

# UNSW Submission – Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024

UNSW welcomes the opportunity to provide a response to the Senate Education and Employment Committee’s Inquiry into the *Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024* (ESOS Act Amendment Bill).

## Recommendations

The Senate Education and Employment Committee should consider the following as part of its Inquiry on the ESOS Act Amendment Bill:

### **The value of international education to Australia’s economy and foreign policy objectives:**

1. The integrity measures introduced by the Government since last year are supported by UNSW and are already impacting international student enrolments. We suggest the Government allows further time for these reforms to be in operation before the commencement of the ESOS Act Amendment Bill, to ensure Australia does not experience significant and unintended economic and cultural impacts.
2. Given the significant value of international education (\$36.4 billion for the financial year 2022-23) to the Australian economy, and the substantial savings to the public purse that international students create through their subsidisation of the domestic student experience and research costs, the Government should take further time to consult extensively with key stakeholders. Stakeholders consulted should include state and local Governments, businesses and communities, who will likely be impacted as a result of the potentially significant economic flow-on effects of the ESOS Act Amendment Bill.
3. The Parliament should note and closely monitor the impact of similar policy developments that seek to restrict international student numbers in the UK and Canada, including lessons learned to prevent adverse and unintended consequences.
4. The Parliament should consider how the ESOS Act Amendment Bill will negatively affect Australia’s reputation as a higher education destination and soft power diplomacy, particularly in the Indo-Pacific.

### **UNSW’s proposed changes to the ESOS Act Amendment Bill:**

5. Consultation on the ESOS Act Amendment Bill should be extended so Australia’s internationally recognised and ranked higher education sector can seek certainty, stability and growth through this significant period of change. This will enable universities and the Government to work in concert to implement recommendations from the Australian Universities Accord Final Report. UNSW wants to work constructively with the Government to ensure a coordinated and efficient approach.

6. While we understand the Government's desire for managed growth to commence on 1 January 2025, we strongly advise for the legislation to come into effect from 1 January 2026 for Parts 3, 7 and 8 as they apply to Table A, Table B and TAFE providers (within the meaning or application of the *Higher Education Support Act 2003*). This will help the sector and students prepare and make arrangements, given the magnitude of policy change in the last 12 months.
7. To assist in meeting the Government's aspirations for 2025, and to allow for a swift transition to managed growth, we recommend a rapid compact process is undertaken with universities in the next month.
8. The powers proposed for the Minister under the ESOS Act Amendment Bill should be sunsetted upon the earlier of 3 years or the establishment of the ATEC. All powers to manage domestic and international student numbers should then rest with ATEC and be stipulated in its act of establishment.
9. The setting of targets for international student numbers must be delivered through the ATEC mission-based compact process, allowing for institution-by-institution discussions on potential caps and managed growth. This recognises the different circumstances, and stages of strategy and financial robustness of individual institutions.
10. The legislation requires any caps to be issued by September the year before (and 31 December 2024 for 2025). We suggest the deadline to issue a cap is changed to 1 July, to avoid a cap being issued after students have already made plans to travel to Australia. This would also allow providers additional time to make arrangements and put in place any communications needed to prospective students.
11. We suggest replacing the term 'enrolment' with 'accepted student' to avoid a situation where a provider can have a limit imposed which is less than the number of overseas students that have already been accepted (and confirmation of enrolments issued) before the commencement date.
12. If the Universities Australia recommendation of the excision of Table A, Table B and TAFE providers is not adopted, UNSW recommends at least the exclusion of Table A, Table B and TAFE providers (within the meaning or application of the *Higher Education Support Act 2003*) from provisions in relation to course caps.
13. We recommend the requirement that a course is offered to domestic students for two years before being offered to international students includes an exemption for Table A providers. We also suggest that an exemption apply for providers that are wholly owned subsidiaries of Table A providers, as this is relevant to our pathways courses, which focus exclusively on ensuring international students are ready for university.
14. We propose removing the ability for the Minister to set a cap by notice, so they can only do so by legislative instrument.
15. We suggest alternative breach provisions be considered when managing the caps. For example, removing an automatic suspension, and instead granting the Secretary the power to suspend an operator after giving written notice and seeking a response (within 14 days) from the institution in question. We suggest adding the ability for a full merits review of any suspension for Table A providers, Table B providers, or TAFE providers (within the meaning or application of the *Higher Education Support Act 2003*).

## About UNSW

UNSW is a world-leading research and teaching-intensive university, known for innovative, pioneering research and high-quality education with a longstanding global impact. Since our foundation in 1949 and through celebrating our 75<sup>th</sup> anniversary year, our aim has been to improve and transform all lives through excellence in research, outstanding learning and teaching experiences, and a commitment to advancing Australia's economic growth and prosperity.

UNSW is ranked in the world's top 20 universities<sup>1</sup> with more than 70,000 students and over 4,200 higher degree research candidates. UNSW is proud of being ranked first in Australia for employment outcomes (2024 QS World University rankings), as well as being consistently recognised as the AFR's Most Employable University.

UNSW has a long history of providing education to international students, stretching back to the original Colombo Plan in 1952, when UNSW was the first Australian university to welcome international students. Today, UNSW has international students from over 120 countries studying with us, signifying the extraordinary asset that international education is to our country socially, economically and culturally. Through decades of careful and strategic work, universities have supported international education and helped it grow to become one of Australia's great success stories.

## Value of international education to Australia's economy and foreign policy objectives

### *International education is an exceptional economic success story for Australia*

The integrity measures introduced by the Government since last year are already impacting international student numbers (including tighter visa processing, and changes to work rights). Along with these measures, the ESOS Act Amendment Bill risks significant harm to a major export industry that is critically important to Australia.

International education is consistently Australia's most valuable export industry outside of mining – worth \$36.4 billion to the Australian economy for the financial year 2022-23<sup>2</sup>. The contribution to the Australian economy from international students comes not just from international student tuition fees, and the benefits to local economies should not be undervalued:

- International students have supported Australia's post-COVID-19 recovery. International students contributed more than half of Australia's economic growth over 2023<sup>3</sup>.
- 69% of the international tourism spend in Australia is generated by international education, according to Austrade<sup>4</sup>. Without international education, Australia effectively would have an international tourism sector one-third its regular value<sup>5</sup>.
- Additional economic benefits are derived from family and friends visiting international students, generating a further \$1.1 billion of tourism revenue in 2018<sup>6</sup>.

---

<sup>1</sup> UNSW (2024) 'UNSW Sydney retains Top 20 position in QS World University Rankings':

[www.unsw.edu.au/newsroom/news/2024/06/UNSW-Sydney-retains-Top-20-position-in-QS-World-University-Rankings](http://www.unsw.edu.au/newsroom/news/2024/06/UNSW-Sydney-retains-Top-20-position-in-QS-World-University-Rankings)

<sup>2</sup> Department of Education, Australian Government (2024) Education Export Income – Financial Year 2022-23:

[www.education.gov.au/international-education-data-and-research/education-export-income-financial-year](http://www.education.gov.au/international-education-data-and-research/education-export-income-financial-year)

<sup>3</sup> National Australia Bank (2024) Markets Research – Macro-thematic – International students drove growth in 2023:

[www.nab.com.au/content/dam/nab-email-composer/nabmarketsresearch/economics/pdf/2024-03-07%20thematic%20-%20Students.pdf](http://www.nab.com.au/content/dam/nab-email-composer/nabmarketsresearch/economics/pdf/2024-03-07%20thematic%20-%20Students.pdf)

<sup>4</sup> Parliament of Australia (2023) Inquiry into Australia's Tourism and International Education Sectors - Chapter 2:

[www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Foreign\\_Affairs\\_Defence\\_and\\_Trade/Tourismandeducation/Interim\\_Report\\_-\\_Inquiry\\_into\\_Australias\\_International\\_Education\\_Sector/Chapter\\_2\\_-\\_The\\_value\\_of\\_international\\_students\\_to\\_Australia#:~:text=2.14Austrade%20noted%20at%20the,%E2%80%94or%20its%20regular%20size%27](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Tourismandeducation/Interim_Report_-_Inquiry_into_Australias_International_Education_Sector/Chapter_2_-_The_value_of_international_students_to_Australia#:~:text=2.14Austrade%20noted%20at%20the,%E2%80%94or%20its%20regular%20size%27)

<sup>5</sup> Australian Financial Review (2023) 'Tourism would barely survive, without overseas students, inquiry hears':

[www.afr.com/politics/federal/tourism-would-barely-survive-without-overseas-students-inquiry-hears-20230531-p5dcr4](http://www.afr.com/politics/federal/tourism-would-barely-survive-without-overseas-students-inquiry-hears-20230531-p5dcr4)

<sup>6</sup> International Education Association of Australia: Edu-tourism and the impact of international students:

<https://broadenourhorizons.com.au/edu-tourism-and-the-impact-of-international-students/>

- Across the country, international students spend approximately \$5.5 billion in local economies<sup>7</sup>. The Mitchell Institute in 2021 estimated that international students in the suburb of Kingsford in NSW alone spent \$335 million on food, accommodation and other services per year.

The ESOS Act Amendment Bill will have far-reaching implications:

- Impacting the financial sustainability of Australia’s world-class universities: as some universities are already experiencing the effects of slowing international student enrolments even before any capping or other restrictions are implemented, and are forecasting a collective shortfall of more than half a billion dollars in 2024 due to slower visa processing and increased visa cancellations<sup>8</sup>;
- Impeding implementation of key policy changes and targets for the sector: including our ability to contribute to meeting the Government’s ambitious equity targets set out in the *Australian Universities Accord Final Report* and supporting those students to succeed at university;
- Further weakening Australia’s research and development competitiveness: as universities have come to depend heavily on international student revenue to subsidise research efforts;
- Undermining our local economies, businesses and communities: including sustaining local labour markets and through their significant spend on local goods and service; and
- Creating economic havoc in multiple industries (such as the hospitality, tourism, agriculture, education, and service sectors), as temporary migrants represent a significant portion of Australia’s GDP growth.

Hence, we encourage the Government to take further time to consult extensively, including with local and state Governments, businesses and communities who will likely be impacted as a result of the potentially significant economic flow-on effects of the ESOS Act Amendment Bill.

### ***Australia’s global reputation as a top education destination is at stake***

The Draft International Education and Skills Strategic Framework and ESOS Act Amendment Bill which together reflect the objectives of the Migration Review, if implemented in their current form, will significantly harm ‘Brand Australia’ and are already doing so. Nearly half (47%) of prospective international students surveyed by IDP Education are now hesitating to go to Australia for their study<sup>9</sup>.

The UK and Canada are already dramatically restricting international student entry. If we follow this approach, we can expect to see that other global locations will be more attractive to international students, which will impact the standing of Australia as a top global study destination. The Government should closely monitor the impact of these policy developments, including any applicable lessons learned, to prevent adverse and unintended consequences in Australia.

### ***Promoting soft diplomacy that supports strategic and foreign policy objectives***

International education is a critical tool of Australian foreign policy, projecting soft power and building a positive reputation. Universities actively contribute to building ‘Brand Australia’ in a variety of ways:

- The proximity to and quality of education from providers available in Australia for the Indo-Pacific which not only benefits inbound international students but also encourages the growth of outbound opportunities for Australian students;

---

<sup>7</sup> Sydney Morning Herald (2020) ‘It’s not just a university problem: the drop in international students being felt across Sydney’s suburbs’: [www.smh.com.au/national/it-s-not-just-a-university-problem-the-drop-in-international-students-being-felt-across-sydney-s-suburbs-20200612-p551yu.html](http://www.smh.com.au/national/it-s-not-just-a-university-problem-the-drop-in-international-students-being-felt-across-sydney-s-suburbs-20200612-p551yu.html)

<sup>8</sup> Universities Australia (2024) ‘Keynote Address – ITEC24 Higher Education Symposium’: <https://universitiesaustralia.edu.au/media-item/keynote-address-itec24-higher-education-symposium/>

<sup>9</sup> IDP Education (2024) ‘The Voice of the International Student Study’: <https://studytravel.network/magazine/news/0/30443>

- Extensive alumni engagement and researcher networks that can heighten understanding with our regional neighbours and open possibilities for future cooperation;
- Supporting free trade agreements which helps build closer ties with key counterparts while advancing Australia's national interest;
- Supporting the capacity building needs of our Indo-Pacific neighbours; and
- Rolling out transnational education (TNE) opportunities.

While TNE is a key component of any university's international engagement strategy and usually involves pathway courses, the proposed caps would likely see TNE opportunities decrease. TNE should not be seen as a replacement for students lost because of the proposed caps or managed growth strategy. Further, it should also not be considered as a replacement for the myriad benefits of students studying on the ground in Australia. In this context, an exemption from the caps for TNE and related offshore student programs should be considered.

It will be important for the Government to consider not only how the proposed measures impact inbound international student numbers but also how it could negatively affect our reputation particularly in the Indo-Pacific, including future outbound for Australian students, and as education providers roll out TNE opportunities.

## **Proposed changes to the ESOS Act Amendment Bill**

### Planning with the higher education sector

Consultation on the ESOS Act Amendment Bill should be extended so Australia's internationally recognised and ranked higher education sector can seek certainty, stability and growth through this significant period of change. This will also enable universities and the Government to work in concert to implement recommendations from the *Australian Universities Accord Final Report*. UNSW wants to work constructively with the Government to ensure a coordinated and efficient approach.

Through this extended consultation, we recommend a rapid compacts process is undertaken with universities in the next month to ensure the Government's aspirations are met for 2025. This would allow more thorough consideration to be undertaken of how best to achieve the proposed policy objectives, while avoiding unintended consequences.

While we understand the Government's need for the 1 January 2025 implementation date, we strongly encourage that the legislation comes into effect from 1 January 2026 – particularly in relation to Parts 3, 7 and 8 that relate to Table A and B providers, and TAFE providers (within the meaning or application of the *Higher Education Support Act 2003*). This will help the sector and students prepare and make arrangements, given the magnitude of policy change in the last 12 months. This would also better align with the implementation of the proposed ATEC and funding model of the *Australian Universities Accord Final Report*, which are not yet finalised nor in operation and which would play a key role in driving the outcomes of the policy objectives.

### Caps are best set through the Mission Based Compact process with the future ATEC:

The powers proposed for the Minister under the ESOS Act Amendment Bill should be sunsetted upon the earlier of 3 years or the establishment of the ATEC. All powers to manage domestic and international student numbers should then rest with ATEC and be stipulated in its act of establishment.

The setting of targets for international student numbers must be delivered through the ATEC mission-based compact process, allowing for institution-by-institution discussions on potential caps and

managed growth. This recognises the different circumstances, and stages of strategy and financial robustness of individual institutions.

The legislation requires any caps to be issued by September the year before (and 31 December 2024 for 2025), which would not align with the enrolment timeline followed by education providers to coordinate budgeting, student load and workforce planning. Students make decisions on their study destination anywhere between 6 to 18 months in advance. We suggest changing the deadline to issue a cap to 1 July, to avoid a cap being issued after students have already made their plans to travel to Australia. This would also allow providers additional time to make arrangements and put in place any communications needed to prospective students. A shorter notice risks stifling cohort diversity in that application timing and behaviour varies significantly by nationality within that timeframe.

Another important practical consideration relates to the term 'enrolment' in the ESOS Act Amendment Bill. We suggest replacing the term 'enrolment' with 'accepted student' to avoid a situation where a provider can have a limit imposed which is less than the number of overseas students that have already been accepted (and confirmation of enrolments issued) before the commencement date. A provider given a limit below the number of 'accepted students' for the year would be left in a situation where:

- The provider cannot deliver the course to all the accepted overseas students – which would constitute provider default under clause 46 of the ESOS Act;
- Students themselves may already have applied for visas based on the Confirmation of Enrolment issued on acceptance;
- Pathway students may not be able to progress to universities.

If the Universities Australia recommendation of the excision of Table A, Table B and TAFE providers is not adopted, UNSW recommends the exclusion of Table A, Table B and TAFE providers (within the meaning or application of the *Higher Education Support Act 2003*) from provisions in relation to course caps.

We recommend the requirement that a course is offered to domestic students for two years before being offered to international students includes an exemption for Table A providers. We also suggest that an exemption apply for providers that are wholly owned subsidiaries of Table A providers, as this is relevant to our pathways courses, which focus exclusively on ensuring international students are ready for university.

The legislation seeks to address a temporary challenge with a policy response that could be permanent and damaging, and vests a significant amount of discretionary power with the Minister. The legislation opens the way to arbitrary caps being imposed, that may be unworkable or lead to unintended (and detrimental) consequences. For example, there is no requirement for the Minister to consult or to provide their reasons before issuing a notice to limit international students at a particular institution, or in certain courses. In this context, we propose removing the ability for Minister to set a cap by notice, so they can only do so by legislative instrument.

The consequence of a breach is severe and would have long-lasting impacts:

The consequence of a breach is severe, and we suggest the Parliament considers alternative breach provisions. If an institution were to breach its total enrolment cap for a year by even one student, its registration to operate as an international education provider will be automatically suspended or all courses for all locations for that year (other than any exempt courses). Given that international students attend the same classes as domestic students, this means the University's teaching operations must close down for the suspension period. The impacts of this on all the tens of

thousands of students, staff, and their families who make up the university community, and the many businesses that rely on the continued operation of the university, would be catastrophic. One would in effect be halting the important activity of a university, including teaching and research capabilities which positively impact our society.

It is also worth noting that it is difficult for universities to predict what percentage of individuals will accept or defer offers for any given year, course, or location. It will be very hard to ensure that no over-enrolment occurs to prevent the risk of a severely damaging outcome where universities have to significantly under-enrol, thereby depriving students of places that should be available.

Any suspension of ESOS registration would also have long-term negative impacts – for example, reduced student demand, altered agent behaviour, and institutional reputational damage. The significance of even a temporary halt, or the threat of a halt in one year will reverberate over several years as a smaller cohort moves through completing its degree (pipeline impacts). Thus, any action will have profound effects and rebuilding interest for re-opened courses, or for a re-registered institution, would be costly and time consuming (at least 18 months).

Given these possible practical issues, we propose the following to ensure that institutions maintain some flexibility and autonomy in the event of a suspension:

- The decision to suspend for a breach would sit with the Secretary of the Department of Education or ATEC Commissioner;
- Removing automatic suspension by granting the Secretary or ATEC Commissioner the power to suspend an operator after giving written notice and seeking a response within 14 days from the institution in question; and
- Adding the ability for a full merits review of any suspension for Table A, Table B, or TAFE providers (within the meaning or application of the *Higher Education Support Act 2003*).

## Conclusion

UNSW is ranked in the world's top 20 universities with more than 70,000 students and over 4,200 higher degree research candidates. UNSW is proud of being ranked first in Australia for employment outcomes (2024 QS World University rankings), as well as being consistently recognised as the AFR's Most Employable University.

UNSW has a long and proud history of pioneering and supporting Australia's international education sector to be globally competitive. International students enrich our communities and are a critical part of Australia's social fabric. The global reputation of Australia as a top education destination is at stake, and careful consideration and extensive consultation is crucial to prevent lasting and potentially undesired consequences.

Should you wish to discuss any issue raised in this submission, please do not hesitate to contact our Head of Government Relations, Mr Robin Schuck, on 0411 124 258 or [r.schuck@unsw.edu.au](mailto:r.schuck@unsw.edu.au).