

# Applicants' Response to Submissions

**Re: AA1000585; University of Adelaide & Ors' application for authorisation and urgent interim authorisation (ss 88(1) and 91(2)(d), *Competition and Consumer Act 2010* (Cth))**

1. **Applicants' response to submission by Council of International Students Australia (CISA)**
  - 1.1 The Applicants acknowledge and adopt the submissions made by CISA. In particular, the Applicants note CISA's support for full authorisation, noting such authorisation would, as identified in the Application, enable the successful safe return of international students to Australia.
  - 1.2 The Applicants also note the reference to the Sector Reference Group (**SRG**) chaired by Study Adelaide in the CISA submission, and confirm that each of the Applicants has been and remains a participant in the SRG.
2. **Applicants' response to submission by Carnegie Mellon University Australia (CMU)**
  - 2.1 The Applicants note that CMU unfortunately appears to have developed some misconceptions about the proposed arrangements and, in particular, the extent to which State Government financial support is likely to be made available. As noted in the Application, although the South Australian Government has determined the location of the quarantine site to be used, and also mandated the manner in which the quarantine site must operate from a clinical and compliance perspective, it has also required the commercial arrangements which must be organised in accordance with those requirements to be arranged and borne by the education sector directly.
  - 2.2 Given the extent to which clinical and compliance obligations have been mandated, the majority of the costs are non-negotiable, and the mandated nature of a number of components of the arrangements limits the ability to affect or influence those costs. In relation to the logistical and support services which are to be negotiated by the sector directly with the private quarantine accommodation provider and independently of the South Australian Government, there is some limited scope to seek to reduce costs and, where available, those have been identified, but it must also be noted that the constantly changing environment - including, for example, frequent changes to the Restrictions - also results in market impacts on pricing for those services.
  - 2.3 The CMU submission asserts that the cost of the Project as proposed will be prohibitive to smaller education providers, meaning they will not be able to participate and that this will have 'harmful' results, including unspecified 'anti-competitive effects', both within South Australia and as between South Australia and other domestic and international jurisdictions. The basis for those assertions, as well as the assertion that the Project would constitute a 'trade barrier for the sector', is not identified or substantiated. The Applicants refer to and maintain reliance upon the matters set out in the Application and in particular, in Part 12 of the Application, in response.
  - 2.4 It should also be noted that collaboration to reach any agreement between the Applicants to absorb or bear some or all of the costs of these services and to accept the

quarantine accommodation costs and commercial terms offered by the quarantine site provider is only one aspect of the Proposed Conduct.

2.5 The Applicants note that CMU does not appear to deny the importance of the Project or its anticipated public benefits. Whilst the Applicants are of course sympathetic to the concerns raised by CMU about the costs to smaller providers, the Applicants do note that the Project:

- (a) is inclusive (ie, any relevant education provider can opt-in);
- (b) is unavoidably expensive given it:
  - (i) must be arranged outside the general international returns process;
  - (ii) involves dedicated charter flights;
  - (iii) requires the refitting and repurposing of a facility which has been nominated by the Government and in accordance with the quarantine and security requirements of the Government;
- (c) is not being underwritten by the Government, but is being funded by the education sector participants (with some limited student contribution);
- (d) cannot feasibly be compared with the medi-hotel arrangements as those arrangements are not available to the students (unless they return to Australia other than by way of the Project); and
- (e) is voluntary, and only seeks contributions from education providers who choose to participate and, then, on the same terms as other participants and only in proportion to the extent of their participation.

2.6 The Applicants have sought, in taking steps thus far to formulate a proposed model by which the Project can proceed, to take an inclusive, transparent and fair approach. It would be unreasonable, and inequitable, to require an approach where larger providers were required to subsidise the involvement of smaller providers in order for authorisation to be provided. It is, in the Applicants' submission, entirely appropriate for those providers who choose to participate to bear costs of doing so on a pro-rata basis, in proportion to the extent of their involvement (which as noted above, remains voluntary). In this respect it should also be noted that the Applicants have to date borne any upfront costs, and risk, associated with the development of the Project, which will ultimately benefit any sector participants who choose to participate (should authorisation be granted).

2.7 The Proposed Conduct is also no impediment to sector participants encouraging their students to independently seek exemptions and undertake medi-hotel quarantine, and even offering contributions to assist students to do so, should that be considered a more viable and cost-effective option by any individual education provider.

2.8 Given the need for urgency, as detailed in Part 7 of the Application, the suggestion that the interim authorisation process be extended or delayed is opposed by the Applicants. Delay would cause prejudice to students needing to return for placements or studies in advance of the commencement of the first semester in 2022.

- 2.9 The Applicants note that, as a SRG participant, CMU (and other participants) have had ample opportunity to consider the proposed arrangements and should have a fulsome understanding of the limitations imposed by the requirements of the State Government's plan to return international students to South Australia.
- 2.10 The Applicants have been proactive participants of the SRG and each other sector participant, including CMU, has been provided with multiple opportunities to discuss the Project amongst themselves and with the Applicants, who do not accept the CMU's submissions with respect to a lack of transparency or opportunity for involvement in the Project's design.
- 2.11 Multiple financial modelling scenarios have been presented to the SRG with variations of funding sources in each, to enable sector participants to assess those costs further, ask questions, or suggest alternatives. Whilst a lot of work has been done by the Applicants, as advised to the SRG, to try and bring those costs down where possible, they are significantly impacted by the quarantine and security models required by SA Health and South Australia Police. A detailed summary of the anticipated costs, as they are presently understood, is enclosed at **Confidential Annexure 1** to this Response.<sup>1</sup>
- 2.12 The Applicants would caution against seeking to compare the costs associated with the Project with costs under medi-hotel arrangements, as there are a number of false equivalences which can arise in undertaking that comparison. Nonetheless, it is evident that the security costs<sup>2</sup> for the Project are higher than required in medi-hotels, and the Applicants understand this is because of the cabin style layout and geographical footprint of the site, which requires not only multiple security cameras but also an expansive (and expensive) personnel presence with multiple foot patrols teams required day and night. Those site features, and their resultant impact on costs, are unavoidable, given the Government has at this stage only approved the use of the FTA site at Parafield for the purposes of the Project.
- 2.13 The Applicants also note that the out-of-pocket cost to individuals undertaking medi-hotel quarantine is not reflective of the actual costs associated with the provision of those services, which are in effect being subsidised by the South Australian Government (via the provision of South Australia Police staff undertaking security detail, and via the Government's contributions to the cost to the medi-hotel providers of the associated services, the details of which are not publicly available and are not known to the Applicants).
- 2.14 In light of the South Australian Government's requirement that the Project was to occur outside of the existing international arrivals caps, the need for urgency as discussed above and in the Application, and having regard to various discussions about the international student return plan with the State Government had by SRG participants including Study Adelaide and the Applicants, the Applicants determined that there was no utility in petitioning the Government further for financial assistance as a pre-condition to proceeding with the Project. However, it was and remains open to CMU, or any other sector participant, to make that request to the Government or to ask the SRG or Study Adelaide to do so, especially once the final costs associated with the Project are known.

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<sup>1</sup> The SRG, including CMU, have previously been provided with this detailed breakdown.

<sup>2</sup> [Redacted pursuant to confidentiality claim].

- 2.15 In the circumstances, it is respectfully submitted there is nothing raised in the CMU submission that would warrant any delay in the determination of the Applicants' application for interim authorisation or would prevent an interim authorisation being granted.

**CONFIDENTIAL ANNEXURE 1**

**[Redacted pursuant to confidentiality claim]**