



The Hon. Dr Geoff Lee MP
Minister for Skills and Tertiary Education

Ref: DGS21/1356

Mr David Blunt
Clerk of the Parliaments
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Blunt *David*

Please find attached the Government response to the report entitled *Future Development of the NSW tertiary education sector* by Portfolio Committee No. 3 – Education for tabling in the Legislative Council.

Yours sincerely

Geoff Lee
The Hon/Dr Geoff Lee MP
Minister for Skills and Tertiary Education

*Received at 3.30pm
Wednesday 21 July
2021*
[Signature]

Legislative Council Portfolio Committee No. 3 - Education

Inquiry into the future development of the NSW tertiary education sector

NSW Government Response – July 2021

Government response to the Legislative Council Portfolio Committee No. 3 inquiry into the future development of the NSW tertiary education sector

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Government response to the Legislative Council Portfolio Committee No. 3 inquiry into the future development of the NSW tertiary education sector

1. Summary of responses to recommendations - sequential

	Recommendation	Response
1	That the NSW Government improve university transparency and enhance annual reporting. This should include data on reliance on international student income, overseas student numbers in each course, staffing job security and the staffing balance between teaching and research-only	Support in principle.
2	That the NSW Government initiate a comprehensive review of the State legislative framework in light of COVID and the recommendations of the committee.	Support in principle.
3	That the NSW Government expand the responsibilities of the NSW Auditor-General to grant the NSW Auditor-General a broader brief and stronger investigative capacity to ensure university financial and staffing management is transparent, effective and acting in the public interest, especially regarding reliance on international student income and the salaries paid to Vice-Chancellors and senior university administrators.	Support in principle.
4	That the Department of Education consider the findings and recommendations of this inquiry in finalising the proposed Higher Education Strategy and make the Strategy publicly available as soon as possible.	Noted.
5	That the NSW Government develop a model of precinct or 'industry cluster' planning to maximise the potential of its education, health, transport and regional development investments linked to universities, TAFE and private tertiary providers.	Support in principle.
6	That the NSW Government reinstate and extend the Boosting Business Innovation Program to support business-university collaboration, noting the program's demonstrable effectiveness and criticality in emerging economic circumstances, particularly for suburban, regional and rural areas of NSW.	Support in principle.
7	That the NSW Government mandate that universities provide a more detailed report of their staffing profiles, including a requirement that data be provided on permanent, fixed term and casual staff levels in terms	Support in principle.

	of both headcounts and full-time equivalents, modelled on the Victorian reporting requirements.	
8	That the NSW Government foster a more competitive higher education sector, easing the way and providing support for new entrants, ensuring greater diversity and student choice in the sector, compared to the traditional fixed-campus model.	Support in principle.
9	That the NSW Government offer support for more education places to be provided locally in Western Sydney to meet increased demand through projected population growth and to improve access and equity in Western Sydney, noting the shortfall problem in Blacktown in particular.	Supported.
10	That the NSW Government offer targeted support to universities and other tertiary institutions delivering higher education in areas of community need such as outer-metropolitan, low-SES and disadvantaged communities, recognising the broader socio-economic benefits delivered to local communities through higher education access.	Support in principle.
11	That the NSW Government advocate to the Federal Government to retain tertiary education facilities within Blacktown and grow these facilities and provide new facilities that are at least proportionate to population growth.	Supported.
12	That the NSW Government ensure that the disposal of assets and land earmarked or being used for educational purposes is to occur as part of the NSW Government planning process.	Noted.
13	That the NSW Government provide support to NSW vertical universities to ensure that student life and experience is not diminished in new and existing vertical campuses.	Noted.
14	That the NSW Government require universities to report on the quality of student life and experience, particularly in vertical campuses.	Noted.
15	That the NSW Government develop a plan for university course offerings across regional and Western Sydney to ensure access to opportunities are provided in a wide range of fields of study.	Support in principle.
16	That the NSW Government support local government access to and use of university facilities to improve operational efficiencies and to expose residents to university life and tertiary education possibilities. This should include advocacy to the Federal Government	Noted.

	to increase Local Council access to university facilities and review of the Local Government Public Private Partnership guidelines to enable innovative arrangements with the tertiary sector.	
17	That the NSW Government prioritise support for CUCs in its forthcoming Higher Education Strategy.	Support in principle.
18	That the NSW Government engage with the CUCs about where future centres should be located, and support CUCs to provide careers guidance and advisory services.	Supported.
19	That the NSW Government negotiate and coordinate strategic HEPPP engagement with schools between the Federal Government and universities.	Support in principle.
20	That the NSW Government consider how to better support university efforts to increase enrolments of students from disadvantaged backgrounds, including school programs (run by Directors Education Leadership and complementary to HEPPP) that assist students and parents from disadvantaged schools become familiar with university opportunities, culture and academic life, as a pathway program for these students.	Supported.
21	That the New South Wales government engage with universities and the Federal Government to develop a means by which New South Wales universities can diversify their revenue base to avoid any potential over reliance on foreign students and particular source countries.	Support in principle.
22	That the NSW Government extend the powers of the New South Wales Auditor-General to audit the state's international education sector and make recommendations to universities as part of their annual audit of university finances, especially concerning risk management, income diversification, economic resilience, and reliance on international student income.	Support in principle.
23	That the NSW Government require NSW universities to publish comprehensive international student data by course, country and study program through the NSW Auditor-General audits and annual reporting to the responsible NSW Minister.	Noted.
24	That the NSW Government advocate to the Federal Government to investigate requiring universities to implement a minimum independently-assessed IELTS standard of 7.0 for admission to all university courses,	Noted

	and increasing the requirement to 7.5 for language-intensive courses.	
25	That the NSW Government investigate the use of foundations programs at universities, to ensure that they are fulfilling their mission.	Noted.
26	That the NSW Government consider funding all or part of the Alphacrucis Hub model proposal.	Noted.
27	That the NSW Government collaborate with tertiary education providers to ensure compliance with privacy laws in the use of online learning and assessment tools.	Noted.
28	That the NSW Government expand the remit of NSW Fair Trading to cover share houses and informal tenancy agreements.	Supported.
29	That the NSW Government initiate reforms to make NCAT more accessible via teleconferencing/videoconferencing.	Completed.
30	That the NSW Government codify the Robert French free speech recommendations in NSW statutes covering universities.	Noted.
31	That the NSW Government consider complementary legislation to provide uniform protections provided in the Higher Education Support Amendment (Freedom of Speech) Bill 2020, if passed.	Noted.
32	That the NSW Government outlaw non-platforming of academics, staff and guest speakers at universities.	Noted.
33	That the NSW Government broaden the coverage of the New South Wales Public Interest Disclosures Act 1994 to provide these protections for students as well as university officers or employees.	Noted.
34	That the NSW Government clarify whether certain laws or requirements apply to universities, as statutory corporations.	Supported.
35	That the NSW Government advocate to the Australian Government to clarify the application of federal legislation to universities.	Supported.
36	That the NSW Government ensure the rule of law and the processes of the NSW criminal justice system are respected by universities in dealing with alleged sexual offences. Universities must use the NSW Police as their first and most important point of reference in dealing with any allegation of the law being broken, in all instances, for all allegations. In	Noted.

	<p>particular, NSW universities must respect the presumption of innocence and not create their own 'Kangaroo Court' and tribunal processes that circumvent the rules and standards of natural justice established at law by the NSW Parliament. The NSW Government should establish a legal protocol for universities to follow in this regard and, if universities chose to ignore or breach it, the protocol should be legislated as mandatory for NSW universities.</p>	
37	<p>That the NSW Government, as part of the broader legislative review of universities recommended by this committee, consider the current processes and policies in place at universities for the investigation of sexual offences.</p>	Noted.
38	<p>That the NSW Government consider legislative and/or policy reform that responds to the findings and recommendations of the Federal Parliamentary Joint Committee on Intelligence and Security's Inquiry into national security risks affecting the Australian higher education and research sector.</p>	Noted.
39	<p>That the NSW Government ensure that all recommendations of the NSW Auditor-General's 2019 financial audit of universities are implemented immediately.</p>	Support in principle.

2. Executive summary

The NSW Government welcomes the Legislative Council Portfolio Committee No.3 – Education's final report, *Future development of the NSW tertiary education sector*.

The Committee announced its inquiry into the future development of the NSW tertiary education sector on 28 May 2020, held two public hearings and received 42 submissions. The Committee handed down its final report on 22 January 2021 with the government response due by 22 July 2021.

While the Commonwealth Government regulates and largely funds higher education, universities are part of the social, community and economic fabric of NSW. The NSW Government works with the higher education sector as partners in delivering outcomes for the people of NSW.

Each of the NSW public universities is established under its own NSW statute. These acts have been amended over time to ensure that they are fit for purpose in enabling the universities' operations. Other pieces of legislation have reformed the universities' acts, including through the *Universities Governing Bodies Act 2011* and the *University Legislation Amendment (Regulatory Reforms) Act 2014*. These acts modernised governance standards, reduced red tape and improved consistency across the various universities' acts.

The higher education sector is regulated by the Commonwealth under the *Tertiary Education Quality and Standards Agency Act 2011*. The ten NSW public universities are subject to financial audit by the NSW Auditor-General's Office under the *Public Finance and Audit Act 1983* (NSW) and must also provide an annual report to the responsible NSW Minister and the Treasurer in accordance with the *Annual Reports (Statutory Bodies) Act 1984*.

The NSW Higher Education Strategy, launched in January 2021, affirms the State's commitment to working in partnership with universities to meet emerging challenges. The five-year strategy will drive strong and effective partnerships between government and the higher education sector, highlighting and elevating current and emerging projects.

The thirty-nine recommendations from the Committee's final report have been grouped into wider themes that are further elaborated on in the response. The response will address the concerns of the Committee across three broad themes:

- Role of the NSW Government in universities
- University reporting
- Access to and equity in higher education
- International student revenue
- Other – collaboration, facilities, innovation, rights of students, planning issues

The Government thanks the Committee for its consideration of these important matters and appreciates the opportunity to respond to the Committee's findings and recommendations.

The Government also acknowledges the contributions of individuals and higher education providers in the Inquiry process.

3. Response to the Committee's recommendations by theme:

A. Recommendations on the role of the NSW Government in universities

	Recommendation	Response
2	That the NSW Government initiate a comprehensive review of the State legislative framework in light of COVID and the recommendations of the Committee.	Support in principle.

The NSW Government requires transparency, accountability and good governance from its public institutions, including the ten public universities that are established by NSW statutes.

Each of the NSW public universities are established under their own individual acts. The acts are similar in nature and have been subject to reform over the last decade to ensure they are modern pieces of legislation that require good governance, are consistent across institutions and allow universities sufficient autonomy in their operations.

The NSW Department of Education, as the agency responsible for administering these acts on behalf of the Minister for Skills and Tertiary Education, periodically reviews the university acts to align the legislation with State priorities, and reduce red tape and duplication. Further review of the acts to ensure accountability, transparency and good governance in the NSW public universities will occur as part of this ongoing process of continuous improvement.

	Recommendation	Response
30	That the NSW Government codify the Robert French free speech recommendations in NSW statutes covering universities.	Noted
31	That the NSW Government consider complementary legislation to provide uniform protections provided in the Higher Education Support Amendment (Freedom of Speech) Bill 2020, if passed.	Noted
32	That the NSW Government outlaw non-platforming of academics, staff and guest speakers at Universities	Noted

The Independent Review of Freedom of Speech in Australian Higher Education Providers, undertaken by Mr Robert French AC in 2019, on behalf of the Commonwealth Minister for Education, resulted in a Model Code that sets out a framework for universities to protect freedom of speech and academic freedom. All universities undertook to implement the French Model Code in ways that are consistent with their legislative frameworks.

This implementation was the subject of a Commonwealth-initiated independent review by Professor Sally Walker in 2020 to help institutions identify any gaps in their implementation of the Model Code and suggest where alignment could be improved.

Also in response to the French Review, the Commonwealth amended the *Higher Education Support Act 2003 (Cth)* (HESA) in 2021 to align the language of the HESA to the language

used in the Model Code. All universities in New South Wales are covered by the HESA. The amendment replaced the use of the term 'free intellectual inquiry' with the term 'freedom of speech and academic freedom' in the Act. This changed one of the objects of the Act, which is the legislative mechanism through which higher education institutions are funded by the Commonwealth, to be that it 'support(s) a higher education system that promotes and protects freedom of speech and academic freedom'.¹ Universities meet this object by having a policy in place that 'upholds free speech and academic freedom'.² If universities are found to not meet this requirement, the Act provides that the Commonwealth Minister can revoke its HESA funding status. Universities' compliance with the HESA is monitored by the Commonwealth Department of Education, Skills and Employment.

This legislative imperative is complemented by the regulatory system for higher education, which is administered by the Commonwealth's Tertiary Education Quality and Standards Agency (TEQSA) with the authority of the *Tertiary Education Quality and Standards Agency Act 2011* (Cth). One of the critical conditions of registration as a higher education provider is that the provider's governing body must have a clearly articulated higher education purpose that includes a commitment to, and support for, free intellectual inquiry in its academic endeavours.³

Each of the NSW public university acts also includes 'free inquiry' as one of the relevant university's objects. While NSW public universities operate with a high degree of institutional autonomy, the inclusion of 'free inquiry' in universities' objects demonstrates the critical importance of this concept to the operation of the State's universities.

It is considered that the concept of 'non-platforming' in the sense anticipated by recommendation 32 is an aspect of free speech and academic freedom which is addressed by the developments above.

	Recommendation	Response
33	That the NSW Government broaden the coverage of the New South Wales <i>Public Interest Disclosures Act 1994</i> to provide these protections for students as well as university officers or employees.	Noted

The NSW Government is currently progressing a Bill to amend the *Public Interest Disclosures Act 1994* in response to recommendations of the Parliamentary Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission (Report 3/56, October 2017) and Parliamentary Committee on the Independent Commission Against Corruption (Report 4/56, November 2017).

¹ *Higher Education Support Act 2003* (Cth) Section 2-1(a)(iv)

² *Higher Education Support Act 2003* (Cth) Section 19-115

³ *Higher Education Standards Framework (Threshold Standards) 2015*

	Recommendation	Response
36	That the NSW Government ensure the rule of law and the processes of the NSW criminal justice system are respected by universities in dealing with alleged sexual offences. Universities must use the NSW Police as their first and most important point of reference in dealing with any allegation of the law being broken, in all instances, for all allegations. In particular, NSW universities must respect the presumption of innocence and not create their own 'Kangaroo Court' and tribunal processes that circumvent the rules and standards of natural justice established at law by the NSW Parliament. The NSW Government should establish a legal protocol for universities to follow in this regard and, if universities chose to ignore or breach it, the protocol should be legislated as mandatory for NSW universities.	Noted.
37	That the NSW Government, as part of the broader legislative review of universities recommended by this committee, consider the current processes and policies in place at universities for the investigation of sexual offences.	Noted

Universities are subject to the rule of law. They are also subject to work health and safety laws. They are regulated by the Commonwealth Government, through the Tertiary Education Quality Standards Authority (TEQSA). All universities are required by TEQSA to meet the Higher Education Standards Framework, which includes specific requirements for universities to provide:

- Safe learning environments
- Support services for students who need assistance with personal circumstances which may be having an adverse effect on their education
- Formal complaints handling policies and procedures.

TEQSA also uses its regulatory approvals process to ensure that universities are complying with student wellbeing and safety standards, through university and higher education providers' applications for re-registration. Providers are obliged to go through this process at least every seven years.

TEQSA is also running a separate project on how the higher education sector is responding to the issue of sexual assault and sexual harassment, focused on how providers receive and respond to complaints of sexual assault and sexual harassment.

Universities in New South Wales are subject to the rule of law and to the criminal justice system in general, including in the specific instances of alleged sexual offences. Where a serious indictable offence is thought to have occurred, the Crimes Act 1900 (NSW) sets out a mandatory reporting obligation to NSW Police.

	Recommendation	Response
38	That the NSW Government consider legislative and/or policy reform that responds to the findings and recommendations of the Federal Parliamentary Joint Committee on Intelligence and Security's Inquiry into national security risks affecting the Australian higher education and research sector.	Noted.

This recommendation will be considered upon the release of this Inquiry's report.

B. University reporting

	Recommendation	Response
1	That the NSW Government improve university transparency and enhance annual reporting. This should include data on reliance on international student income, overseas student numbers in each course, staffing job security and the staffing balance between teaching and research-only.	Support in principle
7	That the NSW Government mandate that universities provide a more detailed report of their staffing profiles, including a requirement that data be provided on permanent, fixed term and casual staff levels in terms of both headcounts and full-time equivalents, modelled on the Victorian reporting requirements.	Support in principle

The NSW Government supports transparency in annual reporting. However, university data collection is largely the responsibility of the Commonwealth Government. The Commonwealth's annual university data collection includes information on overseas student enrolments and staffing.

In NSW, the *Annual Reports (Statutory Bodies) Regulation 2015* (the Regulation) requires universities to report on the "number of employees, by category, with comparison to each of not less than 3 years before the reporting year".

Annual reporting requirements

The *Annual Reports (Statutory Bodies) Act 1984* (NSW) establishes an annual reporting framework for entities that meet the Act's definition of a 'statutory body'. The ten NSW public universities meet that definition because they are listed in Schedule 2 to the *Public Finance and Audit Act 1983* (NSW). The annual reporting framework is administered by NSW Treasury and includes the *Annual Reports (Statutory Bodies) Regulation 2015*.

The Regulation contains various reporting requirements that apply to all statutory bodies including universities. However, the Regulation does not list reporting requirements that apply to particular statutory bodies or groups of statutory bodies.

The NSW Government is already working on policy and legislative changes that will increase transparency of annual reporting. The *Government Sector Finance Act 2018* (GSFA) includes a Division on annual reporting that will replace the *Annual Reports (Statutory Bodies) Act* framework. The ten NSW public universities will be subject to GSFA annual reporting.

The GSFA framework will likely include a combination of annual reporting requirements in a regulation and best practice principles and guidance, and will place greater emphasis on useful reporting rather than 'checklist' style compliance. The GSFA framework will contain various reporting requirements applicable to all entities subject to that framework including universities.

	Recommendation	Response
13	That the NSW Government provide support to NSW vertical universities to ensure that student life and experience is not diminished in new and existing vertical campuses.	Noted
14	That the NSW Government require universities to report on the quality of student life and experience, particularly in vertical campuses.	Noted

The Commonwealth's Tertiary Education Quality and Standards Agency (TEQSA) is the national quality assurance and regulatory agency for higher education. The Higher Education Standards Framework (Threshold Standards) under the *Tertiary Education Quality and Standards Agency Act* has been structured to align with the student lifecycle, as students progress from prospective students to award of a qualification.

TEQSA considers student engagement as part of its accreditation and re-accreditation process. It considers providers' internal student feedback systems (including complaints) and also how providers act on that feedback. Additionally, as part of its overall provider risk assessment, TEQSA considers available student data including progression, attrition and completion rates, student employment outcomes and student satisfaction.

Student experience is also captured by the Quality Indicators for Teaching and Learning (QILT) Student Experience Survey. The Student Experience Survey reports on six indicators related to:

- Overall quality of educational experience
- Teaching quality
- Learner engagement
- Learning resources
- Student support
- Skills development

	Recommendation	Response
3	That the NSW Government expand the responsibilities of the NSW Auditor-General to grant the NSW Auditor-General a broader brief and stronger investigative capacity to ensure university financial and staffing management is transparent, effective and acting in the public interest, especially regarding reliance on international student income and the salaries paid to Vice-Chancellors and senior university administrators.	Support in principle
22	That the NSW Government extend the powers of the New South Wales Auditor-General to audit the state's international education sector and make recommendations to universities as part of their annual audit of university finances, especially concerning risk management, income	Support in principle

	diversification, economic resilience, and reliance on international student income.	
39	That the NSW Government ensure that all recommendations of the NSW Auditor-General's 2019 financial audit of universities are implemented immediately	Support in principle

The NSW Government supports accountability, transparency and good governance in the NSW public universities. The Auditor-General's mandate under the *Public Finance and Audit Act 1983* (the PF&A Act) requires the public universities in New South Wales, including all of their controlled entities – whether constituted and/or operating in Australia or overseas – to prepare annual financial statements that are audited by the Auditor-General.

While the PF&A Act establishes the basic obligation on the public universities in NSW to prepare financial statements, the form and content of the annual financial statements are set by the Australian Department of Education, Skills and Employment. This allows for a consistent approach to financial reporting by all higher education providers.

There are a range of existing options that can be utilised by the NSW Government and Parliament as required to encourage greater transparency of university operations. Section 27B(3) of the PF&A Act allows the Auditor-General to “provide any particular audit or audit-related service to Parliament at the joint request of both Houses of Parliament”. The Auditor-General is also able to provide “any particular audit or audit-related service to the Treasurer at the request of the Treasurer or to any other Minister at the request of that other Minister”.

The NSW Parliament Public Accounts Committee reviews the Auditor-General's reports to ensure that agencies respond appropriately to the Auditor-General's recommendations. The Committee reviews the operation of the Audit Office every four years.

Annual Reports

In accordance with *the Annual Reports (Statutory Bodies) Act 1984*, the public universities in NSW must submit annual reports to the appropriate Minister that contain the audited financial statements of each university and the audited financial statements of their controlled entities. The Minister must table the annual reports in NSW Parliament.

The form and content of the annual reports for the public universities in NSW are established in the *Annual Reports (Statutory Bodies) Act 1984* and *Annual Reports (Statutory Bodies) Regulation 2015*.

Section 52 of the PF&A Act provides the Auditor-General with the ability to report to Parliament on the conduct of her audits. It also allows the Auditor-General to “report on any matter that arises from or relates to the exercise of the audit or other functions of the Auditor-General and that in the opinion of the Auditor-General should be brought to the attention of Parliament”. With this mandate, the Auditor-General produces a consolidated report on her audits of the financial statements of the universities, which is released after the universities' annual reports have been tabled.

The PF&A Act also allows the Auditor-General to conduct performance audits of NSW statutory bodies. The Auditor-General's current focus is on government responses to recent emergencies including bushfires, floods and the COVID-19 pandemic. Due to the need to target efforts, current and past NSW Auditors-General have not conducted performance audits within the NSW public university sector, which is funded by the Commonwealth.

C. Access to and equity in higher education

	Recommendation	Position
9	That the NSW Government offer support for more education places to be provided locally in Western Sydney to meet increased demand through projected population growth and to improve access and equity in Western Sydney, noting the shortfall problem in Blacktown in particular.	Supported
10	That the NSW Government offer targeted support to universities and other tertiary institutions delivering higher education in areas of community need such as outer-metropolitan, low-SES and disadvantaged communities, recognising the broader socio-economic benefits delivered to local communities through higher education access.	Support in principle
11	That the NSW Government advocate to the Federal Government to retain tertiary education facilities within Blacktown and grow these facilities and provide new facilities that are at least proportionate to population growth.	Supported
15	That the NSW Government develop a plan for university course offerings across regional and Western Sydney to ensure access to opportunities are provided in a wide range of fields of study.	Support in principle

Ensuring wider participation in higher education is a key strategic outcome for the NSW Department of Education. It is also one of the priority areas in the NSW Higher Education Strategy. Under the Strategy, the NSW Government will develop and expand collaborative programs between education sectors to increase participation of under-represented regions and equity groups in higher education.

The NSW Government is involved in several projects to improve access to tertiary education for students and young people from disadvantaged backgrounds. This includes Country Universities Centres (CUCs), the Regional Transitions to Universities Grant and collaborative outreach programs between NSW universities and public schools. The NSW Government is also committed to meeting the growing skills and education demands in high growth regions, particularly Greater Western Sydney. This includes key partnerships with universities in the Western Parkland City.

These projects are in addition to the substantial support provided by the Commonwealth Government, in its role as the majority funder of higher education, through the Indigenous, Regional and Low Socio-Economic Status Attainment Fund (RLSAF). The RLSAF is designed to promote equality in higher education by providing grants to higher education providers, to encourage the enrolment of people from Indigenous, regional and remote and low SES backgrounds and includes the Higher Education Participation and Partnerships Program (HEPPP). The Commonwealth Government is the major funder of equity programs at NSW universities, providing over \$43 million in HEPPP funding in 2021.

The NSW Government will continue to advocate to the Commonwealth Government, which is responsible for funding higher education, for additional student places to meet NSW's projected population growth, demand for skills and to increase higher education opportunities for under-represented groups. This advocacy has resulted in a \$17.092 million commitment by the Commonwealth Government from 2021-24 to support the development of the Multiversity Program at the new Multiversity in Western Sydney. The Multiversity Program integrates higher education with vocational and industry-led training to provide the skills needed for jobs of the future at the Western Sydney Aerotropolis.

The NSW Government is committed to supporting other innovative blended education models that will benefit Western Sydney and the state more broadly. These include the New Education and Training Model (NETM) being developed by the Western Parkland City Authority and the Institute of Applied Technology (IAT) model recommended by the Gonski-Shergold Review on the NSW vocational education and training sector. The NETM will offer industry-led and developed micro-credentials for school leavers and existing workers to adapt to the emerging new industries based at the Aerotropolis. The IAT will offer students fully integrated practical and theoretical training which is developed in collaboration with industry partners and focused on the state's emerging labour market needs. IAT sites will be at TAFE NSW Centres of Excellence at Meadowbank, Kingswood and a to be determined regional location.

	Recommendation	Response
17	That the NSW Government prioritise support for CUCs in its forthcoming Higher Education Strategy.	Support in principle
18	That the NSW Government engage with the CUCs about where future centres should be located, and support CUCs to provide careers guidance and advisory services.	Supported

Country University Centres allow students in rural and regional NSW to pursue higher education while remaining in their own regional communities. They provide students with access to university campus-like facilities while they study online, including mentoring, study rooms and high-speed internet.

CUCs work to increase access to higher education for regional students aligns closely with the "ensure wider participation in quality higher education" priority area of the NSW Higher Education Strategy. The NSW Higher Education Strategy was approved and released prior to the inquiry report's publication and was designed around broad themes rather than specific programs or institutions. The NSW Government values the contribution by CUCs to the communities they serve and they feature in the Strategy's action plan.

The NSW Government has funded the opening of seven CUCs to date. Goulburn, Broken Hill, Clarence Valley, North West and Western Riverina were funded from an initial \$8 million grant in 2017. Parkes, Macleay Valley and a further three new Centres are now being funded from a second \$8 million grant announced in the 2019-2020 budget. These CUCs have supported more 1000 students in regional NSW to study over 300 courses at 35 universities. Three CUCs are still in planning and are due to be established by 2022. One site has been confirmed in Ulladulla.

The NSW Government approves CUC locations following consideration of a business case. The NSW Department of Education and CUC work collaboratively to ensure future centres are appropriately located. Funding provided by NSW is used to establish the centre and hire appropriate staff. These staff members provide students with wraparound support services including careers and advisory services.

	Recommendation	Response
19	That the NSW Government negotiate and coordinate strategic HEPPP engagement with schools between the Federal Government and universities.	Support in principle.
20	That the NSW Government consider how to better support university efforts to increase enrolments of students from disadvantaged backgrounds, including school programs (run by Directors Education Leadership and complementary to HEPPP) that assist students and parents from disadvantaged schools become familiar with university opportunities, culture and academic life, as a pathway program for these students.	Supported

The NSW Government recognises the importance of access to quality post-school education and training. The NSW Department of Education is committed to building pathways for lifelong learning, and supports the delivery of a skilled and employable workforce for NSW through vocational education and training and higher education. 'Ensuring wider equity in higher education' is also a Priority Area of the NSW Higher Education Strategy.

The NSW Department of Education's Strategic Plan 2018-2022 commits to:

- Increasing the proportion of the working-age population with qualifications at or above Certificate III
- Increasing the proportion of young people participating in higher education, training or work.

The Department is involved in several projects to improve access to tertiary education for students and young people from disadvantaged backgrounds. This includes Country Universities Centres (CUCs), the Regional Transitions to Universities Grant and collaborative outreach programs between NSW universities and public schools. The Department of Education also works with the Universities Admissions Centre (UAC) to promote Educational Access Schemes (EAS) in schools. The EAS assist students who have experienced significant educational disadvantage to receive an offer to university.

D. Reliance on international student revenue

	Recommendation	Response
21	That the New South Wales government engage with universities and the Federal Government to develop a means by which New South Wales universities can diversify their revenue base to avoid any potential over reliance on foreign students and particular source countries.	Supported in principle
23	That the NSW Government require NSW universities to publish comprehensive international student data by course, country and study program through the NSW Auditor-General audits and annual reporting to the responsible NSW Minister.	Noted

International students are a valued part of the university landscape and the wider community of New South Wales. As well as studying in the state's higher education institutions, they also live, work and socialise in NSW. They and their families contribute significantly to NSW's tourism sector, which pre-COVID saw educational activities responsible for around 40 per cent of national spending on tourism.

Reliance on international students as a source of revenue was highlighted by the Committee, particularly concerning its sustainability and volatility in the face of global events. The COVID-19 pandemic had a significant impact on NSW universities with overall international student revenue falling by seven per cent (\$249 million) in 2020 compared to 2019. The total operating deficit for all consolidated NSW university operations in 2020 was - \$50.4m (down -115% from a \$346.9m surplus in 2019)⁴.

Through Study NSW, the NSW Government is committed to maintaining the State's record as a leading global study destination. The NSW Government will also continue to engage with the university sector to identify opportunities to create jobs, stimulate economic growth, and collaborate on research priorities.

The Government will also continue to advocate to the Commonwealth on sustainable, sufficient research funding for universities; lack of sufficient funding for the direct and indirect costs of research has led to universities using revenue from international students to fill funding gaps.

The Commonwealth Government, as the primary funder of higher education, maintains a detailed enrolment data base that includes international student enrolments and covers the fields mentioned in Recommendation 23. Most of this data is publicly available on the Commonwealth Department of Education, Skills and Employment website and universities provide a high level of transparency in this area. A number of NSW Government agencies, including the NSW Department of Education and Study NSW, conduct analysis on the full data set for policy-making purposes.

The NSW Auditor-General, in her annual financial report on the ten NSW public universities, also looks at international student enrolments by country of origin. This report publishes

⁴ Excludes Charles Sturt University

information about the market concentration of international students and reliance on international student revenue.

	Recommendation	Response
24	That the NSW Government advocate to the Federal Government to investigate requiring universities to implement a minimum independently-assessed IELTS standard of 7.0 for admission to all university courses, and increasing the requirement to 7.5 for language-intensive courses.	Noted
25	That the NSW Government investigate the use of foundations programs at universities, to ensure that they are fulfilling their mission.	Noted

The Commonwealth’s Tertiary Education Quality and Standards Agency (TEQSA) is Australia’s independent national quality assurance and regulatory agency for higher education. It regulates universities’ compliance with the *Higher Education Standards Framework (Threshold Standards) 2015*, which sets out the requirements for admissions to university.

The Higher Education Standards Framework outlines the requirements that must be met by all higher education providers registered by TEQSA. Standard 1.1 of the Higher Education Standards Framework requires that “admissions policies, requirements and procedures...are designed to ensure that admitted students have the academic preparation and proficiency in English needed to participate in their intended study...” Standard 1.3.5 requires providers to monitor the success of student cohorts as they progress through their studies. This ensures that admission criteria, including English language requirements, are effective.

Foundation programs are regulated by the Commonwealth Government and must comply with the requirements set out in the:

- *Education Services for Overseas Students Act 2000* (ESOS Act)
- National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018)
- National Standards for Foundation Programs

If there are specific concerns about universities not complying with the Higher Education Standards Framework, these should be referred to TEQSA for investigation.

E. Other - collaboration, facilities, innovation, rights of students, planning

	Recommendation	Response
4	That the Department of Education consider the findings and recommendations of this inquiry in finalising the proposed Higher Education Strategy and make the Strategy publicly available as soon as possible.	Noted

The NSW Higher Education Strategy was launched in January 2021 prior to the Legislative Council Portfolio Committee No.3 – Education's report being released. The five-year Strategy provides a shared vision for partnership between the NSW government and the higher education sector.

The Strategy identifies five priority areas for greater alignment between the higher education sector and NSW's priorities for social and economic development:

- Develop and broaden post-school options to foster lifelong learning;
- Ensure wider participation in quality higher education;
- Drive job growth, skills and innovation;
- Strengthen collaborations to bolster research outcomes; and
- Position NSW globally by reinvigorating and diversifying international education and engagement.

The NSW Government collaborated closely with the sector to develop the strategy. An action plan has also been developed that captures current and emerging government initiatives and priority projects. The action plan aims to ensure the Strategy is making an impact and delivering on desired outcomes.

A Collaboration and Innovation Fund has also been established to reward collaborative, innovative and evidence-based projects that support the Strategy. The first round of funding closed in April 2021. The Fund will operate over the life of the Strategy and new funding rounds will open each year.

	Recommendation	Response
5	That the NSW Government develop a model of precinct or 'industry cluster' planning to maximise the potential of its education, health, transport and regional development investments linked to universities, TAFE and private tertiary providers.	Support in principle.
12	That the NSW Government ensure that the disposal of assets and land earmarked or being used for educational purposes is to occur as part of the NSW Government planning process.	Noted.

In 2019, the NSW Government introduced a new approach for precinct planning in Greater Sydney. Within the new approach are four pathways to progress 51 existing precincts in Greater Sydney.

The pathways are:

- State led strategic planning
- Collaborative planning between the State and councils
- State-led rezoning
- Council-led rezoning

The Department of Education is involved in several precinct projects, including the Western Sydney City Deal and the Liverpool Health and Innovation Precinct. These are collaborative efforts that bring together stakeholders from government, industry and education in order to develop innovative cross sectoral models.

Under their respective acts, universities seek Ministerial approval before disposing of university land. The Minister seeks to take into account the views of the local community and the benefits to education in granting his approval.

As part of planning and contributions reforms, the Department of Planning, Industry and Environment will be reviewing planning advice relevant to land use planning. The work will involve consideration as to how to raise awareness about the need to consider future educational needs, along with other types of infrastructure.

The process of preparing Land Use Plans, such as the Greater Macarthur 2040, the Land Use and Infrastructure Implementation Plan for the North West Growth Centre or the Western Sydney Aerotropolis Plan, provided opportunities for the tertiary sector to identify growth potential in Western Sydney. These opportunities will continue with the update of the Greater Sydney Region Plan and accompanying District Plans by the Greater Sydney Commission and the Western City Blueprint, which is being prepared by the Western Parkland City Authority.

	Recommendation	Response
6	That the NSW Government reinstate and extend the Boosting Business Innovation Program to support business-university collaboration, noting the program's demonstrable effectiveness and criticality in emerging economic circumstances, particularly for suburban, regional and rural areas of NSW.	Support in principle

The NSW Government is actively considering ways in which to build on the success of the Boosting Business Innovation Program, exploring partnerships to promote innovation and collaboration with research organisations and business communities.

	Recommendation	Response
8	That the NSW Government foster a more competitive higher education sector, easing the way and providing support for new entrants, ensuring greater diversity and	Support in principle

	student choice in the sector, compared to the traditional fixed-campus model.	
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Higher education providers and programs are funded and regulated by the Commonwealth.

The NSW Government is fostering greater diversity and student choice through the development of new tertiary education models and programs. These include:

- Institutes of Applied Technology
- TAFE Centres of Excellence
- The Multiversity Program
- The Western Parkland City Authority’s New Education and Training Model
- Country University Centres (see Recommendations 19 and 20).

The NSW Department of Education, under the NSW Higher Education Strategy, is committed to supporting new educational models that combine higher education, VET and TAFE and developing and expanding collaborative programs between the education sectors to increase the participation of under-represented regions and equity groups in higher education.

The Commonwealth Government is also supporting diversity in the higher education sector through the implementation of recommendations from the Review of the Higher Education Provider Category Standards.

	Recommendation	Response
16	That the NSW Government support local government access to and use of university facilities to improve operational efficiencies and to expose residents to university life and tertiary education possibilities. This should include advocacy to the Federal Government to increase Local Council access to university facilities and review of the Local Government Public Private Partnership guidelines to enable innovative arrangements with the tertiary sector.	Noted

The NSW Government supports the shared use of public facilities, including the shared usage of school facilities by local communities to expand access to public assets. Sharing facilities may lower operating costs and provide additional avenues to accommodate staff. These potential workplace cost efficiencies could be especially important in the context of COVID-19 and its financial impacts.

Local councils in NSW are established as largely independent bodies that have a broad range of rights and discretionary powers under the *Local Government Act 1993* and other legislation. This legislation does not give the Minister for Local Government or the Office of Local Government the power to intervene in the daily decisions and operations of individual councils. Individual universities are therefore encouraged to work directly with their local councils on sharing the use of their facilities.

The *Guidelines on the Procedures and Process to be followed by Local Government in Public-Private Partnerships* detail the local government sector's responsibilities when entering into a Public-Private Partnership, for the purposes of providing public infrastructure, facilities, or delivering of services. Consideration of the guidelines can be dealt with on a case by case basis.

The NSW Government supports the intent of the recommendation to expose residents to university life and tertiary education possibilities. Opportunities also exist for universities to collaborate with the local government sector to establish internships or cadet roles to encourage young people to stay in regional and remote communities, allowing them to “earn while they learn”. A number of NSW councils already offer such roles. For example, Blue Mountains City Council's Cadets, Apprenticeships and Traineeship (CATs) Program has offered opportunities for structured, paid training to members of the community since 2015.

	Recommendation	Response
26	That the NSW Government consider funding all or part of the Alphacrucis Hub model proposal.	Noted

The NSW Government will consider Alphacrucis College's 'hub model' proposal.

	Recommendation	Response
27	That the NSW Government collaborate with tertiary education providers to ensure compliance with privacy laws in the use of online learning and assessment tools.	Noted

University teaching and learning activities are regulated by TEQSA. The NSW Department of Education will refer this issue to TEQSA for its investigation.

	Recommendation	Response
28	That the NSW Government expand the remit of NSW Fair Trading to cover share houses and informal tenancy agreements.	Supported
29	That the NSW Government initiate reforms to make NCAT more accessible via teleconferencing/videoconferencing.	Completed

The NSW Government is currently working on expanding the remit of NSW Fair Trading to cover share houses and informal tenancy agreements. This aligns with recommendations found in the August 2020 report on the Statutory Review of the *Boarding Houses Act 2012* (NSW) (BH Act). Recommendations 1 and 2 of the Statutory Review proposed to extend the scope of the BH Act to capture a wider range of shared accommodation arrangements.

The Department of Customer Service is now working with the Department of Communities and Justice to implement the recommendations from the Statutory Review, including drafting the updated BH Act, to be newly named the Shared Accommodation Act. Joint public consultation on a draft bill is expected to take place in late 2021 or early 2022.

NCAT hearings are widely available via teleconferencing and audio visual link.

	Recommendation	Response
34	That the NSW Government clarify whether certain laws or requirements apply to universities, as statutory corporations.	Supported
35	That the NSW Government advocate to the Australian Government to clarify the application of federal legislation to universities.	Supported

These recommendations relate to concerns raised in a submission to the Inquiry about the applicability of whistle-blower provisions in the *Corporations Act 2001 (Cth)* to universities. The NSW Department of Education will work with the Commonwealth to address these concerns.