Appendix A: Summary of each amendment proposed by the AVCC

1. Amendments that the Government has yet to agree to consider

Amendments to implement policy issues identified in *Excellence and Equity*

33-15(1)	The AVCC is opposed to the tying of additional core funding to governance and workplace relations requirements. The tie should be removed.
Section 41-45	To ensure the new arrangements provide a balanced set of incentives for universities and do not impact unfairly on some students there needs to be an equity loading. Funding should be provided as "Grants to promote equality of opportunity in higher education", as set out in Section 41-10(1).
Section 46-40	The Government's scholarships are too few in number and should be doubled. This section should be amended to increase the appropriation amounts to allow for twice as many scholarships.
Para 143-1(3)(b), Sub-para 143-10(1)(b)(ii)	Government loans to students on an income contingent basis should not be subject to interest. The provisions for interest on FEE-HELP and OS-HELP must be removed.
Sections 154-10 and 20	To ensure that the new flexible HECS and fee arrangements are fair, the repayment threshold for HELP loans should be $35,000 in 02-03 values and the other thresholds adjusted accordingly.

Amendment to address policy issues arising from the *Bill*

Section 19-90	Section 19-90 should be amended to allow: ▪ universities to set and hold contribution and fee levels for particular intakes of students while setting different levels for subsequent intakes; and ▪ universities to set lower contribution and fee levels for designated groups of students.
Para 36-55(1)(b)	Universities have the responsibility to charge fees sufficient to provide effective education for fee-paying students without cross-subsidising those students from Government payments for students in CGS places. The AVCC accepts that the minimum should be the student contribution but the Minister should not be able to set higher base fee levels in the future without amending the Act.
Section 174-20	Universities have established effective systems to communicate with students electronically under the provisions of the existing Act. The Government is now changing the rules by requiring universities to get formal agreement from every student to do this. Universities should not need to get consent from students to gain receipt of e-notices where they ensure reasonable access to the notices.

Amendments to recognise universities' position as autonomous self-accrediting institutions

Division 22	The Minister should not be able to revoke Table A providers' approval as higher education providers. Any serious concerns about the operation of a university should be discussed with the university itself and its establishing jurisdiction, with any action to come from the establishing jurisdiction.
Sub-section 36-55(3)	Universities should be free to set fee levels for students in non-award courses to take account of the needs of those students and the cost to the university of their enrolment. The requirement that non-award fees must be at least equal to the student contribution is unnecessarily intrusive.
Section 104-10	104-10 allows the Minister to prevent access to FEE-HELP for students of particular courses. Students of all courses accredited by a university should be able to access FEE-HELP without the Minister second-guessing which courses are worthwhile. This provision should not apply to Table A and B providers.

Amendments to remove other provisions intrusive into universities' operational decisions

Sub-sections 19-35(2)(3)	Selection procedures should be open, fair and transparent. The requirement that selection be 'based on merit' should be deleted. To require merit as the sole factor for selection of students could open up challenges to university admission arrangements that take account of factors other than academic capacity and potential such as priority for applicants from the region or use of interviews to assess suitability.
Section 19-60	Universities believe that they are covered by a mix of State privacy laws and the Commonwealth's privacy act as it applies to private organisations. Hence the application of information privacy principles replicates existing requirements.
Section 19-80	This open and prescriptive provision for access for audit and compliance requirements is unacceptably broad and unnecessary for effective audit of university activities in relation to funding and should be deleted. Universities are not contractors to the Commonwealth such that the recommendation of the Joint Committee of Public Accounts and Audit's recommendations of 1999 are not relevant; nor has that recommendation been taken up otherwise.
Sub-sections 174-5(4) and 174-10(4), Section 174-25	The proposed Administrative Guidelines do not need to intrude into how universities' systems interact with students. Table A providers should be exempt.

Amendments to ensure ministerial accountability to Parliament

Section 41-45	The 11 appropriation amounts should be separately declared in a disallowable instrument.

2. Amendments that the Minister is currently considering

Amendments to recognise universities' position as autonomous self-accrediting institutions

Sections 3-1, 8-1, 13-1	Universities are the major group of providers. The distinction between universities and other self accrediting institutions in Tables A and B from other providers approved by the Minister should be included in these explanatory sections.
Section 22-35	For all providers the decision to revoke approval should not take affect until the Parliament has had the opportunity to disallow the decision. Section 22-25 should be amended to ensure this.
Section 30-10	The distribution of the places allocated to a university across funding clusters should take account of each university's proposal for their distribution and not be solely at the Minister's discretion. This will ensure effective discussion between the Minister and each university.
Sections 30-25 (only some elements are currently being considered by the Minister)	The funding agreement is a significant part of the new arrangements. To ensure that the agreement is based on a real agreement between both parties and provides some certainty for universities both about their funding and about the funding for other institutions, the Minister should table the form of the funding agreement in Parliament, consult with each university about its agreement, include indicative 2 year out-year funding levels in the agreement and publish each agreement once signed. The examples of the possible content of the agreement should be deleted. They include provisions that act against universities' responsibilities to accredit their own courses by allowing the Minister to prevent universities from being funded for certain courses.
Sub-section 33-25(1)	The Minister has recognised that universities cannot control the number of students precisely by allowing universities to enrol up to 105% of their allocation and retain the HECS for all those students. If a university nevertheless enrols above 105% it should not lose income due to this nor should it gain additional income. The sub-section should be amended so that the CGS is reduced by the average HECS for the university for any enrolment beyond 105% of the allocation.
Sub-sections 33-25(3)-(5)	In addition to not being able to control the total number of students precisely, universities cannot limit students' choice of courses so precisely that they will enrol students in the precise clusters set out in the funding agreement. The *Bill* should provide that there is no reduction in the CGS for achievement of 99%-100% of the agreed grant amount. The provision for universities to receive funding of up to 101% of the agreed grant amount should be in the *Bill* not the CGS guidelines and should not be subject to the approval of the Secretary as proposed in the draft Guidelines.
Section 107-15	This section allows the Minister to limit how much FEE-HELP a student of a particular provider may receive. Table A and B providers should not be put at financial risk by the Commonwealth not wishing to support the successful provision of courses. Universities will establish courses on the basis that students can access FEE-HELP to pay the required fee.

Amendments to remove other provisions intrusive into universities' operational decisions

Section 19-5	The general financial viability requirement must be linked to the subsequent provisions in Section 19-10 to make clear that financial viability will be assessed against existing reporting requirements.
Paragraph 19-10(2)(c)	Universities will only receive their audited statements by 4 months from the end of the financial year making it impossible to guarantee provision to the Commonwealth at the same time. The requirement should be restored to the existing 6 months provision.
Sections 19-15 to 19-25	Universities agree that they should be subject to a suitable quality audit arrangement, as they are at present. The *Bill* needs amendment to ensure that the arrangements are both suitable and agreed between the Minister and the institution. This requires: ▪ the general requirement at Section 19-15 to be linked to the rest of Division 19 to make clear that those provisions set out how the quality requirement will be assessed; ▪ a new Section for Table A providers that sets down that they will be subject to a quality audit arrangement as agreed between the institution and the Minister; ▪ the existing Sections 19-20 and 19-25 should apply to Table B and other providers only; and ▪ Section 19-25 should be amended to ensure that the quality body engages fairly with each provider, agreeing suitable arrangements for the audit.
Section 19-45	Table A providers are required through university statutes to have grievance and related processes and are subject to Ombudsmen. They do not need detailed guidelines on how to have such processes in place, which might conflict with existing statutes and arrangements..
Section 19-70	The Minister's power under this Section should not be subject to delegation. Requirements for the provision of statistical and other information should prevent the provision of students' names and addresses other than for use to confirm that the required student identifier has been correctly supplied. Universities are concerned that the general provision of such information for the wider purposes of the *Bill* would leave students open to direct contact by the Minister or Department under the guise of explaining Government policy. The AVCC will support the limited provision of information necessary to ensure that the proposed CHESSN is correctly applied to the right person.
Section 19-75	This provision is open to a very broad reading. It should be amended to make clear that notification is only required of events that could have a significant impact on the university.
Sub-section 19-95(1)	Universities agree that it is essential that students have access to information on the charges proposed for each course as required by sub-section (2). The provision of lists of charges, required for the effective operation of the *Bill*, is covered by section 19-70 such that subsection 19-95(1) is otiose.
Para 46-20(2)(d)	An unnecessary detailed provision for Guidelines that intrudes into operational decision making.
Para 118-	It is not necessary that there be an arrangement with the overseas provider

10(b)	although it may well occur. The requirement should be deleted. The essential requirements are those in (a) and (c).
Sub-section 118-15(2) and Division 121	Various provisions take the Guidelines into unnecessarily intrusive areas.

Amendments to implement policy issues identified in *Excellence and Equity*

Section 73-20	The Government has indicated that it intends that learning entitlement can re-accrue over time but has yet to specify how this could occur. The *Bill* needs to be amended to allow for the Government to provide for re-accrual when it determines the precise basis for it and to do so by 1 January 2005.

Amendment to address policy issues arising from the *Bill*

Section 36-35	It is essential that the *Bill* be amended to reflect the Government's policy that the 50% rule should only apply to domestic students.
Sub-para 93-10(a)(ii)	It is important for confidence in the new arrangements that the maximum HECS levels not be changed (other than for indexation) without amendment to the Act. The Minister should not be allowed to change maximum HECS levels in future simply by instrument, even if disallowable.
Section 169-30	In communicating with the Government about individual students, universities should not provide students' names and addresses other than for use to confirm that the required student identifier has been correctly supplied.

Amendments to ensure ministerial accountability to Parliament

Section 16-25	The decision by the Minister to approve additional higher education providers involves an ongoing extension of the potential liability of the Commonwealth to provide FEE-HELP. The decision to approve additional providers should be disallowable.
Sub-section 19-105(3)	All of the Guidelines in the *Bill* are disallowable except for the arrangements to roll over the existing provisions for overseas student fee guidelines. These Guidelines should likewise be disallowable.
Division 51	The provisions for the reduction and repayment of grants involve important decisions relating to how much universities receive through grants. The formal decision should be by the Minister not the Secretary.