

## Submission to Senate Community Affairs Legislation Committee

### Inquiry

#### Medical Research Future Fund Bill (2015)

Professor Alan Pettigrew

This submission to the Senate Committee's Inquiry into the Medical Research Future Fund Bill (2015) is made in a personal capacity.

The author's background and current affiliations are as follows.

*Inaugural CEO of the NHMRC (2001-2005)*

*Vice-Chancellor and CEO, University of New England (2006-2009)*

*Cooperative Research Centres Committee (2010-2015)*

*Member of the Council, QIMRBerghofer Medical Research Institute (2010-present)*

*Chair of the Board, Illawarra Health and Medical Research Institute (2013-present)*

*Professorial Fellow, LH Martin Institute, University of Melbourne.*

### Introduction

The general purpose of the Bill, to support health and medical research, innovation and commercialization (where appropriate), is welcomed. The recognition in the Bill of the broad range of institutions who contribute to these endeavours, including through the States and Territories and Commonwealth Agencies is also appropriate.

The Bill states that *"The establishment of the Medical Research Future Fund and its administration will ensure that a coherent and consistent approach is adopted in the funding of medical research and medical innovation to ensure that such research and innovation benefits all Australians."* (Preamble, Page 2)

In general terms, it is accepted that the Australian Medical Research Advisory Board (the Advisory Board) that is established by the Act will assist in this regard. The Board will be tasked with determining a Strategy and Priorities for utilization of the Fund, with final decisions being taken by the Minister.

### The role and operations of the Australian Medical Research Advisory Board

The Bill is silent on the structures or avenues through which the Advisory Board will undertake its functions. With regard to the Strategy, the Board must take into account the NHMRC's national strategy for medical and public health research and *"any other relevant matter"* (Page 29, Section 32D (3) (b)). To what extent will *new* structures and consultative and administrative processes be established to determine a Strategy and Priorities relative to those already in place through the NHMRC, or other bodies including the Commonwealth Science Council?

With regard to Priorities, the Advisory Board must take into account, every two years,  
*"(a) the burden of disease on the Australian community;*

- (b) how to deliver practical benefits from medical research and medical innovation to as many Australians as possible;*
- (c) how to ensure that financial assistance provided under this Act provides the greatest value for all Australians;*
- (d) how to ensure that financial assistance provided under this Act complements and enhances other financial assistance provided for medical research and medical innovation;*
- (e) any other relevant matter.” (Page 30, 32E (3))*

These are very broad terms that lack specificity to the extent that testing outcomes against the priorities, every two years, will be difficult, if not impossible. The time frames for research outcomes and appropriate commercialization are much longer than the Bill anticipates. There is also a strong general policy emphasis at present on awarding research funds for periods of five years. It is possible that the variation of priorities every two years would not enhance stability in Australia’s approach to health and medical research. ***Consideration should be given to the review of Priorities being undertaken every five (5) years in line with the review of Strategy.***

Further, for the Board’s views on these issues to be widely accepted, and for the Minister’s decisions based on these views to be widely supported, ***it will be important for the Board to make use of a wider reference group or groups in formulating its advice than just the eight individuals as defined in the Bill.*** Indeed, the Bill specifies that the Board can comprise the CEO of the NHMRC and “***up to***” seven (7) other members with diverse backgrounds. Whilst some would argue that the Bill is not the place for specification of how the Advisory Board should go about its deliberations, others will disagree. More procedural certainty and transparency is required, especially given (i) the breadth of the disease burden in Australia, as well as varying opinions on (ii) how to deliver practical benefits from current (let alone future research) to the population, and (iii) how to ensure financial assistance from the MRRF provides the greatest value for all Australians. The specification of various functional Committees that advise the Council and the CEO of the NHMRC in the NHMRC Act sets a precedent for consideration of further amendment to the MRRF Bill. ***Transparency in the Advisory Board’s processes will be essential.***

### **Decisions on funding from the MRFF Special Account**

A similar concern arises in regard to the processes for decision-making on the award of funding from the MRRF Special Account to the various eligible bodies. The Bill states only that the Minister decides on an amount to be “*debited for the purposes of making one or more grants to bodies referred to in Section 24*” (Page 23, Section 26 (1)) and the terms and conditions of the grant(s) (Page 23, Section 27). In making these decisions, the Minister must have regard to the Advisory Board’s Priorities. ***The Bill is silent in every other way on how these important decisions will be reached.***

The MRRF Bill as it stands does not indicate that the Advisory Board would make recommendations on funding allocations to the Minister, nor does it appear that the Advisory Board will have any role in determining how those recommendations might be reached.

In the case of the NHMRC, and the Australian Research Council, the responsible Minister acts on recommendations conveyed by the respective CEOs who in turn act on the advice of their expert committees and Councils (formally established under their respective Acts). The MRRF Bill is silent in this regard.

Sections 26, 27 and 61A indicate that the Minister “*may ... delegate some powers*” to the CEO of the NHMRC or another SES employee of the NHMRC. Note 3 in Section 61A (Page 53) identifies that this Section “*allows the Health Minister to benefit from the NHMRC’s expertise in funding medical research and allows the NHMRC to manage distributions from the MRFF Health Special Account (for example, for payments in relation to competitive grants or other programs administered by the NHMRC).*” It is unclear whether this possible delegation is

- (i) limited to simply administering funds as per the Minister’s decision (based on a process that is not defined),
- (ii) provides for the NHMRC’s expertise to be utilized in making recommendations to the Minister on the allocation of funding,
- (iii) provides for MRFF funding to be combined with payments from the Medical Research Endowment Account in relation to competitive grants recommended by the NHMRC, approved by the Minister and administered by the NHMRC, or
- (iv) all of the above.

***Clarification in the Bill of these issues in relation to the role of the NHMRC would be desirable.***<sup>1</sup>

The functions of the Advisory Board can include providing advice to the Health Minister about “*other matters that the Health Minister refers to the Advisory Board*” (Page 28, Section 32C (b)). It is indeed possible that the Minister might seek the Board’s advice and recommendations on funding allocations, but this is not currently a transparent requirement.

How then will decisions be made on determining, for example, how much of the MRFFSA will be allocated to the States and Territories for general support of medical research and innovation as opposed to grants to medical research institutes and other institutions to improve commercialization of existing intellectual property? Further, how will the State jurisdictions be held accountable for their use of the MRFFSA funds relative to the requirements usually placed on institutions such as Medical Research Institutes?

***Consideration should be given to amending the Bill to make the recommendation and decision-making process on funding allocations more transparent and clearly based on sound principles of broad expert involvement to ensure equity and appropriate balance between competing priorities, and between competing institutions.***

### **On the Relationship between the MRFF and the NHMRC.**

There has been debate for a considerable period on the relative merits of the current course to establish the MRFF Special Account as a stand-alone function versus allocations from the MRFF being made available directly to the NHMRC as an

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<sup>1</sup> The Explanatory Memorandum to the Bill refers in this context to Section 28. The Third Reading Bill does not include Section 28.

independent body. It is accepted that a political decision has been taken in order to effect the Government's wishes.

However, there is another course, and that is to amend the NHMRC Act in an appropriate fashion to ensure that the purpose of the current Bill, and the funds upon which the intended activity will be based, are legislated for compliance by the NHMRC. The NHMRC could draw on its experience and systems to provide broader independent advice to the Minister in line with the current Bill. The Minister could rely upon this advice that would also be widely accepted by the sector.

Failing acceptance of such a radical step at this late stage, there are two alternatives. First, the role for the NHMRC in the Bill, perhaps as envisaged in Note 3 in Section 61A could be made more explicit. The second alternative would be to amend Section 62 of the Bill (Page 53) to "*cause a review of the operation of this Act before*" 30 June 2019 rather than "*before 2023*", or earlier at the discretion of the responsible Ministers. A simultaneous review of the operation of the NHMRC Act in this context may also be timely and beneficial.