



**BOND UNIVERSITY**

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Hon. Robert S French AC  
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Dear Judge

I am writing in response to your letter of 8 February 2019 regarding the Freedom of Speech Review in Australian Higher Education and the proposed Draft Model Code.

As we have previously advised, Bond University has a deep and abiding commitment to the principles of free expression and the expectation of unhindered intellectual inquiry that are embedded within the concept of academic freedom as defined in your report. This commitment is supported by our robust policy framework, which sets out the rights and responsibilities of all staff, students and visitors in this regard.

The Australian Higher Education sector is made up of an increasingly diverse set of institutions, with different histories, governance and ownership structures, and governing statutes. A continual challenge when dealing with the sector is striking an appropriate balance between a sector-wide approach, whilst allowing for the nuances and specific circumstances of individual institutions. We believe that institutional autonomy and flexibility is aligned to our national interest in ensuring a vibrant, responsive and diverse higher education sector.

We note that the Draft Model Code is very broad in its scope and application and, if it were to be introduced as part of enforceable regulation, the implications for different institutions would vary widely and potentially be problematic. We point to specific matters below.

1. The Code appears to take the position that all Australian universities are located on public land with facilities that might be viewed as public property. The Code then limits the circumstances under which a university might control entry of visitors onto its campus. While this might be a reasonable position to take at a publicly owned and funded institution, it would be inconsistent with the notion of a private university (such as Bond University) which owns its land and buildings within a private model. Indeed, it is difficult to think of similar circumstances where a code like this seeks to overrule established legal principles of private property rights.
2. In the specific case of Bond University, the university has a right to control access to its land and facilities, of which it is the registered proprietor in fee simple. In this context, the conditions proposed in the Code which would allow refusal of visitors are impracticably narrow.

3. The definition of invited visitor is very broad. It should not be expected that every student society or association or group of students or representative body, or member or members of the academic staff, should be able to act on behalf of the University in inviting visitors to use the University's land or facilities. Universities are institutions that engage several thousand students and staff members and it is both impractical and inappropriate to imply that every individual can act on behalf of the institution.
4. The definition of academic freedom in the Code infers that academic staff and students are free to make comment, in their capacity as an officer of the university, on issues that may be outside of their subjects of study or research, if their opinion relates to the University. In this sense, the definition of academic freedom in the Code is at odds with other elements of the same definition and the application of scholarly standards that would otherwise be expected. For instance, the Code provides the right for staff and students to make comment on areas outside of their subjects of study and research in a private capacity only.
5. The rights established by the Code work in one direction only. Restrictions are placed on the institution, but there appear no corresponding obligations placed on the person or group who is granted rights to behave professionally or reasonably. While these obligations may be implied, the detailed and explicit nature of outlining institutional responsibility sits rather starkly in the absence of personal responsibility.

Thank you for the opportunity to comment on the Draft Model Code. On balance, we submit that the draft Code does not meet the objective of affirming institutional autonomy. We do not agree that it would be appropriate for the current draft Code to prevail over the local regulations and policies in place at each University, and specifically Bond University.

Yours sincerely



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**Vice-Chancellor and President**

cc: Secretariat for Review of Freedom of Speech