

Vice-Chancellor and President  
Professor Paul Greenfield AO

13 September 2011

The Research Director  
Industry, Education, Training and Industrial Relations Committee  
Parliament House, George Street  
Brisbane Qld 4000

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Dear Sir/Madam

**Inquiry into the Education and Training Legislation Amendment Bill 2011**

We refer to the Committee's letter dated 12 August 2011. Thank you for the opportunity to make a submission in relation to the *Education and Training Legislation Amendment Bill 2011* (**the Bill**) on behalf of The University of Queensland.

Our submission relates mainly to the operation of the Bill with respect to the *Land Act 1994* (**Land Act**) and the *Statutory Bodies Financial Arrangements Act 1982* (**SBFA Act**). Our submission is detailed in the **attached** document.

We look forward to observing the progress of the Committee's inquiry and the recommendations in relation to the Bill. We would also welcome the opportunity to provide further information at the Committee's public hearing on Wednesday 26 October 2011. In the meantime, please contact us if you have any questions or would like any additional information.

Yours faithfully



Professor Paul Greenfield, AO

**Vice-Chancellor**

Attachment

Copy: Mr Maurie McNarn, Executive Director Operations, The University of Queensland  
Records and Archives Management Service, The University of Queensland

Ref: 11/1860

## The University of Queensland - Submissions

These are the submissions made on behalf of The University of Queensland in September 2011 to the Industry, Education, Training and Industrial Relations Committee on the *Education and Training Legislation Amendment Bill 2011 (the Bill)*.

We note the Committee's comments in its letter dated 12 August 2011 that the Bill:

*"Amends legislation regulating Queensland's public universities to permit the lease of trust land or reserve land for a period of up to 100 years and to clarify the purpose for which trust land may be used. These amendments aim to assist universities to utilise trust land to provide facilities for ancillary student services and take advantage of commercial joint venture opportunities for the benefit of their students."*

The submissions in relation to the *Land Act 1994 (Land Act)* and the *Statutory Bodies Financial Arrangements Act 1982 (SBFA Act)* are made with reference to the Committee's comments.

### Land Act

We propose that the Committee give due consideration to the Minister's current powers under the Land Act, and consideration to amending those powers as appropriate to ensure that they are consistent with the intentions of the Bill.

Specifically:

1. **All trust land or reserve land granted to a university by the Minister must be for 'university' or 'university and college' purposes, unless otherwise agreed between the Minister and the university.**

This specific amendment to the Land Act would ensure consistency and clarity of the functions and powers of all Queensland universities with respect to the trust land and reserve land that they hold under the Land Act.

2. **All trust land or reserve land which has been granted to a university for 'university' or 'university and college' purposes is taken to include anything that is consistent with or will facilitate or enhance that purpose or the universities functions under its enabling legislation.**

This amendment will enable universities in Queensland to consider and take up opportunities to provide services and facilities for students and take up commercial joint venture opportunities that are consistent with or will facilitate or enhance the purpose of land or the universities functions for the benefit of students.

We suggest that the following amendment be made to the Bill and appropriate similar amendments for other universities in Queensland if required:

#### **Clause 38**

"s44 (5) The purpose is taken to include anything that is consistent with or would facilitate or enhance the purpose of the dedication of the reserve or grant of land in trust or is consistent with or would facilitate or enhance the university's functions under section 5."

3. For trust land or reserve land that is granted to a university for a ‘university’ or a ‘university and college’ purpose, the Minister must reasonably consult with a university before:
- changing the boundaries of a reserve (s31A);
  - changing the purpose of a reserve (s31B);
  - revoking a reserve (s33);
  - adding a community purpose for a deed of grant in trust (s35);
  - removing an area from a deed of grant in trust (s37); or
  - cancelling a deed of grant in trust (s38).

Further, the Minister must not unreasonably oppose a course of action recommended by a university during consultation if:

- The university has made or is likely to make significant investment in the trust land or reserve land; and
- Such course of action recommended is consistent with the purpose of the dedication of the reserve or grant or land in trust (as applicable) or is consistent with or would facilitate or enhance the university’s functions under its enabling legislation.

This specific amendment to the Land Act will provide a greater level of certainty for universities and will assist to provide confidence to universities that if significant investment is made by a university in trust land or reserve land, then universities would have the opportunity to make recommendations to the Minister in relation to the exercise of the powers of the Minister under the Land Act. Such a greater level of certainty would also assist universities to attract strategic partners for significant commercial joint venture opportunities, as is the intention of the Bill.

4. Universities have the ability to grant, amend and manage, without the Minister’s approval, trustee leases and trustee permits which are consistent with, or will facilitate or enhance the purpose for which the university holds the trust land or which are consistent with or will facilitate or enhance the university’s functions under its enabling legislation. Alternatively, if the Minister’s approval is required, such approval must be consistent with or facilitate or enhance the purpose of the trust land or be consistent with or facilitate or enhance a university’s functions under its enabling legislation and not adversely affect or delay the university carrying out its functions.

This amendment will enable universities in Queensland to better manage the land use aspects of significant projects or commercial joint venture opportunities independently of the State.

We suggest that the following amendments be made to the Bill and appropriate similar amendments for other universities in Queensland if required:

**Clause 38**

*With reference to s57 of the Land Act*

- “(3a) Despite the *Land Act 1994*, the university may, without the Minister’s approval, lease (a **consistent purpose lease**) all or part of the trust land it holds under the *Land Act 1994* to a third party for either the same purpose or a purpose which is consistent with or will facilitate or enhance the university’s functions under section 5.”

Or

- “(3a) Despite the *Land Act 1994*, the university may, with the Minister's approval (which must not be unreasonably refused or delayed), lease (a **consistent purpose lease**) all or part of the trust land it holds under the *Land Act 1994* to a third party for either the same purpose or a purpose which is consistent with or will facilitate or enhance the university's functions under section 5.
- (3b) For the purpose of subsection 3a, the Minister's approval may include conditions, provided always that such conditions:
- (a) Must be consistent with or facilitate or enhance the purpose of the trust land or be consistent with or facilitate or enhance the university's functions under section 5; and
  - (b) Must not adversely affect or delay the university carrying out its functions under section 5.”

*With reference to s57A of the Land Act*

- “(3b) Despite the *Land Act 1994*, the university may, without the Minister's approval, amend a consistent purpose lease by registering an amendment of the trustee lease”.

Or

- “(3b) Despite the *Land Act 1994*, the university may, with the Minister's approval (which must not be unreasonably refused or delayed), amend a consistent purpose lease by registering an amendment of the trustee lease.
- (3c) For the purpose of subsection 3b, the Minister's approval may include conditions, provided always that such conditions:
- (a) Must be consistent with or facilitate or enhance the purpose of the trust land or be consistent with or facilitate or enhance the university's functions under section 5; and
  - (b) Must not adversely affect or delay the university carrying out its functions under section 5.”

*With reference to s58 of the Land Act*

- “(3c) Despite the *Land Act 1994*, a lessee of a consistent purpose lease may transfer, mortgage or sublease a consistent purpose lease if:
- (a) the lessee first obtains the university's written approval to the transaction; and
  - (b) the transaction would be consistent with, facilitate or enhance the purpose for which the university holds the land under the *Land Act 1994* or consistent with, facilitate or enhance the university's functions under section 5.”

*With reference to s60 of the Land Act*

- “(3d) Despite the *Land Act 1994*, the university may, without the Minister's approval, issue a trustee permit (a **consistent purpose trustee permit**) for all or part of the trust land it holds under the *Land Act 1994* to a third party for either the same purpose or a purpose which is consistent with or will facilitate or enhance the university's functions under section 5.

- (3e) For the purpose of subsection 3d, the university may issue a consistent purpose trustee permit:
- (a) without regard to any requirements for trustee permits prescribed under a regulation; and
  - (b) without the inclusion of any registered mandatory standard terms document that applies generally to trustee permits."

*With reference to s64 of the Land Act*

- "(3e) For the purpose of section 64 of the *Land Act 1994*, the university has the irrevocable authority of the Minister to dispense with the need to obtain the Minister's approval for any matter in relation to a consistent purpose lease or a consistent purpose trustee permit."

*With reference to s65 of the Land Act*

- "(3f) Despite the *Land Act 1994*, the Minister must not cancel a consistent purpose lease or consistent purpose trustee permit without the prior written consent of the university."

### **SBFA Act**

We propose that the Committee give due consideration to the abilities of universities to enter into joint venture arrangements and make other commercially appropriate financial decisions to ensure that universities are able to fulfil the intentions of the Bill.

Specifically:

1. **The Treasurer, when considering approval for a university to enter into a type 1 financial arrangement in relation to a current or proposed consistent purpose lease or a current or proposed consistent purpose trustee permit, must consider all information and submissions made by the university and the lessee or permittee or proposed lessee or permittee in relation to the type 1 financial arrangement.**

The amendment would generate a level of certainty for universities and potential joint venture partners of universities that the Treasurer will take into consideration all relevant information and decisions before making a decision in relation to the Treasurer's approval of a type 1 financial arrangement.

We suggest that the following amendment be made to the Bill and appropriate similar amendments for other universities in Queensland if required:

#### **Clause 39 Insertion of s46A (Application of Statutory Bodies Financial Arrangements Act 1982)**

*Insert –*

- "s46A (1) For the purpose of s60A of the *Statutory Bodies Financial Arrangements Act 1982*, the Treasurer, when considering approval for the university to enter into a type 1 financial arrangement in relation to a current or proposed consistent purpose lease or a current or proposed consistent purpose trustee permit, must consider:

- (a) All information provided by the university and the lessee or permittee or proposed lessee or permittee; and

(b) All submissions provided by the university and the lessee or permittee or proposed lessee or permittee.

2. **The Treasurer, when considering approval for a university to enter into a type 2 financial arrangement in relation to a current or proposed consistent purpose lease or a current or proposed consistent purpose trustee permit, must consider all information and submissions made by the university and the lessee or permittee or proposed lessee or permittee in relation to the type 2 financial arrangement.**

The amendment would generate a level of certainty for universities and potential joint venture partners of universities that the Treasurer will take into consideration all relevant information and decisions before making a decision in relation to the Treasurer's approval of a type 2 financial arrangement.

**Clause 39 Insertion of s46A (Application of Statutory Bodies Financial Arrangements Act 1982)**

*Insert –*

"s46A (2) For the purpose of s61A of the *Statutory Bodies Financial Arrangements Act 1982*, the Treasurer, when considering approval for the university to enter into a type 2 financial arrangement in relation to a current or proposed consistent purpose lease or a current or proposed consistent purpose trustee permit, must consider:

- (a) All information provided by the university and the lessee or permittee or proposed lessee or permittee; and
- (b) All submissions provided by the university and the lessee or permittee or proposed lessee or permittee.

**Land Registry**

*Clause 38 of the Bill, Amending section 44 of the University of Queensland Act 1998, (4)*

We note that this section makes reference the purposes 'university' or 'university and college'. Is it possible to obtain confirmation from the Department of Environment and Resource Management that all relevant current titles recorded in the land registry for land granted to universities in Queensland contains the words 'university' or 'university and college' and an assurance that these terms will always be used for future grants?

Alternatively, we propose that clause 38 of the Bill be expanded to include an additional subclause (4)(c) which makes reference to all similar terms, for example 'education', 'teaching', 'research' or similar. We also propose that a similar expansion be made to the Bill as it amends the legislation of other universities in Queensland.