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Committee Secretary  
Education, Employment and Training Committee  
Parliament House  
Email: [EETC@parliament.qld.gov.au](mailto:EETC@parliament.qld.gov.au)

21 September 2021

Dear Committee Secretary

**RE: Committee Review of the Queensland University of Technology Amendment Bill 2021**

The National Tertiary Education Union (NTEU) represents the industrial and professional interests of 28,000 staff working in higher education, including staff in Australia's universities and research institutes and in other tertiary sector organisations. We welcome the opportunity to provide a submission to the Education, Employment and Training Committee's Review of the *Queensland University of Technology Amendment Bill 2021*.

The legislation significantly reshapes the governance of the Queensland University of Technology (QUT) and leads to reduced collegiality and diminished public transparency and accountability.

The changes reduce the size of elected staff and student representation, reduces the number of Governor in Council appointments and increases the number of Additional members appointed by Council. For further detail of the impact of these proposed changes, we refer the Committee to the feedback the NTEU supplied to the QUT Chancellor during the consultation process which is appended to this document (**Appendix 1**)

**Staff and student consultation**

The Explanatory Notes state:

*The response rate to the QUT consultation with the university community was very low (as it had been for previous rounds), with only 10 responses, generally evenly spread between supporting, opposing, or neutral positions.*

They further state:

*No changes were made to the Bill as a result of the consultation on the exposure draft of the Bill.*

This means that the Bill as proposed essentially represents the views and preferences of QUT management and does not represent broad community support for the proposal.

Please note the use of Universities Australia's *Voluntary Code of Best Practice for the Governance of Australian Universities* in the Explanatory Notes, written briefing from the department of Education and the Explanatory Speech as justification for the proposed changes is misguided as the Code was developed by university managements, based on similar flawed reasoning about the appropriateness and benefits of 'corporate governance'.

### **Size of governing bodies – the evidence**

There is no scholarly evidence demonstrating smaller university councils contribute to institutional effectiveness.

Despite this the legislative trends across the country in the last decade have focused on increasing external members and reducing council size as 'best practice corporate governance'. This is evident in the NSW *Universities Governing Bodies Act 2011 No 5* (2011) which supported reductions in the size and composition of elected representation on governing bodies, and in particular the *Education Legislation Amendment (Governance) Act 2012* (VIC) which specifically removed elected staff and student positions on university councils in Victoria, but was later reversed by the Andrews Labor government through the *Education Legislation Amendment (TAFE and University Governance Reform) Act 2016*<sup>1</sup>.

A recent study by Lokuwaduge and Armstrong asserts that, "Results showed that the size of the board did not relate to financial, research or teaching performance in any way".<sup>2</sup> Lokuwaduge also stated, "The strong positive correlation between the council size and the progression rate implied that bigger councils tend to monitor and influence teaching performance, due to the diversified skills of council members".<sup>3</sup>

We also highlight the existence of well-established international principles that assert higher education staff have a right and a professional responsibility to engage in the governance of their institutions. The *1997 UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel* states:

*Higher education teaching personnel should have the right and opportunity, without discrimination of any kind, according to their abilities, to take part in the governing bodies and to criticise the functioning of higher education institutions, including their own, while respecting the right of other sections of the academic community to participate, and they should also have the right to elect a majority of representatives to academic bodies within the higher education institutions.*<sup>4</sup>

Without reliable contrary evidence, the reduction of council size simply reflects an ideological predilection dating back to the 1980s.

<sup>1</sup> [http://www.austlii.edu.au/au/legis/vic/num\\_act/elaa201273o2012436/](http://www.austlii.edu.au/au/legis/vic/num_act/elaa201273o2012436/)

[http://www.austlii.edu.au/au/legis/vic/num\\_act/elaaugra201569o2015701/](http://www.austlii.edu.au/au/legis/vic/num_act/elaaugra201569o2015701/)

Universities Governing Bodies Act 2011 No 5 <http://www.legislation.nsw.gov.au/#/view/act/2011/51>

<sup>2</sup> Chitra De Silva Lokuwaduge and Anona Armstrong (2015) "The Impact of governance on the performance of the higher education sector in Australia," *Educational Management Administration and Leadership*, Vol. 43, No. 5: 811-827 at 821.

<sup>3</sup> Chitra de Silva (2011) *Governance and Performance: An Empirical Study of Australian Universities*, PhD, Victoria University: 181.

<sup>4</sup> *1997 UNESCO Recommendation Concerning the Status of Higher Education Teaching Personnel*, [http://portal.unesco.org/en/ev.php-URL\\_ID=13144&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html)

## Putting transparency and accountability at the centre of university governance

University governance faces a number of serious contemporary challenges that have not been considered in the course of parliamentary debate so far. Official members of university councils in other state jurisdictions have on occasion committed (or have been alleged to commit) serious offences and breaches of trust against their institutions, in spite of the establishment of the Tertiary Education Quality Standards Agency (TEQSA). For example, the resignation of the Murdoch University Vice-Chancellor Richard Higgott in 2016 over charges of corruption and pornography,<sup>5</sup> or the recent questions about financial conflicts of interest by the Swinburne University Chancellor Graham Goldsmith through the third party arrangement with SEEK Ltd.<sup>6</sup>

Whatever the role of TEQSA in defining institutional threshold standards (including in relation to corporate governance), the role of state governments in upholding the integrity of university governance remains critical. It has been state anti-corruption bodies, such as the WA Crime and Corruption Commission, who have had the discretionary powers to investigate and prosecute corruption, misconduct and fraud.

The challenges for university governance are heightened by the introduction of greater university-industry collaborations,<sup>7</sup> which places greater responsibility on governing bodies in ensuring that public moneys are properly spent, and that research integrity and academic freedom is maintained. This is a global phenomenon. British university governance expert Professor Michael Sharrock suggests that the increasing mixture of private and public leaves university managers in the “mixed economy of higher learning.”<sup>8</sup>

We would add that Auditor-General reports across various states have returned time and again to questions about controlled entities, the management of institutional risk and potential conflicts of interest. For example, see the *NSW Auditor-General's Report to Parliament: Vol. 2 Focusing on Universities (2016)* which recommends universities implement processes to manage risk that include ethical frameworks and risk management specifically targeting controlled entities.<sup>9</sup>

The NTEU strongly rejects the ideological “modernised” governance approach and calls for an ethical governance approach, which prioritises ethical conduct, public accountability, and recognition of the specific and distinctive attributes of universities as institutions created for public purposes.

To this end, ethical university governance must be committed to open, transparent and inclusive governance cultures, where representation of the diversity of constituent interests is guaranteed, and in which elected staff and students play a substantial role.

## Proposed QUT governance model

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<sup>5</sup> WA Crime and Corruption Commission (2016) Report on a Matter of Governance at Murdoch University, <https://www.ccc.wa.gov.au/sites/default/files/Report%20on%20a%20matter%20of%20governance%20at%20Murdoch%20University.pdf>

<sup>6</sup> See Julie Hare “Conflict raised in SEEK deal,” *The Australian*, 22 March 2017, <http://www.theaustralian.com.au/higher-education/swinburne-seek-deal-raises-questions-over-conflict-of-interest/news-story/3678d3e4df1a0323e5d916b4d501bc89>

<sup>7</sup> National Innovation and Science Agenda (NISA), <http://www.innovation.gov.au/>

<sup>8</sup> Geoff Sharrock (2012) “Four management agendas for Australian universities,” *Journal of HE Policy and Management*, Vol. 34, No. 3: 323-337.

<sup>9</sup> NSW Auditor General's report 2016, <https://www.audit.nsw.gov.au/publications/latest-reports/volume-two-2016-focusing-on-universities>

The current QUT Council structure continues to serve the University community well. The Council has responded to the Covid-19 crisis and there have been no instances where the Council has been unable to fulfil its central role in overseeing the strategic direction of the University. The record of the Council in this regard debunks the myth that a larger Council is inflexible and inhibits the performance of the institution in any regard. The NTEU politely suggests that the Committee ask any QUT management representatives that attend the hearing to provide some specific examples of where the current QUT Council has impeded the agility of the organisation to navigate the crisis.

As outlined above, there is no evidential case to reduce the number of elected positions on governing bodies, nor reductions of governor-in-council positions. The proposed governance model is fundamentally flawed and inappropriate for public institutions of this size and complexity.

The NTEU would welcome the opportunity to provide further advice to the Committee about our concerns. Please contact me by email or phone.

Yours sincerely



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**Michael McNally**  
**NTEU QLD Division Secretary**

**APPENDIX 1 – NTEU Feedback on Proposed Changes to QUT Council**

Dear Chancellor

15 September 2020

**Additional National Tertiary Education Union (NTEU) response to the proposed changes of the Queensland University of Technology (QUT) Council**

While we acknowledge that the proposed composition of the QUT Council has evolved from an initial 13 to the current 15, it is still the NTEU's position that no changes to the composition of the QUT Council are required. Our reasons for this position are stated in our original feedback of 30 July 2019: there is no compelling evidence to justify the proposed changes, there is no shortage of skills within the current Council and it is not cumbersome. Likewise, the NTEU continues to repudiate the proposal's ideological call for a modernised, or corporate, approach to university governance. It is our belief that the current Council allows a plurality of views to be expressed and heard and is collegial, while a smaller Council would be limited and singular in its perspective.

With reference to our earlier feedback of 30 July 2019, our basic positions expressed in Point 1 and 2 remain. However, regarding Point 2, it is important to once again illustrate the dramatic and unhealthy redistribution of influence that is evident in this latest proposal. With reference to the table below, elected staff, in particular professional staff, would see a significant reduction in representation. Likewise, students would see a sizable increase, appointed members a dramatic decrease, while QUT management would see a significant increase. We again note that this concentration of executive authority raises serious issues around the independence of the proposed Council. Likewise, this dramatic realignment of executive and student representation, at the expense of staff and community voices, would signal the corporatisation of QUT. It is our opinion that this is dangerous and should be avoided; history will judge it poorly.

Member Type	Existing Council of 22	Proposed Council of 15
Elected Academic Staff	3 (13.63%)	2 (13.33%)
Elected Professional Staff	2 (9.09%)	1 (6.66%) Decrease
Elected Students	2 (9.09%)	2 (13.33%) Increase
Elected alumni	2 (9.09%)	At least two external members to be alumni
Ex Officio	3 (13.63%)	3 (20%) Increase
Appointed members	8 (36.36%)	3 (20%) Decrease
Additional members	2 (9.09%)	4 (26.66%) Increase
<b>Total Membership</b>	<b>22 (100%)</b>	<b>15 (100%)</b>

Additionally, we would like to expand on Point 3, which argued that reducing membership numbers did not translate to proven benefits, and importantly, we sought evidence as to the effective functioning of these reduced governing bodies. In this regard, the financial impacts of

COVID-19 on universities and their collective desires to find cost-savings, presents an important litmus test.

It is the NTEU's position that ethical governance and conduct, public accountability, and the recognition of the specific and distinctive attributes of QUT, as an institution created for public purposes, is best achieved through a large and diverse Council membership. To illustrate this point, there appears to be an inferred link between the size of university governing bodies in Queensland and their response to the COVID-19 pandemic. In this regard, James Cook University (JCU) used to have 22 Council members, but this was reduced to 15 in 2017<sup>10</sup>, Griffith University currently has 18<sup>11</sup>, the University of the Sunshine Coast (USC) has 18<sup>12</sup>, while the University of Southern Queensland (USQ) has 14<sup>13</sup>; on the other hand, QUT and the University of Queensland's (UQ) Senate currently have 22<sup>14</sup>. When announcing their new Council, JCU noted that this 'contemporary governing body' was more flexible, fit-for-purpose and contained a greater diversity of skills<sup>15</sup>.

It could be argued that both UQ and QUT have been more ethical and accountable to their staff, students and the public in the way that they have responded to the financial impacts of COVID-19. QUT has guaranteed staff protections in its' Enterprise Agreement Variation, while UQ's VC has publicly stated that "...by working together we will weather this storm and emerge as a stronger university...".<sup>16</sup> In stark contrast to this are universities like Griffith and JCU who have chosen paths to cost savings that are not collegial and that arguably originated in singular and limited perspectives.

We propose that QUT and UQ's COVID-19 responses are informed by the current and diverse composition of their governing bodies. It could be that this important leadership example is set by the highest decision-making body of a given institution and then permeates and eventually prevails at all levels. It therefore speaks to a culture of inclusive and participatory behaviour. Conversely, in the case of Griffith, JCU, etc., it could be that their divisive and exclusionary policy positions gain traction because their governing bodies are similarly exclusionary. These antagonistic responses have consequences that generates division, which then speaks to an unhealthy culture. It is therefore our position that QUT's current Council composition and its numbers are very appropriate; it has proven itself during the current COVID-19 pandemic and will serve us well into an uncertain future.

Again, the NTEU does not believe that a single model or membership can be applicable to all universities, as they are all different. Instead, the composition of the Council or Senate at each university should reflect the size, complexity and uniqueness of that organisation.

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<sup>10</sup> <https://www.legislation.qld.gov.au/view/html/asmade/act-2017-036#sec.35>

<sup>11</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/2017-10-13/act-1998-003>

<sup>12</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1998-047>

<sup>13</sup> <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-1998-006>

<sup>14</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1998-004> and <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1998-004>

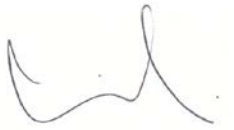
<sup>15</sup> <https://www.jcu.edu.au/news/releases/2018/april/new-james-cook-university-council-formed>

<sup>16</sup> The Campus Morning Mail of 14 September 2020.

Considering the lack of demonstrable benefits offered by these revised changes and our fundamental concerns of reduced accountability and diversity that would result, the NTEU therefore respectfully rejects this proposal.

We have attached our earlier feedback for ease of reference.

On behalf of the NTEU's members at QUT,

A handwritten signature in black ink, appearing to read 'DN', is written on a light yellow rectangular background.

David Nielsen.