

SUNSHINE COAST UNIVERSITY COLLEGE BILL 1994

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

The objective of the Bill is to provide for the establishment of a new University College on the Sunshine Coast. The Bill specifies the affiliation arrangements between the University College and the Queensland University of Technology and provides for a review of the affiliation arrangements and the status of the University College as soon as possible after 10 years from the commencement of the legislation.

Reasons for the Bill

A higher education institution can not be established as a university in Queensland unless it is established under an Act of the Queensland Parliament. In the interim phase of its development as a university, the institution will operate under the legislation as a University College affiliated with the Queensland University of Technology, until such time as it attains full university status.

Estimated Cost for Government Implementation

There are no administrative costs for the Government to implement the legislation. The Queensland Government has contributed \$3.3 million towards the development of the new University College by purchasing the land and providing water and sewerage services to the site. The Commonwealth Government is responsible for the remaining capital development on the site and for the provision of student places.

Consultation

All relevant Government Departments have been consulted as well as the Commonwealth Department of Employment, Education and Training. Consultation has occurred with chairs of relevant Shire or City Councils, members of the Sunshine Coast community, Members of the Legislative Assembly representing the Sunshine Coast region, the National Tertiary Education Industry Union, the Queensland University of Technology, the Sunshine Coast University Association, the Sunshine Coast University College Planning Committee and the Parliamentary Legislation Committee for Education.

NOTES ON PROVISIONS

Clause 1 provides for the short title of the Act.

Clause 2 provides that the Act commences on 1 July 1994, except for the provisions relating to Convocation and the Union which commence on 1 January 1996 and provisions relating to the members of the Council (other than the first Council) which commence on 1 July 1996. The clause also provides that if necessary the Governor may by proclamation fix a day sooner than 1 January 1996 for the provisions relating to Convocation and the Union to commence and may by proclamation fix a day later than 1 July 1996 for the provisions relating to the members of the Council (other than the first Council) to commence.

Clause 3 provides the meaning of various terms used in the Act.

Clause 4 provides the meaning of the term “academic staff”.

Clause 5 provides that the University College is established and is a corporation.

Clause 6 specifies the main functions of the University College.

Clause 7 specifies the general powers of the University College.

Clause 8 provides that the governing body (“the Council”) of the University College is established.

Clause 9 provides for the functions of the Council.

Clause 10 specifies the powers of the Council.

Clause 11 specifies the way the Council must act.

Clause 12 provides for the Council to delegate its powers under the legislation to certain persons and specifies the matters in relation to which the Council must not delegate its powers.

Clause 13 specifies the composition of the Council.

Clause 14 specifies that persons in certain designated positions are the official members of the Council.

Clause 15 provides that there are 8 appointed members on the Council and that those members must be appointed by the Governor in Council.

Clause 16 provides that there are 8 elected members on the Council, specifies the composition of those members, specifies how those members are to be elected and provides that the Council may approve of the Convocation appointing its elected members instead of electing them.

Clause 17 provides that the Council is taken to be constituted when it has 10 or more of its members.

Clause 18 provides that the Council may appoint 2 additional members but an additional member must not be a member of the University College's academic or full-time general staff or a student enrolled in the University College.

Clause 19 provides that an appointed member's term of office is not more than 3 years.

Clause 20 provides that an elected member's term of office is 3 years and specifies when an elected member's term of office starts.

Clause 21 provides that an additional member's term of office is not more than 3 years.

Clause 22 provides for a limitation on consecutive terms of office by providing that a person must first obtain the Minister's approval before serving more than 2 consecutive terms of office as an appointed or additional or elected member of the same type.

Clause 23 provides that if an entity fails to elect or appoint, any or the required number of persons as elected members by a day fixed by the Council, the Minister may appoint to the Council as many members of the entity as are necessary to satisfy the provisions of Clause 16 in relation to the composition of the elected members.

Clause 24 provides that when an appointed member temporarily cannot perform the functions of the office, the Governor in Council may appoint a person to act as an appointed member; when an additional member temporarily cannot perform the functions of the office, the Council may appoint a person to act as an additional member; and when an elected member temporarily cannot perform the functions of the office, the entity that elected or appointed the member may appoint a person to act as an elected member.

Clause 25 provides that if there is a vacancy in the office of an appointed member another person may be appointed by the Governor in Council; if there is a vacancy in the office of an elected member appointed by the Convocation, another eligible member of the Convocation may be elected or appointed; and if there is a vacancy in the office of another elected member another eligible person may be elected.

Clause 26 specifies the circumstances which make a person ineligible for membership on the Council as an elected, appointed or additional member.

Clause 27 specifies under what circumstances the office of an elected, appointed or additional member becomes vacant.

Clause 28 provides that the Chancellor is to preside at meetings of the Council and if the Chancellor and Deputy Chancellor are both absent the members present must elect a member to preside at the meeting.

Clause 29 specifies that a quorum exists at a meeting of the Council if half the members are present.

Clause 30 provides that subject to requirements prescribed in the Bill the Council may regulate its own proceedings as it considers appropriate.

Clause 31 provides for the position of Chancellor of the University College; for the Chancellor to be elected by the Council; and for the Chancellor's term of office to be fixed by the Council and to be no longer than 5 years.

Clause 32 provides for the position of Deputy Chancellor of the University College; for the Council to elect a member of the Council as Deputy Chancellor; for the Deputy Chancellor's term of office to be 1 year and for the Deputy Chancellor to act as Chancellor in certain circumstances.

Clause 33 provides for the position of Vice-Chancellor of the University College; for the Council to appoint the Vice-Chancellor and to determine the

Vice-Chancellor's terms of appointment and that to have legality the appointment and the terms of appointment must be approved by the Governor in Council. This clause also provides that the Vice-Chancellor is the chief executive officer (accountable officer) of the University College and that the Vice-Chancellor may delegate the legislative powers of the Vice-Chancellor to a member of the University College's staff.

Clause 34 provides for the Council to appoint a person to act as Vice-Chancellor in certain circumstances.

Clause 35 provides that the University College is affiliated with the Queensland University of Technology.

Clause 36 provides that the University College and the Queensland University of Technology must enter into an agreement about the terms of affiliation.

Clause 37 specifies the purpose of the affiliation in connection with the Commonwealth Government's current policies in relation to higher education and provides that the Queensland University of Technology is to help the University College become a provider of higher education in the region served by the University College and specifies the main ways in which that purpose is to be achieved.

Clause 38 provides that the Vice-Chancellor of the University College may, under an agreement with the Vice-Chancellor of the Queensland University of Technology, offer certain facilities for Queensland University of Technology staff and students.

Clause 39 provides for the management of funds provided by the Commonwealth Government to the Queensland University of Technology for the University College and funds agreed between the Queensland State Government and the Queensland University of Technology for the University College, to be paid into a separate fund.

Clause 40 provides that if there is a dispute about any aspect of the affiliation that cannot be resolved, either the Queensland University of Technology or the University College may ask the Minister for Education to resolve the dispute.

Clause 41 provides that a Convocation of the University College is established; that the Council is to decide the membership of the Convocation by making a University College statute and that the Council is to decide certain matters in relation to the Convocation.

Clause 42 provides that a University College Student Union is established and is a corporation.

Clause 43 specifies the persons who are eligible to be members of the Union.

Clause 44 provides that the Union's role and powers are decided by the Council.

Clause 45 provides that although the Council decides the Union's role and powers the Union is not the employee or agent of the Council.

Clause 46 specifies the general powers of the Union.

Clause 47 provides that the Union must have a written constitution; that the constitution and each amendment must be submitted to the Council for approval; and that the constitution or amendment has no legality until approved by the Council.

Clause 48 provides that, under certain circumstances, the Council may devise a scheme to use property held by the University College on terms that require the property to be used for a particular purpose (the "donor's purpose"), for another purpose (the "designated purpose").

Clause 49 specifies the type of purpose the Council must have preference for in selecting a designated purpose.

Clause 50 provides that a scheme to use the property for a designated purpose has no legality until it is approved by the Governor in Council and notified in the Government Gazette and that a copy of the scheme must be given to anybody who requests it.

Clause 51 provides that property that applies to an approved scheme must be held by the University College for the designated purpose instead of the donor's purpose.

Clause 52 provides that if an approved scheme applies to land, the University College must give a copy of the approved scheme referred to in clause 50 of the Bill, to the person responsible for keeping a register of interests in the land.

Clause 53 provides for the amendment of an approved scheme.

Clause 54 clarifies that the Bill does not limit the University College's powers and rights under any other law about property held in trust by the University College.

Clause 55 provides that the University College may agree to and carry out any conditions of a gift, grant or similar acquisition by which it takes or acquires property.

Clause 56 provides that subject to clause 57 of the Bill, State land is held and may be disposed of under the *Land Act 1962*.

Clause 57 provides that the University College may grant a lease over State land and specifies the conditions that apply to the lease and the term of the lease.

Clause 58 provides that the University College may establish or administer trust funds.

Clause 59 provides the University College with powers of investment, in particular the authority to establish an investment common fund.

Clause 60 provides that the University College may invest funds held by the University College but only in authorised trustee investments.

Clause 61 provides that revenue received by the University College from any source must be applied to University College purposes only and specifies such purposes.

Clause 62 provides that the University College with the approval of the Governor in Council may obtain advances by way of loans and that the Treasurer's sanction is required for certain loans.

Clause 63 Although the University College by virtue of its governing body (the Council) satisfies the criteria for a statutory body as defined in the *Statutory Bodies Financial Arrangements Act 1982*, to remove any doubt this clause declares that the University College is a statutory body under that Act.

Clause 64 provides that the Council must adopt a budget each calendar year for the following calendar year and must review annually the funds received by bequest, donation or special grant and the spending of such funds.

Clause 65 Although the University College by virtue of its governing body (the Council) satisfies the criteria for a statutory body as defined in the *Financial Administration and Audit Act 1977*, to remove any doubt this clause declares that the University College is a statutory body under that Act.

Clause 66 specifies that the University College's financial year is a calendar year.

Clause 67 provides for the Council to make University College statutes and provides that statutes may only be made about specified matters.

Clause 68 specifies that a University College statute is subordinate legislation and as such it must be Tabled in the Legislative Assembly, is subject to disallowance by the Parliament and must be published in full in the Government Gazette. The clause also declares that a University College statute is an exempt instrument which means that it does not have to be drafted by the Office of the Parliamentary Counsel and does not have to be approved by the Governor in Council.

Clause 69 provides that the Council must not make a University College statute affecting the University College Student Union's role or powers unless the Council gives the Union a copy of the proposed statute 28 days before the statute is made.

Clause 70 provides for the Council to make University College rules under a University College statute.

Clause 71 provides for the Vice-Chancellor to appoint authorised persons and security officers for the purpose of traffic control (e.g. controlling the driving, parking or standing of vehicles on University College land) and for the purpose of controlling the conduct of certain persons (e.g. dealing with persons who are drunk, disorderly or creating a disturbance on University College land).

Clause 72 provides for the conditions of appointment of the authorised persons and the security officers.

Clause 73 provides that the Vice-Chancellor must issue an identity card to each authorised person and security officer.

Clause 74 provides that an authorised person or security officer may exercise their powers under the legislation only if the person or officer produces or has displayed his or her identity card.

Clause 75 provides that an authorised person may control traffic on University College land and give directions to persons on the land in order to control such traffic.

Clause 76 provides for the Vice-Chancellor to erect or display a "regulatory notice" regulating the driving, parking or standing of vehicles

on the land and specifies examples of the matters that would be included on the notice. The clause also allows the Vice-Chancellor to erect and display “regulatory notices” in the form of official traffic signs.

Clause 77 provides that if a “regulatory notice” does not state that a breach of a requirement of the notice is an offence under the legislation the Vice-Chancellor must erect or display “information notices” stating that a breach of a requirement of a “regulatory notice” is an offence and stating the penalty for such an offence.

Clause 78 provides that an authorised person may seize, remove and hold a vehicle at a safe place that the authorised person believes on reasonable grounds is parked in breach of a “regulatory notice” or is abandoned. The clause provides that the authorised officer may exercise such powers only under specified circumstances and that if the vehicle is seized the University College must inform the owner in writing of where the vehicle is held and how the owner may recover it. The clause also provides that if the vehicle was parked in breach of a “regulatory notice” the owner must pay to the University College the cost of seizing, removing, holding and returning the vehicle.

Clause 79 provides that if the owner of a vehicle that is being held does not recover the vehicle within 2 months after written notice of where the vehicle is held and how it may be recovered is given, the University College may, after publishing a notice in a newspaper sell the vehicle by public auction.

Clause 80 specifies how and in what order the proceeds of the sale of the vehicle must be applied.

Clause 81 provides that a person must not be disorderly or create a disturbance on the University College’s land.

Clause 82 provides that a security officer may direct a person to leave the University College’s land or part of the University College’s land if the security officer finds the person breaching clause 81 of the Bill or for other specified reasons.

Clause 83 provides that the University College may form and take part in corporations that have certain objects and specifies the main objects.

Clause 84 provides that the University College may enter into a contract or other arrangement with an entity for the use of the University College’s facilities and staff.

Clause 85 The *Higher Education (General Provisions) Act 1993* protects the standing of universities in Queensland and the use and conferring of higher education awards. The University College will not be a university until it attains full university status. To allow the institution to use the title “University College” in its name, to use and confer higher education awards and to be the accrediting authority for courses that lead to awards that it offers the clause declares that the University College is to be treated as a university for the purposes of the *Higher Education (General Provisions) Act 1993*.

Clause 86 Although the legislation can be reviewed at any time, the clause provides that in relation to the University College attaining full university status the Minister must review its status and affiliation arrangements after 10 years from the commencement of the legislation.

Clause 87 specifies the composition of the **first** Council and provides that the Planning President is a member of the **first** Council until the Vice-Chancellor takes office.

Clause 88 specifies the persons who are to comprise the other members that must be appointed by the **first** Council as soon as possible after the **first** Council is constituted.

Clause 89 provides that if the **first** Council fails to appoint a member under clause 88 of the Bill by a day fixed by the Minister, the Minister may appoint an eligible person as a member.

Clause 90 provides that the **first** Council is constituted when it has 7 or more of its members.

Clause 91 provides that when an appointed member of the **first** Council temporarily cannot perform the functions of the office the entity that appointed the member may appoint another person to act as a member.

Clause 92 provides that if a vacancy happens in the office of an appointed member of the **first** Council the entity that appointed the member may appoint another person as a member.

Clause 93 specifies the circumstances which make a person ineligible for membership on the **first** Council.

Clause 94 specifies under what circumstances the office of a member of the **first** Council becomes vacant.

Clause 95 provides that the **first** Council must take all action necessary to enable the second Council to be constituted no later than 1 July 1996 or if applicable, no later than the day fixed by the Governor by proclamation.

Clause 96 provides that the members of the **first** Council go out of office immediately before the provisions relating to the members of the Council (other than the first Council) commence, but the Chancellor and Vice-Chancellor do not cease to hold those offices merely because of the cessation of the **first** Council.

Clause 97 provides for the position of Planning President for the University College and provides that the Planning President holds office on conditions decided by the Council of the Queensland University of Technology and is seconded to the University College from the Queensland University of Technology.

Clause 98 provides that the Planning President has the powers and functions conferred by the Council of the University College and has the functions and powers of the Vice-Chancellor of the University College.

Clause 99 provides that the Planning President may delegate the Planning President's powers under legislation to a staff member of the University College.

Clause 100 provides that the Planning President may appoint a person to act as Planning President while there is a vacancy in the office or when the Planning President temporarily cannot perform the functions of the office.

Clause 101 provides for the cessation of office of the Planning President.

Clause 102 provides for the transitional provisions relating to the **first** Council in Part 9 of the Bill to expire immediately before the provisions relating to the members of the Council (other than the first Council) commence.