

Senate Employment, Workplace Relations and Education References  
Committee

Inquiry into  
Higher Education Legislation Amendment Bill (No.3)  
2004

A submission by the  
Council of Australian  
Postgraduate Associations

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The logo for the Council of Australian Postgraduate Associations (CAPA) features the lowercase letters 'capa' in a bold, blue, sans-serif font. The 'a's are connected to the 'p's, and the 'c' is connected to the first 'a'.  
Council of Australian Postgraduate Associations Incorporated

The Council of Australian Postgraduate Associations is pleased to respond to the Inquiry into the Higher Education Legislation Amendment Bill (No.3) 2004. In this submission we limit our response to Subsection 16-20 (1) of the Bill, which seeks to add Melbourne University Private Limited (MUPL) to the list of Table B Providers under the Higher Education Support Act 2003 (HESA), making it eligible to receive Commonwealth funding.

The main issues we wish to raise here concern: the interests of MUPL's postgraduates; MUPL's status as a university; MUPL's ability to access Commonwealth funding in the form of grants and other funding, and Australia's continued good reputation within the international higher education community.

**1. It is not in the long term interests of postgraduate students of MUPL for it to be established as a Table B Provider.**

CAPA's key concern is that any legislative changes affecting MUPL are to the benefit of its postgraduate students, as well as to the benefit of postgraduate students more broadly. Below, we question whether MUPL's inclusion as a table B Provider could ultimately be to the detriment of the reputation of Australia's other universities (and by extension their postgraduates). Further, we question whether continuing to maintain MUPL as a separate entity to the University of Melbourne is to the advantage of its postgraduate students.

The Ministerial Response to MUPL's 2002 review found that:

[There are] potential difficulties in distinguishing MUPL research and research training from that of the University of Melbourne... Most importantly, approval for the operation of MUPL was conditional upon the development of "a *discrete* program of research activity [emphasis added]." It is very difficult to see how this requirement could now be satisfied.

[B]y and large there is no longer a separate MUPL academic staff [from the University of Melbourne staff pool]. Instead, University of Melbourne academic staff are to be contracted to undertake both the educational programs and conduct research on behalf of the private university.<sup>i</sup>

CAPA believes that MUPL's postgraduates would be best served by MUPL's teaching and learning and research activities being subsumed back into the University of Melbourne proper. Within the university, both staff and students would benefit from the grants and funding the University of Melbourne accesses as a Table A Provider. We do not believe it unlikely that this will ultimately be the fate of MUPL's teaching and learning and research activities. In the immediate future, however, we believe the best course of action is to allow MUPL the grants and funding it requests at the discretion of the Federal Minister under his powers granted at Section 15-25 of the Commonwealth Higher Education Support Act.

## **2. MUPL's status as a university is not equivalent to the status of the two private universities currently listed as Table B Providers.**

Both of the private universities currently listed as Table B providers operate under Acts of their respective States. The University of Notre Dame Australia is constituted under the University Of Notre Dame Act ,1989, in Western Australia, and Bond university is constituted under the Queensland Bond University Act, 1987. Conversely, MUPL operates under a Ministerial Order gazetted under Section 10 1 (a) of the Victorian Tertiary Education Act 1993. The distinction is not unimportant. Due to its inability to conclusively demonstrate in its 2002 review that it had met the requirements of the Victorian Tertiary Education Act 1993 to operate as a university under the Act, the Victorian Minister made MUPL's continued operation as a university under Ministerial Order subject to a number of conditions. A key condition was that MUPL substantially improve its research output. The Review found that: "Under the criteria for research against which the private university was set to be judged in 1998, there is no way that MUPL meets them in 2001, nor can be expected to do so in the future."<sup>iii</sup> These are grave concerns.

MUPL's status as a 'conditional university' is substantially different to that of either the University of Notre Dame or Bond University. To legislate MUPL as a Table B provider when the Victorian Government has not yet seen fit to legislate an enabling Act for the university is simply nonsensical.

## **3. MUPL need not be listed as a Table B Provider in order to access the grants and funding it seeks.**

In a recent public statement, David Lloyd, President and Chief Executive Officer of MUPL, argued that MUPL should be added to the list of Table B providers "because this will allow the university and its academic staff to have access to competitive research grants and research infrastructure funding available to every other university in Australia – including the other two private universities – aside from Melbourne University Private."<sup>iiii</sup> This argument is a red herring. Under section 16-25 the Minister may approve MUPL as a higher education provider – allowing it to access the grants and funding about which Mr Lloyd is concerned – without legislating to list MUPL as a Table B provider.

## **4. Listing of MUPL as Table B Provider could impact negatively upon the reputation of Australia's universities.**

MUPL is a new university which is still finding its feet. A key reason for its operation under a State Ministerial Order, rather than an Enabling Act is its failure to prove that it can fulfil its mission as a higher education provider. The Ministerial Response to MUPL's 2002 review found that:

[MUPL's 1998 development plans] envisioned a separate company with specialist professional schools operating as subsidiaries. The University of Melbourne was looking to attract investors, and expected

to eventually hold as little as 15% of the equity. There was to be a purpose-built MUPL campus adjacent to the University of Melbourne. A core of academic staff was to be recruited. These were to include Professorial appointments.

There are now no separate schools or academic staff. The University has not attracted equity partners. In 2001, MUPL incorporated business activities that were previously conducted by Melbourne Enterprises International... As Dr Ramsey says, "the entity which now exists is different in scope and function from the one originally given conditional approval to operate as a university."<sup>iv</sup>

This failure to realise its initial business plans has caused embarrassment to both MUPL and the University of Melbourne. Until MUPL can demonstrate that it has met the necessary requirements to be established as a university by an Act of the Victorian Parliament, it should not be listed as a Table B Provider under Commonwealth legislation.

David Lloyd, President and CEO of MUPL, notes in a recent public statement that a reason for seeking to have MUPL listed as a table B Provider, similarly to MUPL's seeking to be allowed onto the Board of the Australian Vice-Chancellor's Committee, is as a "form of recognition."<sup>v</sup> This recognition, in the form of MUPL's inclusion in the HESA, should not occur before its recognition through an Act of the Victorian Parliament. Should MUPL ultimately fail in its endeavour to become a successful university, it would be better were it not to be recognised in Federal legislation. Further, as we note above, not being so listed should not impact upon its attempt to build up its research base by accessing federal funds.

## **Conclusion**

It is our belief that MUPL should not be listed as a Table B Provider, but rather that the Minister should assess MUPL's status as an approved higher education provider under the powers granted him in Section 16-25 of the Higher Education Support Act 2003.

Please do not hesitate to contact me if you have further questions.

Yours sincerely,

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<sup>i</sup> Lynne Kosky, MP, "Review of Melbourne University Private: Ministerial Response," February 2002.

<sup>ii</sup> Lynne Kosky, *ibid.*

<sup>iii</sup> David Lloyd, "Senator Carr Wrong on Private University," Media Release, 12 August 2004.

<sup>iv</sup> Lynne Kosky, *ibid.* Quoting from Gregor Ramsey, "The Report of a Review of Melbourne University Private Limited for the Minister for Post Compulsory Education, Training and Employment, December 2001.

<sup>v</sup> David Lloyd, *ibid.*, point 6.