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Response to Commonwealth
Government's *Discussion Paper:*
Redesigning VET FEE-HELP

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About the author

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About Mitchell Institute

Mitchell Institute works to improve the connection between evidence and policy reform. Mitchell actively promotes the principle that education is fundamental to individual wellbeing and to a prosperous and successful society. Mitchell Institute was established in 2013 by Victoria University, Melbourne, with foundational investment from the Harold Mitchell Foundation.

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Introduction

Mitchell Institute

Mitchell Institute at Victoria University is pleased to provide this response to the Commonwealth Government's *Discussion Paper: Redesigning VET FEE-HELP* (the Discussion Paper).

A major focus of Mitchell's work since 2014 has related to funding for tertiary education in Australia. This work has encompassed higher education and VET funding, and the operation of income contingent loan schemes including VET FEE-HELP.

Mitchell has identified the significant weaknesses in Australia's current financing framework for tertiary education. Mitchell has also highlighted the need to reform individual aspects of tertiary education financing by developing a more coherent financing framework for each of the VET and higher education sectors, and across the tertiary system.

A major recent Mitchell report¹ identified significant deficiencies in the current system of VET financing, including the Commonwealth-State funding agreement governing VET and the operation of VET FEE-HELP.

General comments on the Discussion Paper

The Discussion Paper provides a comprehensive and balanced analysis of the background to the development of the VET FEE-HELP scheme, the weaknesses in the design of the scheme, and the consequential blowout in costs and enrolments, including through unethical behaviour by some providers.

The Australian Competition and Consumer Commission (ACCC) is now taking action in the Federal Court against some VET FEE HELP providers for making false or misleading representations and engaged in misleading or deceptive and unconscionable conduct.

It is important to note that the extension of VET FEE-HELP under the National Partnership Agreement for Skills Reform encompassed two categories of VET FEE-HELP courses – state subsidised courses and full fee courses. However, the Discussion Paper focusses mainly on full fee courses; that is, the second category of VET FEE-HELP courses. It does not adequately address the relationship between the two categories of VET FEE-HELP courses.

Decisions on the issues identified in the Discussion Paper also have to be considered in a broader policy context than that provided in the Discussion Paper, including:

- the purpose of VET FEE-HELP in terms of the objectives of the national VET system
- future arrangements for VET funding in Australia, including agreements between the Commonwealth and the states.

The Discussion Paper indicates these issues are beyond its scope but are separately under consideration by the Government.

¹ Noonan, P. (2016). VET Funding in Australia: Background, trends and future directions. Mitchell Institute at Victoria University, Melbourne. Available from: http://www.mitchellinstitute.org.au/wp-content/uploads/2016/03/VET_funding_in_Australia_Background_trends_and_future_directions.pdf

In an appendix, the Discussion Paper discusses the broader VET funding system, including deficiencies in the system, but sees these deficiencies mainly in terms of complexity of the VET funding system and differences between the states. The Discussion Paper also notes work by Mitchell which examines additional complexity created when the Commonwealth acts as a direct funder². This direct funder role is the main issue, not inconsistencies between the states.

Decisions by the Commonwealth on higher education reform are also relevant to decisions on the future of VET FEE-HELP. If adopted, a number of higher education funding reform options (such as reforms to the HELP system) would impact on the VET system. There would also be substantial impacts if demand driven higher education funding was extended to higher education Diplomas, Advanced Diplomas, Associate Degrees, Graduate Diplomas and Graduate Certificates, given that these courses are also offered in the VET sector (including by individual providers registered to operate in both VET and higher education sectors).

Also highly relevant are issues associated with the governance and oversight of VET FEE-HELP to date. The Australian National Audit Office (ANAO) is currently undertaking an audit of VET FEE-HELP

... to assess the effectiveness of the policy establishment, implementation, administration and performance measurement of the Vocational Education and Training (VET) FEE-HELP Program by relevant entities against the Higher Education Support Act 2003 and government policy intent³.

The Audit is due for completion in September 2016.

Mitchell Institute recognises that decisions on immediate measures are required to provide certainty for students and providers wishing to access VET FEE-HELP in 2017. However, Mitchell urges the Government to consider the redesign of VET FEE-HELP in the context of its broader consideration of future arrangements for VET and higher education funding, and with reference to the outcomes of the ANAO audit of VET FEE-HELP.

These wider issues constitute the primary focus of this submission.

² Department of Education and Training. (2016). Discussion Paper: Redesigning VET FEE-HELP, p.52. Available from: <https://docs.education.gov.au/documents/redesigning-vet-fee-help-discussion-paper>

³ Australian National Audit Office website – see: <https://www.anao.gov.au/work/performance-audit/vocational-education-and-training-vet-fee-help>

VET FEE-HELP – purpose and governance

The purpose of VET FEE-HELP

The Discussion Paper summarises the initial purpose of VET FEE-HELP which was to introduce equity of access to income contingent loans between students undertaking equivalent programs in higher education and VET. The Discussion Paper also summarises the policy intent behind extending VET FEE-HELP through removing requirements for VET providers to have in place credit transfer arrangements with higher education institutions so that students not wishing to pursue credit transfer could also receive VET FEE-HELP.

It also highlights the use of VET FEE-HELP as an incentive to encourage states and territories to adopt skills reforms, including opening up public funding to a broader range of VET providers and introducing a demand driven VET student entitlement.

Arguably, using VET FEE-HELP to underpin the opening up of a demand driven competitive market in VET lies at the heart of the problems experienced with its implementation.

Courses funded under VET FEE-HELP have few characteristics of a properly functioning market. Income contingent loans substantially reduce sensitivity to provider prices, particularly as VET is largely an experience good. There is little or no transparency about costs and returns or provider performance. Products are largely homogeneous. In the main, the VET FEE-HELP market is not extant – that is, the market is substantially based on government funding, and on government regulation of providers and products.

The objective of using VET FEE-HELP to help drive the creation of a training market differs substantially to the original objective of FEE-HELP when income contingent loans were first extended to non-university providers. The objectives of extending FEE-HELP to these providers were to improve equity through access to income contingent loans for their students, and through expanded provision. The policy intent was not to foster and underpin a competitive higher education market.

Similarly, the original purpose of FEE-HELP for postgraduate university courses was to remove the cost of access to these courses. Improved access would thus enable universities to expand provision to students who already had significant experience in higher education as undergraduates, and who were thus relatively well placed to make judgements about institutions and the quality and relevance of courses relative to cost.

Creating parity between students undertaking similar courses at different providers was also the original rationale for introducing VET FEE-HELP in its initial form in 2007.

In terms of the future purpose of VET FEE-HELP the Discussion Paper indicates that:

The redesign of the VET FEE-HELP scheme will be underpinned by the following key principles:

- *The scheme is fiscally sustainable and contributes to national economic growth*
- *The scheme removes financial barriers to training and improves equity of access to higher level VET*
- *The scheme promotes the delivery of quality and affordable training for students*
- *The scheme balances industry needs, employment outcomes and student choice*

- *The scheme is student centred through adequate protection for students (particularly from disadvantaged backgrounds) and access to information that enables informed decision making*
- *The scheme has programme integrity, manages risk and promotes confidence in the regulated VET market⁴.*

It is appropriate to refocus the purpose of VET FEE-HELP around these principles which focus on student and the public interest, rather than fostering competitive markets. However, for the reasons outlined in this submission, the principles should include the role of VET FEE-HELP as part of a coherent tertiary financing system.

Design and governance

Giving effect to the principles outlined above requires effective governance of VET FEE-HELP as a major funding program, including monitoring and risk management.

The extension of VET FEE-HELP reflected decisions taken collaboratively through the Council of Australian Governments (COAG), and with the full involvement of both the relevant portfolios and central agencies in all jurisdictions. The extension of VET FEE-HELP was strongly supported by peak VET provider bodies and other stakeholders.

The primary role of the then Commonwealth Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE), and its successor, appears to have been to give effect to the policy intent of the COAG decision.

In this process it is clear that parties to the process of extending VET FEE-HELP did not appreciate the risks and limitations of (as the Discussion Paper notes, p. 11) *'applying a higher education model (including a compliance and regulation system designed for universities) to VET'*.

However, in 2012 DIISRTE had prepared a Regulation Impact Statement (RIS) on VET FEE-HELP Redesign. The RIS included two options⁵:

- maintaining the status quo, and
- staged implementation from 2012-2014, including legislative amendments to improve compliance, strengthen the Department's capacity to take action against providers (including for including misleading advertising and enrolments), revocation and suspension of providers, written directions to providers, and taking into account decisions of regulators.

The RIS also noted that:

The quality of RTOs across the VET sector varies. As VET FEE-HELP will be progressively extended to state and territory subsidised VET diploma and advanced diplomas nationally, it is vital that VET FEE-HELP is underpinned by a framework supporting quality outcomes for all stakeholders. Current mechanisms in place to ensure quality under VET FEE-HELP should be enhanced to protect students and public monies through the:

- *improvement of suspension and revocation provisions;*
- *introduction of safeguards for students from misleading or deceptive conduct; and*
- *improvement of transparency and the ability to share information.*

If the limitations identified with VET FEE-HELP's quality and accountability framework are not addressed, the potential to damage industry confidence in the quality of VET qualifications and the role of VET FEE-HELP is

⁴ Department of Education and Training. (2016). Ibid, p.53.

⁵ Department of Industry, Innovation, Science, Research and Tertiary Education. (2012). Regulation Impact Statement: VET FEE-HELP Redesign 2012, p.12. Available from: <http://ris.dpmc.gov.au/2012/10/02/vet-fee-help-redesign/>

*high. As VET FEE-HELP continues to grow, improvements to the quality framework underpinning the HELP schemes are key to ensuring its agility and robustness in a dynamic skills environment*⁶.

Specifically, the RIS noted that:

Complaints to the Government have identified instances where people with disability have been targeted for enrolment or gifts have been offered to students as an incentive to enrol in courses where VET FEE-HELP is available. There are currently no legislative provisions to enable the Government to deter or stop such actions from occurring once it has been identified.

The key aspects of the RIS were reflected in the legislation giving effect to the extension of VET FEE-HELP. However, as the Discussion Paper notes, the principal weakness with the legislation is that, remarkably, compliance under the legislation is not essential when determining payments to providers.

Notwithstanding the weaknesses in the legislation, a key issue is the extent to which the problems with VET FEE-HELP should have been identified, risk assessed and managed far earlier than they were, including through urgent legislative amendments.

The ANAO has already completed an audit into *Administration of Higher Education Loan Program Debt and Repayments*, spanning both the Department of Education and Training and the Australian Taxation Office.

The Audit assessed the adequacy of risk management by both the Department and the ATO, noting that the Department's 'VET FEE-HELP risk management plan includes seven operational risks and six departmental risks rated as "high"⁷.

However, it is not clear what the risks identified in the risk management plan were, nor how these risks were to be mitigated. It is also unclear whether or not emerging risks were identified (particularly in relation to provider behaviour), and whether or not the risks required significant and urgent reconsideration of the VET FEE-HELP scheme's design as massive outlays were quickly and continuously made to individual providers.

From 2011 there were substantial blowouts evident in the VET budget in Victoria stemming from rapid enrolment growth. In part this was due to inappropriate provider behaviour under the Victorian Training Guarantee, including in enrolments in Diploma and Advanced Diploma courses. Rapid enrolment growth and budget blowouts were subsequently experienced in South Australia in 2012. These states had moved earliest to introduce a broad student demand driven VET entitlement and to open up public funding to a wider range of providers.

From 2012 other states, noting the experience in Victoria and South Australia (and also reflecting budgetary constraints), adopted more cautious and managed approaches to introducing demand driven and competitive funding. However, similar caution was not exercised with the implementation of VET FEE-HELP even as enrolments, overall loan values and payments to individual providers began to rise rapidly in 2012 before escalating exponentially from 2013 and beyond. The price differences between subsidised and full VET FEE-HELP courses were also evident from early in the implementation of the extension of VET FEE-HELP.

Critical to future design and governance of VET FEE-HELP by the Commonwealth will be the findings and recommendations of the ANAO audits of VET FEE-HELP, and of the administration of HELP debt and repayments.

Under the National Partnership for Skills and Workforce Development the states have formal responsibility to 'determine resource allocation within their state' and to 'oversee expenditure of public funding on training within their state'⁸.

⁶ Department of Industry, Innovation, Science, Research and Tertiary Education. (2012). Ibid, p.8.

⁷ Australian National Audit Office. (2016). Administration of Higher Education Loan Program Debt and Repayments, p. 45. Accessible at: https://www.anao.gov.au/sites/g/files/net1561/f/ANAO_Report_2015-2016_31.pdf

While designed as an income contingent loans scheme for students, VET FEE-HELP *'is a source of immediate and direct revenue for providers who share none of the risks or costs of debt repayment'*⁸. This effectively makes the Commonwealth a direct and significant funder of VET, notwithstanding the terms of the National Partnership Agreement. In effect, the Commonwealth has established and directly subsidises a parallel provider system for a specific set of VET courses, many of which are or were also funded by the states.

Experience in VET (as well as other sectors) has consistently shown that providers will rapidly adjust their business practices to respond to changes in policy settings, and that some will continue to maximise revenue and margins through finding loopholes in policies and guidelines.

Reforms to the VET FEE-HELP scheme implemented by the Commonwealth to date, together with most of the specific options canvassed in the Discussion Paper, entrench the Commonwealth's role of directly subsidising a parallel provider system. This follows particularly from those reforms relating to conditions for organisations to be approved as VET FEE-HELP providers, staged payment arrangements for providers, eligibility for students to access VET FEE-HELP, and options relating to setting loan prices or caps. All these measures reflect, and overlap with, contractual and payment arrangements employed by the states in overseeing public expenditure on VET within their states.

Giving effect to the principles outlined in the Discussion Paper will therefore require a careful assessment of the nature of the market for courses covered by VET FEE-HELP, the respective roles of the Commonwealth and the states, and the capacity of the Commonwealth to administer a major program in an area where the states have the recognised responsibility for provider funding.

⁸ National Agreement on Skills and Workforce Development. Available from: http://www.federalfinancialrelations.gov.au/content/npa/skills/skills-reform/national_agreement.pdf

⁹ Noonan, P. (2016). Ibid.

The market for ‘Diploma and above’ courses

VET courses

Publicly funding for VET Diploma and above courses can occur in three categories:

- state subsidies and state regulated fees, with fees paid upfront (or through instalments) by students
- state subsidies and state regulated fees, with fees paid by the Commonwealth through VET FEE-HELP and recouped by the Commonwealth from students
- full fees set by the providers, with fees paid by the Commonwealth through VET FEE-HELP and recouped by the Commonwealth from students.

There is no clear logic or rationale for how or why students, courses and providers are now funded on a different basis across these three categories and by different levels of government.

However the consequences of the differences in the funding arrangements and in particular, the capacity for providers to set their own fees, are significant and perverse in terms of the impact on Commonwealth payments to providers, the increase in student debt and the impact on future Commonwealth budgets (in terms of provisions for impaired value of FEE HELP debt and the cost of interest on borrowings).

Most of the cost increases in VET FEE-HELP were driven by providers setting their own prices for public subsidies through income contingent loans while bearing none of the risks of over-pricing, inappropriate enrolment practices or low completion rates. This compares to the risk sharing framework that operates between the Commonwealth and the states, and the notional application of fee benchmarks, for state funded courses.

By 2014 average fees for state subsidised VET FEE-HELP courses were \$4,800 compared to \$14,100 for full fee VET FEE-HELP courses. The value of loans for state subsidised courses rose from \$14.4 million in 2011 to \$108 million in 2014, compared to a rise from \$191million to \$1.6 billion for fee deregulated courses: increases of 68 percent and 160 percent respectively¹⁰. These trends will have widened significantly in 2015 as the major providers accessing VET FEE-HELP operated in the fee deregulated system (but are likely to have ameliorated in 2016 as a consequence of the measures taken to date by the Commonwealth).

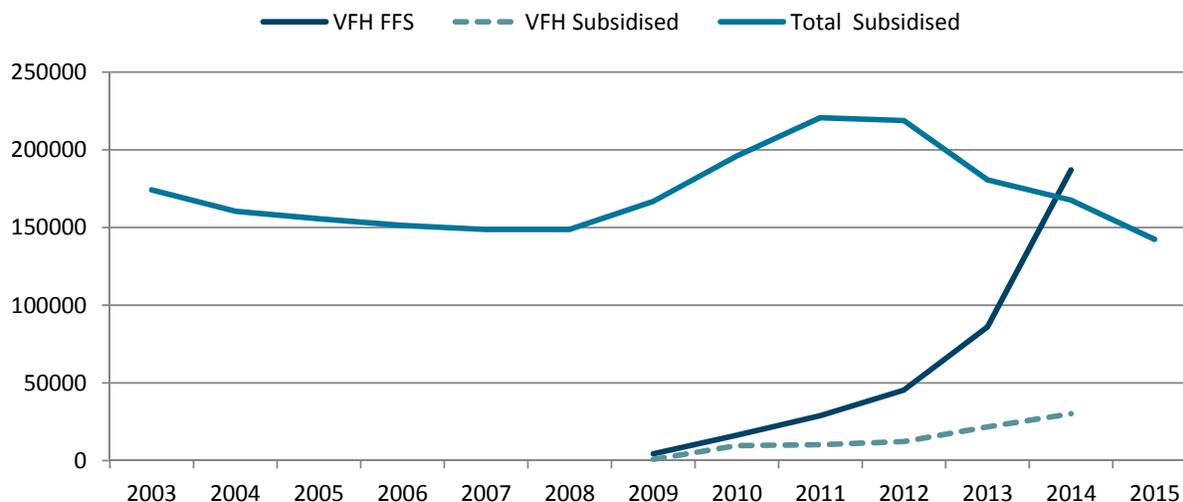
Unsurprisingly, some states also withdrew subsidies for at least some courses and effectively transferred the costs of these courses and the full risks to the Commonwealth through full fee VET FEE-HELP.

The stark effect of these trends on enrolments is set out in Figure One below which shows:

- Total enrolments in publicly subsidised VET Diploma and above courses from 2003-2015
- Total enrolments in publicly subsidised Diploma and above courses from 2009 -2014 where students also accessed VET FEE HELP (i.e. a subset of i above)
- Total enrolments in Diploma and above courses full fee VET FEE HELP courses from 2009 -2014

¹⁰ Department of Education and Training. 2014 VET FEE-HELP Statistical Report.
Available from: <https://www.education.gov.au/vet-fee-help-statistics>

Figure one: Enrolments in Diploma and above courses by funding category



Source: NCVET Vocstats and VET FEE HELP Statistical Reports (2015 VET FEE HELP data not yet available)

Figure one clearly shows that from the time VET FEE HELP was extended in 2012, overall publicly funded enrolments in Diploma and above courses declined rapidly, with this decline not offset by growth in VET FEE HELP for subsidised courses.

However full fee VET FEE HELP enrolments grew dramatically and at far greater cost to students and to the Commonwealth than if the growth had occurred through state subsidised courses (operating in conjunction with VET FEE HELP with the states sharing costs and risks).

The key issue for the Commonwealth in the redesign of VET FEE HELP is to consider the role of the program and the balance between the two categories of VET FEE HELP courses, particularly having regard to the enrolment profile in the higher education sector under HECS HELP and FEE HELP as set out in table one below (note that HE places are 2013-14).

Table one: Subsidised and full fee HELP places in VET and HE

Sector	Subsidised FEE HELP places	Full FEE HELP places
Higher education	507,629	76,613
VET	30,215	187,000 students

Source VET FEE HELP Statistical Reports and ANAO Administration of Higher Education Loan Program Debt and Repayments Table 5.1

There is no clear public policy rationale for the difference in this profile on FEE HELP enrolments between the sectors particularly given that VET students have a lower capacity to repay HELP debt due to lower starting salaries and are less likely to reach the repayment thresholds.

Higher education courses

The higher education sector also accredits and offers Diplomas, Advanced Diplomas, Associate Degrees, Graduate Certificates and Graduate Diplomas.

In 2014 there were 5,980 students enrolled with higher education providers in Associate Degrees and 9,670 students enrolled in 'other undergraduate' courses¹¹. This is a decline of a little over 1 per cent from 2013. These courses are either directly funded by the Commonwealth, or through FEE-HELP on a full fee basis.

Enrolment caps for these subsidised courses were introduced by the Commonwealth in 2011. This was done to ensure states did not cost shift from VET to higher education when the demand driven higher education system was introduced, and to protect the position of VET Diploma and above qualifications.

Ironically, the parallel extension of VET FEE-HELP not only protected the position of VET Diploma and above courses, but also enabled some states to cost shift to the Commonwealth anyway. This is a clear example of disconnected policy across the tertiary education system.

The *Review of the Demand Driven Funding System* in 2014 recommended that 'sub-bachelor' courses be re-included in the demand driven system¹². This recommendation was supported by the Commonwealth in its package of higher education reforms which failed to pass through the Parliament.

However, funding for this measure has been included in the 2016-17 Commonwealth budget. It is an option the Commonwealth has kept open through *Driving Innovation, Fairness and Excellence in Australian Higher Education*, the Commonwealth's Higher Education Reform Discussion Paper, which notes that:

We need to ensure that all Australians with the ability and the motivation to succeed in tertiary education are supported to do so – there should be no perverse incentives for students to choose a VET course over a higher education course or vice-versa¹³.

That paper also outlines options for reforms to the HELP system, including moving to a consistent set of loan fees, changes to repayment levels and rates, and the level of lifetime HELP debt.

However, other options for VET FEE-HELP are raised in the VET FEE-HELP Discussion Paper, including placing maximum loan caps on providers, limiting VET FEE-HELP to specific qualifications, prioritising qualifications by adjusting loan values, and capping course numbers. Decisions on these options, if taken in isolation, run the risk of creating major anomalies between FEE-HELP as it operates in VET and higher education, and introduce the risk of VET providers seeking to transfer provision into the higher education sector.

The recent indication from the re-appointed Minister for Education and Training, Simon Birmingham, that he intends to ensure consistency across the tertiary education sector in decisions on FEE HELP are reassuring in this regard.

The future market

Conceivably, the future of the publicly subsidised market for Diplomas, Advanced Diplomas, Associate Degrees, Graduate Certificates and Graduate Diplomas could comprise:

- Commonwealth funded courses with regulated fees under FEE-HELP in the higher education sector

¹¹ Department of Education and Training. 2014 Student summary. Available from: <https://docs.education.gov.au/node/38117>

¹² Kemp, D. and Norton, A. (2013). Review of the Demand Driven Funding System: Report, p.74. Available from: https://docs.education.gov.au/system/files/doc/other/review_of_the_demand_driven_funding_system_report_for_the_website.pdf

¹³ Department of Education and Training. (2016). Driving Innovation, Fairness and Excellence in Australian Higher Education, p.6. Available from: https://docs.education.gov.au/system/files/doc/other/he_reform_paper_driving_innovation_fairness_and_excellence_3_may_2016.pdf

- state funded courses with regulated fees under FEE-HELP in the VET sector
- full FEE-HELP courses with unregulated fees in both sectors, potentially with differing rules applying to eligibility, loan levels and pricing between the sectors.

At present, about half of Australia’s 180 or so higher education providers and universities are also accredited VET providers, which underscores the increasing overlap between the two sectors. In the absence of a coherent funding framework for qualifications offered in both sectors, there is considerable potential for cost shifting between the sectors, and from the states to the Commonwealth.

Decisions on the design of VET FEE-HELP must therefore be taken as part of a comprehensive redesign of the financing of tertiary education in Australia. The redesign must recognise the interrelationships between the different financing systems within and across the sectors, and also recognise the different roles and characteristics of the sectors.

In this regard Mitchell Institute has previously proposed two broad options:

- One option is for the Commonwealth to take responsibility for public funding of VET and higher education Diplomas, Advanced Diplomas, Associate Degrees, Graduate Certificates and Graduate Diplomas through both course subsidies and FEE HELP¹⁴. This option was also identified in the *Reform of the Federation Discussion Paper* referencing Mitchell’s work¹⁵.
- The other option¹⁶ is for the Commonwealth to refocus VET FEE-HELP on a broader range of publicly funded courses as part of a new shared funding agreement with the states, with a primary purpose of increasing participation in publicly funded VET (in the context of the alarming decline in participation in publicly funded VET). This system would see the states sharing in risks and costs for the operation of VET FEE-HELP as under current arrangements for publicly funded courses.

Under either option VET FEE-HELP could also be made available for courses and providers in full fee course areas where providers can demonstrate high completion rates, high employment rates, and minimal risk of non-repayment and interest subsidies.

These options are not mutually exclusive, and will be more fully explored in a forthcoming Mitchell Institute paper proposing an integrated tertiary financing framework for Australia.

¹⁴ Noonan, P. and Pilcher, S. (2015). Financing tertiary education in Australia – the reform imperative and rethinking student entitlements: Issues paper. Mitchell Institute at Victoria University, Melbourne. Available from: <http://www.mitchellinstitute.org.au/reports/financing-tertiary-education-in-australia-the-reform-imperative-and-rethinking-student-entitlements/>

¹⁵ Department of Prime Minister and Cabinet. (2015). Reform of the Federation: Discussion Paper 2015, p.73. Available from: <https://federation.dpmc.gov.au/publications/discussion-paper>

¹⁶