



Australian Government

Funding Agreement

between the

COMMONWEALTH OF AUSTRALIA

as represented by the

Minister for Education

and

Charles Darwin University

regarding funding

**under the Commonwealth Grant Scheme in respect of the
2018, 2019 and 2020 grant years**

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Parties and Recitals

THIS AGREEMENT is made on the date on which it is executed by the Commonwealth of Australia

BETWEEN

THE COMMONWEALTH OF AUSTRALIA represented by the Minister for Education ('the Commonwealth')
[ABN 12 862 898 150]

AND

CHARLES DARWIN UNIVERSITY, DARWIN NT 0909 ('University')
[ABN 54 093 513 649]

WHEREAS:

- A. The University meets the requirement of subparagraph 30-1(1)(a) of HESA.
- B. This funding agreement is made under subsection 30-25(1) of HESA in respect of the 2018, 2019 and 2020 grant years.
- C. Entering this agreement is a requirement under subparagraph 30-1(1)(a)(ii) of HESA for a Commonwealth Grant to be payable to the University under Part 2-2 of HESA.
- D. Subject to subsections 30-25(2A) and 30-25(2B) of HESA, this funding agreement specifies conditions to which the Commonwealth Grant is subject that are additional to the conditions that apply to the Commonwealth Grant under Division 36 of HESA.
- E. Both parties acknowledge the Commonwealth of Australia's priorities for delivering improvements in accountability and transparency in the delivery of higher education including in:
 - admissions processes
 - provision of data to support improved information for students
 - student outcomes
 - provision of data about teaching and research costs.
- F. Under section 36-65 of HESA, the University must comply with this funding agreement.

NOW IT IS AGREED as follows:

The parties agree that the funding agreement made by them on 22 July 2019 for the Commonwealth to provide funding to the University under the Commonwealth Grant Scheme in respect of the grant years 2018, 2019 and 2020 shall terminate on the date on which this Funding Agreement is made.

PART A: Introduction

Commonwealth Grant Scheme funding amount and payment arrangements

1. The Commonwealth will pay to the University the Commonwealth Grant Scheme (CGS) funding amount for the 2018, 2019 and 2020 grant years, calculated in accordance with division 33 of HESA.
2. The Commonwealth will notify the University before the start of the grant year covered by this Agreement about the CGS advances in respect of amounts expected to become payable for:
 - 2.1. designated courses of study; and
 - 2.2. non-designated courses of study.
3. The Commonwealth will notify the University before the start of the grant year covered by this Agreement about the CGS amounts payable for:
 - 3.1. regional loading
 - 3.2. enabling loading; and
 - 3.3. medical student loading.
4. The Commonwealth has guaranteed CGS payments for all higher education institutions in 2020. While institutions continue to teach students, CGS payments will be paid throughout 2020, regardless of any change in enrolments due to COVID-19. Other Grants Guidelines will be amended to enact this provision.

Estimates of Commonwealth supported places

5. The University must provide accurate and timely estimates of Commonwealth supported places for the current year and future years, as required by the Commonwealth.

Provision of other data

6. The University must provide data relating to revised transparency arrangements as requested, including in relation to admissions processes and the cost of teaching and scholarship. This will include providing the data in the form and at the times required to support the national admissions platform.
7. The University should provide data relating to the enrolment of domestic and international students at the undergraduate and postgraduate levels on a monthly basis as directed by the Commonwealth. This is an additional requirement in response to COVID-19 impacts.

PART B: Total CGS funding

8. The parties acknowledge the introduction of fully online short courses for 2020 only.
9. The University's basic grant amount for the 2020 grant year under section 33-5 of HESA is not to exceed \$55,205,989.
 - 9.1. This amount includes an additional allocation for meeting your performance-based funding targets for 2020 and an amount based on projected national population growth in the 18 to 64 year old age bracket.
 - 9.2. This amount may include funding for bachelor places allocated as a result of your partnership with a Regional University Centre.

PART C: Non-designated courses of study

Maximum basic grant amount for non-designated courses of study

10. The maximum basic grant amount for non-designated courses of study, calculated in accordance with subparagraph 30-27(1)(a)(ii) of HESA is:
 - 10.1. \$40,800,867 for 2018; and
 - 10.2. \$40,930,962 for 2019.

PART D: Designated courses of study

Maximum basic grant amount for designated courses of study

11. The maximum basic grant amount for designated courses of study calculated in accordance with subparagraph 30-27(1)(a)(i) of HESA, is
 - 11.1. \$11,326,354 for 2018;
 - 11.2. \$12,820,608 for 2019.
 - 11.3. \$13,620,112 for 2020. This amount may include an additional allocation for the delivery of short courses. Of this amount the University is not to exceed \$6,958,825 for enabling courses of study.
12. The maximum basic grant amount for designated courses of study can be revised for the delivery of short courses if the University submits a request in writing to the Department of Education, Skills and Employment at the address in Clause 39.1. Total CGS funding to the University will not exceed the basic grant amount in clause 9. Once the request has been submitted and approved, the Department will issue a revised funding agreement to reflect this.
13. The movement of places or funding from sub-bachelor and postgraduate courses of study into enabling courses of study is not permitted.
14. The movement of places or funding between medicine and enabling, sub-bachelor or postgraduate courses of study is not permitted.

Allocation of Commonwealth supported places for designated courses of study

15. The total number of Commonwealth supported places for designated courses of study allocated to the University under subsection 30-10(1)(a) for each Funding Cluster for the 2018 grant year covered by this agreement is shown below in [Table 1a](#).
16. The total number of Commonwealth supported places for designated courses of study allocated to the University under subsection 30-10(1)(a) for each Funding Cluster for the 2019 grant year covered by this agreement is shown below in [Table 1b](#).
17. Any places allocated at the postgraduate level are for non-research Courses of Study and exclude any course which is subject to Ministerial determination under paragraph 36-15(2)(b) of HESA
18. If the University is unable to deliver the places detailed in [Table 1a](#) or [Table 1b](#) it must notify the Commonwealth as soon as practicable and not later than at the next update of estimates of Commonwealth supported places required by the Commonwealth under clause 5.

Table 1a: Allocation of Commonwealth supported places for designated courses of study for 2018¹

Cluster No.	Funding cluster	Number of designated undergraduate places (excluding medical places) for 2018 grant year (EFTSL) ²	Number of undergraduate medical places for 2018 grant year (EFTSL)	Number of non-research postgraduate places (excluding medical places) for 2018 grant year (EFTSL)	Number of postgraduate medical places for 2018 grant year (EFTSL) ³	Total number of Commonwealth supported places for 2018 grant year (EFTSL)
1	Law, accounting, administration, economics, commerce	25	0	32	0	57
2	Humanities	48	0	22	0	70
3	Mathematics, statistics, behavioural science, social studies computing, built environment, other health	304	0	87	0	390
4	Education	0	0	111	0	111
5	Clinical psychology, allied health, foreign languages, visual and performing arts	142	0	4	0	146
6	Nursing	0	0	115	0	115
7	Engineering, science, surveying	83	0	23	0	106
8	Medicine, dentistry, veterinary science, agriculture	0	0	2	0	2
	Total	602	0	396	0	998

NOTES:

1. Figures are rounded for display, however they may contain underlying decimal places.
2. Designated undergraduate places include places in associate degrees, advanced diplomas, diplomas, and enabling courses but not medical places.
3. The total number of medical places allocated to the university for the grant year is the sum of the number of undergraduate medical places and the number of postgraduate medical places.

Table 1b: Allocation of Commonwealth supported places for designated courses of study for 2019¹

Cluster No.	Funding cluster	Number of designated undergraduate places (excluding medical places) for 2019 grant year (EFTSL) ²	Number of undergraduate medical places for 2019 grant year (EFTSL)	Number of non-research postgraduate places (excluding medical places) for 2019 grant year (EFTSL)	Number of postgraduate medical places for 2019 grant year (EFTSL) ³	Total number of Commonwealth supported places for 2019 grant year (EFTSL)
1	Law, accounting, administration, economics, commerce	26	0	32	0	58
2	Humanities	53	0	22	0	75
3	Mathematics, statistics, behavioural science, social studies computing, built environment, other health	343	0	87	0	430
4	Education	0	0	111	0	111
5	Clinical psychology, allied health, foreign languages, visual and performing arts	171	0	4	0	175
6	Nursing	0	0	115	0	115
7	Engineering, science, surveying	107	0	23	0	130
8	Medicine, dentistry, veterinary science, agriculture	1	0	2	0	3
	Total	700	0	396	0	1097

NOTES:

1. Figures are rounded for display, however they may contain underlying decimal places.
2. Designated undergraduate places include places in associate degrees, advanced diplomas, diplomas, and enabling courses but not medical places.
3. The total number of medical places allocated to the university for the grant year is the sum of the number of undergraduate medical places and the number of postgraduate medical places.

19. The University will receive an advance of its enabling loading for the number of Commonwealth supported places in enabling courses allocated to the University for 2020 under subsection 30-25(3)(a)(iv) of HESA as shown below in Table 2.
20. The amount of enabling loading a university receives in the grant year may be reconciled with the actual number of enabling places delivered by the University. This reconciliation would occur in the year following the grant year when actual student enrolment data for that grant year is finalised and may result in variations to future allocations.

Table 2: Allocation of Commonwealth supported places for enabling courses

2018	544
2019	564
2020	564

21. If the University is unable to deliver the places detailed in Table 2 it must notify the Commonwealth as soon as practicable and not later than at the next update of estimates of Commonwealth supported places required by the Commonwealth under clause 5.

Short courses

22. The Courses listed in Appendix 1 are considered 'short courses' for the purpose of this Funding Agreement.
23. These short courses will be 0.5 EFTSL and offered in 2020 only. These courses must be delivered online and must be either an Undergraduate Certificate or a Graduate Certificate as defined by the Australian Qualifications Framework.
24. Upon course completion, the student will be awarded either an Undergraduate Certificate or a Graduate Certificate.
25. The University agrees that it will only charge the following student contribution amounts for a student place (equivalent to 0.5 EFTSL) in the short course(s):
 - 25.1. \$1,250 for a student place in
 - 25.1.1. English in Cluster 2
 - 25.1.2. Psychology, Mathematical Sciences in Cluster 3
 - 25.1.3. Education in Cluster 4
 - 25.1.4. Languages, Clinical Psychology in Cluster 5
 - 25.1.5. Nursing in Cluster 6
 - 25.1.6. Agriculture in Cluster 8
 - 25.2. \$2,500 for a student place in
 - 25.2.1. Counselling, Other Health, Information Technology, Architecture and Building in Cluster 3
 - 25.2.2. Allied Health in Cluster 5
 - 25.2.3. Engineering and Related Technologies, Science in Cluster 7
 - 25.2.4. Environmental Studies and Medical Science in Cluster 8
26. The University must comply with their obligations under the HESA in relation to student contribution amounts.
27. The University must provide data on students enrolled in short courses as required by the Commonwealth.

PART E: Other conditions and requirements

Closure of courses

28. Before Closing a Course to which this clause applies, the University must consult the Commonwealth and obtain the Commonwealth's approval for the closure.
 - 28.1. In this clause, 'Course' means a Course of Study, or a major within a Course of Study.
 - 28.2. This clause applies to Courses at the undergraduate and postgraduate levels in which Commonwealth supported students have been enrolled in either of the two preceding years.
 - 28.3. This clause does not apply to a Course for which the University has had an intake for less than four consecutive academic years.
 - 28.4. This clause applies to Courses in the following categories:
 - 28.4.1. Courses that prepare students for entry to any occupation that is experiencing a National Skill Shortage;
 - 28.4.2. Courses, the closure of which, would be likely to create a National Skill Shortage in an occupation because the University is a sole or dominant provider of the national skill base for that occupation;
 - 28.4.3. specialised Courses directed at the regional economy, the closure of which is likely, in the Commonwealth's opinion, to create serious detriment to the Skills Base of a Regional Economy; and
 - 28.4.4. Courses for a Nationally Strategic Language.
 - 28.5. In making a decision regarding a Course Closure, the Commonwealth will:
 - 28.5.1. seek to reach a mutually agreeable arrangement with the University regarding the Course Closure;
 - 28.5.2. have regard to student demand for the Course, the financial viability of the Course, the justification provided for a proposed Course Closure by the University and other relevant factors;
 - 28.5.3. assist the University to explore options to retain the Course, including through cooperation with another provider or the movement of Commonwealth supported places to another provider (where applicable); and
 - 28.5.4. not unreasonably withhold approval for a Course Closure so as to place an unreasonable financial burden on the University or place the University in a financially unviable position in regard to the University's overall financial status.
 - 28.6. For the purposes of subclause 28.4.1 and 28.4.2 the skill shortage lists published by the Department of Education, Skills and Employment at State, Territory and National levels and the Department of Home Affairs' Medium and Long-term Strategic Skills List must be taken into account in deciding if Closing a Course is likely, in the Commonwealth's opinion, to create serious detriment to the Skills Base of a Regional Economy.

New campuses and campus closures

29. The University must obtain the Commonwealth's prior written approval if the University proposes to enrol Commonwealth supported students in a course of study that is, or is to be undertaken, primarily at an educational facility, other than one of the University campuses listed below in [Table 3](#) or approved educational facilities listed below in [Table 4](#).

Table 3: University campuses

Name of campus	
Darwin / Casuarina	Sydney
Alice Springs	Melbourne

Table 4: Approved educational facility

Name of educational facility
Batchelor Institute of Indigenous Tertiary Education (BIITTE)

30. The University must seek the Commonwealth's prior written approval before closing or otherwise disposing of a campus of the University at which students are enrolled in Commonwealth supported places.

Clinical placements and practicums

31. The Commonwealth contribution amounts for a place in a nursing and education funding cluster include amounts in recognition of the costs of nursing clinical placement and teaching practicum. The University must use these amounts only for those purposes.
- 31.1. \$1,330 and \$912 per place in the nursing and teaching clusters respectively in 2018;
- 31.2. 1,355 and \$929 per place in the nursing and teaching clusters respectively in 2019; and
- 31.3. \$1,379 and \$945 per place in the nursing and teaching clusters respectively in 2020.
32. For a course that is accredited under section 49 of the National Law, the University must ensure that each student enrolled in a course has access to clinical placements in accordance with the approved accreditation standard for the profession.
33. For a course that provides a pathway to professional accreditation, where that accreditation requires a clinical or practicum placement such as an initial teacher education course, the University must ensure that each student enrolled in that course has access to clinical placements or practicums in accordance with the approved national accreditation standard.

Applicable law and jurisdiction

34. The laws of the Australian Capital Territory apply to the interpretation of this agreement.
35. The parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts which have jurisdiction to hear appeals from any of these courts in respect to any dispute under this agreement.

Entire agreement, variation and severance

36. This agreement and the *Higher Education Support Act 2003* record the entire agreement between the parties in relation to its subject matter.
37. Except for action the Commonwealth is expressly authorised or required to take elsewhere in this agreement or HESA, no variation of this agreement is binding unless it is agreed in writing and signed by the parties.
38. If a court or tribunal says any provision of this agreement has no effect or interprets a provision to reduce an obligation or right, this does not invalidate, or restrict the operation of, any other provision.

Notices

39. A party giving notice under this agreement must do so in writing or by Electronic Communication:

- a. if given by the University, marked for the attention of the First Assistant Secretary of the Higher Education Division of the Department of Education, Skills and Employment or other person as notified in writing by the Commonwealth to the University; or
- b. if given by the Commonwealth, marked for the attention of the Vice-Chancellor and President or other person as notified in writing by the University to the Commonwealth; and hand delivered or sent by pre-paid post or Electronic Communication to the address specified in subclause 39.1 of this agreement.

39.1 The address for notices to the Commonwealth is specified below:

First Assistant Secretary
Higher Education Division
Department of Education, Skills and Employment
50 Marcus Clarke Street
GPO Box 9880
CANBERRA ACT 2601
Email: cgs@dese.gov.au

The address for notices to the University is specified below:

Vice-Chancellor and President
Charles Darwin University
Ellengowan Drive
DARWIN NT 0909
vc@cdu.edu.au

40. A notice given under clause 39 is taken to be received:

- a. if hand delivered, on delivery;
- b. if sent by pre-paid post, 5 business days after the date of posting; or
- c. if sent by Electronic Communication, at the time that would be the time of receipt under section 14A of the *Electronic Transactions Act 1999*.

Interpretation

41. In this agreement, unless the contrary intention appears:

'ABN' has the same meaning as it has in section 41 of the *A New Tax System (Australian Business Number) Act 1999*;

'CGS' means Commonwealth Grant Scheme

'Closing a Course' or **'Closure'** means the cessation of intake of students to a course by the University without its immediate replacement by a Course that leads to the same occupation or provides a similar specialised skill and includes any suspension of intake of students for more than one consecutive academic year;

'Commonwealth Grant' is the grant payable to the University under Part 2-2 of HESA;

'Course Completion' is the point at which an enrolled student satisfies the requirements for a particular qualification;

'Course of study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Designated course of study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'EFTSL' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Electronic Communication' has the same meaning as in the *Electronic Transactions Act 1999*;

'Enabling Course' has the same meaning as set out in Item 1 of Schedule 1 of HESA;

'Funding Clusters' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Grant Year' refers to the calendar year for which the University has entered into this funding agreement;

'HESA' means the *Higher Education Support Act 2003*, as amended;

'Maximum Basic Grant Amount' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'National Law' means (a) for a state or territory other than Western Australia – the Health Practitioner Regulation National Law as set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009 (Qld)* as it applies (with or without modification) as a law of the State or Territory; and (b) for Western Australia – the legislation enacted by the *Health Regulation National Law (WA) Act 2010* that corresponds to the Health Practitioner Regulation National Law;

'Nationally Strategic Language' means Arabic, Indonesian, Chinese (Mandarin), Hindi, Japanese, Korean and any other language notified in writing by the Commonwealth;

'National Skill Shortage' refers to the skill shortage lists published by the Department of Education, Skills and Employment at State, Territory and National levels and the Department of Home Affairs' Skilled Occupations List;

'Non-designated courses of study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Number of Commonwealth Supported Places' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Postgraduate Course of Study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Skills Base of a Regional Economy' will be assessed on a case by case basis;

'Teacher Regulatory Authority' means the body responsible for the accreditation of initial teacher education courses in a State or Territory.

'Undergraduate Course of Study' has the same meaning as set out in item 1 of Schedule 1 of HESA.

42. In this agreement, unless the contrary intention appears:

- 42.1. words in the singular include the plural and vice versa;
- 42.2. clause headings or words in bold format are inserted for convenience only, and have no effect in limiting or extending the language of provisions;
- 42.3. all references to dollars are to Australian dollars;
- 42.4. unless stated otherwise, a reference to legislation is to legislation of the Commonwealth, as amended from time to time;
- 42.5. an uncertainty or ambiguity in the meaning of a provision of this agreement will not be interpreted against a party just because that party prepared that provision; and
- 42.6. where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.
- 42.7. where a word or phrase is not specifically defined in this agreement and the word or phrase occurs in the *Higher Education Support Act 2003*, the word or phrase will have the same meaning as in that Act.

SIGNED for and on behalf of

THE COMMONWEALTH OF AUSTRALIA

by Dom English, First Assistant Secretary,
Higher Education, Department of Education
Skills and Employment as delegate of the
Minister for Education.

Signed by

Dom English

Date: 26 July 2020

In the presence of:

Signed by

Drew Menzies-McVey

Position of witness

Assistant Secretary

SIGNED for and on behalf of

Charles Darwin University

Signed by

Professor Simon Maddocks

Position

Vice-Chancellor

In the presence of:

Signed by

Penny Szybiak

Position or profession of witness

Director of Planning & Performance

Higher Education Relief Package 2020

Short online courses at higher education levels

Table 1: Selected short courses

National Priority Field of Education code	Short Course	Course(s) short course can articulate to	Estimated number of students (EFTSL)
060399	Graduate Certificate in Clinical Nursing	MCN Master of Clinical Nursing	68
060399	Graduate Certificate of Clinical Facilitation	MCN Master of Clinical Nursing	28
069999	Graduate Certificate of Health Services Management	MCN Master of Clinical Nursing	51
060303	Graduate Certificate of Maternal Critical Care	SMID01 Master of Midwifery	34
091517	Graduate Certificate in Yolngu Studies	SARTS1 Master of Arts	5
079999	Graduate Certificate of Digital Learning Futures	MDLF01 Master of Digital Learning Futures	31
090599	Graduate Certificate of Emergency and Disaster Management	MEMDM Master of Emergency and Disaster Management	46
061300	Graduate Certificate of Infectious Disease Prevention and Control	SPUBH1 Master of Public Health	22
061309	Undergraduate Certificate (Health Science)	WHSC02 Bachelor of Health Science	68
040199	Undergraduate Certificate (Architecture)	WARTS2 Bachelor of Arts	5
070103	Undergraduate Certificate (Remote Educators)	WEDPO1 B Education Primary	7
039999	Undergraduate Certificate (Engineering Science)	WENGS1 Bachelor of Engineering Science	7
050999	Undergraduate Certificate (Environmental Science)	WENVS1 Bachelor of Environmental Science	14
091599	Undergraduate Certificate (Languages)	WARTS2 Bachelor of Arts	7
029999	Undergraduate Certificate (Information Technology)	WINT01 Bachelor of Information Technology	7