



## Queensland University of Technology

### Submission to the Senate Education and Employment Legislation Committee inquiry on the *Tertiary Education Legislation Amendment (There For Education, Not Profit) Bill 2025*

QUT thanks the Committee for the opportunity to make a submission to the inquiry on this Private Senator's Bill.

The terms of appointment of the QUT Vice-Chancellor are determined by the QUT Council, in accordance with the *QUT Act 1988 (Qld)*<sup>1</sup>:

#### **32 Vice-chancellor**

- (1) There is a vice-chancellor of the university.
- (2) The council must appoint a vice-chancellor whenever there is a vacancy in the office.
- (3) The terms of appointment are as decided by the council.
- (4) The vice-chancellor is the chief executive officer of the university and may exercise the powers and perform the functions conferred on the vice-chancellor by this or another Act or the council.

The respective acts of states, territories and the Commonwealth governing other Australian universities confer a similar power upon university councils regarding the terms of appointment of their vice-chancellors.

Part 1 of the present Bill seeks to limit that function with respect to the Australian National University (ANU), which is enabled by Commonwealth legislation. Part 2 seeks to effectively transfer that function of the councils of other universities – as empowered by the acts of their respective states and territories – to the Commonwealth, under the auspices of the Tertiary Education Quality and Standards Agency (TEQSA).<sup>2</sup>

In the opinion of QUT the present Bill is flawed in several respects: it is arbitrary, poorly designed and redundant. Its flaws are fatal and cannot be amended out. The Bill should not pass.

#### **Arbitrariness**

Paragraph 25B(2)(a) of the Bill sets a cap of \$430,000 for a vice-chancellor's remuneration. In her Private Senator's second reading speech, Senator Lambie, the Bill's proposer, "happily

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<sup>1</sup><https://www.legislation.qld.gov.au/view/html/inforce/current/act-1998-004>

<sup>2</sup>This submission concentrates on Part 2 of the Bill – 'Other universities' – since arrangements for the ANU are properly the concern of the Australian Parliament in a way that differs categorically from the Parliament's relationship with other Australian universities.

acknowledge[s] that's an arbitrary figure".<sup>3</sup> While we certainly agree that this figure is arbitrary, we note that this acknowledgment is in direct conflict with the import of the preceding sentence, "This is a reasonable and proportionate remuneration benchmark that reflects the responsibilities of university chief executives within the broader context of the Australian public sector and democratic governance." That assertion – implying that the figure is supported by a suitable contextual analysis – is also found in the Bill's Explanatory Memorandum.<sup>4</sup> However in neither place is the statement substantiated by analysis of the responsibilities of university chief executives, nor of how "a reasonable and proportionate remuneration" corresponding to such responsibilities would be arrived at. The only rationale advanced for the figure is that it would set vice-chancellors' remuneration below the level of the Federal Treasurer's current salary, although no supporting argument is made for setting the Treasurer's salary as the benchmark. With no working shown, the statement is discredited in its attempt to bestow the dignity of a rationale that is not in fact advanced. The admission of arbitrariness that follows it in the Second Reading Speech is therefore the correct characterisation of the figure proposed.

With respect, we submit that the Parliament is not the Commonwealth instrumentality best equipped to assess and determine the appropriate level of remuneration for Australian employees, including management. However, the Commonwealth does operate an agency that is competent, qualified and equipped to make such assessments and determinations, namely the Remuneration Tribunal (the Tribunal). The present Bill makes no reference to the Tribunal, the federal agency set up for precisely the purpose the Bill seeks to address.

### **Poor design**

Even setting aside the arbitrariness of the figure advanced, the Bill provides no means to maintain the link over time to the Treasurer's salary that it makes at the outset: for consistency, the cap would need to be maintained relative to future movement in the benchmark salary. In the absence of such a mechanism – or a suitable alternative, such as an objective indexation method (e.g. the wage price index) – the nominal figure of \$430,000 would fall behind inflation and real movements in salaries as time unfolds.

The only means to update the figure is by means of a Ministerial legislative instrument, subject to disallowance.<sup>5</sup> The Bill's referral to the Minister of responsibility to initiate any variation is highly problematic. This mechanism makes any variation to that arbitrary figure – even an increment that serves only to preserve real value in light of inflation, or to track future movement in the Treasurer's reference salary – an inherently political decision. This would constitute an extraordinary departure from the way salaries are set and varied across virtually the entire Australian workforce.

<sup>3</sup><https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansards%2F28690%2F0211;query=Id%3A%22chamber%2Fhansards%2F28690%2F0208%22>

<sup>4</sup>[https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fs1443\\_ems\\_feee0b9e-d803-47d7-a741-7dadd879f914%22](https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fs1443_ems_feee0b9e-d803-47d7-a741-7dadd879f914%22)

<sup>5</sup> 'The Minister' in this case means the Minister for Education, as the Minister responsible for administration of the *Tertiary Education Quality and Standards Agency Act 2011*. Administrative Arrangements Order, 13 May 2025. <https://www.pmc.gov.au/resources/aao-13-may-2025>. Part 5 – The Department of Education, Legislation administered by the Minister, pp.11-12.

Moreover, conferring Ministerial control over vice-chancellors' future salaries would be highly antagonistic to the exercise of university independence from government coercion, a function that many Senators and Members of the House of Representatives have strenuously encouraged in the past – such as during the debates over the former Government's attempts to deregulate domestic coursework higher education – alongside many informed commentators across the sector and in the news media.

Additionally, TEQSA is not an appropriate agency of Government to oversee university internal financial arrangements. The enforcement of the Bill's proposed arbitrary remuneration cap is not a matter of education quality and standards.

### **Redundancy**

The present Bill seeks to create a new Commonwealth power – to regulate university vice-chancellors' salaries – when in fact a functionally equivalent power already exists. Not only is the Remuneration Tribunal the only agency competent to make assessments of this kind – that is, determining appropriate levels of remuneration in the context of responsibilities, expertise and operating environment – but the *Remuneration Tribunal Act 1973*<sup>6</sup> already equips it to do so specifically with respect to the salaries of university vice-chancellors.<sup>7</sup>

Section 6 empowers the Tribunal to inquire into, report on and make recommendations in relation to the salaries of higher education institution chief executives and their deputies (however titled):

#### **6 Inquiries and reports by the Tribunal into the salaries of officers of higher education institutions**

- (2A) The Tribunal, from time to time as provided by this Part, is to inquire into, and report to the Minister on, the rates of salaries in relation to:
  - (a) Vice-Chancellors, Principals and other chief executive officers of higher education institutions (other than Commonwealth higher education institutions); and
  - (b) deputies (however described) of officers referred to in paragraph (a);that should be used as a basis for making grants in relation to recurrent expenditure in connection with those institutions, and the dates as from which those rates of salary should be so used.
- (3) Where the Tribunal inquires into a matter referred to in subsection (2A):
  - (a) the Tribunal may also inquire into, and report on, any matter that is, or is considered by it to be, significantly related to the first-mentioned matter; and
  - (b) if the Minister, by a notice in writing given to the President, requests the Tribunal to inquire into, and report on, a matter specified in the notice, being a matter that is, or is considered by

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<sup>6</sup><https://www.legislation.gov.au/C2004A00043/latest/text>

<sup>7</sup>Just as Part 2 of the present Bill applies to universities other than the ANU, this section of the *Remuneration Tribunal Act 1973* refers to higher education institutions other than Commonwealth higher education institutions. As above, we refer here to vice-chancellors of universities other than the ANU.

the Minister to be, significantly related to the first-mentioned matter, the Tribunal shall inquire into, and report on, the matter specified in the notice.

- (4) If the Tribunal reports that alterations are desirable in respect of a matter, it shall, in its report, recommend the nature and extent of the alterations that should be made.
- (5) The Minister shall cause a copy of a report to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him or her.

The Tribunal is thereby already equipped with a statutory mechanism enabling it – indeed, obliging it – to examine the salaries of vice-chancellors (and their deputies), and any matters it deems to be significantly related, in the context of operating grants to institutions, and to provide advice to the Minister<sup>8</sup> on ‘alterations [that may be] desirable in respect of a matter’, implicitly including operating grants.

The Tribunal is required by subsection 6(2A) to inquire into these salaries ‘from time to time’ and to report the results to the Minister. Under paragraph 6(3)(b) the Minister may also request the Tribunal to inquire into any matter significantly related to these inquiries.

The effect of these powers is to enable the Minister, armed with the advice and recommendations of the Remuneration Tribunal, to indirectly but effectively regulate the salaries of higher education institution leaders, by means of alterations (or, more pragmatically, the prospect of alterations) to operating grants. The technical wording of section 6 may be elliptical, but its real-world effect is perfectly clear.

In light of this existing power of the Commonwealth, which endows it with the means to achieve the objectives of the present Bill, it would be redundant to introduce a parallel power by the means proposed. Furthermore, the existing power deploys the offices of the agency set up specifically to make such assessments and determinations, and that is competent and qualified to do so – namely, the Remuneration Tribunal – rather than imposing by legislation a poorly designed and avowedly arbitrary salary cap.

The Bill is therefore not only redundant but also inferior to the remedy already available to the Commonwealth under existing legislation.

### **Recommendation**

QUT recommends that:

1. the Senate does not pass the Bill; or, failing that,
2. the Senate amends the Bill to delete Part 2 prior to passage.

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<sup>8</sup>‘The Minister’ in this case means the Prime Minister, as the Minister responsible for administration of the *Remuneration Tribunal Act 1973*. Administrative Arrangements Order, 13 May 2025. <https://www.pmc.gov.au/resources/aao-13-may-2025>. Part 13 – The Department of the Prime Minister and Cabinet, Legislation administered by the Minister, pp.33-34.