



THE UNIVERSITY OF
SYDNEY

Dr Michael Spence
Vice-Chancellor and Principal

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Ms Susan Pascoe
Interim ACNC Commission
C/- The Manager
Philanthropy and Exemption Unit
Indirect, Philanthropy and Resource Tax Division
The Treasury

By email: NFPReform@treasury.gov.au

Dear Ms Pascoe

ACNC Consultations on Governance Standards and Reporting Requirements, February 2013

I write to offer the University of Sydney's strong support for the submission by Universities Australia to these consultations made on behalf of all 39 Australian universities. We endorse Universities Australia's call for Australian universities to be exempt from the proposed ACNC governance and information provision requirements. The adoption of such an exemption would be consistent with the Government's stated policy objectives for these reforms, as it avoids the imposition of an unnecessary and inefficient duplication of the regulatory and reporting requirements that already apply to the university sector.

We remain concerned that, despite repeated statements that the ACNC reforms will serve to reduce duplication and remove unnecessary regulatory and reporting obligations for registered charities, for the university sub-sector at least, the reforms look likely to have the opposite effect. We have raised our concerns about the potential for duplication with existing regulatory arrangements in various submissions to earlier Treasury consultation processes about the design of the ACNC framework, and directly with the Australian Tertiary Education Quality and Standards Agency (TEQSA) and your Implementation Taskforce in September 2012. Given these concerns, and noting that consultation on these matters is ongoing, we were disappointed to receive from the ACNC in January 2013 an information request, which foreshadows additional reporting by universities of financial and other information to the ACNC.

In support of the Universities Australia's submission, we make the following additional points:

- At the Commonwealth level, Australian universities are already subject, for example, to the quality and accountability requirements of the *Commonwealth Higher Education Support Act 2003*, the *Tertiary Education Quality and Standards Agency Act 2011*, and the *Education Services for Overseas Students Act 2000*, as well as associated codes, regulations, data and information reporting requirements. We are aware of no plans to reduce the regulatory or reporting requirements under any of these Acts or regulations.
- Most Australian universities are established by state or Territory Acts of Parliament. As statutory public bodies they are subject to extensive financial reporting, audit and public disclosure requirements under state and territory laws. For example, NSW universities must report annually to the NSW Parliament in accordance with the *Annual Reports (Statutory Bodies) Act 1984*, while they must also make extensive financial and other



information publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*. We are aware of no plans to change any State regulatory requirements applying to universities as result of the national ACNC reforms.

- Relevant to the ACNC's proposed governance standards for charities, universities' governance standards, structures and functions are set out clearly in their enabling Acts. In our case they are set out in the *University of Sydney Act 1989*. Moreover, in addition to compliance with the TEQSA governance standards, we anticipate that most universities would be in compliance with the former Australian Government's *National Governance Principles for Higher Education Providers* and/or the current *Voluntary Code of Best Practice for the Governance of Australian Universities*. The latter was prepared in 2010 by Universities Australia at the request of the Joint Committee on Higher Education, and was endorsed by the COAG Ministerial Council for Tertiary Education and Employment in 2011: <http://www.universitiesaustralia.edu.au/page/australia-s-universities/university-governance/>. We can see no recognition in the ACNC material to date of the high standards of governance and accountability with which universities must already comply.
- It should be relatively easy to minimise duplication of and regulation and reporting requirements for Australia's universities through the ACNC engaging with TEQSA, the Department of Innovation, Industry, Science, Research and Tertiary Education (DIISRTE) and the sector through Universities Australia, to reach agreement about the most efficient way for the ACNC to access the information it requires to perform its regulatory functions in relation to Australia's universities. Relevantly, we note that the Higher Education Support Act 2003 was amended recently to give TEQSA access to extensive university data maintained by DIISRTE. Providing the ACNC with similar access, or access to additional relevant data now collected by TEQSA, would remove the need for the ACNC to issue duplicating requests for information from Australia's universities.

We note that when similar reforms to the regulation of charities in the UK were introduced, the higher education and charity regulators entered into a formal agreement, which clarified for the sector the scope of the regulators' respective powers and responsibilities pertaining to universities. We continue to see considerable merit in the ACNC and TEQSA reaching a similar agreement in relation to the regulatory and reporting burdens to be placed on Australia's universities.

We trust that Treasury and the ACNC Implementation Taskforce see the sense in Universities Australia's recommendations, and look forward to hearing from the ACNC about its plans for taking these matters forward in consultation with other relevant agencies and the Australian university sector.

Yours sincerely

Michael Spence

Cc: Carol Nicoll, Chief Commissioner, TEQSA
Belinda Robinson, Chief Executive Officer, Universities Australia
Michael Gallagher, Executive Director, The Group of Eight Universities
David De Carvalho, Group Manager, DIISTRE