

Australian Catholic University

**Submission to the
Senate Education and Employment
Legislation Committee**

**Inquiry into the Universities Accord
(Australian Tertiary Education Commission)
Bill 2025 and a Related Bill**

January 2026

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

Australian Catholic University (ACU) welcomes the opportunity to provide feedback to the Senate inquiry into the Universities Accord (Australian Tertiary Education Commission) Bill 2025 and Universities Accord (Australian Tertiary Education Commission) (Consequential and Transitional Provisions) Bill 2025.¹

ACU acknowledges the Federal Government's intention to implement recommendations of the Australian Universities Accord Panel (hereafter "Accord Panel") to establish an Australian Tertiary Education Commission (ATEC). A well-constituted ATEC could provide the independent, long-term strategic planning and policy stability needed to strengthen and sustain Australia's higher education sector.

However, ACU is concerned that the Bills, as drafted, do not adequately safeguard ATEC's independence or align fully with the Australian Universities Accord's rationale. Key provisions should be amended to ensure ATEC can operate as an autonomous sector steward capable of delivering robust, impartial advice and supporting coordinated, long-term sector planning. This submission outlines ACU's priority issues and recommended amendments.

With the right provisions in place, ATEC can positively shape a "stronger, more diverse, innovative, mission-driven" higher education system.² ACU's submission focuses on the following aspects pertaining to ATEC's constitution and work:

- Authority and sphere of responsibility
- Independence and autonomy
- Commissioners
- Mission-based compacts
- National Tertiary Education Objective
- Higher Education Standards Framework (HESF)
- Strategic priorities, work plan and independent review
- Administrative matters

ACU recommends that ATEC work in genuine partnership with the sector, recognise institutional diversity, and prioritise mechanisms that support quality, growth and transformational improvement over punitive or overly prescriptive approaches. While ATEC will necessarily advise government on tertiary education matters raised by the Ministers or government of the day, it must be a source of open, independent advice that delivers the long-term strategic coordination currently missing from the system.

Authority and sphere of responsibility

The Federal Government should clearly articulate the respective roles and responsibilities of other key entities in the higher education system at a practical and operational level, especially TEQSA, the National Student Ombudsman and the Department of Education (DoE). Without this clarity, ATEC risks adding further complexity to an already complex and resource intensive regulatory and compliance environment.

Providers need clarity on regulatory requirements and where to seek guidance. As proposed, the Bills create overlap between ATEC and TEQSA, particularly given TEQSA already promotes sector quality, diversity and excellence. Regulatory functions should remain with TEQSA, operating under its established risk-based principles.

¹ References to Bill sections in this submission relate to the primary bill, the Universities Accord (Australian Tertiary Education Commission) Bill 2025, unless otherwise indicated. References to provisions in the Universities Accord (Australian Tertiary Education Commission) (Consequential and Transitional Provisions) Bill 2025 are indicated through the abbreviation "Consequential Provisions Bill".

² O'Kane, M., Behrendt, L., Glover, B., Macklin, J., Nash, F., Rimmer, B., & Wikramanayake, S. (2023). *Australian Universities Accord Final Report*, at 7.

ATEC's remit needs to be clearly delineated and its role as a stewarding and advisory body affirmed. Equally, as the sector's regulator, TEQSA's regulatory remit needs to be clearly defined relative to other entities. The provisions of the two Bills currently blur these boundaries by assigning ATEC functions that resemble advisory, regulatory, enforcement and funding roles. As core principles, any provider or sector intervention should be:

- Proportionate and risk-based;
- Responsive to provider circumstances; and
- Supportive of university autonomy.

Once ATEC is established, federal government should undertake, as a matter of priority, a comprehensive review of higher education regulation and compliance requirements, to streamline regulation and reduce red tape in line with the national productivity agenda.

As the sector transitions into new arrangements, it is crucial that regulatory and reporting requirements are reviewed holistically. A streamlined approach will facilitate more efficient and effective administration while avoiding unnecessary red tape that burdens both providers and government and diverts finite resources away from higher education. The cost burden of compliance is significant and compels universities to divert limited funding away from higher education to administrative activities.³ Regulation must be targeted and meaningful.

Recommendations

ACU recommends:

1. Federal Government provide clear advice on the respective roles and responsibilities of ATEC and other key entities in the higher education system at a practical and operational level; and affirming TEQSA's role as sole and independent regulator for the sector.
2. The Senate Committee urge the Federal Government to undertake a comprehensive review of higher education regulation and compliance requirements, to identify opportunities to streamline regulation and reduce red tape in line with the national productivity agenda. As core principles, any provider or sector-level intervention should be proportionate and risk-based, responsive to provider circumstances, and promote university autonomy.

ATEC Independence and Autonomy

While the Explanatory Memorandum to the Bills asserts that “formal independence is a foundational element of the ATEC's design”, several operational details run counter to this. The following principles should therefore be reflected in the Bills' provisions.

First, ATEC must have genuine autonomy to perform its intended role, including the scope of authority to set its own work agenda independent of government or ministerial direction. Sections 11(c) and 11(d) limit ATEC's ability to provide advice or undertake work unless requested by the Minister, with only one exception (Section 11(f) on HESF review). Without authority to initiate work on matters of strategic importance, ATEC risks functioning as an extension of the Department, driven by ministerial priorities rather than long-term system needs. This risks leaving critical issues such as structural inequities created by the Job-ready Graduates (JRG) package unaddressed in the absence of a ministerial directive, despite the Accord Panel identifying the need for “addressing the unfairness inherent in the Job-ready Graduates package”⁴, and warning “some changes to funding policy have led to perverse student outcomes, and have often seemed ad hoc, such as in the case of the Job-ready Graduates package”.⁵

ACU therefore recommends amending Sections 11(c) and (d) to allow ATEC to act “on ATEC's own initiative or at the request of the Minister,” consistent with Section 11(f), and reflecting this throughout

³ Evans, C. (2025, August 25). *Securing Australia's Future: The Critical Role of Universities*. Address to the National Press Club of Australia.

⁴ O'Kane, M., et al., above n 2, p. 189.

⁵ Ibid, p. 225.

the Bill, including Section 41 (i.e., under Division 2 – Advice and recommendations). Without such changes, ATEC’s review of the HESF and replacement of the Higher Education Standards Panel may also increase ministerial influence over TEQSA, compromising its role as an independent regulator.

Second, Section 71 allows the Minister to direct ATEC Commissioners by legislative instrument. While some safeguards are included, the provision remains broad and risks undue political influence over ATEC’s operations. ACU recommends the Government clarify the intended use of Section 71, narrow its scope and explicitly prevent directions relating to ATEC’s operational priorities or mission-based compacts.

Third, ATEC’s ability to publish its own advice is restricted. Sections 41 and 69 require ATEC to seek ministerial agreement before publishing advice or recommendations. For transparency and public confidence, these constraints should be removed.

Fourth, ATEC must be structurally independent from the DoE. Under Sections 22–24, ATEC staff would primarily be APS employees of the Department. This arrangement, reflected in interim ATEC operations where nearly 70 per cent of the anticipated 100 peak staffing allocation has been filled, mostly by DoE staff,⁶ risks binding ATEC too closely to departmental culture, resources and priorities. ATEC should be empowered to directly recruit staff through open and competitive processes, drawing on diverse expertise from the higher education sector, industry and government. Staff with practical understanding of provider operations and the diversity of the sector are essential for ATEC’s success.

Finally, ATEC should operate independently with a work mandate that is distinct from government and bureaucratic functions. The Accord Panel highlighted the limitations of existing arrangements and need for a separate body in the form of ATEC, stating [emphasis added]:

The Commission [ATEC] would address **the current lack of capacity and independence for long-term and strategic policy thinking by government policy departments** that results from the day-to-day pressures and responsiveness to the government of the day. As a **stewarding body**, it would be better placed to identify the flow-on effects from change in one part of the tertiary education system to the others, facilitating planning for the consequences of change and mitigating system risks. **It would provide a cohesive, whole-of-system view that currently no one entity holds.** The Commission is a necessary complement to the strengths of existing policymaking bodies and would enable the tertiary education system to better adapt to changing needs over time.⁷

If ATEC simply replicates Departmental functions, as risks occurring given staffing arrangements and interim ATEC’s work to date, its purpose is undermined. The Panel envisioned ATEC as the system-wide body responsible for long-term planning, mission-based compacts, pricing, funding allocation and performance. Work already progressed by interim ATEC under ministerial direction (e.g., needs-based funding settings and managed growth models) risks constraining the independence of incoming Commissioners before ATEC is formally established.

⁶ Commonwealth of Australia, Senate Education and Employment Legislation Committee. *Estimates*. Proof Committee Hansard, 10 October 2025, p. 69.

https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/29001/toc_pdf/Education%20and%20Employment%20Legislation%20Committee%202025%2010%2010.pdf;fileType=application%2Fpdf

⁷ O’Kane, M., et al., above n 2, p. 228.

Recommendations

ACU recommends:

3. Amending core provisions in the Bills based on the following principles:
 - ATEC should have autonomy to perform its intended role, including the scope of authority to set its own work agenda independent of government or ministerial direction.
 - There should be a clear separation between ATEC and the DoE in form and function.
 - ATEC should operate independently with a work mandate that is distinct from government and bureaucratic functions.
4. Amending Sections 11(c) and 11(d) to include “on ATEC’s own initiative or at the request of the Minister” to align with 11(f), to strengthen ATEC’s independence and autonomy. This should also be reflected throughout the Bill including Section 41.
5. Seeking further information from the Government on the rationale behind Section 71 provisions. If retained, the wording should be tightened, and explicitly prohibit directions that influence ATEC’s operational priorities or the terms of mission-based compacts with providers.
6. Omitting Sections 69 and 41 provisions that “ATEC must seek and obtain the agreement of the Minister before publishing any advice or recommendations”.

ATEC Commissioners

ACU supports the requirement that ATEC Commissioners possess strong qualifications, experience and standing in the higher education sector.

The Bill specifies that the Commission should collectively hold expertise in higher education, VET, tertiary education governance and administration, stakeholder engagement and regional Australia, with at least one Commissioner bringing substantial VET experience (Section 59). Given ATEC’s primary focus on higher education, particularly mission-based compacts, ACU recommends a stronger emphasis on higher education expertise. This should include knowledge of funding, regulation and equity policy, as well as international education given its significant contribution to Australia’s economy and the unique policy challenges and specific needs of international students.

ACU also recommends increasing the number of Commissioners. The proposed structure of two full-time and one part-time Commissioner is insufficient for ATEC’s broad remit. A larger Commission would provide deeper expertise, support more effective decision-making, avoid quorum limitations, and avoid situations where important decisions which impact the sector rest with a single Commissioner.⁸

Further clarification is needed regarding the requirement for Commissioners to have “appropriate independence from all tertiary education providers.” While independence is essential, the intent and practical implications of this wording are unclear. It could unintentionally exclude candidates with valuable sector experience, including those with prior affiliations or current honorary or adjunct roles. ACU submits that independence concerns are better managed through conflict-of-interest provisions already in the Bill, such as disclosure requirements (Section 64) and ministerial approval for outside paid work (Section 63), allowing candidates to be assessed on a case-by-case basis.

⁸ Norton, A. (2026, January 13). *The Australian Tertiary Education Commission Legislation, Part 7, The Number of ATEC Commissioners and their Qualifications*. <https://andrewnorton.id.au/2026/01/13/the-australian-tertiary-education-commission-legislation-part-7-the-number-of-atec-commissioners-and-their-qualifications/>

Recommendations

ACU recommends:

7. Endorsing provisions in the Bill requiring ATEC Commissioners have appropriate and substantial qualifications, skills, knowledge and experience, and that they have significant standing in the higher education system or VET system.
8. Elaborating on provisions in section 59 to make greater provisions to ensure Commissioners possess comprehensive expertise across key higher education contexts.
9. Amending the Bill to increase the number of ATEC Commissioners.
10. Clarifying the requirement that Commissioners have “appropriate independence from all tertiary education providers” to aid its practical execution or, alternatively, omitting this wording and managing it through conflict of interest provisions (Sections 63, 64).

Mission-based compacts

A core responsibility of ATEC in stewarding the higher education system is in the administration of mission-based compacts with Table A and Table B providers (Explanatory Memorandum). ATEC’s engagement and negotiations with providers with respect to mission-based compacts must be targeted and meaningful, supporting sector diversity rather than imposing standardised expectations. This heightens the need to ensure that Commissioners and ATEC staff have a strong understanding and appreciation of the breadth of Australia’s higher education system, including individual institutional missions and the communities providers serve.

ACU emphasises the need for ATEC to ensure broad, inclusive, and purposeful consultation across the higher education system in the negotiation of mission-based compacts, acknowledging the uniqueness and distinctiveness of each provider, and the inclusion of diverse perspectives.

Mission-based compacts form part of the quality and accountability measures under the *Higher Education Support Act 2003* (Cth). Federal government acknowledges mission-based compacts recognise each provider as “an autonomous institution with a distinctive mission, operating within a state or territory, national and international higher education environment.”⁹ It is important to ensure this regulatory intent is duly recognised in compacts processes, with compacts serving as a meaningful mechanism to support and enhance higher education in the public interest.¹⁰

Section 33 empowers ATEC to suspend a Table A or Table B provider’s mission-based compact for reasons “within the provider’s control” or for failing to provide information. However, there is no merits review or independent appeal mechanism for decisions, even though suspension triggers a default compact and could affect an institution’s autonomy and reputation. The lack of an external review mechanism, combined with ATEC’s broad discretion and lack of compliance framework with clear escalation steps, is problematic and has the potential to lead to heavy-handed responses from ATEC.

Recommendations

ACU recommends:

11. Affirming that ATEC’s work in the administration of mission-based compacts with providers should support sector diversity, recognising individual institutional missions and profiles.
12. Mechanisms are put in place to provide for an independent review or appeals system, that can be confidentially managed, in the event that a provider’s mission-based compact is suspended by ATEC and a provider seeks recourse. Publication of the provider’s details on the ATEC website (under section 33(5)) should not occur until this process is concluded, if ATEC’s decision is upheld.

⁹ Department of Education. (2025). *Mission Based Compacts*. <https://www.education.gov.au/higher-education-funding/mission-based-compacts>

¹⁰ Skrbis, Z. (2025, October 8). Australia’s Mission-based Compacts Must Live Up To Their Name. *Times Higher Education*.

National Tertiary Education Objective

The Bill articulates a National Tertiary Education Objective that ATEC and ATEC Commissioners must have regard to in the performance of functions or exercise of powers (Section 13):

- (1) The **National Tertiary Education Objective** is the objective for tertiary education in Australia to:
 - (a) promote a strong, equitable and resilient democracy; and
 - (b) drive national, economic and social development and environmental sustainability.

While noting these objectives are quite broad, ACU is generally supportive of the proposed objectives. However, ACU would recommend also including “cultural” development in sub-section (b), recognising the important role of tertiary education in supporting national economic, social *and cultural* development. This would better align the Objective’s and ATEC’s work with Australia’s commitments and obligations under international law and in support of the right to education.

Recommendations

ACU recommends:

13. Amending Section 13(1)(b) as follows:

- (1) The **National Tertiary Education Objective** is the objective for tertiary education in Australia to:
 - (a) promote a strong, equitable and resilient democracy; and
 - (b) drive national, economic, ~~and~~ social **and cultural** development and environmental sustainability.

Higher Education Standards Framework

The Bills transfer responsibility for providing advice and recommendations on the HESF to ATEC (Section 11(f)). These functions have to date been undertaken by the Higher Education Standards Panel (HESP), which would effectively be replaced by ATEC (Consequential Provisions Bill). While ACU considers there is logic in consolidating responsibility for higher education advisory functions within ATEC, and for ATEC to be involved in reviewing the Threshold Standards, the HESP has been an effective mechanism playing an important role in ensuring the HESF remains fit for purpose, principles based, and proportionate. The direct involvement of current sector staff and students in this process is an important feature of its decision-making processes. ACU therefore considers ATEC should reconstitute the HESP or a body similar in form and authority within ATEC, drawing from current higher education sector staff and students, to advise on the HESF.

Recommendations

ACU recommends:

- 14.** Reconstituting the HESP (or a body similar in form) within ATEC to advise on the HESF, drawing from current higher education sector staff and students.

Strategic Priorities and Work Plan

ACU supports the proposal for ATEC to prepare a State of the Tertiary Education System report for every calendar year, and a statement of strategic priorities and a work plan every 2 years.

However, ACU would recommend stipulating that ATEC may determine to set work plans to a longer timeline. This is appropriate given ATEC’s envisaged stewardship role and focus on the longer-term horizon, providing scope for the setting of longer-term priorities and work plans as ATEC looks to facilitate structural change and long-term planning for the higher education system. This approach would also align more effectively with the duration of mission-based compacts, which can be in force for a period of up to 4 years (Section 35), and extend beyond election cycles, reinforcing the Commission’s independence from the Minister of the day.

Provisions relating to ATEC's work plan (Section 45) are light on detail, particularly regarding the requirement to include measurable success metrics to assess ATEC's impact and value. Although it is envisaged the work plan would be reviewed at least once per calendar year, there is no guidance or evaluation mechanism to measure the impact and performance of ATEC. This gap should be addressed to ensure transparency, accountability and continuous improvement.

Recommendations

ACU recommends:

- 15.** Endorsing the proposal for ATEC to prepare a State of the Tertiary Education System report for every calendar year, and a statement of strategic priorities and a work plan every 2 years.
- 16.** Stipulating that ATEC may, however, determine to set work plans to a longer timeline.
- 17.** Requiring work plans to include measurable success metrics by which to evaluate the impact and value of ATEC.

Review

The Bill provides for two independent review points, 2 and 5 years after ATEC's commencement, which would provide an opportunity to assess ATEC's operation and its role and functions (Section 74). ACU broadly supports these provisions.

Recommendations

ACU recommends:

- 18.** Endorsing provision for two independent review points, 2 and 5 years after ATEC's commencement.

Administrative matters

It is important that the definitions and terminology used in the Bills align with existing terminology used in higher education legislation, regulations and government administration, especially as ATEC would have some responsibility for provider's domestic student profile and international student profile allocations. For example, the Bill includes a definition of "international student commencement", while current mandates from the DoE refer to "new overseas student commencements". Consistent terminology and principles across federal, state and territory government agencies, bodies and commissions should be adopted, to the greatest extent possible.

ACU would also suggest reviewing and where appropriate, tightening language in the Bills' provisions relating to access to personal information. In the interests of privacy, the scope should be limited to de-identified data where possible and guided by clear principles of proportionality; noting ATEC Commissioners and staff would have access to information such as student data in performing their functions. While safeguards exist, this is an expansion of access to sensitive data, combined with some broad, non-descript language around performance of duties, which has the potential to be interpreted widely.

Recommendations

ACU recommends:

- 19.** The Bills be reviewed to ensure: 1) definitions and terminology used in the Bills aligns with existing terminology used in the higher education system and administration; and 2) access to sensitive personal information is limited as much as possible and any privacy concerns are addressed.