

Ref: N4.8.14 – 8 January 2026

Senator Marielle Smith
Chair, Senate Standing Committee on Education and Employment
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Chair,

Re: Submission to Inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 and a Related Bill

The Independent Tertiary Education Council Australia (ITECA) welcomes the opportunity to provide a submission to the Senate Education and Employment Legislation Committee's **Inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 (the ATEC Bill)** and the related Consequential and Transitional Provisions Bill.

ITECA represents independent providers across higher education, skills training (also called vocational education and training or VET), and international education, and has a strong interest in reforms intended to improve the clarity and coherence across Australia's tertiary education system.

Independent providers account for 77% of all higher education institutions in Australia and 92% of all Registered Training Organisations. **Together, these independent institutions support 4.86 million student enrolments, or 71.4%, of the total student enrolments in the Australian tertiary education system.**

It is particularly noteworthy that the Objects in the ATEC Bill mirror the outline of the ATEC from the Final Report of the Australian Universities Accord process. Not a tertiary accord or even a higher education accord, but a universities accord. This has informed and been the guiding light for the development of the ATEC; designed to only light a narrow path.

ITECA is broadly supportive of the Objects in the ATEC Bill as outlined in proposed Section 3, insofar as they are characterised as strengthening coordination across the tertiary education system, improving oversight as well as long-term forecasting and projection to better assist tertiary education institutions. At the same time, however, ITECA does not support any system of centralised planning in tertiary education, whether for students, institutions or the economy more broadly.

The current framing of the ATEC Bill would establish a centralised planned system; one that will dictate what students can learn, how they learn it, with which institution they may learn, as well as whether they may be supported in their learning journey and when that may happen. A centrally planned system of this type cannot adequately incorporate the needs of around 4.8 million Australian tertiary education students and will miss any focus on the more than 3,800 independent institutions that support the needs of students and business every day.

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The ATEC Bill falls short of delivering a framework for an organisation that can assist in facilitating institutions to flourish productively in a genuinely integrated tertiary education model. Instead, this ATEC Bill is more likely to entrench existing systemic inequalities that embed student-focussed and institutional exclusions throughout the tertiary education system.

The focus of the ATEC Bill makes plain the intention for the ATEC to be a mechanism that ensures the existing structural primacy of 20 percent of higher education institutions. That is, the ATEC Bill has provided some validity to earlier claims that the Commission will be a Commission focussed on the interests of public universities, with little to no focus on the tertiary education system and certainly not on the independent sector.

ITECA supports reform aimed at improving the long-term clarity and cohesiveness of Australia's tertiary education system. However, the ATEC Bill as currently drafted, does not align with the stated ambition of creating an integrated and equitable tertiary framework.

The ATEC Bill suffers from drafting that is based on there being no clear needs case for the tertiary system, especially the more than 4.8 million students and over 3,700 tertiary education businesses that will have little or zero engagement with this new bureaucratic fancy.

It seems clear that the ATEC Bill before the Committee is not at a stage where it is ready for consideration by the parliament and the Commission is not ready to be established. It is far preferable to ensure that an agency of this importance is ready, and its enabling legislation is not compromised by eagerness for speed.

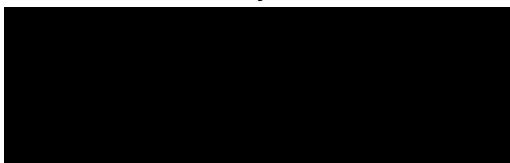
ITECA strongly urges the Committee to deeply consider the need for this Commission, as its core functions can, and in many cases already are being undertaken by existing agencies of the Commonwealth. Detailed and wider consultation with all relevant parties would result in a genuine and credible Tertiary Education Commission in comparison to that proposed in the ATEC Bill.

At the very least, ITECA strongly urges the Committee to consider amendments that would better align ATEC's scope, functions and title with the realities of Australia's tertiary education system and the needs of its diverse student population.

ITECA is very much committed to working collaboratively to deliver the most effective and positive outcome that can be achieved for a cohesive tertiary education system in Australia. An overview of ITECA's **Recommendations on the ATEC Bill are included at Attachment A** for the Committee's consideration, with more **detailed discussion at Attachment B**.

ITECA thanks the Committee for the opportunity to contribute to its deliberations on the ATEC Bill and would welcome the opportunity to appear at any hearings the Committee may deem necessary.

Yours sincerely



Felix Pirie
Chief Executive Officer

Attachment A

Recommendations to Senate Standing Committee on Education and Employment Inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 and a Related Bill

Recommendation 1

1. That the ATEC Bill, in its current form, not proceed past the Committee stage until:
 - a. A proposed Commission is in a position to be genuinely tertiary in its scope of coverage and activity.
 - b. The nature of its activities and focus has been made clear to stakeholders across the tertiary system.
 - c. The relevance of the proposed Commission to the skills training sector has been clear.

Recommendation 2

2. The ATEC Bill be amended to ensure the Australian Tertiary Education Commission not have a role that is akin to, or may be described as, as centralised planning system for higher education, skills training or tertiary education more broadly.

Recommendation 3

3. The ATEC Bill be amended such that the proposed Functions of the ATEC include comprehensive review, and policy oversight of the income-contingent loan scheme, including insofar as relates to students in higher education and skills training, encompassing additional fees and taxes paid by different student cohorts.

Recommendation 4

4. The ATEC Bill be amended to ensure there is clarity regarding the role of the Commission in relation to international education within higher education broadly:
 - a. In the context of international education policy frameworks for higher education institutions including in relation to engagement, collaboration arrangements and cross-institutional arrangements both domestically and internationally.
 - b. Greater clarity and transparency regarding mechanisms for setting and allocating international student commencements annually and that this activity be set out in an instrument made prior to 30 June each year in respect of the following years' commencements.

Recommendation 5

5. Proposed Section 12, the persons or bodies to be consulted when performing or exercising powers, be amended and a new subsection included to require that stakeholder representatives from the skills training sector be a group requiring consultation.
 - a. For ATEC to have legitimacy, the Commission will be required to consult with stakeholders across the tertiary education system and not only in the higher education sector as the current drafting stipulates.

Attachment B

Discussion: Key issues for consideration in the Universities Accord (Australian Tertiary Education Commission) Bill 2025 and a Related Bill

Purpose and Coverage of the ATEC Bill

As currently drafted, the **Universities Accord (Australian Tertiary Education Commission) Bill 2025** (ATEC Bill) excludes the majority of providers and learners across the tertiary system from ATEC's remit. In doing so, ITECA is greatly concerned that the authority and credibility of ATEC is limited to just a small number of institutions that are already very well looked after by the Commonwealth.

Among a number of issues, there are elements of the ATEC Bill and associated Explanatory Memorandum that appear to be in conflict with the name of the Commission itself. For example, proposed Section 3 states that the Objects of the Act are, among other things, for the ATEC to provide stewardship of the higher education system (this remaining opaque and undefined), and to increase equitable access to higher education. The only mention of the skills training sector is in the Object to "improve coordination and collaboration between the higher education system and the VET system".

These Objects as currently drafted make it plain that for the ATEC, the conceptualisation of a tertiary system encompassing both higher education and skills training (i.e. vocational education and training) is a misnomer, ensuring the remit of the Commission is compromised from its very commencement.

Operating under this proposed legislation, the ATEC will have the stated Objective relating to higher education almost exclusively. As a consequence, ITECA must question the drafting process and the extent to which, if at all, there has been sufficient skills policy expertise engaged in the development and drafting of this ATEC Bill.

Misalignment of Ambition and Reality

In the lead up to the establishment of the interim ATEC on 1 July 2025, the Minister for Education, the Hon Jason Clare ^{MP}, stated that:

"...the role of the ATEC is critical. It's about making the system more joined up.... this is really important and it's not just about universities. We called this the Australian Tertiary Education Commission for a reason, because we want to look at the whole system, make sure that it's more joined up and working together."

By emphasising the role of the ATEC as the mechanism to examine and have oversight of the whole tertiary system, it was anticipated that a broad lens would be applied to all of higher education and skills training and how the two sectors currently do, and can, intersect with one another for the benefit of learners, business, communities and the economy.

The role of the new ATEC was proposed to build clearer pathways between skills training and higher education and also break down perceived – and actual – barriers to participation across the tertiary system. ITECA continues to strongly support these ambitions.

They are **ambitions that are, however, not reflected in the ATEC Bill** before the Committee. Indeed, while the ATEC may advise Commonwealth, State and Territory Ministers on opportunities to improve collaboration and coordination between the higher education and VET systems, it's **functions**

relating to the skills training sector are at best very limited and advisory only. In that context, it becomes more difficult still to describe ATEC as a tertiary commission.

Despite this, the stated ambition for ATEC may be achieved and ITECA appreciates long-term challenges in delivering on that ambition. To that end, ITECA strongly suggests that the Government develop and deliver two central work pillars prior to full establishment of the ATEC:

- i) Regulatory mapping for all tertiary education institutions that demonstrates the policy and regulatory coverage across the tertiary sector that institutions are subjected to. A publicly available mechanism such as this will assist the Government in demonstrating the ‘needs case’ for ATEC and why it is an essential piece of both the policy and regulatory landscape for Australia’s tertiary education system.
- ii) A Tertiary Education System Design Framework, built on the basis of the initial work of the Regulatory Mapping above, with students and equality of opportunity at the centre, with opportunity for all institutions and strong engagement with business as central pillars.

The development and release of a Roadmap by mid-2026, incorporating *commitment from the Australian Government to embrace all aspects of the tertiary system*, will be more effective in breaking down barriers and removing existing entrenched divisions.

As currently proposed, the advisory role of the ATEC, for all but the small number of institutions negotiating mission-based compacts, undermines the role and credibility of the ATEC as an authoritative body in tertiary education.

This advisory role significantly limits ATEC’s capacity to drive meaningful reform in areas where barriers, including with respect to funding arrangements, are structural and systemic, and regulatory settings suppress innovation.

This is particularly challenging as we operate in a tertiary system where it is increasingly common for learners to undertake multiple qualifications with multiple providers where the previous model of moving sequentially through the levels of the Australian Qualifications Framework has ceased to be appropriate for business and the economy.

The ATEC Bill also makes clear that the functions of the ATEC apply overwhelmingly to higher education institutions listed in Table A and Table B of the *Higher Education Support Act 2003* (HESA). As such, the majority of the proposed functions of the ATEC cover just 43 higher education institutions. On that basis alone, it is not possible to refer to the Commission as a ‘Tertiary Education Commission’.

It is not credible for a Tertiary Education Commission to have a legislated remit that has direct oversight only on what is a small part – on any reliable metric – of the tertiary system.

Instead, the authority and integrity of a genuine Tertiary Education Commission would be greatly enhanced should its remit be broadened to be more inclusive and encompass the tertiary education system rather than just 20 percent of the higher education sector.

There are of course aspects of the proposed ATEC’s functions that are welcome. For example, proposed section 11(g) outlines the function “to report and publish information in relation to the tertiary education system...” While the meaning of this function is opaque, it is sadly undermined at the end of the same subsection and sentence as it **relates only to higher education providers**.

Further, section 11(d) possibly betrays some shortcomings that are evident elsewhere in the ATEC Bill insofar that stipulations are made regarding the functions of ATEC being to “prepare reports, provide advice and recommendations if requested by the Minister to the Minister, in relation to....opportunities to streamline the regulation of higher education providers;” (at subsection (iii)).

In both these cases, the functions purportedly relate to tertiary education, but in fact cover only higher education. This drafting is misleading at best and may be viewed by some sector stakeholders and deliberately cynical.

Alignment with Stated Intent

ITECA is of the view that the pursuit of a Tertiary Education Commission can only be done while ensuring it has genuine and serious responsibilities. But it must first and foremost be a *tertiary* body.

As such, ITECA considers that a choice should be made with regard to ATEC as currently proposed.

The first option would be for progress on ATEC to be delayed ensuring it can be a genuinely tertiary Commission in its scope intent and coverage, which the proposed ATEC Bill does not provide for.

A second option is to limit the focus of the ATEC to cover only Table A and B institutions with a view to embedding a process for mission-based compacts before expanding the role of ATEC in future years as capability is developed.

A third option may be to progress on the basis outlined in the current ATEC Bill, noting the concerns and risks embedded in that option, especially with respect to overall tertiary education credibility.

Student Funding and Student Contributions

The ATEC Bill highlights equity of access as a core principle underpinning the establishment of ATEC and this is expanded on in the Explanatory Memorandum to the Bill. This was also a core rationale for the establishment of the ATEC outlined in the Universities Accord work.

ITECA strongly supports the objective of improving access and participation in tertiary education for all learner cohorts and in particular those cohorts where access has been met with structural barriers including financial or social barriers.

The ATEC Bill does not provide ATEC with the scope or tools necessary to address some of the most significant and longstanding inequities in the system.

Perhaps it is anticipated this will be the focus through the mission-based compact process in some manner for the small number of institutions negotiating those with ATEC. Also, ATEC is to have a specified function of preparing reports and advice on systemic barriers for some cohorts only. It is worth noting that there is some excellent work both current and longitudinal being done on these issues in Australia and it is important to utilise that work and not develop another bureaucratic tool that is more likely to admire yet-to-be addressed problems.

One glaring omission which has previously been raised by raised by ITECA, is the absence of any mention in the ATEC Bill of the capacity for ATEC to undertake formal work on the income-contingent loan program (HELP).

The ATEC Bill does not address the inequitable student funding arrangements faced by students studying with independent higher education providers. The perception of the ATEC being designed to focus on the 'big end of town' and not on a whole-of-tertiary environment exacerbates this. For example, while ATEC works through individual compacts with 43 institutions, the inequities of the income-contingent loan program across the remainder of the tertiary system will persist without examination by the ATEC.

Under current policy settings, the additional 20% tax is a significant disincentive for students at independent higher education institutions with a FEE-HELP loan or the vast majority of students at independent skills training providers with a VET-Student Loan.

This loan fee creates a clear barrier to participation for price-sensitive students and disproportionately affects learners from lower socioeconomic backgrounds, mature-age students and those seeking flexible or industry-focused study options more commonly delivered by independent providers. It also has distortional effects across the system, undermining the principle of funding neutrality where students should not be discriminated against.

These should be issues ATEC is empowered to examine and take action on, but under the current provisions of the Bill, it is not.

The fact ATEC is not empowered to undertake such work is an odd omission given it will have a specific function to undertake work on the efficient cost of delivery across disciplines, student cohorts and in relation to Commonwealth contributions for places in funding clusters proposed section 11(d)(ii)). It would seem very difficult to manage that work effectively without looking deeply into arrangements for the income-contingent loan program. In doing so, ATEC should of course examine closely all students' capacities in relation to such loans. And not only in higher education. But the current drafting prevents this, such are the limitations in the ATEC's role.

Allocation of International Student Commencements

The ATEC Bill specifies that the ATEC will have the function, *at the direction of the Minister*, of allocating the maximum number of international student commencements to higher education institutions that are also registered under the *Education Services for Overseas Students Act 2000* (ESOS Act) for higher education programs. It is important that details of this function are to be set out in future legislative amendments, its inclusion raises significant concerns.

Importantly, the current drafting of the Bill appears to indicate that the ATEC will have no role in allocating international student commencements (that are not in higher education programs) to dual sector institutions. That is, to the skills training programs or English language programs for dual sector institutions.

International education must be viewed through a whole-of-sector lens. A considerable proportion of higher education institutions, of all types and including a considerable proportion of independent institutions, which are registered under the ESOS Act, rely on international student enrolments to complement their domestic student cohorts. These institutions play an important role in Australia's international education ecosystem and contribute to skills development and economic activity.

The actual role the ATEC will perform, or even if it will have any role in this regard, in the determination of international student commencements remains opaque.

The process here is important and numerous questions are yet to be answered as consultation has been absent or avoided. For example, it is not clear which agency will *determine* the number of

commencements for higher education institutions, nor is it clear how this will intersect with the broader sector, if the determination of the higher education number will be provided by the Minister to the ATEC as an overarching sector number with ATEC to specify a number for each institution, or if the Minister will specify those numbers, and so on.

This is a process that ATEC will be required to engage with sector representatives on and ensure allocations are made by July 2026 for a 2027 intake and in that context, early clarity on these issues with sector peak bodies is imperative.

Broadly, however, it is difficult to see how ATEC could fairly and effectively perform an allocation role while its core remit (negotiating mission-based compacts with Table A and B institutions) excludes the majority of higher education providers. There is a clear risk that allocation models developed to focus on such a tightly focused grouping would disadvantage the majority of institutions.

The proposed ATEC Bill specifies the mission-based compact for an institution will include a domestic student load allocation as well as international student commencement allocation, effectively stipulating the total number of students each Table A and B institution may enrol for a given year. This centralised planning does not apply to the broader tertiary education sector, which is likely to result in access and delivery pressures felt across other institutions.

As it stands, the allocation of international student commencements involves complex interactions between education policy, migration settings and regulatory oversight, including the Department of Education, the Department of Home Affairs, the Tertiary Education Quality and Standards Agency, the Australian Skills Quality Authority as well as all states and territories.

Introducing an additional policy and regulatory actor without clearly defined authority, data access and accountability lines risks duplication, and uncertainty with unintended consequences for institutions, students and business almost certain to follow.

ITECA strongly recommends that any role for the ATEC in the allocation of international student commencements be subject to consultation with sector peak bodies. Further, any allocation of international student commencements should be clearly established through an annual instrument, published by 30 June each year in respect of the following year's commencement limits, so as to transparency in methodology and which explicitly encompasses the broader allocation across all ESOS-registered institutions.

Structure and Governance of ATEC

The ATEC Bill provides for ATEC to be comprised of a Chief Commissioner, a First Nations Commissioner and a Commissioner. ITECA supports the inclusion of a dedicated First Nations Commissioner and recognises the importance of diverse expertise at the governance level.

At the same time, ITECA is disappointed that the proposed ATEC Bill does not incorporate a dedicated Commissioner with expertise in the independent sector, especially as noted previously that 4.86 million tertiary education student enrolments in 2024 were supported by an independent institution; 77% of higher education institutions and 91% of Registered Training Organisations are independent.

Further, by way of demonstrating the importance of the *tertiary* nature of the ATEC's work for students from under-represented cohorts, the independent sector is a critical partner. **In 2024, the number of First Nations Australians studying with independent skills training providers was more than six times higher than the number across all Table A providers in the entire Australian higher education sector.**

ITECA contends that if the governance is not right, the misalignment of the past will perpetuate into the future.

The Bill requires that at least one Commissioner have substantial experience in skills training (VET). However, this requirement sits uncomfortably alongside the fact that ATEC has no decision-making powers or clarified point of engagement with the skills training sector.

Appointing Commissioners with expertise in areas over which the Commission has no legislated, bureaucratic, or socio-cultural authority risks underutilising expertise, or appointing misaligned expertise and may contribute to stakeholder confusion regarding the role of ATEC.

The ATEC Bill as currently proposed could be substantially improved by incorporating mechanisms for meaningful engagement with institutions outside the mission-based compact activity. Specifically, a regular Peak Body Dialogue for this cohort would be of significant value.

In addition, and given the tertiary remit of the ATEC and the dual sector and international education focus of many institutions, a similar but broader Peak Body Roundtable to engage with the broader tertiary education sector on the more comprehensive tertiary workplan flowing from the Minister's Strategic Priorities would be highly valued. Such fora could be incorporated into the legislative consultative mechanisms.

It is a significant deficiency in the ATEC Bill that proposed section 12 – Consultation when performing functions and exercising powers – includes consultation with higher education stakeholder representatives but the opportunity to include skills training sector stakeholders has been neglected. Not the first instance in the Bill either. This is another example of an area where the ATEC Bill requires surgery for it to have any credibility in setting a framework.

To have genuine influence over policy advice, funding-related matters and system planning proposed for ATEC, **dialogue with all relevant tertiary education sector representatives is a critical engagement point for ATEC.**

ITECA also notes that Commissioners are appointed by the Minister for Education for terms of up to five years. Given the significance of ATEC's advisory role, particularly in relation to funding and system architecture, consideration should be given to additional safeguards to support transparency in the appointment process, independence and balanced expertise in appointments.