

## Legislative Review of the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* - University of Newcastle submission

Dear Ms Huxtable

Thank you for your invitation to provide feedback to the Independent Review of the Foreign Arrangements Scheme (the Scheme) and *Australia's Foreign Relations (State and Territory Arrangements) 2020 Act* (the Act). The University of Newcastle welcomes the opportunity to contribute to the refinement of this important component in Australia's foreign policy and national security strategy.

### **Benefit of the Scheme**

In 2020 when the Act was enlivened and obligations under the Scheme first commenced, the workload and resource commitment required of universities was significant. However, the volume of arrangements to be assessed and the subset of those requiring notification was a one-off activity to ensure the back catalogue of existing foreign arrangements was compliant.

In conjunction with the Universities Foreign Interference Taskforce (UFIT) Guidelines obligations, the Scheme had the initial benefit of embedding due diligence into university culture.

Foreign Arrangements Scheme assessments are now one component of the due diligence processes undertaken as business-as-usual operations by all universities. The Scheme has contributed to increased transparency within institutions and increased awareness in the importance of knowing our partners better. It has supported the alignment of values between the individual researcher, the University and the national objective.

Overall, the University's obligations under the Scheme have been beneficial in supporting due diligence activities and building awareness of foreign interference and national security.

### **Scope of the Act**

The Review presents an opportunity to tighten the Scheme and the Act for efficiency through either refining the scope of the Act or descoping the Scheme through elimination of specific countries or low risk activities.

At present the Scheme requires notification of some arrangements with entities from all foreign countries, including AUKUS and Five Eyes alliance partners. The Scheme also makes no distinction between the levels of risk presented by research agreements as compared to undergraduate teaching, Material and Data Transfer agreements or non-binding cooperation MOUs.

Refining the Act or descoping the breadth of the Scheme would assist universities in significantly reducing the number of arrangements requiring assessment.

## Increased resourcing for sector assessment processes

The provision of additional information sources and Frequently Asked Questions from the Department of Foreign Affairs and Trade (the Department) will increase efficiency and consistency for both universities and the Department.

The Department has indicated their *Guidance on Institutional Autonomy* will be updated to provide further clarity on how to approach assessments, which is appreciated. However, the more specificity the Department can provide around triggers, red flags and other factors identified and used by the Department, the more effective and efficient sector staff can be in undertaking assessments.

In addition to more easily identifying out-of-scope arrangements, and thereby reducing the number of arrangements notified, this information also assists university staff to develop mitigation strategies for in-scope arrangements where required.

Any reduction in the number of out-of-scope arrangements that are inadvertently notified also benefits the Department.

## Sensitive information

Currently sector staff conducting due diligence across a range of foreign interference obligations are directed to publicly available lists, trackers and indices. While these resources provide some useful data, the source, methodology and in some cases quality of the data is unverified. If information such as this was curated and maintained by the Government, it would verify the reliability of the information and provide assurance for the sector.

The Canadian Government has implemented a refined scope approach for research activity and supports this through two lists which operate in conjunction: the [Sensitive Technology Research Areas](#) (similar to Australia's Critical Technologies List) and the [Named Research Organisations](#).

"All researchers involved in activities funded by a research grant that advance a sensitive technology research area must review the list of Named Research Organizations. This list is composed of research organizations and institutions that pose the highest risk to Canada's national security due to their direct, or indirect connections with military, national defence, and state security entities."

The list of Named Research Organisations provides the known alternate names/aliases of these entities and is updated regularly to address evolving threats.

While the Canadian lists are public it is acknowledged the Australian Government (the Government) preferred position is not to publish this information.

Noting this position a similar list of organisations defined by the Department could be maintained on a secure platform for authorised staff to access as a due diligence resource. Such a list could be secured on an existing platform such as the Foreign Arrangements Scheme Online Portal, hosted on the Government's Trusted Information Sharing Network (TISN) or accessed through the ASIO Outreach site.

## **Outreach and equitable access to information**

In early 2024, and in response to a Freedom of Information request, the Department publicly released a declassified list of institutions deemed in-scope under the Scheme.

The information in the declassified list is useful to all universities, however this highlights an inherent inequity in how the information was distributed as only one university received the list from the Department in response to a specific query. Broader distribution of the information was subsequently undertaken through an informal network of university practitioners.

The coordinated distribution of these types of resource are best managed by the Department.

Similarly, the Department is best positioned to monitor and advise on international activity that may affect the sector. This could include foreign law changes (particularly those affecting institutional autonomy) and other global events of concern that may have implications for international students and staff, and universities more broadly.

Coordinated provision of Departmental advice, and updating Frequently Asked Questions, would ensure each university receives the same information in a timely manner through an authorised channel.

The University of Newcastle extends its thanks to staff in the Foreign Arrangements Branch (Department of Foreign Affairs and Trade) for their responsiveness and ongoing support to staff who manage Scheme matters as part of their roles here at the University.