



Friday 21 September 2018

Marisa Purvis-Smith
Division Head
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: ExternalConductStandards@treasury.gov.au

Dear Ms Purvis-Smith,

Exposure draft: charities' external conduct standards regulations

The University of New South Wales, Sydney is grateful for the opportunity to provide the attached feedback on the exposure draft of the *Australian Charities and Not-for-Profits Commission Amendment Regulations (No.2) 2018 (Cth)* ("draft Regulations")

UNSW an institution established for charitable education and research purposes by the Parliament of New South Wales, which is registered both as a higher education provider with the Tertiary Education Quality and Standards Agency (TEQSA) and as a charity with the Australian Charities and Not-for-profits Commission (ACNC).

Our main interest in the draft Regulations is to ensure that the University, which already operates under a robust and comprehensive external and internal regulatory, reporting and risk management framework, is not subjected to unnecessary and unreasonable additional red tape.

Our concern is that under the draft Regulations Australian universities will be required to keep records in a specified manner, and report in detail to the ACNC annually on their offshore activities in every country in which they are active.

We have had the opportunity to consider the comprehensive submission prepared on the exposure draft by the University of Sydney.

The University of New South Wales fully endorses and supports the points made in that submission. They apply equally to UNSW, Sydney.

In particular, we support the recommendations made in that submission:

To resolve our concerns that the Regulations could impose excessive and unnecessary additional regulation and reporting burdens on Australian universities, we conclude by offering three possible solutions for consideration by Treasury and the ACNC:

1. An early ruling or policy determination from the ACNC Commissioner that all Australian universities' offshore activities are considered incidental to the pursuit of their charitable purposes inside Australia – thus removing the need for universities to comply explicitly with external conduct standards the regulations would establish.
2. An amendment to the *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012* (Cth) which provides that universities that are already complying with legislation regarding offshore activities, are taken to be complying with section 50.25 of the draft Regulations (Standard 2 – Annual review of overseas activities and record-keeping).
3. An extension of the terms of the existing ACNC/TEQSA MoU to allow the ACNC to receive the audited annual financial reports of Australian universities and/or of all higher education providers registered with TEQSA in satisfaction of the draft regulation's proposed annual submission by registered charities of Overseas Activity Statements as part of their Annual Information Statements and record keeping obligations.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'B. Boyle', with a stylized flourish at the end.

Professor Brian Boyle
Deputy Vice-Chancellor Enterprise