

13 January 2026

**Submission to the Senate Education and Employment Legislation Committee on the Universities Accord
(Australian Tertiary Education Commission) Bill 2025 and a related bill**

Background

Claire Field and Associates is a specialist advisory and research firm established in 2014 to provide strategic advice, policy analysis and market intelligence across Australia's post-school education and training system. Led by Claire Field, the agency works with and provides advice to government and related entities, TAFE institutes, universities, private VET and higher education providers, tertiary education peak bodies, and investors – in Australia and across Southeast Asia on issues including workforce skills reform, tertiary education regulation and funding, international education, industry engagement, and the impact of emerging technologies such as generative AI. Claire is undertaking a PhD at Torrens University Australia documenting the university's establishment and first decade of operations.

The ATEC legislation vis à vis the Universities Accord Panel's recommendations

The Australian Tertiary Education Commission (ATEC) Bill 2025 proposes to establish a statutory body to provide stewardship of the higher education system. The Bill sets out an ambitious agenda: the Commission will consult and collaborate with stakeholders, enter into mission-based funding compacts with Table A and B universities, prepare reports and advice on matters the Minister requests, allocate the number of international student commencements (under direction from the Minister), provide advice to the Minister on the Higher Education Standards Framework, undertake research linked to its functions and "do anything incidental or conducive" to those functions.

The Bill also articulates high-level objectives, such as strengthening the higher education system, ensuring it has the capacity to meet future student and workforce demand, increasing equitable access and participation and improving coordination between higher education and vocational education and training (VET).

While the establishment of ATEC was a recommendation of the Universities Accord Panel, some of the roles the Accord Panel conceived for ATEC are not included in the objects of the Act – notably ATEC will not have a role in policy development, and it will not incorporate the Tertiary Education Quality and Standards Agency or the Australian Research Council, and therefore it will have a more limited governing body with fewer Commissioners than conceived by the Accord Panel.

The enabling legislation is also silent on any role for ATEC which enacts [the Accord Panel's recommendation](#) that ATEC should be involved in addressing "the appropriate diversity of tertiary education providers of varying size, shape, purpose and location to meet national and place-based needs, including by: (a) exploring the case for the establishment of new public universities in under-served areas... (b) facilitating the emergence of tertiary education providers which specialise to a greater or lesser extent in teaching or research..."(p.36).

The Accord Panel envisaged a role for ATEC in improving research quality through the Commission explicitly being tasked to develop a National Research Workforce Development Strategy by the end of 2026.

Finally, [the Accord Panel also argued](#) that ATEC should be an independent statutory authority which would "enable it to provide robust advice" (p.235).

Lack of policy role and constrained functions

As the Secretary of the Department of Education, Tony Cook PSM, explained in the Senate Estimates hearing on 4 December 2025, “the ATEC actually doesn’t have a role around policy. The ATEC has a role around advice and about particular functions in relation to that advice. The Department still has [policy] responsibilities”.

While the Commission does have a role in providing advice, the legislation makes clear that it cannot publish its own reports on matters of public interest. It must produce an annual State of the Tertiary Education System report, as well as a statement of strategic priorities and a work plan every two years; but all other reports, advice and recommendations can only be developed at the request of the Minister.

In his evidence to the Senate, the Secretary compared ATEC’s staffing to the staffing adopted for Jobs and Skills Australia (JSA), noting that the arrangements for ATEC’s staff being Department of Education employees is analogous to JSA’s staff being employed within the Department of Employment and Workplace Relations.

What was not discussed in the Estimates hearing was why Jobs and Skills Australia – a similar body to ATEC – does not need to seek the advice of its Minister before publishing reports, undertaking research or providing advice on a range of matters, including on sensitive topics like funding. [Section 9\(d\) of the Jobs and Skills Australia Act 2022](#) explicitly allows the agency to “undertake research and analysis on the resourcing and funding requirements for registered training organisations...”?

It is unclear why one statutory agency within DEWR, Jobs and Skills Australia, with many similar functions to ATEC does not need to be asked by the relevant Minister for advice or research before JSA undertakes it, but for ATEC a statutory body being established with the Department of Education, the ATEC Bill explicitly only allows ATEC to do a good portion of its work if requested by the Minister.

JSA’s ability to initiate and publish research has not diminished ministerial responsibility for policy making in VET, but it has improved the evidence base available to government and the Parliament.

Issues raised by the Bill

There are a few other matters which the Senate may wish to consider with respect to the Bill:

- Firstly, there is ambiguity about whether ATEC can advise on student contribution levels for domestic undergraduate places at publicly-funded universities. The Bill does not explicitly empower the Commission to advise on the level of student contributions. [Professor Andrew Norton has argued](#) that ATEC can “only indirectly and impliedly advise” on contributions, because section 11(d)(ii) specifies that the Commission will provide advice on “the efficient cost of higher education across disciplines and student cohorts and in relation to the Commonwealth contribution amounts for places in funding clusters.” As [I have noted elsewhere](#), if ATEC suggests, for example, that a Bachelor of IT should have an efficient cost of delivery of \$22,500 pa and ATEC recommends the Commonwealth contribution should be \$8,000 pa – then necessarily they have calculated a student contribution of \$14,500. But to provide legislative clarity – the Bill would be improved by specifying that ATEC’s advice on the efficient cost of higher education will include the Commonwealth and student contributions.
- Secondly, the scope of the mission-based compacts is unclear. It is clear why Table A universities will have funding compacts with ATEC – their domestic undergraduate students are funded by the Commonwealth government (and they receive Commonwealth funding for other activities). Table B

universities do not receive Commonwealth funding for their undergraduate students (but are able to offer them FEE-HELP loans) will also have to have compacts with ATEC, but the Bill is silent on whether or not TAFE institutes that receive Commonwealth Supported Places for their domestic undergraduate students will need funding compacts with ATEC. The legislation should clarify how TAFEs will interact with ATEC and whether they must also enter mission-based compacts.

- Thirdly clarity on university performance against their funding compacts could be clarified. The Bill is clear that all Table A and B universities will have to have ‘mission based’ funding compacts with ATEC, and that if they do not meet the required levels of performance in the compact, ATEC will have the powers to suspend or cancel the compact – but because all universities will need to have a compact – section 37(2) of the Bill allows ATEC to consider if the default compact it will place on a university (whose compact has been suspended for poor performance) will in fact “contain the same terms” as the compact ATEC has just cancelled/suspended. In most contractual arrangements, when one party seriously underperforms against specifics detailed in a contract, such that the other party suspends or cancels the contract, they do not then default to exactly the same arrangements.

Objects and reporting requirements

Despite the issues identified above, the Objects of the Bill are laudable. Section 3, 1(b) requires ATEC to “strengthen the higher education system to enable the delivery of quality teaching and learning and internationally competitive research and research training”, 1(c), ensure the system “has the capacity and capability required to meet Australia’s current and future student, skills and workforce demand”, and 1(d) “increase equitable access to, and participation and success in, the higher education system by all students”.

Section 14 further directs ATEC Commissioners to explicitly focus on “improving 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.”

If ATEC can deliver on these objectives it will make a significant difference to the sector.

Section 42 requires the Commission to prepare an annual State of the Tertiary Education System report and lists the matters the report may include: current and emerging trends, progress toward attainment and participation targets, improving coordination between higher education and VET, whether the higher education system is meeting student, skills and knowledge demand, financial sustainability, outcomes for under-represented groups, and examples of good practice by tertiary education providers in relation to these matters.

These reporting requirements are comprehensive and will necessarily oblige Commissioners to comment on the system’s capacity, equity and financial health.

Why the ATEC Bill needs strengthening

The contrast between JSA and ATEC illustrates the benefits of a more independent statutory agency empowered to commission and publish research and provide advice. JSA’s reports covering topics including tertiary harmonisation, gender equality and occupation shortages, higher education outcomes, and VET qualification similarity analysis demonstrate how independent analysis informs policy debates and guides reform in VET.

Under the current ATEC Bill, similar research could only be undertaken at the Minister's behest, limiting the responsiveness and transparency of the Commission's work. For ATEC to fully deliver on its objectives, it should have the authority to initiate research and publish reports consistent with its legislation, as JSA does.

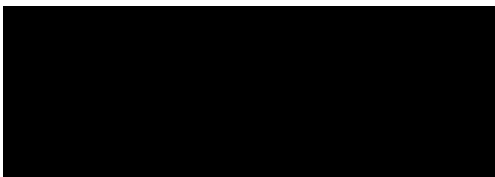
Recommendations

1. ATEC should be empowered to undertake research and publish reports consistent with its legislative objectives without requiring ministerial approval. This would align the Commission's functions with those of JSA and ensure that it can respond to emerging issues, inform public debate and support continuous improvement in tertiary education.
2. The Bill should clarify that ATEC can advise the Minister on student contribution levels when providing advice on the efficient cost of higher education across disciplines and cohort segments.
3. TAFE Institutes (and any other providers) receiving Commonwealth Supported Places funding should be required to enter into a short-form version of a mission-based compact with ATEC which focusses on the Institute's activities in relation to its domestic undergraduate students and expanding the pathways between VET and higher education for its students.
4. The Bill should allow ATEC to engage staff experts outside of government agencies when specialised expertise is required, eg experts with experience in universities, dual-sector TAFE Institutes and/or private higher education providers where required. This would broaden the Commission's perspectives, avoid an over-reliance on departmental secondments, and reduce reliance on advice from consulting firms (including specialist agencies like my own).

Conclusion

The establishment of the Australian Tertiary Education Commission is an opportunity to create an independent, expert body that can provide stewardship to the higher education system. As currently drafted though, the Bill constrains some of the Commission's functions and limits its capacity to provide independent advice. Experience from Jobs and Skills Australia shows the value of a statutory agency empowered to undertake research and publish reports without ministerial direction. JSA's legislation could be used as an example for the kinds of changes the Senate may wish to make to the proposed ATEC Bill.

Thank you for the opportunity to make this submission.



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