

## **EXPLANATORY STATEMENT**

Issued by the authority of a delegate of the Minister for Education

### ***Higher Education Support Act 2003***

### ***Higher Education Provider Approval (No. 16 of 2006) Amendment Instrument 2025***

#### **AUTHORITY**

The *Higher Education Provider Approval (No. 16 of 2006) Amendment Instrument 2025* (the Amendment Instrument) is made under section 16-25, paragraph 16-50(1)(b) and subsection 16-70(2) of the *Higher Education Support Act 2003* (the Act). Section 16-25 of the Act provides that the Minister may approve a body corporate as a higher education provider if the body satisfies the requirements listed in that section, and paragraph 16-50(1)(b) provides that the Minister, in deciding an application for approval as a higher education provider, must cause the applicant to be notified in writing whether or not the applicant is approved as a higher education provider. Section 16-70 of the Act provides that if a body corporate is approved as a higher education provider and the body's name changes, the Minister may vary the approval to include the new name, and if the Minister varies the approval to include the new name, the Minister must notify the body in writing of the variation.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The amendment made by the Amendment Instrument to the *Higher Education Provider Approval (No. 16 of 2006)* (the Principal Instrument) to make changes that do not relate to updating the higher education provider's name rely on this provision.

In accordance with subsection 238-5(1) of the Act, the functions and powers of the Minister under section 16-25, subsection 16-50(1) and subsection 16-70(2) have been delegated to certain persons, including SES employees in the Department of Education who hold a position that is classified as a Senior Executive Band 1 under the *Public Service Classification Rules 2000*. These delegations are subject to the general direction issued by the Minister under subsection 238-5(2) of the Act. The general direction provides that the employee must not exercise the delegated power unless they have responsibility for, or involvement with, the administration of a program for which it is appropriate to exercise the delegation.

#### **PURPOSE AND OPERATION**

The *Higher Education Provider Approval (No. 16 of 2006)* (the Principal Instrument) approves Dixon Elliott Pty Ltd (ABN 62 003 925 282, ACN 003 925 282) as a higher education provider for the purposes of the Act. However, Dixon Elliott Pty Ltd has changed its name

and is now called Whitecliffe Institute of Creative Arts & Technology Pty Ltd (WICAT). The purpose of the Amendment Instrument is to:

- a. vary the higher education provider's approval to reflect its updated name,
- b. provide written notice to WICAT of the variation to its approval as a higher education provider under the Act, as required under subsection 16-70(2) of the Act, and
- c. repeal Attachment 1 to the Principal Instrument to remove some outdated references to the Act.

The changes made by the Amendment Instrument do not affect the provision of higher education by WICAT or its obligations as a higher education provider under the Act.

### **COMMENCEMENT**

The Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

### **CONSULTATION**

The Department of Education undertook consultation with WICAT to ensure they had no questions, comments or concerns with the proposal to vary their approval to reflect their updated name. WICAT was supportive of the proposal. Broader consultation was not undertaken or considered necessary as WICAT is the only body affected by the notice.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### Higher Education Provider Approval (No. 16 of 2006) Amendment Instrument 2025

The *Higher Education Provider Approval (No. 16 of 2006) Amendment Instrument 2025* (the Amendment Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Higher Education Provider Approval (No. 16 of 2006)* (the Principal Instrument) approves Dixon Elliott Pty Ltd (ABN 62 003 925 282, ACN 003 925 282) as a higher education provider for the purposes of the Act. However, Dixon Elliott Pty Ltd has changed its name and is now called Whitecliffe Institute of Creative Arts & Technology Pty Ltd (WICAT). The purpose of the Amendment Instrument is to:

- a. vary the higher education provider's approval to reflect its updated name,
- b. provide written notice to WICAT of the variation to its approval as a higher education provider under the Act, as required under subsection 16-70(2) of the Act, and
- c. repeal Attachment 1 to the Principal Instrument to remove some outdated references to the Act.

The changes made by the Amendment Instrument do not affect the provision of higher education by WICAT or its obligations as a higher education provider under the Act.

### **Human rights implications**

The purpose of the Amendment Instrument is to make a minor technical amendment to the Principal Instrument to reflect the higher education provider's updated name and to remove some outdated references to the Act from the Principal Instrument. These amendments do not affect the provision of higher education by WICAT or its obligations as a higher education provider under the Act.

As the Amendment Instrument only makes a technical variation to the approval of WICAT, it does not impact any human rights.

### **Conclusion**

This instrument is compatible with human rights as it does not raise any human rights issues.

**Delegate of the Minister for Education, Nikini Weragoda**

# HIGHER EDUCATION PROVIDER APPROVAL (NO. 16 OF 2006) AMENDMENT INSTRUMENT 2025

## EXPLANATION OF PROVISIONS

### Section 1: Name

1. This section provides the name of the instrument as the *Higher Education Provider Approval (No. 16 of 2006) Amendment Instrument 2025* (the Amendment Instrument).

### Section 2: Commencement

2. This section provides that the Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

### Section 3: Authority

3. The section provides that the Amendment Instrument is made under section 16-25, paragraph 16-50(1)(b) and subsection 16-70(2) of the *Higher Education Support Act 2003* (the Act).

### Section 4: Schedules

4. This is a technical provision that explains that each instrument that is specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

### Schedule 1 – Amendments

#### *Higher Education Provider Approval (No. 16 of 2006)*

#### Item 1

5. Item 1 amends the *Higher Education Provider Approval (No. 16 of 2006)* (the Principal Instrument) to change the higher education provider's name from 'Dixon Elliott Pty Ltd' to 'Whitecliffe Institute of Creative Arts & Technology Pty Ltd (ABN 62 003 925 282, ACN 003 925 282)'.

#### Item 2

6. Item 2 repeals Attachment 1 to the Principal Instrument. Attachment 1 to the Principal Instrument provided information about the higher education provider's

obligations under the Act. The references in this Attachment 1 are out of date as the Act has been amended since the Principal Instrument was made, and providers are already required to comply with the obligations under the Act (even without the inclusion of Attachment 1 to the Principal Instrument), due to the operation of the Act.