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Critical Infrastructure Reform Team
Australian Government Department of Home Affairs
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Dear Critical Infrastructure Reform Team

Re: *Security Legislation Amendment (Critical Infrastructure) Bill 2020*

Thank you for the opportunity to comment on the *Security Legislation Amendment (Critical Infrastructure) Bill 2020*.

Charles Darwin University (CDU) is broadly supportive of the intention of this legislation. Security of higher education and research infrastructure is vital to a secure national asset portfolio. CDU takes its responsibilities in relation to cybersecurity very seriously and is well advanced in implementing the Essential Eight mitigation strategies recommended by the Australian Cyber Security Centre.

Universities are currently in scope for a raft of substantial legislative and regulatory amendments in various aspects of national security and national interest. Combined, these potentially create overlapping regulatory and oversight regimes in the sector and appear to be uncoordinated at the federal government level. This regulatory burden risks diverting increasing amounts of scarce resource from the core business of universities – teaching and research. CDU strongly supports improved coordination across Australian Government departments and agencies on national security and associated matters in the university sector, including this Bill, to ensure a coherent, cohesive and efficient approach.

CDU is a relatively small dual sector, research intensive university with many collaborative arrangements with universities and partners throughout the Asia-Pacific region and beyond to share our research expertise in areas critical to the region. As a small, regionally based institution, CDU does not have the resources to implement the requirements of the new Bill, particularly in relation to the proposed positive security obligations which are expected to require significant investments in new assets and training for the university, imposing an obligation that would be onerous, resource intensive and badly targeted.

Scale, complexity, capability and threat landscape are different from university to university. The current Bill does not support a risks-based approach to critical infrastructure but rather a 'blanket' approach which is not, in our view, proportionate to risk. It is also unclear what the actual problem is that this Bill is seeking to resolve. In its current form, it will impose significant additional cost and reporting burdens on universities, based on unclear rationale, at the same time the Australian Government is reducing funding to the sector.

The university sector as a whole has been negatively impacted by the impacts of COVID and will be financially challenged in responding to the potential of increased costs imposed by this legislation. It is noted that a quantitative Regulatory Impact Statement has not yet been drafted and will be prepared when the sector-specific rules are being developed in 2021. This is unsatisfactory because it will make it extremely difficult for universities to ascertain what the costs and implications of implementing these new obligations will be. The wide-ranging nature of the legislation, the significant powers that it provides to

Government, and the complex and costly burdens it has the potential to impose on universities, means that waiting for the specific rules to be developed after the Bill has passed present major financial and operational risks for CDU.

Infrastructure, and in particular physical and electronic assets such as campuses, research labs and computing infrastructure and networks, which are considered under the Bill as 'critical education assets', are often shared between two or more providers. Higher education is by nature a collaborative sector, not just domestically but internationally. Extending the definition as proposed places significant reporting burdens to provide ownership and operator information, adopt and maintain a risk management program to a standard required by the Australian Government and mandatorily report all serious cyber security incidents.

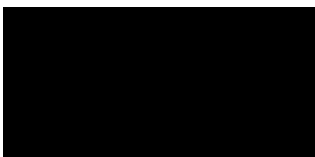
CDU is a member of the Australasian Higher Education Cybersecurity Service (AHECS) which was specifically formed as a whole-of-sector initiative in response to growing cybersecurity threats to the higher education sector. It is unclear to what degree AHECS has been consulted in relation to the Bill.

AHECS is already supporting the ability of universities to continue to operate in the face of cyber disruptions, aiming for minimal negative impact on stakeholders (students, staff, third parties, other universities, government, industry) and teaching and research. Based on the National Institute of Standards and Technology (NIST) Cybersecurity framework, this is being achieved through coordination of the substantial human assets of the higher education sector to inform direction, advocate, share intelligence, reduce barriers to the implementation of good practice, identify and act on capability gaps, and holistically defend the sector from continuously evolving cyber security threats in conjunction with key vendors.

Further, the Bill proposes that the government can take direct action over a university's assets if it is in the national interest. Our view is that taking direct action should only be used in a case of extreme risk, following consultation with the Vice-Chancellor (as Chief Executive of the organisation) and the institutions governing body.

CDU is a member of the peak body Universities Australia (UA) and the Innovative Research Universities (IRU) network, which are also making submissions regarding this Bill. CDU supports the points raised in these submissions and strongly recommends that Government work with the university sector in developing a more suitable implementation timeframe that, at the very least, clearly outlines the rationale for including universities and takes into account the level of financial investment required to implement these changes.

Yours sincerely



Professor Simon Maddocks
Vice-Chancellor and President