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Department of Home Affairs
Canberra

Submitted via <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/protecting-critical-infrastructure-systems/submission-form>

Protecting critical infrastructure and systems of national significance

Thank you for the opportunity to make a submission to the Government reforms, as detailed in the 'Protecting Critical Infrastructure and Systems of National Significance' consultation paper.

The University of Sydney agrees with the policy objectives of these reforms and that the proposals apply to universities. We note, however, that while it is vital that critical infrastructure is protected and that it is important to get these reforms right, we would also seek to emphasise that a proportionate and workable response is required.

We have contributed to and endorse UA's submission to this consultation process, and acknowledge that there is much work to be done to ensure that universities do not end up with a set of obligations that are too onerous and costly to resource.

We would also like to make the following points on these key issues:

Processes for identifying infrastructure

One of the obligations on specific critical infrastructure owners and operators under the *Security of Critical Infrastructure Act 2018* (the Act) is the provision of ownership and operational information to the Commonwealth including information to enhance visibility of entities' supply chain and outsourcing arrangements. Universities have such extensive infrastructure use and sharing arrangements with health and other sectors that tracking and reporting on individual arrangements can be an onerous and resource-intensive task.

Unless there is a clear focus on infrastructure that unambiguously meet clear criteria, gained through sector-wide discussion with the Commonwealth and common understanding in the sector (which share infrastructure in many instances) such a regime could impose open-ended resource requirements.

We think it essential the sector and the Government work together to deliver clarity and certainty on ownership and operational information required.

Reporting obligations

We also wish to flag that some reporting obligations will weigh heavily on the university sector, for example, the current obligation under the Act for a responsible entity to report any outsourced arrangements in relation to bulk holdings of personal information and sensitive information which we assume is confined not just to information held under the Privacy Act 1988 but also to information held under various state privacy legislation.

In addition to information on staff, students and thousands of individual research collaborators we also hold information about tens of thousands of clinical trial participants which while largely de-identified may be identifiable during the recruitment process. In addition to the close involvement of our regulator, we think it important the Commonwealth involve relevant stakeholder bodies in the consultation process, for example, ARC and NHMRC, but there are numerous others, as relevant, to ensure alignment with other government reporting requirements.

Positive Security Obligations

Until we have a clear picture of the framework element which might apply to the sector and the individual universities within that sector, we cannot anticipate the time and financial cost which might be required to (a) identify current status of various infrastructure; and (b) to meet security obligations. Broadly stated obligations can be unclear as to scope and the required cost to achieve outcomes.

Any consultation with the sector would need to include a prior disciplined costing exercise to ensure the ability of the sector to meet its obligations under the legislation. Depending on the scope of work and cost involved, some flexibility in prioritising the meeting of obligations and the timeframes in which those obligations might be met would need to be struck between the Commonwealth and the sector. Given the extent to which the sector shares some infrastructure, consideration would be given to a single shared model for the sector.

There will be considerable opportunity for cost management if the consultation process is used as an opportunity to develop a shared understanding in the sector of the activities required to execute the positive security obligations (PSO). We are pleased that regulators will continue to work with entities to co-design sector-specific requirements and guidance to ensure the PSO is applied. Can we suggest that this is formalised in the legislation via a working group and/ steering committee which works with the regulator to take back developments to the sector.

Engagement to enforcement

We would like to see an intermediate step between “Compliance with Obligations” and “Issuing Security Notices”. There may be a gap in communication and understanding and other obstacles not understood such as availability of funding to achieve PSO which requires discussion and clarification and establishment of a revised plan to achieve PSO. This would avoid the issue of a security notice and any unachievable time frame that might involve.

In a practical sense, we are supportive of a consistent approach from Commonwealth agencies through the provision of guidance, threat advice and briefings so that we can be proactive rather than reactive in this space.

Thank you again for this opportunity and we trust that this feedback is helpful. Should the Department require anything further from the University, please do not hesitate to contact Mr Tim Payne, Director, Higher Education Policy and Projects, in my office ([REDACTED], [REDACTED]).

Yours sincerely,

(signature removed)

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