

6 November 2023

Ms Drew Menzies-McVey
Assistant Secretary
Australia's Economic Accelerator
Research Division
Australian Government Department of Education
E: ARCReview@education.gov.au

Dear Ms Menzies-McVey

Group of Eight (Go8) response to the Australian Research Council Act 2001 – Proposed Amendments Consultation Paper

Thank you for the opportunity for the Go8 to make a short submission to the consultation on amending the Australian Research Council Act 2001. In doing so I note that a number of the Go8 comments can only be fully addressed by review of the full legislative amendments rather than the “intention to amend” as the changes in the current consultation paper are framed.

Establishing a clear purpose for the ARC

Role and purpose
The Government intends to amend the Objects of the ARC Act to establish the ARC to: <ul style="list-style-type: none">a. promote and conduct activities to shape and foster the Australian research community for the benefit of the nationb. administer funding of excellent pure basic research, strategic basic research, and applied research in all disciplines except medical research.

The Go8 notes the strategic intent as outlined in Part A, however we would caution against any measures that reduce the autonomy of universities in recruiting and managing their research workforces. The primary role of the ARC should be to allocate research funding on the basis of excellence as judged by peer review. While this will be in the context of programs that may have a strategic focus on particular research areas and types of engagement which support a corresponding research workforce profile, the ARC should not actively insert itself any further into university operations with regard to workforce.

The Go8 is fully supportive of Part B, which codifies support for pure basic research, strategic basic research and applied research with the addition of a requirement for the ARC to support international research collaboration as part of its mission.

Establishment of an ARC Board

ARC Board
<p>The Government intends to amend the ARC Act to establish an ARC Board as the accountable authority responsible for the administration of the ARC.</p> <p>The Board will have skills-based appointees and have the following functions vested to them:</p> <ol style="list-style-type: none"> a. appoint and direct the Chief Executive Officer (CEO) b. operate as the accountable authority to the ARC c. provide advice to the Minister for Education on priorities, policies and strategies d. approve the appointment of Board committees, including the College of Experts e. approve spending on research programs, including for grants within the NCGP, except those specified in the ARC Act requiring approval by the Minister for Education f. report matters of national security in funding decisions to the Minister for Education g. other functions as requested by the Minister for Education. <p>The Board will be responsible for individual grant outcomes, with the Minister for Education approving funding rules, setting research priorities in consultation with the Minister for Industry and Science, and identification of key performance measures.</p> <p>The Board members are significant appointments and will comprise:</p> <ul style="list-style-type: none"> • A Chair • Deputy Chair • 3 to 5 other members. <p>A First Nations representative will be appointed to the Board.</p> <p>The Board will be supported by an ongoing ARC Advisory Committee, with expertise across research, industry, and governance.</p>

The Go8 supports the establishment of a Board with grant decision powers (except on the grounds of national security) in alignment with international practice.

However, it is critical that in addition the ARC Act ensure that:

- Protocols are put in place to ensure that the Board is independent and that Board membership has appropriate expertise and is free from political bias.
- That the Board is advised by an increased number of senior academic experts employed within the ARC.
- That the ARC is resourced appropriately to service an effective and high-level Board.

CEO appointment and role

CEO appointment
<p>The Government intends to amend the ARC Act to devolve the appointment process for the CEO to the Board, in consultation with the Minister for Education and with Cabinet oversight, and consistent with the requirement to comply with the Government policy for the meritorious appointment of statutory office holders.</p>

In addition, the Go8 recommends that role of the CEO is further strengthened by bringing the ARC Act into close alignment with the NHMRC Act in terms of provisions relating to appointment, performance and termination of the CEO.

Approval of funding rules

Funding rules

The Government intends to amend the ARC Act to make the Board responsible for providing advice to the Minister for Education on the funding rules, and to subject the making of funding rules to disallowance, open to the scrutiny of Parliament as a regular element of managing the ARC funding.

The Go8 acknowledges the responsibility of the Minister for Education to ensure that funding allocations within the portfolio meet rigorous and appropriate standards and deliver value for money for the Australian taxpayer by setting the strategic direction for ARC research through funding rules. It is also appropriate for the ARC Board to provide advice to the Minister providing the Board is independent and receiving advice of an increased number of senior academic experts employed within the ARC, as noted above.

Approval of grants

Grant approval

The Government intends to amend the ARC Act to specify that the ARC Board will approve all research grants, with the Minister for Education retaining the ability to approve funding for nationally significant investments, in recognition of their role in creating research capability, rather than programs that award individual research grants.

The Go8 supports the adoption of the international best practice Haldane Principle that ensures that the allocation of public funding for individual research proposals are best taken following evaluation by an independent council of experts and not directly by a Government Department or Minister. If these decisions are to be made by the ARC Board, then it must be done on the same basis that is following the advice of a rigorous peer review evaluation by expert committees.

Funding arrangements

Funding arrangement

The Government intends to amend the ARC Act by:

- a. updating the purpose of the ARC Research Endowment Account, currently in the ARC Act, to enable it to administer all administered funding for the ARC, including the NCGP and any nationally significant program investments outside of the NCGP
- b. replacing the Special Appropriation arrangements for ARC's administered funding to Annual Appropriation
- c. removing the requirement for the Minister for Education to split funding between different categories of research programs.

While the Go8 notes the flexibility provided to (presumably) the ARC Board in removing the requirement for the Minister for Education to split funding between different categories of research programs, the Go8 believes that it is also important that there is an explicit and transparent level of support for basic research mandated for the ARC.

National security reporting

National security reporting

The Government intends to amend the ARC Act to provide for the Minister for Education to retain the right to direct the ARC to not fund or to recover funds from research grants based on national security concerns, including those identified by the National Intelligence Community agencies. If the Minister for Education intervenes in a grant decision outcome, the Minister will write to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) advising of the decision and offering a private briefing. If the Ministerial power to intervene on a grant at award or post award stage has been exercised, the ARC will report the use of that power and the number of occurrences in their annual reporting to Parliament.

Under the ARC's standard assessment process, due diligence will be undertaken based on the University Foreign Interference Taskforce (UFIT) Guidelines in consultation with the national security agencies, including the adoption of risk-based frameworks.

The Go8 supports the retention by the Minister of Education of the right to not fund or to recover funds from research grants on the basis of national security concerns. These decisions should be based on advice from National Intelligence Community agencies. There should also be due transparency on these decisions including – as suggested – by reporting to PJCIS and reporting by the ARC. In addition, where possible the institution administering a grant which the Minister has determined not to fund or to recover funds from on national security grounds should be provided an explanation of the reasons for this action.

UFIT Guidelines are an appropriate guide for due diligence that institutions must undertake in countering potential national security threats through research grants. In using this same benchmark for due diligence in assessing grant applications, the ARC must be resourced with the specialist expertise to undertake these assessments – in consultation with national security agencies - and be transparent in the processes by which it does so.

If you have any questions regarding this response from the Go8, please do not hesitate to contact me on 02 5123 6701 or via email at chief.executive@go8.edu.au.

Yours sincerely,



VICKI THOMSON
CHIEF EXECUTIVE