

Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Education
Name of the proposal	Amendments to <i>James Cook University Act 1997</i> to amend powers, size and composition of the Council of the James Cook University.
Submission type	Summary IAS
Title of related legislative or regulatory instrument	<i>James Cook University Act 1997</i>
Date of issue	20 March 2026

What is the nature, size and scope of the problem? What are the objectives of government action?

Summary

It is proposed to amend the *James Cook University Act 1997* (JCU Act) to streamline the Council membership composition framework to remove the current dual model framework and replace it with a single model that clearly sets out membership composition.

This will increase transparency, clarity about the composition of the Council, and provide legislative consistency with other university Acts.

Current legislative framework

The JCU Act establishes James Cook University (JCU) as an independent statutory body and provides for its governing body, the Council of JCU (the Council). The JCU Act prescribes the size, composition and functions of the Council, the powers of delegation and the power to make university statutes about certain matters.

Part 2 of the JCU Act provides for JCU's establishment and its Council. Part 2, Division 3 provides for Council membership if there is no membership resolution in place under Division 3A. This is the default and fixed model, consisting of 22 members, comprised of:

- official members (either two or three persons depending on whether the chairperson is the vice-chancellor or not);
- eight appointed members (appointed by Governor in Council);
- 10 elected members, with particular numbers assigned to specific groups, such as academic staff, professional and technical staff, undergraduate students and postgraduate students; and
- an additional member (must not be a member of JCU staff or a student) appointed by the council.

Under Division 3A, JCU can decide the size and membership class composition of the Council if a membership resolution is passed by a two-thirds majority of the governing body, subject to parameters under subdivision 2.

Current JCU Council composition adopted through a membership resolution

In 2017, the Council adopted a membership resolution that reduced its membership from 22 to 15 members. In June 2023, a further Council resolution was passed that increased the size of the Council from 15 to 16 members. The current 16 members comprise of:

- Three Official members;

- Three appointed members (appointed by Governor in Council);
- Four elected members (only one of which is a student of JCU).
- Six additional members;

The terms of appointment of ten members' terms are due to expire on 19 April 2026 (two appointed members; four additional members; four elected members). Also, one appointed member is due to expire on 19 April 2028 and the other two additional members' terms are due to expire on 19 April 2027 and 31 March 2028 respectively.

The official members' terms do not expire, noting they are the chancellor, vice-chancellor and, if the chairperson is not the vice-chancellor, the chairperson.

Identification of the problem and justification for proposed amendments

Currently, JCU is the only Queensland public university that holds discretionary power to determine its membership composition. Division 3A was inserted into the JCU Act by the *University Legislation Amendment Act 2017* (Qld) to address the Council's desire for increased flexibility and preference for a medium-sized council of between 15 and 18.

The current dual-model governance framework of the Council ultimately reduces transparency by enabling the Council to determine its size and composition.

Nationally, there is a focus on strengthening university governance, with increasing transparency of governance practices and ensuring governing bodies represent a broad and sufficient range of skills, knowledge, experience and perspectives to effectively govern, being high priority areas for reform.

It is proposed to amend the JCU Act to streamline the Council membership composition framework to remove the current dual model governance framework and replace with a single model that clearly sets out membership composition. This will ensure transparency, clarity about the composition of the Council, and create legislative consistency with other university Acts.

What options were considered?

Option 1 – No change to JCU Act and Council composition (status quo).

Option 2 – Amend JCU Act to remove the Council's discretionary power to determine its membership composition via a membership resolution (pre-2017 model).

Option 3 – Amend JCU Act to remove the Council's discretionary power to determine its membership composition via a membership resolution and amend the composition of the Council.

What are the impacts?

Option 1 – No change to JCU Act and Council composition (status quo).

Maintaining the current dual-model governance framework would continue a model that lacks transparency, with the Council determining their own size and composition. This is inconsistent with efforts nationally to strengthen university governance, including transparency and ensuring governing bodies represent a broad and sufficient range of skills, knowledge, experience and perspectives to effectively govern.

Maintaining the status quo also means the JCU Act will remain inconsistent with other Queensland public universities Acts, reducing legislative consistency.

This will have minimal impact to the governing operations of JCU.

Option 2 – Amend JCU Act to remove the Council's discretionary power to determine its membership via a membership resolution (pre-2017 model).

This option involves amending the JCU Act to remove the current dual-model governance framework, while retaining the current fixed model of the Council outlined in Part 2 of the JCU Act.

Removing the current dual-model governance framework will increase transparency by removing the ability for the Council to determine their size and composition and increase consistency with efforts nationally to strengthen university governance and other university Acts.

However, the current fixed model requires a much larger Council than is currently operating, with 22 members, comprising of up to three official members, eight appointed members, ten elected members, and one additional member.

The Council has been operating with 15-16 members since the first membership resolution was carried in 2017. Reverting to the current fixed membership composition may negatively impact the Council's ability to carry out its functions due to the larger size.

This would also impact the terms of appointment of current members, noting the current fixed model provides for one additional member, when the Council currently has six additional members, with four additional members due to expire 19 April 2026.

If the Council reverted to the current fixed model, this would end the term of appointment for one additional member early. This approach has the potential to limit human rights under the *Human Rights Act 2019* (Qld) and alignment with the fundamental legislative principles set out in the *Legislative Standards Act 1992* (Qld).

Further, this approach would significantly impact the governing operations of the JCU Council, whose size and composition would be altered. This may negatively impact the Council's ability to effectively govern.

Option 3 – Amend JCU Act to remove the Council's discretionary power to determine its membership composition via a membership resolution and amend the composition of the Council

This option involves amending the JCU Act to remove the current dual-model governance framework and amending the current fixed model of the Council outlined in Part 2 of the JCU Act.

As outlined above, removing the current dual-model governance framework will increase transparency by removing the ability for the Council to determine their size and composition and increase consistency with efforts nationally to strengthen university governance and other university Acts.

While removing the Council's discretionary power to carry a resolution may negatively impact JCU's flexibility and autonomy in determining the makeup of its Council, this impact is deemed necessary and justifiable in the interest of promoting transparency and accountability.

This option also involves amending the fixed legislated model of the Council to comprise of 16 members (instead of 22), including three official members, six appointed members, five elected members and two additional members. This option aligns with the Council's preference for a medium-sized Council and minimises any negative impact to the governance operations of the Council as it will remain at 16 members.

This option will provide a transition to the new legislated composition in a way that does not impact on existing Council membership terms. No existing Council member will have their membership ended prematurely. This can be achieved by enabling the amendments to commence on Royal Assent (ahead of 19 April 2026) and provide for those 10 members whose existing terms are due to end on 19 April 2026 to continue until 19 April 2026, and those existing Council members whose terms end after 19 April 2026 will retain their membership in accordance with their existing terms.

Further, this option mitigates potential limits to human rights under the *Human Rights Act 2019* and potential misalignment with the fundamental legislative principles set out in the *Legislative Standards Act 1992*, that may apply to Option 2.

This will slightly alter governance operations of JCU due to altered composition, however, will ensure that the Council can continue to operate at its existing size and will promote public trust in the Council over time.

Who was consulted?

As reconstitution of the Council is imminent (reconstitution due 19 April 2026), it has been deemed necessary that these changes progress urgently. Progressing Council membership composition changes after 19 April 2026 would necessitate either waiting for the next reconstitution, due to occur in April 2029, or prematurely dissolving or ending the terms of appointment of existing members, which may limit human rights under the *Human Rights Act 2019* (Qld) and also be inconsistent with the fundamental legislative principles set out in the *Legislative Standards Act 1992*.

Given this, neither the Council nor other key stakeholders have been consulted on the proposed options. However, the Parliamentary Committee Report on the University Legislative Amendments Bill 2017 noted that during the committee's public hearing JCU advised that most Council members supported a medium-sized council of between 15 and 18.

Although, time has passed since this support was expressed, it is notable that the Council has been operating with 16 members since 2023, and 15 members since 2017, by a membership resolution passed by the Council.

What is the recommended option and why?

Option 3 is the recommended option as it:

- increases transparency and public confidence
- increases consistency with other Queensland university Acts
- increases alignment with national efforts to strengthen university governance
- does not impact on existing Council membership terms
- does not impact on existing Council size
- mitigates potential limits to human rights under the *Human Rights Act 2019*
- mitigates potential misalignment with the fundamental legislative principles set out in the *Legislative Standards Act 1992*

Impact assessment

All proposals – complete:

	First full year	First 10 years**
Direct costs – Compliance costs*	There are no compliance costs associated with the preferred option as membership numbers and therefore JCU remuneration remain the same.	There are no compliance costs associated with the preferred option as membership numbers and therefore JCU remuneration remain the same.
Direct costs – Government costs	Nil, as the Council of JCU is an independent statutory body.	Nil, as the Council of JCU is an independent statutory body.

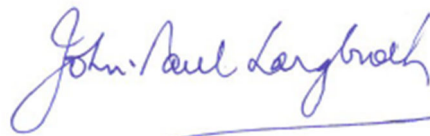
* The *direct costs calculator tool* (available at qpc.qld.gov.au/best-practice-regulation) should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.

SIGNED



**Director-General
Department of Education
Date: 20 March 2026**

SIGNED



**Minister for Education and the Arts
Date: 20 March 2026**