is a significant and longstanding equity issue that disproportionately affects students who choose to study at independent higher education providers: the 20 per cent FEE–HELP loan fee. While FEE–HELP reform is out of scope of the current Bill, ATEC’s equity mandate creates a strong policy impetus for its removal.

For students enrolled in full–fee–paying undergraduate courses, most commonly delivered by independent higher education providers, FEE–HELP enables them to borrow the full cost of their tuition, as CSPs are not available to them. However, unlike HECS–HELP recipients, these students incur an additional 20 per cent loan fee. This inequitable impost increases student debt, reduces affordability, and penalises students solely based on their choice of provider.

The Accord Final Report directly acknowledged this issue, noting that students accessing FEE–HELP should be “fairly treated regardless of their provider and course” and expressing concern about the “lack of coherence around FEE–HELP arrangements for students at different classes of provider” (pp. 163–165). The Report dedicated a section to considering “fair and flexible arrangements for full fee–paying students,” signalling the need for reform.

The rhetoric that FEE–HELP loans incur higher costs to government are flawed and counterintuitive. Students using FEE–HELP already receive no Commonwealth subsidy and must borrow 100 per cent of their tuition costs. Imposing an additional 20 per cent charge therefore disproportionately burdens those who already receive the least government support. This fee functions as a tax on education and on student choice, and its compounding effect through indexation accelerates the growth of FEE–HELP debt relative to HECS–HELP.

As Australia seeks to expand higher education participation and achieve the Accord’s 80 per cent tertiary attainment target, barriers such as the loan fee actively undermine policy objectives of equity, flexibility, and student choice. Removing this discriminatory fee would promote competitive neutrality across provider types and support a more responsive, market–led tertiary system capable of meeting future skills needs.

This inequity is directly relevant to Section 14’s objective of addressing systemic barriers. However, since ATEC’s mandate is to address systemic barriers, IHEA recommends that the 20 per cent FEE–HELP loan fee be urgently reviewed and removed as an equity priority. In the first instance, the Minister could commission advice from the ATEC in relation to the FEE–HELP loan fee under Section 41(1) of the ATEC Bill, which states that if requested by the Minister, the ATEC must give advice and recommendations to the Minister in relation to the following: (a) policy settings for higher education; (j) the improvement of higher education access, participation and outcomes for persons facing systemic barriers to education, including Aboriginal persons and Torres Strait Islanders, persons with disability, persons of a low socioeconomic background and persons living in regional Australia; and (k) any other advice in relation to the higher education system.

## Division 4: Other persons

### *Section 24: Contractors and consultants*

#### **Section 24: Contractors and consultants**

This section explains how contractors and consultants may be engaged to assist the ATEC.

1. The Secretary may, on behalf of the Commonwealth, engage contractors or consultants to assist in the performance of the ATEC's functions.
2. The contractors or consultants are to be engaged on the terms and conditions that the Secretary determines in writing.

Section 24 of the Bill provides ATEC with the ability to engage contractors and consultants to supplement its expertise. This is an important provision and is intended to operate in parallel with the secondment arrangements for public servants under Section 23.

IHEA strongly supports ATEC drawing on specialist expertise from across the higher education sector, particularly from those with direct operational experience within independent higher education providers. Given the diversity of the higher education landscape, it is essential that ATEC's staff, advisers and consultants possess a deep and practical understanding of the full range of provider types. This is not only public universities, but also private universities, university colleges and NUHEPs.

Independent higher education providers play a significant role in meeting Australia's education and workforce needs. They consistently deliver high-quality outcomes for domestic and international students, as demonstrated through strong results in the Quality Indicators for Learning and Teaching (QILT). Their governance structures, business models, regulatory interactions and student cohorts differ materially from those of public universities. ATEC must therefore have access to personnel who can bring this nuanced understanding into its policy development, advice and decision-making processes.

Without such expertise, there is a real risk that ATEC's work will default to a public-university-centric view of the tertiary system, overlooking the contributions, challenges and operating environments of independent providers. This would undermine the Commission's ability to function as a genuine system steward and would diminish the accuracy, balance and relevance of its advice to Government.

Ensuring that ATEC can draw on staff, consultants and secondees with hands-on experience across all parts of the sector will be critical to:

- Producing high-quality State of the Sector reports and SSP.
- Setting informed and balanced system-wide expectations.
- Understanding how regulatory and funding settings affect providers differently.
- Supporting the Government's goal of achieving an 80 per cent tertiary attainment rate by 2050.

A strong and integrated tertiary education system requires that all provider types are understood, valued and represented within the stewardship architecture. ATEC's use of contractors and consultants should therefore be explicitly directed toward securing the breadth of expertise needed to reflect the full diversity of Australian higher education.

## Division 5: Committees

### *Section 25: Committees*

#### **Section 25: Committees**

##### *First Nations Advisory Committee*

- (1) The ATEC must establish a committee to be known as the First Nations Advisory Committee to provide advice and recommendations to the ATEC in relation to participation and outcomes for Aboriginal persons and Torres Strait Islanders in tertiary education and Aboriginal and Torres Strait Islander knowledge.

##### *Other committees*

- (2) The ATEC may establish other committees to provide advice or recommendations to the ATEC in relation to the performance of the ATEC's functions.

##### *General*

- (3) A committee established under this section is to consist of such persons as the ATEC determines.
- (4) The ATEC must ensure that the members of a committee have appropriate knowledge or experience relevant to the subject matter of the committee.

This section outlines that the membership of an ATEC committee will be determined by ATEC, and it must ensure that the members of a committee have appropriate knowledge or experience relevant to the subject matter of the committee.

We believe it is important that committee composition reflects the breadth and diversity of the higher education sector. Committees must draw upon expertise from across the system to ensure balanced and informed advice to Government.

Independent higher education providers operate under governance, regulatory and funding frameworks that differ significantly from public universities. They represent a substantial portion of Australia's higher education ecosystem and deliver education to diverse student cohorts across a wide range of disciplines.

Accordingly, representation from the independent higher education sector should be included in the ATEC committees, sub-committees and working groups.

Such representation will ensure committees reflect the full diversity of the higher education system; strengthen the expertise and perspectives that inform ATEC's advice; that ensure independent providers' operational, financial and regulatory contexts are appropriately and adequately considered; and support ATEC's mandate to provide system-wide stewardship across all higher education providers.

Including independent sector representation will help to ensure ATEC committees are balanced, credible and aligned with the intent and purpose of ATEC.

## Part 3 – Mission based compacts and default mission based compacts

### Division 2: Mission based compacts

#### *Section 27: Mission based compacts*

#### *Section 28: Purpose of mission based compacts*

##### **Section 27: Mission based compacts**

- (1) The ATEC may, on behalf of the Commonwealth, enter into a mission based compact with a Table A or Table B provider.
- (2) The ATEC must publish the compact on the ATEC’s website within 28 days after the compact is entered into. The ATEC must ensure the published compact is kept up-to-date.

##### **Section 28: Purpose of mission based compacts**

The purpose of a mission based compact between the ATEC and a Table A or Table B provider is to give the provider flexibility to pursue their goals and mission while also enabling the provider to:

- (a) Contribute to diversity within the higher education system.
- (b) Contribute to higher education priorities including those set out in the statement of strategic priorities prepared under section 43.
- (c) Meet the higher education needs of the provider’s students and community.

Entering into mission based compacts with Table A (public universities) and Table B (independent/private universities) providers is a core function of ATEC under Section 11(b) of the Bill. The Explanatory Memorandum states that the purpose of these compacts is to “enable diversity of delivery and mission within the higher education system” by providing a mechanism for institutions to demonstrate how their mission aligns with national, state and local priorities, as well as sector-wide strategic objectives articulated in the SSP. It is worth noting that the C and T Bill provides transitional provisions enabling existing HESA compacts to continue until replaced, but detailed compact rules will be developed in later legislative instruments. New compact guidelines, templates and performance frameworks will not be set until the Minister makes further rules under the Act.

It is understood that the intent of mission based compacts is to:

- Support growth and sustainability at the institutional and sector level to enable Table A and Table B providers to deliver their core mission of teaching and learning, research and research training, and civic leadership and engagement.
- Enable diversity of delivery and mission within the sector, including alignment with national and state-level priorities, planning, and strategy, as well as industry engagement and innovations in learning and teaching.
- Utilise existing data and reporting wherever possible, to minimise additional administrative burden and provide quality insights to inform the ATEC’s policy development and monitoring.

Mission-based compacts will comprise two central and interrelated components:

- How a Table A or Table B provider will pursue its mission, and how this contributes to the achievement of national priorities.
- Enabled through future legislative amendments, a Table A or Table B provider’s load allocations for domestic and, when applicable, International Student Profiles based on a provider’s distinct mission, and a provider’s overall performance in relation to its mission and commitments established in the compact.

Furthermore, if the ATEC and a Table A or Table B provider cannot agree on the terms of the compact, or any performance concerns persist despite ongoing engagement, future legislation will introduce that the ATEC may

temporarily suspend a provider's mission based compact and initiate a default compact. It is stated that the default compact will ensure continuity of funding to minimise disruption to students and staff while revised terms are negotiated. That said this type of interventionist approach, which is a clear regulatory action, should not become a mechanism for ATEC to impose subjective views over the quality of the provider's performance, which would overlap with TEQSA's role. It is also worth noting that the ability for ATEC to issue a default compact is subject to future legislation. It is important to note that Domestic Student Profiles, International Student Profiles and Managed Growth and Needs-based Funding will also be subject to future legislative amendments.

Mission-based university compacts have historically struggled to deliver meaningful differentiation. Since their introduction under HESA in 2011, compacts have often evolved into standardised, largely uniform documents due to regulatory requirements, compliance expectations and Commonwealth priorities. As a result, they have not effectively showcased institutional diversity or supported mission led differentiation across the sector.

The new compact framework proposed for ATEC faces the same inherent tension of enabling flexibility and genuine institutional differentiation while simultaneously requiring alignment with national priorities set by the Minister. Because the SSP will shape the parameters within which compacts are negotiated, there is a risk that Ministerial priorities may override or conflict with an institution's mission, resulting in further homogenisation rather than greater differentiation.

A further issue is the relationship between mission based compacts and funding agreements. It remains unclear whether they will operate in parallel or be integrated, and how obligations, performance expectations and reporting requirements will be aligned. Clear articulation of this relationship is essential to avoid duplication, conflicting requirements, or administrative burden.

Compact design must also reflect the significant differences between Table A and Table B universities. Table A universities receive substantial Commonwealth funding, including CSPs, HECS-HELP, research block grants and targeted grant programs, whereas Table B universities receive limited research block grant funding and rely primarily on FEE-HELP for student contributions. These fundamental differences in funding, scale, mission, and regulatory oversight mean that a one-size-fits-all approach to compacts would not be appropriate or workable.

The compact framework must therefore be proportionate, scalable and reflective of these structural distinctions. Expectations placed on Table B providers, especially smaller private universities, should reflect their funding arrangements, strategic focus, and operational context, rather than modelled on the requirements applicable to large, public universities.

IHEA also notes that NUHEPs are not currently in scope for mission based compacts. This position should remain the case unless the Government undertakes transparent, structured and early consultation with the sector, and can clearly articulate opportunities to access Commonwealth funding along with the purpose, benefits and implications of bringing NUHEPs into the compact system.

In summary, for mission based compacts to achieve their purpose, they must:

- Enable genuine institutional differentiation rather than standardised templates (i.e. balance institutional missions with national priorities set through the SSP).
- Coherently align with funding agreements to avoid duplication.
- Reflect the structural and funding differences between Table A and Table B (independent) universities. Compacts for Table B providers compacts must be proportionate and not modelled on those for Table A providers.
- Compacts must not become a de facto quality assurance mechanism, overlapping with TEQSA.
- Exclude NUHEPs unless there is sector-wide consultation for their inclusion, which would also need to accompany access to Commonwealth funding.

These principles should be adopted to ensure that mission based compacts properly designed to support a diverse, high-performing higher education system. If not, they risk entrenching uniformity, increasing administrative burden and undermining the very diversity they purport to foster.

## Part 5 – Administration

### Division 3: Appointments

#### Section 59: ATEC Commissioners collectively possess certain knowledge and experience

##### **Section 59: ATEC Commissioners collectively possess certain knowledge and experience**

1. This section provides that, in exercising a power to appoint an ATEC Commissioner under this Division, the Minister must ensure that:
  - a. the ATEC Commissioners collectively possess an appropriate balance of experience and knowledge in each of the following fields:
    - i. higher education;
    - ii. VET;
    - iii. tertiary education governance and administration;
    - iv. stakeholder consultation and engagement;
    - v. regional Australia; and
  - b. at least one of the ATEC Commissioners has substantial experience and knowledge in relation to VET.

Section 9 of the Bill outlines the composition of the ATEC, requiring the Minister to ensure that at least one Commissioner has substantial experience in vocational education and training (VET). Further, the Chief Commissioner, First Nations Commissioner and other Commissioners must collectively possess an appropriate balance of experience and knowledge across relevant fields.

However, we believe the provisions within the Bill should be strengthened to reflect the diversity of Australia’s higher education sector. Higher education is not a homogenous system. It includes public universities (Table A), private universities (Table B, plus the Australian University of Theology), university colleges and a wide range of for–profit and not–for–profit NUHEPs. Importantly, this diversity (outside of public universities) exists within the independent higher education sector.

Independent higher education providers, which encompass private universities and NUHEPs, operate under fundamentally different governance, regulatory, and funding arrangements compared with public universities. They generally do not receive Commonwealth Grant Scheme funding, rely heavily on tuition fees, and often deliver specialised or niche programs that are closely aligned with industry needs and employment outcomes. Their scale, operational structures, student cohorts, and educational approaches differ markedly from the public university sector.

Given these distinctions, it is essential that ATEC’s composition explicitly includes Commissioners with substantial experience or comprehensive understanding of the independent higher education sector. Without this, there is a risk that ATEC’s perspectives and decisions will be disproportionately influenced by publicly funded universities, potentially overlooking the unique contributions, needs and challenges of independent providers.

The independent higher education sector is particularly agile, able to respond to gaps in demand that public universities cannot meet, including underserved or niche areas, and by providing pathways for students who might be considered “marginal” or underprepared. Despite limited access to needs–based funding, independent providers excel in delivering flexible, student–focused programs, often with strong support services and inclusive learning environments. This positions them well to support diverse student cohorts and address specific skills gaps in the workforce.

Ensuring explicit representation of independent higher education experience on ATEC would:

- Align the ATEC’s stated purpose as a system–wide steward of a diverse higher tertiary sector.

- Strengthen the quality and relevance of advice to government on regulation, funding, growth, and system stewardship, particularly in areas where the needs of independent providers differ from public universities.
- Reflect the full spectrum of Australia’s higher education landscape, ensuring that policy and regulatory decisions are informed by the perspectives of both public and independent providers.

IHEA recommends that the Bill should be amended to require that ATEC Commissioners collectively possess an appropriate balance of experience and knowledge, explicitly including expertise from both public universities and the independent higher education sector (private universities and NUHEPs).

IHEA recommends that the Bill should be amended to require that ATEC Commissioners collectively possess an appropriate balance of experience and knowledge, explicitly including expertise from both public universities and the independent higher education sector (private universities and NUHEPs).

A proposed amendment is outlined below:

**Amendment Two: Part 5 — Administration, Division 3: Appointments**

**Section 59 ATEC Commissioners collectively possess certain knowledge and experience**

- (1) Page 42 (line 1), (i) after “higher education” add “including independent universities and non–university higher education providers”.

***[specifies that Commissioners collectively possess appropriate balance of knowledge and experience to include independent higher education providers]***

## Threshold Standards

The transfer of responsibility for advising on and recommending updates to the *Threshold Standards* from the HESP to the ATEC represents a significant shift in regulatory oversight. The HESP historically included sector representation, ensuring input from independent higher education providers in advice to the Minister, who is the decision maker.

The C and T Bill establishes transitional provisions formally abolishing HESP and transferring its advisory role to ATEC; however, it also confirms that amendments to the Threshold Standards themselves will not occur until later legislative instruments are made.

There is a risk that, under ATEC, this expertise could be lost if the ATEC relies predominantly on public servants seconded from the Department of Education or internally recruited staff lacking comprehensive sector knowledge. Expertise in higher education, including both public universities and independent providers, is essential for ATEC to fulfil its role as a sector steward and provide accurate, evidence-based advice (Section 24).

A key example is the implementation of the *University Governance Principles*, which were explicitly developed to address governance issues in public universities. Applying these principles across all registered providers through the Threshold Standards could create unintended regulatory burdens for independent higher education providers, whose governance arrangements differ fundamentally. IHEA recommends that TEQSA implement these principles via a *Statement of Regulatory Expectation (SRE)* specific to public universities, maintaining the integrity and purpose of the Threshold Standards. Precedent exists in 2025 with SREs for Compliance with Workplace Obligations (28 May 2025) and Student Grievance and Complaint Mechanisms (3 October 2025).

To support this, Sections 23 and 24 of the Bill provide for ATEC to be able to access comprehensive expertise and consult broadly to ensure that advice on Threshold Standards reflects sector-wide perspectives and the diversity of provider types. Maintaining the principle that the Threshold Standards apply proportionately across providers as minimum standards is critical to preserving equity and avoiding public-university-centric regulatory outcomes. IHEA recommends that ATEC establish an expert advisory committee/sub-committee (refer above for a discussion on Section 25 of the Bill regarding committees) that has diverse membership reflective of the entire higher education sector, including independent higher education providers, to formulate advice with respect to the Threshold Standards.

## International

It is understood that the ATEC's functions with respect to international student commencements will be detailed in subsequent amendments to the ATEC Act. What is known is that where/if the Government decides to manage international student commencements, for example, through setting a National Planning Level, to guide the ATEC in executing this role, the Government will provide directions to the ATEC about the overall number of New Overseas Student Commencements (NOSC) available for allocation as part of the stated managed growth agenda.

For Table A and B universities, international student profiles will form part of mission based compacts, with the potential for annual updates, whereas for NUHEPs, international student allocations will be advised through a separate schedule, ensuring inclusion in policy decisions without disadvantaging non-compact institutions. Although different mechanisms will apply, to the allocation of NOSC, NUHEPs must not be disadvantaged in this process, in terms of timing and the formula for any allocation, through being on a different allocation schedule.

IHEA's view is that Government should not apply either hard or soft caps to international student commencements. Australia's international education sector affords us with cultural enrichment and enduring soft diplomacy between Australia and our key global partners. It is also critical to our economy. In 2024–25, international education was worth \$53.6 billion, which was our fourth largest, and largest services and non-resources export industry. Furthermore, international students are critical to addressing skills needs through taking on jobs in health, aged care, retail, tourism and hospitality.

The sustainability of the international higher education sector is contingent on student commencements remaining uncapped. However, should the Government decide to continue with an NPL and provider level NOSC allocations (soft caps) beyond 2026, there must be fairer principles for the allocation of international student commencements. They must not operate as de facto caps and the methodology should not favour public universities, as is currently the case. Differentiation must not be made based on provider type.

Furthermore, independent providers must have equitable access to growth, with allocations based on evidence and performance, not institutional type. As such, the formula for allocating NOSC, must equally recognise the role of independent providers through transparent criteria that are applied the same across all higher education provider categories. ATEC should consult on the criteria and publish the final allocation formula.

### **Role of the ATEC in relation to non–university higher education providers (NUHEPs)**

While ATEC’s statutory obligations refer explicitly to Table A and B universities (i.e. through mission based compacts), its broader system–stewardship role includes NUHEPs. These providers play an important role in the higher education landscape and deliver specialised and niche programs, facilitate access to higher education from cohorts that otherwise may not get the opportunity and widen access and support national skills priorities.

As such, the ATEC must ensure that its advice, strategic planning, and funding recommendations incorporate the perspectives and needs of NUHEPs, consistent with its system stewardship mandate. This includes domestic student profiles under the proposed Managed Growth Funding and Needs–based Funding Systems and international student commencements (where directed by the Minister). Recognition of NUHEPs’ unique operating conditions, funding models and student cohorts is critical to equitable policy and regulatory outcomes.

We understand that the ATEC will also consider the role NUHEPs should play in meeting the Government’s national target of 80 per cent of the workforce having a tertiary qualification by 2050 to meet Australia’s future skills needs. This will be critical in meeting the Government’s target.

IHEA’s view is that all higher education domestic students need to be supported to study in the fields of their choosing, including those that will address current and future skills needs and shortages. Funded CSPs on a demand driven basis should be extended to all TEQSA registered higher education providers in areas that are identified as national priorities.

Such an approach is critical to meeting the Government’s target to lift the tertiary attainment rate of the working age population (people with at least one Certificate III qualification or higher) from 60 per cent in 2023 to at least 80 per cent by 2050. Inherent and underpinning its recommendation to increase the tertiary attainment target is a more than doubling CSPs from 860,000 in 2022 to 1.8 million, with 25 to 34 year olds with a bachelor degree increasing from 45 per cent to 55 per cent.

Given the stated importance of meeting the target to delivering “a skilled workforce to meet the changing needs of the economy” (p.17, Accord Final Report), achieving “growth necessary to meet future skills requirements” (p.4, Accord Final Report) will be pivotal.

This growth cannot be met solely by increasing enrolments in public universities. And building new universities is an unnecessary and excessive cost that will take considerable time. Independent providers are well placed to support students through Government programs because of their values, size, diverse delivery models, niche courses, student services and support, flexibility and responsiveness and approaches to student and staff safety.

Without the critical work and support of independent higher education providers, the ambitious growth that the Government has committed to risks being unmet. While overlooked in the Accord process, IHEA continues to support the recommendation of the 2008 Bradley Review that access to CSP be extended across the sector following the establishment of TEQSA. Access to funded places for all registered providers will deliver equity for all domestic students.

If the Government is committed to equity and student choice, a first step is to ensure that independent higher education providers are included as part of the Managed Growth Funding and Needs-based Funding Systems, which will ensure that the Government delivers on its ambitions.

The challenge for the ATEC is to ensure that it includes independent higher education providers to assist in delivering the Government's agenda.

## Conclusion

For the ATEC to function as an equitable and effective steward of the sector, IHEA recommends that the following principles and actions must be embedded and committed to:

- **Genuine and explicit consultation** with independent providers across all ATEC functions.
- **Appropriate representation** of the independent sector within ATEC leadership, committees and advisory structures.
- **Recognition of the unique operating conditions and funding arrangements** for private universities and NUHEPs within compact design, performance expectations, and system-wide planning.
- **A sector-wide perspective in advising on the Threshold Standards**, ensuring that standards reflect the diversity of higher education providers and do not inadvertently impose requirements developed solely for public universities.
- **Transparent, fair and predictable approaches** to the future allocation of domestic and international student places.
- **Ensuring universities' compacts** to set their missions are not compromised and over-ridden by the SSP. Furthermore, Table B universities should be differentiated from Table A priorities, the latter of which receives significantly more public funding.
- **Removal of inequitable barriers**, including the discriminatory 20 per cent FEE-HELP loan fee that undermines affordability and equity for students who choose to study at independent providers. Future legislation should be introduced to abolish the inequitable **FEE-HELP loan fee**.
- Given the high level of regulation over the higher education sector, the ATEC should expedite **opportunities to streamline the regulation** of higher education providers. This will be paramount if Australia is to have a high performing and diverse sector that is not crippled by increasing regulation and red tape. The establishment of ATEC as another regulator accompanied by additional legislation needs to be offset through a reduction and consolidation of regulatory functions. A step in this process is a performance review of TEQSA, which we have already advocated for, as it is underperforming through significant delays and backlogs which continue to affect its decision-making and engagement with providers. Despite already having very strong powers, TEQSA is seeking increased, but unnecessary, regulatory powers as a panacea for its poor performance, which will only create additional regulatory burden.

If these considerations are embedded in the implementation of ATEC, it will be well placed to support a high performing, diverse and responsive tertiary education system that genuinely serves all Australian students and meets the nation's future workforce needs. If they are not, there is a risk that ATEC will reinforce existing inequities, limit system diversity and constrain the contribution of independent higher education providers at a time when Australia needs them most.

## Who We Are

Independent Higher Education Australia Ltd. (IHEA) is a peak body established in 2001 to represent Australian independent (private sector) higher education institutions. Our membership spans independent universities, university colleges and other institutes of higher education, all of which are registered higher education providers accredited by the national higher education regulator, TEQSA or associate members seeking registration.

There is a long tradition of independent higher education providers in Australia, with the first provider created as early as 1815, only 27 years after the first British settlement in Sydney in 1788. In total, five providers were established between 1815 and 1845 and preceding the first public university. The fifth of these was St James College, which was created in 1845. The founders of St James College were then involved in creating Moore College in 1856 and remarkably Moore College, a University College, still exists and is Australia's longest continuously operating independent higher education provider.

Our Vision is that: students, domestic and international, have open and equitable access to world class independent higher education in Australia, built on the foundations of equity, choice and diversity.

Our Mission is to represent independent higher education and promote recognition and respect of independent providers as they contribute to Australian education, the Australian economy and to society in general. We achieve this by promoting continuous improvement of academic and quality standards within member institutions, by advocating equity for their staff and students and by delivering services that further strengthen independent providers' reputations as innovative, sustainable and responsive to the needs of industry and other relevant stakeholders in both higher education and vocational education and training. IHEA's commitment is to excellence, productivity and growth in independent higher education being delivered through a trusted Australian education system underpinned by equity, choice and diversity.

IHEA members have different missions, scales and course offerings across the full AQF range (Diplomas to Doctorates). IHEA has 87 higher education providers that are members, which rises to 124 if those providers' constituent colleges and subsidiaries are included.

IHEA's 87 higher education providers comprise:

- Five private Universities (Australian University of Theology, Avondale University, Bond University, Torrens University and University of Divinity).
- Six University Colleges (ACAP University College, Australian University College of Divinity, Alphacrucis University College, Excelsia University College, Moore Theological College and SAE University College).
- A further eight (Griffith College, International College of Management Sydney, Kaplan Business School, Marcus Oldham College, Morling College, Photography Studies College, The College of Law and Western Sydney University International College) self-accrediting institutes of higher education (nineteen in total including the Universities and University Colleges described above).
- Seventy-one not-for-profit and for-profit institutions of higher education (which includes three self-accrediting institutes); and related corporate entities.

IHEA members teach approximately 74 percent of the students in the independent sector (i.e., more than 130,000 students) and educate students in a range of disciplines, including law, agricultural science, architecture, business, accounting, tourism and hospitality, education, health sciences, theology, creative arts, information technology, human services and social sciences.

IHEA holds a unique position in higher education as a representative peak body of higher education providers. Membership in IHEA is only open to providers registered, or seeking registration, with the Australian regulator – TEQSA. However, some IHEA members are dual and multi-sector providers who also deliver VET and/or English Language Intensive Courses for Overseas Students (ELICOS) courses.

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