

## EXPLANATORY STATEMENT

### *Tertiary Education Quality and Standards Agency Act 2011*

#### **Higher Education Standards Framework (Threshold Standards)**

Issued by the authority of the Minister for Tertiary Education.

Subject: *Tertiary Education Quality and Standards Agency Act 2011*  
*Making the first Threshold Standards*

#### **Authority**

Subsection 58(1) of the *Tertiary Education Quality and Standards Agency Act 2011* (the Act) provides that the Minister may, by legislative instrument, make standards that, together with the Research Standards (made under subsection 58(2)), comprise the Higher Education Standards Framework.

In accordance with item 28 of Part 6 of Schedule 3 of the *Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Act* (the Transitional Provisions Act), the Threshold Standards are a subset of the Higher Education Standards Framework specified under subsection 58(1) of the Act. The following Threshold Standards are made, respectively, under paragraphs 58(1)(a) to (d), inclusive:

- the Provider Registration Standards;
- the Provider Category Standards;
- the Provider Course Accreditation Standards; and
- the Qualification Standards.

This explanatory statement will collectively refer to the Provider Registration Standards, the Provider Category Standards and the Provider Course Accreditation Standards as the Provider Standards.

In addition, before making the Threshold Standards, subitem 29(2) of Part 6 of Schedule 3 to the Consequential Act requires the Minister to consult with the following parties:

- The Council consisting of the Ministers for the Commonwealth and each State and Territory responsible for higher education (known as the Standing Council on Tertiary Education, Skills and Employment);
- The Research Minister;
- TEQSA; and
- Any other interested parties.

In accordance with subitem 29(3) of Part 6 of Schedule 3 to the *Consequential Act*, the Minister must have regard to any representations received from those parties.

## **Purpose and Operation**

The purpose of the legislative instrument is to make the Threshold Standards. The Threshold Standards which comprise a core component of the Higher Education Standards Framework are integral to the regulatory framework in which TEQSA will operate. The Threshold Standards are crucial to ensuring that the entry gateway to the higher education sector is sufficiently high and provides a solid basis of performance from which all providers can build excellence and diversity. A brief explanation of the Provider Standards and the Qualification Standards are provided below.

### ***The Provider Standards***

The Provider Registration Standards, the Provider Category Standards and the Provider Course Accreditation Standards set out the requirements for higher education providers to be registered and for their courses to be accredited, and to determine whether a provider meets the requirements for a given category of higher education institution.

TEQSA will register and evaluate the performance of higher education providers against the Higher Education Standards Framework (Standards Framework) which will comprise five domains: Provider Standards (consisting of the Provider Registration Standards, Provider Category Standards and Provider Course Accreditation Standards); Qualification Standards; Teaching and Learning Standards; Research Standards and Information Standards. The Provider Standards and Qualification Standards together constitute the Threshold Standards. All higher education providers must meet the Threshold Standards in order to be registered and maintain operation as a higher education provider within Australia.

The development of the Standards Framework will be central to ensuring the quality of the sector. It will incorporate national quality standards and benchmarks, to ensure that the bar for entry to the sector is sufficiently high and provides a basis from which all providers can build and diversify.

The introduction of a higher education standards-based quality regulatory framework under TEQSA will ensure that all higher education providers meet or exceed the Threshold Standards under the Standards Framework. The Threshold Standards will consist of legislative instruments and will be enforceable to enable TEQSA to take action in response to identified poor performance and to ensure that strong market entry thresholds are maintained.

The Threshold Standards will underpin TEQSA's regulatory activities and provide appropriate safeguards to ensure students receive a quality education. This will be central to ensuring that the bar for entry to the sector is sufficiently high and will set out the expectations that students, the Government and taxpayers have of our providers.

### ***The Qualification Standards***

The Qualification Standards specify the requirements to ensure that awards issued are quality assured, protected against fraudulent use and provide pathways for further learning. The Qualification Standards strongly reflect the Australian Qualifications Framework (AQF). The AQF is Australia's national policy for regulated qualifications.

The AQF encompasses higher education, vocational education and training and school education. It provides for national recognition and a consistent understanding of what defines each qualification type.

Development of the Qualification Standards has taken place in close collaboration with the Australian Qualifications Framework (AQF) Council to ensure the standards reflect the strengthened AQF which was completed in March 2011 and endorsed by Ministerial Council for Tertiary Education and Employment in April 2011. In particular, the extensive 20-months long project to strengthen the AQF involved comprehensive feedback from stakeholders on the AQF, guidance materials and resources for professional development to support the use of the AQF.

Under TEQSA legislation and in line with the AQF, higher education providers may offer higher education programs of learning leading to AQF qualifications at levels 5, 6, 7, 8, 9 and 10 of the AQF. These currently consist of the following:

1. Higher education awards leading to a Diploma meet the AQF Diploma specification
2. Higher education awards leading to an Advanced Diploma meet the AQF Advanced Diploma specification
3. Higher education awards leading to an Associate Degree meet the AQF Associate Degree specification
4. Higher education awards leading to a Bachelor degree meet the AQF Bachelor Degree specification
5. Higher education awards leading to a Bachelor Honours degree meet the AQF Bachelor Honours Degree specification
6. Higher education awards leading to a Graduate Certificate meet the AQF Graduate Certificate specification
7. Higher education awards leading to a Graduate Diploma meet the AQF Graduate Diploma specification
8. Higher education awards leading to a Masters Degree (Research) meet the AQF Masters Degree (Research) specification
9. Higher education awards leading to a Masters Degree (coursework) meet the AQF Masters Degree (coursework) specification
10. Higher education awards leading to a Masters Degree (Extended) meet the AQF Masters Degree (Extended) specification
11. Higher education awards leading to a Doctoral Degree (Research) meet the AQF Doctoral Degree (Research) specification
12. Higher education awards leading to a Doctoral Degree (Professional) meet the AQF Doctoral Degree (Professional) specification

To allow flexibility if qualifications are added to the AQF, this list will be taken to include any qualification type subsequently added to the AQF and the specification relating to it.

## **Background**

On 13 March 2008, the Australian Government initiated a Review of Australian Higher Education (Bradley Review) to examine and report on the future direction of the higher education sector.

A key recommendation made by the Bradley Review was the focus on ensuring the quality of the higher education sector and the education it delivers. It noted that in a period of expansion, when higher education providers are attracting students who have not traditionally considered going to university and student pathways are linked to funding, higher education providers will be required to demonstrate that their graduates have the capabilities that are required for successful engagement in today's complex world.

It is also identified that Australia must enhance its capacity to demonstrate outcomes and appropriate standards in higher education if it is to remain internationally competitive and implement a demand-driven model. It called for the development of clear and strong standards which can be applied across the sector in order to establish objective and comparative benchmarks of quality and performance.

Consequently, the Bradley Review recommended the establishment of a national quality assurance and regulatory agency which would be supported by the adoption of a new framework for higher education accreditation, quality assurance and regulation.

In response to the Bradley Review, in March 2009, the Government announced the establishment of the Tertiary Education Quality and Assurance Agency (TEQSA) as a single national regulatory and quality assurance agency for higher education.

## **Consultation**

Before the Minister made the first Threshold Standards, the following consultation was undertaken:

- On 7 November 2011, in accordance with Section 29 of the Transitional Provisions Act, the Minister wrote to the Standing Council on Tertiary Education, Training and Employment, the Research Minister, TEQSA and stakeholders inviting their feedback on the draft Provider Standards and Qualification Standards.
- The Australian Government had previously engaged in an extensive consultation process with the education sector, Commonwealth, State and Territory Governments and other stakeholders on the development of the draft Provider Standards. Work on developing the Provider Standards (a translation of the National Protocols for Higher Education Approval Processes) commenced at the beginning of 2010 and the third and final public consultation process ended on 2 June 2011. Following the most recent round of consultation the following feedback was received:
  - Dr Chris Burns, MLA, Northern Territory Minister for Education and Training, had no further feedback.
  - The Hon Tom Koutsantonis, MP, South Australian Minister for Employment, Higher Education and Skills, considered the Standards satisfactory.
  - The Hon Adrian Piccoli, New South Wales Minister for Education, expressed the view that the Standards should have been subject to approval by the Standing Council on Tertiary Education, Skills and Employment, or failing this there should be an opportunity for the Standing Council to discuss the remaining the remaining standards.

- The Hon Peter Hall, MLC, Victorian Minister for Higher Education and Skills, considered that the Standards were imprecise because they do not explicitly indicate the nature and level of evidence required for higher education providers to be assessed as compliant, using imprecise terms such as 'appropriate' or 'sufficient'. He also suggested that a more 'collegiate' approach to considering the threshold standards through the Standing Council on Tertiary Education, Skills and Employment would have produced more robust standards.
  - Mr Andrew Barr, MLA, Australian Capital Territory Minister for Education and Training, endorsed the Threshold Standards.
  - Senator the Hon Kim Carr, Minister for Innovation, Industry, Science and Research, supported the making of the Threshold Standards.
  - Mr Adrian McComb, Executive Officer of the council of Private Higher Education, proposed no further changes to the final draft, but did suggest some changes to the Category Standards when the Threshold Standards are reviewed in twelve months time.
  - Dr Glenn Withers, Chief Executive Officer of Universities Australia, noted an inconsistency in the Provider Standards in the use of the term 'Australian University'. Dr Withers also provided some comments on the Qualification Standards, suggesting that this Statement should make clear the way in which they give expression to core principles of the TEQSA legislation and respect self-accrediting status.
  - The Group of Eight provided a number of comments, including that the Provider Registration Standards impose requirements that are dependent on funding, but that no funding had been provided to meet them; that the precise relationship between self-accrediting powers and the Provider Course Accreditation Standards was unclear; and that the draft Qualification Standards were narrower and more prescriptive than the AQF policy documents on which they were based;
  - Ms Ann Doolette, Executive Director of the Australian Qualifications Framework Council, suggested some minor changes to prevent divergence between the AQF and the Qualification Standards. These include a statement covering off the possibility of changes to the qualifications making up the AQF, to make it clear that the Qualification Standards apply to such additional or changed qualifications, so long as they meet the specifications set by the AQF.
- Submissions were also received from a number of other stakeholders: TEQSA, the National Tertiary Education Industrial Union, the Innovative Research Universities group and the Australian Technology Network (ATN) of Australian Universities, the Australian National University, Murdoch University and Avondale College. In general these submissions centred on detailed queries about self-accrediting status or (in the case of Murdoch University) a matter not strictly related to the consultation process. The ATN submission referred to the differing implementation dates for the Threshold Standards and the revised AQF.
  - One consistent theme which emerged from the feedback received was that the Standards were too prescriptive. The comments have been considered and some adjustments have been made for flexibility. However this is a matter of seeking a balance, as the Threshold Standards will be regulatory and enforceable rather than

advisory. For example, while the Qualification Standards do reflect the specifications of the AQF closely, they remain more prescriptive. However it is also important that the Qualification Standards are consistent with the AQF.

## **Incorporation by Reference of Australian Qualifications Framework Policy Documents**

The Qualification Standards incorporate by reference some Australian Qualifications Framework policy documents. These documents are: AQF Levels Criteria and AQF Qualification Type Descriptors; AQF Qualifications issuance Policy; AQF Qualifications Pathways Policy; AQF Qualifications Register Policy; and AQF Qualification Type Addition and Removal Policy. These documents may be viewed and downloaded from the AQF website at the following web address: <http://www.aqf.edu.au>

## **Description of the provisions of the Provider Standards**

### ***Provider Registration Standards***

1. *Provider standing*

Sets out the requirements that the provider is a legally accountable, reputable entity and is responsible for the higher education it offers. It identifies the requirements for the provider's conduct, standing and information provisions.

2. *Financial viability and safeguards*

Sets out the requirements that the provider is financial viable and operates with required resource capacities to sustain quality higher education operations. It requires evidence of financial management and resource capacity in delivering quality higher education operations.

3. *Corporate and academic governance*

Sets out the requirements that the provider is well governed, protects and takes responsibility for its corporate and academic excellence, and manages and monitors potential risks to its operations.

4. *Primacy of academic quality and integrity*

Sets out the requirements that the provider quality assures its academic provisions to provide quality outcome, which is consistent for all its delivery locations and arrangements. The provision sets out the required legislative requirements, policies and processes to ensure the academic quality and integrity of the provider's higher education outcomes.

5. *Management and human resources*

Sets out the requirements that the provider's operations are well managed through the employment of appropriate staff and effective systems. It requires details of policies and processes to effectively manage its higher education operations, including comparison of performance with other providers for continuous improvement.

6. *Responsibilities to students*

Sets out the requirements for the provision of responsibilities to students to ensure that the rights and interests of students are safeguarded. It requires mechanisms for student support, safety, security, information, as well as access to appropriate grievance procedures regarding any aspect of the provider's higher education operations.

7. *Physical and electronic resources and infrastructure*

Sets out the requirements that student learning outcomes are supported and enhanced through access to quality facilities, support services and learning and information resources. It requires details of the resource capacity and associated management systems to support such capacity.

**Provider Category Standards**

*“Higher Education Provider” Category (which offers an Australian higher education award and/or an overseas higher education award)*

Sets out the criteria for registration in the “Higher Education Provider” Category. It requires that the applicant meets the Threshold Standards; offers at least one accredited course; demonstrates commitments to quality delivery through clear purpose; and engages in advanced knowledge and scholarship.

*“Australian University” Category (which offers an Australian higher education award)*

Sets out the criteria for registration in the “Australian University” Category. It provides that the applicant self-accredits and delivers a comprehensive set of undergraduate and postgraduate courses; undertakes research; contributes to higher education outcomes through advancement of knowledge; implements good practices in teaching and learning and student support; demonstrates engagement and commitment to communities; maintains quality higher education delivery; and its application has the support of the relevant Commonwealth, State or Territory government.

*“Australian University College” Category (which offers an Australian higher education award)*

Sets out the criteria for registration in the “Australian University College” Category. It requires that the applicant has plans to meet the criteria for the “Australian University” Category within five years; self-accredits and delivers a required set of undergraduate and postgraduate courses, undertakes research; contributes to higher education outcomes through advancement of knowledge; implements good practices in teaching and learning and student support; demonstrates engagement and commitment to communities; maintains quality higher education delivery; and its application has the support of the relevant Commonwealth, State or Territory government.

*“Australian University of Specialisation” Category (which offers an Australian higher education award)*

Sets out the criteria for registration in the “Australian University of Specialisation” Category. It provides that the applicant self-accredits and delivers undergraduate and postgraduate course(s) in one or two broad fields of study only; undertakes research, contributes to higher education outcomes through advancement of knowledge; implements good practices in teaching and learning and student support; demonstrates engagement and commitment to communities; maintains quality higher education

delivery; and its application has the support of the relevant Commonwealth, State or Territory government.

*“Overseas University” Category (which offers an overseas higher education award)*  
Sets out the criteria for registration in the “Overseas University” Category. It requires that the applicant is recognised as a university by its home country, the standing and standards which are acceptable to TEQSA. It also requires that the applicant meets the criteria equivalent to those for the “Australian University” Category.

*“Overseas University of Specialisation” Category (which offers an overseas higher education award)*  
Sets out the criteria for registration in the “Overseas University of Specialisation” Category. It requires that the applicant is recognised as a university by its home country, the standing and standards which are acceptable to TEQSA. It also requires that the applicant meets the criteria equivalent to those for the “Australian University of Specialisation” Category.

### **Provider Course Accreditation Standards**

1. *Course design is appropriate and meets the Qualification Standards*  
Sets out the requirements for the design of a course. It requires that the course design meets the specification of the Qualification Standards; is approved through robust internal processes; draws its content from an appropriate body of knowledge; clearly presents the requirement of the course; sets out appropriate pathways and awards articulation; presents the course outline; engages students to achieve the expected course learning outcomes; provides for appropriate research support; and ensures comparable learning outcomes regardless of delivery location or arrangement with another provider.
2. *Course resourcing and information is adequate*  
Sets out the requirements that the course is sufficiently resourced and supported to ensure quality learning outcomes. It requires evidence of adequate course resourcing for projected enrolment for the course; achievement of expected learning outcomes; and provision of adequate information to students.
3. *Admission criteria are appropriate*  
Sets out the requirements for policies and procedures on student admission. It requires appropriate admission criteria, supported by appropriate policies and procedures, and that admission decisions are made by qualified personnel under delegated authority.
4. *Teaching and learning are of high quality*  
Sets out the requirements for appropriate staff numbers, qualifications, experience and expertise in achieving the expected learning outcomes. It also requires that related support mechanisms be in place to ensure quality teaching and learning.
5. *Assessment is effective and expected student learning outcomes are achieved*  
Sets out the requirements for effective assessment design, monitoring, analysis, comparison and feedback in facilitating students to achieve the stated student learning outcomes for the course.



6. *Course monitoring, review, updating and termination are appropriately managed*  
Sets out the requirements for appropriate course monitoring, review, update and teach out plans.

### ***Criteria for awarding 'self-accrediting authority'***

Sets out the provisions and criteria for the application of self-accrediting authority for the different categories of providers.

### **Description of Provisions of the Qualification Standards**

The Qualification Standards set out the requirements to ensure that awards issued are quality assured, protected against fraudulent use and provide pathways for lifelong learning. The AQF encompasses higher education, vocational education and training and schools qualifications, providing for national recognition and a consistent understanding across Australia of what defines each AQF qualification type.

#### *1. Higher education awards delivered meet the appropriate criteria.*

1.1 Sets out the requirements for the delivery and issuance of higher education awards that lead to an AQF qualification. It requires that the award meets the corresponding AQF specifications for the AQF level which they are located against.

1.2 Sets out the requirements for the delivery and issuance of higher education awards which do not lead to an AQF qualification or cannot be located against an existing level of the AQF level, developed and established in response to industry, professional, community or student needs. It requires that the awards must meet the criteria as required by TEQSA.

#### *2. Certification documentation issued is accurate and protected against fraudulent use*

2.1 Sets out the requirements for the issuance of accurate certification documentations and the protection of their use. It requires that the higher education provider: issues graduates with the certification documents which they are entitled to; identifies and authenticates the award issued; and protects the integrity of the award against fraudulent issuance.

#### *3. Articulation, recognition of prior learning and credit arrangements*

Sets out the requirements for policies and processes relating to credit transfer and award articulation. It requires evidence of appropriate policies and procedures to enhance student progression into and between awards.

### **Commencement**

The legislative instrument shall commence on the day after it is registered.

## Regulation Impact Statement

This Regulation Impact Statement (RIS) prepared by the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE), will commence by outlining the Government's reform agenda for higher education, and will then specifically consider the regulatory impact of the Tertiary Education Quality and Standards Agency (TEQSA) Threshold Standards on higher education providers.

### 1. Background

#### *The Australian higher education sector*

Higher education has changed dramatically over the last 30 years or so. It once comprised a small number of publicly-funded institutions. This is no longer the case. There are now 37 public universities, two private universities and 150 or so other providers of higher education.<sup>1</sup>

Based on the most recent data provided by higher education providers under the *Higher Education Support Act (HESA) 2003*:

- 1 192 657 students were enrolled in higher education in 2010;
- 71.9 per cent of all higher education enrolments are domestic students (857 384), an increase of 5.3 per cent from 2009;
- 70.3 per cent of students were studying full time in 2010;
- 93.2 per cent of students were enrolled at public universities in 2010; and,
- 31 692 students were enrolled in advance diplomas, diplomas and other undergraduate award courses in 2010.

A snapshot of the sector is outlined below.

#### Students by course level

|                         | 2009      | 2010      | % Total 2010 |
|-------------------------|-----------|-----------|--------------|
| Postgraduate Research   | 52,685    | 55,740    | 4.7%         |
| Postgraduate Coursework | 255,288   | 264,715   | 22.2%        |
| Undergraduate           | 790,810   | 833,767   | 69.9%        |
| Enabling and Non-Award  | 36,083    | 38,435    | 3.2%         |
| Total Students          | 1,134,866 | 1,192,657 | 100%         |

#### Students by Socio-Economic Status (SES) (Postcode measure) (a)

|                                 | 2009    | 2010    | % Total 2010 |
|---------------------------------|---------|---------|--------------|
| Low SES                         | 120,652 | 130,069 | 15.4%        |
| Medium SES                      | 371,501 | 396,438 | 46.9%        |
| High SES                        | 303,126 | 313,511 | 37.1%        |
| Not Known                       | 4,252   | 4,984   | 0.6%         |
| Total Onshore Domestic students | 799,531 | 845,002 | 100%         |

(a) SES is based on 2006 Socio-Economic Indexes for Areas Index of Education and Occupation, where Low SES=postcodes in bottom 25% of the population, Medium=Middle 50% and High=Top 25%. Refers to all students (includes postgraduate, undergraduate, enabling and non-award) at all providers.

<sup>1</sup> Department of Education, Employment and Workplace Relations (DEEWR) 2008, *Review of Australian Higher Education Final Report* <<http://www.deewr.gov.au/highereducation>>

### Students by region (b)

|                                 | 2009    | 2010    | % Total 2010 |
|---------------------------------|---------|---------|--------------|
| Metro                           | 650,341 | 686,099 | 81.2%        |
| Regional                        | 140,702 | 150,259 | 17.8%        |
| Remote                          | 8,397   | 8,482   | 1.0%         |
| Not Known                       | 91      | 162     | 0.02%        |
| Total Onshore Domestic students | 799,531 | 845,002 | 100%         |

(b) The Regional measure is based on the students' postcode of permanent home residence mapped to regional/remote categories using the former Ministerial Council for Education, Employment, Training and Youth Affairs classification.

### Indigenous Students (c)

|                         | 2009    | 2010    | % Total 2010 |
|-------------------------|---------|---------|--------------|
| Indigenous students     | 10,400  | 11,024  | 1.3%         |
| Non-Indigenous students | 789,131 | 833,978 | 98.7%        |
| Total Students          | 799,531 | 845,002 | 100%         |

(c) Domestic students with permanent home residence in Australia only

### Students by Broad Field of Education (d)

|  | 2009      | 2010      | % Total 2010 |
|--|-----------|-----------|--------------|
| Natural and Physical Sciences                  | 82,158    | 88,500    | 7.4%         |
| Information Technology                         | 50,672    | 50,501    | 4.2%         |
| Engineering and Related Technologies           | 79,091    | 85,348    | 7.2%         |
| Architecture and Building                      | 26,223    | 27,692    | 2.3%         |
| Agriculture, Environmental and Related Studies | 17,441    | 18,464    | 1.5%         |
| Health   | 152,137   | 164,012   | 13.8%        |
| Education                                      | 104,607   | 109,502   | 9.2%         |
| Management and Commerce                        | 333,299   | 340,468   | 28.5%        |
| Society and Culture                            | 242,165   | 257,199   | 21.6%        |
| Creative Arts                                  | 79,085    | 83,167    | 7.0%         |
| Food, Hospitality and Personal Services        | 1,148     | 1,099     | 0.1%         |
| Mixed Field Programmes                         | 6,513     | 7,577     | 0.6%         |
| Non-award courses                              | 21,919    | 21,479    | 1.8%         |
| Total Students                                 | 1,134,866 | 1,192,657 | 100%         |

(d) Note: These data take into account the coding of combined courses to two fields of education. As a consequence, counting both fields of education for combined courses means that the totals may be less than the sum of all broad fields of education.

### The current regulatory landscape

Each of the states and territories currently has their own legislation setting out the requirements to operate as a higher education provider in their jurisdiction. The National Protocols for Higher Education provide a common frame of reference for the regulatory operations in each state and territory, but do not ensure a consistent approach. Further, different jurisdictions take different approaches to mutual recognition, and have different approaches to the level of oversight to which different categories of provider are subject.

*Australian higher education providers*

### Self-accrediting higher education institutions

There are 44 self-accrediting higher education providers in Australia. These institutions have the authority to accredit their own courses. These consist of 37 public universities,

two private universities and one Australian branch of an overseas university. In addition, there are three institutions which are not universities but have self-accrediting status: Bachelor Institute of Indigenous Tertiary Education, the Australian Film, Television and Radio School and the Australian College of Theology (this status granted August 2010). From 1 January 2012 there will be one university of specialisation (currently the Melbourne College of Divinity, it will have the new title of MCD University of Divinity). The numbers of self-accrediting institutions and universities of specialisation are very likely to grow further in the future.

#### Non-self-accrediting higher education institutions

Australia has approximately 150 non-self-accrediting higher education institutions. These institutions have been granted approval to operate and had their courses accredited by the State and Territory accreditation agencies. Non-self-accrediting higher education providers form a very diverse group of specialised, mainly private, providers, although this group also includes some institutes of technical and further education. These institutions range widely in size and discipline offered. Disciplines offered include education, theology, business, information technology, dramatic arts, psychology, natural therapies, hospitality, law and accounting. Some non self-accrediting institutions are very well established, having been operating for more than ten years and re-approved and re-accredited on multiple occasions. A larger number are relatively new institutions which may be comparatively inexperienced at meeting quality assurance requirements.

Of the 150 non self-accrediting providers approximately 75 providers have been approved under *HESA 2003*, to offer Fee Higher Education Loans Program (HELP) loans to eligible fee paying students. In order to be approved providers must go through a rigorous approval process which includes financial viability, business planning and the extent to which the quality requirements of the *HESA 2003* are met. There are also six approved higher education providers which are able to offer Commonwealth supported places in identified National Priority areas, primarily education and nursing, and all the HELP schemes.

#### *The Review of Australian Higher Education (Bradley Review)*

In 2008 the former Deputy Prime Minister Julia Gillard initiated the Bradley Review to examine and report on the future direction of the higher education sector and its place in achieving the Government's vision of a stronger and fairer Australia.

The fundamental question for the Bradley Review Panel was whether the Higher Education Sector was appropriately structured and financed to allow Australia to compete effectively in a globalised economy. The panel concluded that, while the system had great strengths, it faced significant, emerging threats which required decisive action. These included, inter alia:

- Australia's investment and performance in higher education falling behind that of other countries.
- Australia rated 9th out of 30 within the Organisation for Economic Co-operation and Development (OECD) in the proportion of the population aged 25- to 34 years with high level skills, (Australia was ranked 7th a decade ago). Other OECD countries have set targets of up to 50 per cent of 25- to 34-year-olds attaining degree-level qualifications. In Australia only twenty nine per cent of 25- to 34-year-olds have

degree-level qualifications. Australia was deemed to be at a competitive disadvantage.

- Access Economics have predicted that from 2010 the supply of people with undergraduate qualifications will not keep up with demand. Anticipating and meeting the demands of a fast moving global economy requires more well-qualified people if Australia is to keep pace. Increasing the number of highly-skilled people will require inclusion of members of groups currently under-represented within the system, such as Indigenous people, people with low socio-economic status, and those from regional and remote areas.

Additionally, other issues of concern were identified by the Review Panel including:

- How the Government was to meet its commitment to life-long learning to those already in the workforce;
- The difficulties with provision of higher education in regional areas where there are thin markets struggling to sustain a viable higher education presence; and, associated with this;
- Further decreases in the 15- to 24-year age group in regional areas;
- The current structure of higher education does not facilitate or support the identification or establishment of education programs in areas of need, nor does it support providers to work collaborative to address problems of provision;
- Student to staff ratios are unacceptably high;
- Australian universities have helped build international education services into Australia's third largest export industry in the last two decades. There are however concerns that international students are concentrated in a relatively narrow range of subject fields, and in levels of study and country of origin that pose challenges to the longer term viability of higher education and to institutions as well<sup>2</sup>;
- There were 243,591 higher education enrolments by full-fee paying international students studying in Australia on a student visa in 2010. The higher education sector recorded the largest volume of enrolments across all the education sectors, accounting for 39.3 per cent of the total 619,119 international student enrolments in the period;
- Higher education was the only sector to record growth in enrolments in 2010 with a 7.8 per cent increase on 2009 figures; and,
- In 2010, Asian countries collectively contributed 83.3 per cent of enrolments in higher education. Enrolments from this region were 7.1 per cent higher than in the previous year.

### *Government response to the Bradley Review*

The Government needs to:

- Work toward ambitious long-term targets to ensure Australia has a world class higher education system and a well-resourced and internationally competitive research sector;
- Create a funding framework that supports student choice and access to learning, encourages flexibility in teaching, learning, and research and promotes growth in student places;

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<sup>2</sup> Department of Education, Employment and Workplace Relations (DEEWR) 2008, *Review of Australian Higher Education Final Report*, p12 <<http://www.deewr.gov.au/highereducation>>

- Implement a quality assurance and regulation framework that enhances overall quality in the sector and provides clear information and access to learning about what and where to study, and to provide industry and the community with assurances of graduate quality; and,
- Boost participation, particularly for groups currently underrepresented in the system.

The Government is implementing key reforms such as:

- Transforming access to higher education through a major package designed to radically improve the participation of students from low socio economic backgrounds (low SES) in higher education, and enhance their learning experience;
- Promoting greater diversity and quality within the tertiary sector by phasing in a new system to allocate funding on the basis of student demand; support to encourage more students to choose teaching and nursing; and, support for the renewal of student services and amenities;
- Providing funding certainty and creating a more sustainable higher education sector through higher indexation of teaching and learning grants;
- Ending historic funding cross-subsidisation by increasing funding for the full cost of university research, and enabling universities to strive for research excellence in areas of strength;
- Upgrading of university and TAFE infrastructure to meet the teaching and learning requirements of students, teachers and researchers now and into the future;
- Reforming student income support which will redirect assistance so that it reaches the most needy students to boost both their higher education participation and attainment;
- Supporting regional tertiary education provision with a review of regional loading, encouragement to explore new models of delivery and access to new structural adjustment funding for the sector;
- Building stronger connectivity between the higher education and vocational education and training sectors;
- Building relationships between Government and Educators built on mutual respect, trust and agreed funding compacts; and,
- Establishing the TEQSA and new standards, discussed in detail below.

## 2. The Problem

In recent years the quality and regulation of tertiary education in Australia has been subject to repeated inquiry:

- In 2007 the Joint Committee on Higher Education commissioned PhillipsKPA to undertake an inquiry into the desirability of a national higher education accreditation body;
- In 2009 DEEWR released the Bradley Review;
- In 2010 Australian Education International released *Stronger, simpler, smarter ESOS - Supporting international students: Review of the Education Services for Overseas Students (ESOS) Act 2000* (Baird Review); and,
- In 2011 the Department of Immigration and Citizenship (DIAC) released the *Strategic Review of the Student Visa Program 2011 Report* (Knight Review).

Each of these reviews found that while the quality of education in Australia is generally high; there are weaknesses in the regulatory system and that these weaknesses stem from a lack of enforceable clarity in the standards frameworks and an inconsistency in their application.

While two of these reports have a particular focus on international students, the Hon Bruce Baird notes in his review:

*'In reviewing these frameworks I believe international education is a leading indicator for domestic policy makers. For the Australian Government's aspiration of increasing participation in education to be realised the education sector will need to grow. The international education experience has shown that the private sector has the greatest ability and capacity to be responsive to demand and hence grow quickly. However, where profit is a key outcome from delivering education services, the quality of the service will at some point and for some providers come under pressure.'*<sup>3</sup>

The dominant providers in the higher education sector are not-for-profit institutions; however, the Victorian Ombudsman was concerned about revenue pressures, not just profit:

*'While the ideal of universities as independent centres of teaching and research remains important, they are not well placed to self-regulate their dealings with international students when they are competing for those students and are reliant on them for such a large part of their revenue.'*<sup>4</sup>

The Bradley Review noted particular concerns with the regulatory framework for higher education:

- The quality assurance framework is too focused on inputs and processes and does not give sufficient weight to assuring and demonstrating outcomes and standards;
- Different and overlapping frameworks regulate the quality and accreditation of higher education institutions for the operation of vocational education and training providers, consumer protections for overseas students studying in Australia and institutional approval for the purposes of student loan assistance;
- Responsibility is divided between the Commonwealth and the states and territories, with different units of government responsible for various regulatory frameworks in each. Arrangements for mutual recognition of providers and courses operating across state and territory boundaries are inefficient and do not operate effectively;
- Within higher education the framework is applied unevenly so that not all providers are reaccredited on a regular basis; and,
- Reliable comparative information to underpin student choice of courses and institutions is limited.<sup>5</sup>

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<sup>3</sup> AEI 2010, *Stronger, simpler, smarter ESOS: Supporting international students: Review of the Education Services for Overseas Students (ESOS) Act 2000* p5 <<http://www.aei.gov.au>>

<sup>4</sup> Victorian Ombudsman 2011 *Investigation into how universities deal with international students*, p71 <<http://www.ombudsman.vic.gov.au>>

<sup>5</sup> DEEWR 2008, *Review of Australian Higher Education Final Report*, p115 <<http://www.deewr.gov.au/highereducation>>

In making these comments the Bradley Review drew on earlier work commissioned by the Ministerial Council on Education, Employment, Training and Youth Affairs in 2007. The Bradley Review found many congruencies between the issues raised in both processes, including:

- The time taken to have courses accredited (up to 18 months) and the implications for responding to market forces and the significant advantage it gives self-accrediting institutions;
- Perceptions that accreditation processes involving university academics on course assessment panels are unfair where these academics are direct competitors;
- Perceptions of inconsistent requirements between states and territories in terms of registration, accreditation and annual reporting. Conversely some universities queried whether some institutions or courses should be accredited in the first place expressing concerns about the quality of degrees offered;
- The need for stronger and more coherent quality assurance of higher education delivered offshore by institutions whose courses are accredited by the states and territories;
- The compliance cost and complexity of compliance for those operating in multiple jurisdictions with duplicate processes leading to inconsistency and inefficiency.<sup>6</sup>

The Bradley Review noted the difficulties in achieving consistent regulatory outcomes, where the criteria and processes for accreditation rely too heavily on subjective judgments and do not sufficiently reflect the risks associated with different providers and that it was anomalous that existing arrangements do not require universities to demonstrate from time to time that they continue to meet the requirements of university status.<sup>7</sup>

Students participating in the Baird Review consultations were more direct, stating that the quality or lack thereof, was a recurring theme, while some students questioned whether their masters degree was really being taught at the masters level.<sup>8</sup>

The Knight Review also raised concerns about quality, indicating that regrettably it is also the case that in recent years some low quality providers entered the sector particularly, but not exclusively, in some parts of the private VET sector.<sup>9</sup>

Students, their families and the Australian community make a significant investment in every place in the Australian higher education sector. If we fail to ensure that every student receives a high quality education there are significant risks for us all. Students who have a poor educational experience are less likely to complete their studies and less likely to return to study. This has an impact on not only on the individual's likelihood of social and economic well-being, but on the resilience of our community and skills base of Australia.

The Bradley Review concluded their consideration of the need for a national regulator as follows,

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<sup>6</sup> Ibid, pp117-119

<sup>7</sup> Ibid, p119

<sup>8</sup> AEI 2010, *Stronger, simpler, smarter ESOS; Supporting international students*, p8 <<http://www.aei.gov.au>>

<sup>9</sup> Department of Immigration and Citizenship (DIAC) 2011, *Strategic Review of the Student Visa Program 2011*, p5 <<http://www.immi.gov.au/>>



*'The risk of ignoring these deficiencies and concerns is considerable. To preserve our national reputation for quality provision and to ensure we are prepared for a more competitive global higher education environment we must reshape the regulatory system. There is no longer any defensible argument for the fragmentation and variation in requirements which is apparent across jurisdictions and sectors.'*<sup>10</sup>

Submissions to the Bradley, Baird and Knight reviews elaborate on and provide evidence of the problems noted above.

### Duplication

In its submission to the Bradley Review, Universities Australia identified duplication as a major issue for the sector on many levels,

*'In particular, universities operate under a framework specified externally that includes:*

- *State and Territory or, in one case, Commonwealth, legislation that establishes and governs the universities and imposes scrutiny by the full apparatus of responsibility to legislatures, auditors' general, ombudspersons, freedom of information legislation and more.*
- *Qualifications frameworks and quality assurance mechanisms, including the Australian Universities Quality Agency (AUQA), established by governments in Australia, which define acceptable association of education awards with institutional form and examine processes in place to ensure the quality of delivery for those qualifications...*
- *Numerous state or territory, national and international professional accreditation bodies.'*<sup>11</sup>

In addition,

*'Major cross-jurisdictional issues arise from operation of Australian federalism. Universities Australia has expressed concern over: the duplication of reporting arrangements; inadequate legislative provisions in areas such as the protection of academic freedom; "crowding out" concerns with cross-jurisdictional funding; inconsistent infrastructure and facilities planning requirements, including for multi-jurisdiction institutions; and, complex VET pathways for universities (including fee and funding anomalies).'*<sup>12</sup>

### Inconsistency

In its submission to the Bradley Review, Universities Australia was concerned about multiple frameworks causing inconsistency,

*'One area of considerable concern that emerges in the light of these official frameworks is the inconsistency that arises from the absence of effective forward planning and the absence of whole-of-sector perspectives by the Commonwealth*

<sup>10</sup> DEEWR 2008, *Review of Australian Higher Education Final Report*, p119

<<http://www.deewr.gov.au/highereducation>>

<sup>11</sup> Universities Australia 2008, *Universities Australia Submission to the Review of Australian Higher Education*, p28

<<http://www.deewr.gov.au/highereducation>>

<sup>12</sup> Universities Australia 2008, *Universities Australia Submission to the Review of Australian Higher Education*, p29

<<http://www.deewr.gov.au/highereducation>>

*Government itself and by other key stakeholders who press universities to be responsive, such as industry.*<sup>13</sup>

The Joint Committee on Higher Education commissioned an inquiry into the desirability of a national higher education accreditation body. The consultation discussion paper, released in January 2008 identified a range of evidence in support of a national body and the inconsistency due to current arrangements.

*'Promoting greater national consistency in the application of the Protocols across jurisdictions has been under discussion since 2005, when MCEETYA endorsed the need for greater national consistency...'*<sup>14</sup>

It was also identified that,

*'There are varying stakeholder views as to the significance of these differences [between jurisdictions]. Some stakeholders argue that many of the differences appropriately reflect local conditions and government policies...while others believe that they have a substantial impact on the level of national consistency and quality outcomes of the national framework.'*<sup>15</sup>

### Quality

There is evidence of poor teaching quality and student engagement as a result of increases in student-staff ratios over the last 20 years as cited in the recently released final report of the Higher Education Base Funding Review. This is discussed further below under the section titled 'survey evidence on student satisfaction'. This is also supported by the Australian Law Students Association submission to the Bradley Review,

*'Law schools across Australia are without exception cutting contact hours, increasing staff-student ratios and reducing the number of subjects offered to cope with funding shortfalls.'*<sup>16</sup>

In addition,

*'In reviewing the effect that these funding shortages had upon the quality of teaching and learning in Australian universities, the Committee found strong evidence to demonstrate that many subject disciplines in many universities had experienced declining standards in recent years'*<sup>17</sup>

*'Law schools around Australia have struggled to provide a quality legal education centred on smaller groups and intensive staff-student contact'*<sup>18</sup>

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<sup>13</sup> Ibid, p28

<sup>14</sup> Joint Committee on Higher Education 2008, *Inquiry into the desirability of a national higher education accreditation body: Consultation discussion paper*, p1

<sup>15</sup> Ibid, p8

<sup>16</sup> Australian Law Students Association 2008, *Submission to the Review of Higher Education*, p5  
<<http://www.deewr.gov.au/highereducation>>

<sup>17</sup> Australian Law Students Association 2008, *Submission to the Review of Higher Education*, p17  
<<http://www.deewr.gov.au/highereducation>>

<sup>18</sup> Ibid, p19

The lack of minimum standards and assessment against these was identified in the Innovation Research Universities submission to the Bradley Review,

*'With the increasing diversification of the higher education sector, it is important for there to be a national system in place which assures at least minimum standards of quality of educational qualifications. There is currently no system-wide mechanism for assessing learning outcomes in the self-accrediting university system.*

*The Australian and State and Territory governments, through MCEETYA, should explore the feasibility of implementing systems to assess standards of academic achievement across all higher education providers, including universities.'*<sup>19</sup>

The Inquiry into the Desirability of a National Higher Education Accreditation Body, released in 2008 also identified,

*'There appear to be some differences across jurisdictions in terms of the relative emphasis placed on the demonstration of compliance with minimum standards and the demonstration of a commitment to quality assurance and quality improvement...'*<sup>20</sup>

### Enforcement

Enforcement issues were extensively raised in submissions from the sector to the Review of the *ESOS Act 2000*. These issues are mainly directed at providers in the VET sector, however are still applicable in the higher education sector.

The Group of Eight stated,

*'What is required is better enforcement of the existing regulations and a regulatory system that distinguishes between high and low-risk providers... There is a perception in the higher education sector that government does not take action against unethical providers.'*<sup>21</sup>

The Australian National University (ANU) also commented on this in their submission,

*'The ANU believes that the Tertiary Education Quality and Standards Agency (TEQSA) should give a specified role to monitor adherence to these standards more closely as should the State and Territory Registration Authorities - and the necessary teeth to enforce that adherence.'*<sup>22</sup>

*'The ANU agrees that registration requirements should be strengthened and that there should be targeting of compliance and enforcement action.'*<sup>23</sup>

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<sup>19</sup> Innovative Research Universities 2008, *Submission to the Review of Higher Education*, p14

<<http://www.deewr.gov.au/highereducation>>

<sup>20</sup> Joint Committee on Higher Education 2008, *Inquiry into the desirability of a national higher education accreditation body: Consultation discussion paper*, p10

<sup>21</sup> Group of Eight 2009, *Strategic Review of the Student Visa Program 2011 Go8 Response*, p4

<<http://www.immi.gov.au>>

<sup>22</sup> The Australian National University 2009, *Submission to the Review of the Education Services for Overseas Students (ESOS) Act 2000*, p1 <<http://www.immi.gov.au>>

<sup>23</sup> *Ibid*, p7

The National Union of Students, in their submission to the Review of the *ESOS Act 2000*, raised concerns about the responsibility for both enforcement and monitoring of quality,

*“NUS shares opinions with other peak bodies that the legislation does indeed cover most of the consumer protection bases it was designed to do, however, the main problem now is the lack of enforcement. Whether this is because of the lack of resources or just a confusion about who is actually responsible for the enforcement and monitoring is a problem that needs to be sorted out within the government departments and a review such as this can only resolve if it were to develop standards that the regulators must adhere to within the National Code of Practice. In this way, the regulators roles and responsibilities would be spelt out, just as the education providers’ roles and responsibilities are. Furthermore, the regulators would be accountable and obliged to produce reports regarding their adherence to the standards, such as registering, auditing and monitoring activities. This would provide the industry, both students and education providers with clear distinctions between state and federal responsibilities.”<sup>24</sup>*

Similarly the Council of Private Higher Education expressed,

*“We strongly support the consolidation of quality assurance and regulatory powers for higher education ... in a single national body as proposed in TESQA; as at present there is inefficient and confusing duplication across Commonwealth and State jurisdictions.”<sup>25</sup>*

#### *Survey evidence on student satisfaction*

Analysis undertaken for the Higher Education Base Funding Review identified that although the Course Experience Questionnaire shows that Australian student satisfaction with teaching has increased over the past decade, the First Year Experience surveys show student satisfaction with some aspects of teaching remains at low levels. For example,

*‘Only 35 per cent of first –years students reported that teaching staff usually gave helpful feedback on progress and 26 per cent believed that staff members took an interest in their progress.’<sup>26</sup>*

#### *Australian Universities Quality Agency (AUQA) audits*

The audits conducted by the AUQA provide an indication of the number of providers that have major issues of concern through the scope of the recommendations. Of the audits conducted there was only a small number (i.e. 8-10) that had issues that required significant follow-up. Issues identified range from quality of teaching to governance arrangements, including off-shore partnerships, to student support.

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<sup>24</sup> National Union of Students 2009, *Submission to the Review of the Education Services for Overseas Students (ESOS) Act 2000*, p32 <<http://www.immi.gov.au>>

<sup>25</sup> Council of Private Higher Education 2009, *Submission to the Review of the Education Services for Overseas Students (ESOS) Act 2000*, p10 <<http://www.immi.gov.au>>

<sup>26</sup> DEEWR 2011, *Higher Education Base Funding Review: Final Report October 2011*, p29 <<http://www.deewr.gov.au/HigherEducation>>

### *Case study: Greenwich University*

The establishment of Greenwich University in 1998 caused the Australian Government great concern in terms of student protection as well as the protection of Australia's reputation, particularly internationally.

Greenwich University is a private institution which operated on Norfolk Island from 1998 until December 2002. It was originally founded in 1972 in Missouri, USA and was known at that time as the International Institute for Advanced Studies. It traded from 1990 to 2003 in Hawaii. It was never recognised by an accrediting body in the United States. In 1998 it moved to Norfolk Island (an external territory of Australia), where it was established under Norfolk Island legislation. Between 30 June 1998 and 2 December 2002, Greenwich University (Norfolk Island) degrees were lawfully awarded under this legislation using Norfolk Island's powers of self-government.

In January 1999 Greenwich University requested that it be listed on the Australian Qualifications Framework (AQF) Register. In response, the Australian Government set up a review committee to investigate the suitability of Greenwich University for this recognition. The committee returned recommendations that Greenwich University not be listed on the AQF Register because 'the standard of its courses, quality assurance mechanisms and its academic leadership fail to meet the standards expected of Australian universities'. In 2002 legislation was passed by then Education Minister Brendan Nelson to prevent it continuing to operate on Norfolk Island.

Greenwich University is in no way connected to the University of Greenwich in the United Kingdom. Greenwich University currently claims to be recognised and established under Sindh Government (Pakistan) legislation as an autonomous degree-awarding university.

### *Rationale for change*

If TEQSA applied the National Protocols for Higher Education Approval Processes (National Protocols), which were developed by the states and territories through the Ministerial Council at that time, they would not be enforceable as they are broad principle-based guidelines open to interpretation rather than clear standards.

The current system for re-registration, re-accreditation of courses and quality assurance process are all on a time-based cycle, not taking into account institutional risk factors. Monitoring of providers is also cyclical, which makes it difficult for regulators to respond to issues of poor quality within an appropriate time frame.

Under a cycle-based process which a regulator cannot enforce, Australia's reputation is at risk. Regulation based on appropriate standards which are equally applied will ensure the quality of higher education as the sector expands.

The sector has found the National Protocols complex and difficult to understand. This has led to a general lack of knowledge throughout the sector of what a provider needs to do to fulfil their requirements.

The Protocols are also out of date as they were initially developed in 2000, with a revision in October 2007. This revision was made prior to major reforms in the sector, following the Bradley Review, which will have a greater focus on outcome measures.

### **3. Objectives**

The establishment of TEQSA creates one body responsible for both compliance monitoring and quality assurance. The TEQSA legislation is specifically design to ensure that only quality providers of higher education enter the system, and that by using a risk based approach to regulation providers who are at greater risk of non-compliance are readily identified and more closely monitored.

Key to this endeavour is a set of standards that set a clear benchmark for entry to, and continuance in, the Australian higher education sector.

The *Tertiary Education Quality and Standards Agency (TEQSA) Act 2011* provides for the making of seven named sets of standards:

1. Provider Registration Standards
2. Provider Category Standards
3. Provider Course Accreditation Standards
4. Qualifications Standards
5. Teaching and Learning Standards
6. Information Standards
7. Research Standards

The first four standards are collectively referred to in the legislation as the Threshold Standards, and it is the approach to establishing these standards that is the particular focus of this Regulatory Impact Statement.

The objective is to have a single regulatory body to register and evaluate the performance of every provider in Australia against the same set of standards. This will ensure consistency across the sector, reduce complexity, increase transparency and ensure all students including international students can be satisfied that they will receive a high level of education at any Australian higher education institution.

The key objectives of the Threshold Standards are:

- Reducing regulatory complexity, inconsistency and onerous reporting requirements;
- Ensuring Australia's reputation for quality higher education remains high;
- Growing the higher education sector without reducing quality;
- Addressing the lack of available information on provider performance; and,
- Improving quality assurance arrangements and applying them to all providers.

#### *Reducing regulatory complexity, inconsistency and onerous reporting requirements*

The objective is to have a single, national regulatory body that regulates providers against a single set of standards consistently and transparently across Australia to underpin the regulatory framework of TEQSA and provide appropriate safeguards to ensure students receive a quality education.

The objective is to use a standards-based approach to regulation, with a singular regulatory body requiring institutions to meet or exceed threshold standards in order to be registered to deliver higher education in Australia. This approach will strengthen and streamline current practices, providing for national consistency and improved quality across the sector into the future.

#### *Ensuring Australia's reputation for quality higher education remains high*

Australia's reputation as a provider of high quality education with high standards of student support and welfare is of core importance to our continued success in the field of international education.

Education is currently one of Australia's biggest export earners. International education is estimated to have contributed \$17.2 billion in export income to the Australian economy in 2008–09 as well as an estimated 122 000 full-time jobs. In order to maintain Australia's excellent reputation in education Australia needs to be able to demonstrate that it can guarantee the quality of higher education that every student receives from any provider.

The objective is to have a single regulatory body to register and evaluate the performance of every provider in Australia against the same set of standards. This will ensure consistency across the sector so students can be satisfied that they will receive a high level of education at any Australian higher education institution.

#### *Growing the higher education sector without reducing quality*

The objective is to ensure that increased competition does not lead to the quality of outcomes being placed at risk. In a period of expansion, when higher education institutes are attracting students who have not traditionally considered going to university and student pathways are linked to funding, institutions will be required to demonstrate quality of outcomes.

#### *Addressing the lack of available information on provider performance*

Under the current system, reliable information on performance to underpin student choice of courses and institutions is limited, and there is a general lack of information readily available to students and prospective students about providers. This may impact upon their ability to make informed choices and, as education is not a commodity that can be taken back and exchanged this could lead to dissatisfaction if students do not receive the education that they expected.

### **3. The Options**

#### *Option 1: Continue using the National Protocols – The Status Quo*

Incorporate the National Protocols by reference as the legislative instruments referred to in the *TEQSA Act 2011*.

#### *Option 2: Proposed Higher Education Standards Framework*

Make the current draft Threshold Standards as legislative instruments under the *TEQSA Act 2011*.

The Threshold Standards comprise the Provider Standards (about registration, category and course accreditation) and the Qualification Standards (about learning outcomes, issuance and pathways). They are based on current regulatory requirements (i.e. the National Protocols and the AQF).

TEQSA will register and evaluate the performance of all higher education providers against the Threshold Standards. This includes self-accrediting institutions and non self-accrediting institutions to ensure that all providers meet a set of minimum standards in order to enter and remain in Australia's higher education system.

The Provider Standards comprise Registration Standards, Category Standards and Course Accreditation Standards.

The Registration Standards assess:

- The providers standing;
- Financial viability and safeguards;
- Corporate and academic governance;
- Academic quality and integrity;
- Management and human resources;
- Responsibilities to students, including the provision of information, support and equitable treatment; and,
- Physical and electronic resource infrastructure.

The Category Standards are designed to reflect and formalise key elements of Australia's higher education system through the use of titles that are well understood nationally and internationally. The provider categories are:

- Higher Education Provider;
- Australian University;
- Australian University College;
- Australian University of Specialisation;
- Overseas University; and,
- Overseas University of Specialisation.

The Course Accreditation Standards provide standards for each higher education award to ensure:

- Course design is appropriate and meets the Qualification Standards;
- Course resourcing and information is adequate;
- Admission criteria are appropriate;
- Teaching and learning are of high quality;
- Assessment is effective and expected student learning outcomes are achieved; and,
- Course monitoring, review, updating and termination are appropriately managed.

The Qualification Standards apply to the accreditation and re-accreditation of all higher education awards. They ensure:

- Higher education awards delivered meet the appropriate criteria defined in the AQF;



- Certification documents issued by higher education providers are accurate and protect against fraudulent use; and,
- Articulation, recognition of prior learning and credit arrangements meet the appropriate criteria.

### *Establishment of TEQSA*

In March 2009, the Government announced the establishment of the TEQSA as a single national regulatory and quality assurance agency for higher education. In the 2011–12 Budget, \$79.788 million over a four year period was allocated to TEQSA.

TEQSA has been established as an independent body with powers to regulate university and non-university higher education providers, monitor quality and set standards. It combines the regulatory activities currently undertaken in the state and territory governments with the quality assurance activities currently undertaken by the AUQA. In doing so, it will reduce the number of federal, state and territory regulatory and quality assurance bodies from nine to one.

TEQSA's risk framework will be balanced and will not entrench the status quo, and it will recognise and encourage the diversity of providers' missions, curriculum and approach to delivery. Its regulatory approach will be based on risk and proportionality. TEQSA's approach to regulation will move away from time-based and whole-of-institution auditing to a framework and methodology which enables it to be nimble and to intervene based on emerging risks, or to focus on a specific area of risk within the sector, within an institution, or across a cohort.

Three basic principles of regulation are enshrined in the legislation which TEQSA must comply with when exercising its regulatory powers under the Act: the principle of regulatory necessity, the principle of reflecting risk, and the principle of proportionate regulation.

1. The principle of regulatory necessity – this means that in exercising its powers, TEQSA must not burden the higher education provider any more than is reasonably necessary.
2. The principle of reflecting risk – this means that in exercising its powers, TEQSA must have regard to a range of factors, including the provider's history of scholarship, teaching and research; its students' experiences; its financial status and capacity; and, its history of compliance with the Act.
3. The principle of proportionate regulation – this means that TEQSA must exercise its powers in proportion to any non-compliance, or the risk of future non-compliance, by the provider.

TEQSA's focus will be on higher-risk providers, allowing lower-risk providers to operate without unnecessary intrusion. TEQSA will have powers to take action and intervene with an escalating series of responses when poor quality is identified.

Additionally, TEQSA will:

- Collect richer data and monitor performance in areas such as student selection, retention and exit standards, and graduate employment.

- Evaluate the performance of universities and other higher education providers every five years, or whenever there was evidence that standards were not being met.
- Recommend sanctions up to and including withdrawing the right to use the title of 'University', if problems are identified.

#### 4. Impact Analysis

##### *Option 1: Continue using the National Protocols – The Status Quo*

This option would see TEQSA applying the National Protocols as developed by the states and territories through the Ministerial Council for Tertiary Education and Employment (previously MCEETYA). They are not drafted as clear standards; rather they are broad principle-based guidelines open to interpretation. The benefit of this approach would be to enable higher education providers to have more flexibility to develop their own approach to quality, for example student support.

Some in the sector are of the view that the sector is currently operating with sufficient discretion and flexibility in order to sustain quality and competitiveness. Learning outcomes currently enable graduates to gain employment in their fields nationally and internationally. There are clear benefits for providers in keeping high-level principle-based guidelines which allow them flexibility to take their own approach to quality.

However, the current system uses the National Protocols within a time-based auditing and registration cycle. Providers are monitored at set intervals making it difficult for regulators to take immediate action if an issue of poor quality is identified.

##### Based on inputs and processes

Over the past decade, quality assurance in higher education has been conceived mainly around 'fitness for purpose'. Quality assurance has involved investigating the alignment between the established goals of an institution and the policies and processes in place for achieving these goals. Quality assurance, when framed in these terms, operates largely around internal reference points. The National Protocols reflect this, being predominantly based on inputs and processes. This affects the sector because:

- An approach based on inputs and processes is not capable of driving behaviours that lead to quality outcomes in the same way as an outcome-based approach would
- It is not possible to measure quality against a set of protocols so focussed on inputs and processes
- There is no measure of performance or possibility of consequences if performance is poor.

If TEQSA were to regulate against the National Protocols then the focus would remain on inputs and processes.

This impacts upon stakeholders because:

- Students are not able to easily determine the performance of a provider. This may impact on students' ability to make informed decisions about courses and providers

- Providers will be more focussed on ensuring that they meet the requirements regarding inputs and processes instead of working towards assuring and demonstrating outcomes, which would allow the provider to grow and expand by demonstrating quality, thereby benefitting from increased student participation.

#### Guidelines not Standards

The National Protocols are not drafted as clear standards but rather are broad and more principles-focussed guidelines. TEQSA's legislative framework provides for the development of standards that will set out the threshold which all providers must meet in order to be registered by TEQSA. In their current form, the National Protocols and AQF do not fulfil this requirement because:

- There is no measure of performance, and therefore it will be harder to identify, and take action against, any identified issues

This impacts upon stakeholders because:

- TEQSA may not be able to monitor and evaluate the quality of providers against clear standards and take action against underperformance; and,
- Providers may not be able to benchmark their performance against other providers and to use their own evaluations to improve the quality of education they offer. This may impact on their ability to be competitive in the new demand-driven system.

Drawing from the example of the international student market in the Vocational Education and Training sector (VET), the collapse of providers not only impacts on the students and families involved but also subjects one of Australia's largest export industries to a significant amount of negative publicity. The concerns in the VET sector initiated a re-think of the National Protocols. On reflection, the Protocols were not robust enough to identify substandard higher education or providers considered financially to be at risk.

#### National Protocols are out of date

The National Protocols were adopted in March 2000, with a revised version implemented in October 2007. They are not suited to the new demand-driven system that will have a greater focus on accreditation, quality assurance, benchmarking and the use of outcomes measures. The National Protocols need to be revised to better reflect current priorities and emerging issues.

This impacts upon stakeholders because:

- Providers will be regulated against a set of standards that are not appropriate to the current higher education landscape; and,
- TEQSA will have to work with the National Protocols which are complex, inefficient and difficult to understand.

#### Lack of understanding of National Protocols

Feedback from the sector indicates that there is a poor understanding throughout the sector of what the National Protocols are and what responsibilities providers have in relation to them. The National Protocols are complex and difficult to understand, which contributes to a general lack of knowledge throughout the sector of what a provider needs to do to fulfil their requirements.

#### Continue using the AQF

The AQF is not drafted as clear standards but rather as broad and principles-focussed guidelines. TEQSA's legislative framework provides for the development of standards that will set out the threshold which all providers must meet in order to be registered by TEQSA. In their current form, the AQF does not fulfil this requirement, and it will be much harder to monitor performance and take action against underperformance.

Furthermore, universities have varying interpretations of their requirements in relation to the AQF.

This impacts upon stakeholders because:

- TEQSA will not be able to evaluate the quality of providers across the sector;
- Providers will not be able to benchmark their performance against other providers and to use their own evaluations to improve the quality of education they offer. This may impact on their ability to be competitive in the new demand-driven system; and,
- Students will not be assured that the qualification they receive is a quality award and is recognised nationally and internationally.

Summary: If the status quo is retained in terms of standards:

- There would be continuity in the standards applied to providers (albeit applied by TEQSA) which may be the preferred position of some providers. However,
- Due to their guideline nature TEQSA may not be able monitor and evaluate quality of providers and take regulatory action where necessary to enforce compliance;
- There may be uncertainty about the robustness of quality assurance in the sector; and,
- There would continue to be a lack of comparable information available about provider performance and there a lack of opportunity to benchmark and improve service.

*Option 2: Proposed Higher Education Standards Framework*

This option proposes that the Government develop a new set of national standards, the Higher Education Standards Framework (the Framework). The Framework will contain Threshold Standards which providers must meet in order to be registered and operate under TEQSA. The development of the Framework will underpin TEQSA's regulatory activities and provide appropriate safeguards to ensure students receive a quality education. This will be central to ensuring that the bar for entry to the sector is sufficiently high and will set out the expectations that students, the Government and taxpayers have of our providers.

All providers will be required to meet the Threshold Standards in order to become a higher education provider. This signals to the public that the provider is a bona fide provider of quality higher education in Australia.

The new Threshold Standards are built around the aspects of the established National Protocols which work well while allowing for the redrafting or removal of those aspects which are problematic and the addition of new, more stringent tests where such tests are required. It also provides for the use of more user-friendly, clear language that can be more readily interpreted and enforced.

The Qualification Standards will be largely based on the AQF, however they will allow for the adoption of clear standards to ensure providers are aware of requirements for issuing higher education awards leading to an Australian qualification. It is envisaged that this standard will reference the AQF criteria and specification descriptors for each qualification type rather than translating them. This will provide scope for the Australian Qualifications Framework Council (AQFC) to amend the AQF without subsequent amendments needing to be made to the Qualification Standards.

The sector is generally supportive of this approach. A public consultation process on the draft Qualification Standards was conducted in September 2011. This followed extensive consultations conducted by the AQFC on the new revised AQF. DEEWR has also worked closely with the sector over a period of more than twelve months on the draft Provider Standards.

Translating the current National Protocols and the AQF into standards provides regulatory certainty for providers transitioning to the new regulatory environment as the standards will be based on the current requirements.

There will be additional criteria for use of a provider category that uses the word 'university'. The Provider Category Standards that use the word 'university' under the Provider Registration Standards are:

- Australian University;
- Australian University College;
- Australian University of Specialisation;
- Overseas University; and,
- Overseas University of Specialisation.

#### Distributional impact

The expectation is that most current higher education providers would meet the Threshold Standards. Further, the Provider Category Standards exist in the current National Protocols and are therefore not going to have a significant impact on the sector.

Theoretically, there could be a view that the standards would impact differently on small and large providers; privately or publicly funded providers; and, self-accrediting and non-self accrediting institutions.

However, TEQSA's regulatory model is based on an assessment of risk which will not be based on a blunt evaluation of provider characteristics but rather on an analysis of risk profile. Under the Framework, TEQSA will create and maintain 'Risk Profiles' of all higher education providers, rather than apply overall provider ratings. Risk Profiles will enable a holistic view of risks across a range of complex and inter-related areas to guide TEQSA's internal decision-making processes.

Based on this risk framework, lower-risk providers will be able to operate without unnecessary intrusion. Accordingly it is not possible to describe or identify any particular provider or type of provider (for example, small or large, privately or publicly funded) that will be higher-risk and therefore subject to greater regulatory scrutiny.

It is not the purpose of TEQSA’s risk assessment to identify all potential risks of providers, but rather to principally focus on provider risks relative to the ‘Threshold Standards’ in a regulatory context. Risk assessment will consider a range of ‘risk factors’ aligned with the Threshold Standards (canvassing, for example, academic, student and financial related risk). These will predominantly be standard across all higher education providers, with the exception of research related risk factors which will only be applicable to some providers.

TEQSA is about to embark on consultations with the sector about the draft Regulatory Risk Framework, prior to its formalisation by the end of January 2012 when TEQSA takes on its regulatory functions.

However, there will be some regulatory advantage for some providers who are authorised to self-accredit courses.

Under the *TEQSA Act 2011*, universities and other higher education providers will have, or may be authorised to have, the authority to self-accredit one, more, or all of their courses of study. Higher education providers that are registered in the “Australian University” provider category and meet the requirements under section 45(1) of the *TEQSA Act 2011* are authorised under that Act to self-accredit courses that lead to a higher education award that they offer or confer. Where a higher education provider has this authority with respect to a given course of study, the higher education provider will not need to apply to have that course of study accredited by TEQSA against the criteria listed in the Provider Course Accreditation Standards.

However, higher education providers who are authorised to self-accredit remain responsible under the *TEQSA Act 2011* for ensuring that their self-accredited courses of study comply with the Provider Course Accreditation Standards, and will need to consider the detailed criteria as part of their self-accreditation practice.

When conducting compliance assessments under the *TEQSA Act 2011*, consistency with the Provider Course Accreditation Standards will be assessed in relation to both TEQSA-accredited and provider-accredited courses of study.

Consistency and efficiency

The main impacts relating to consistency and efficiency include:

- There is more streamlined registration and accreditation processes;
- Providers deal with only one agency;
- More consistent quality across the sector;
- More certainty in how providers are regulated for employers and the community; and,
- It may be resource intensive for some providers to become familiar with and meet the new Threshold Standards.

| Stakeholder                    | Option 2  |
|--------------------------------|---|
| Non-self Accrediting Providers | <u>Cost</u> <ul style="list-style-type: none"> <li>- Need to adjust to new arrangements and establish new relationships.</li> <li>- For those providers who were not actively engaged with the consultation on the Threshold Standards, it</li> </ul> |

|                            |  |
|----------------------------|--|
|                            | <p>may initially be more resource intensive in an effort to become familiar with the new Threshold Standards.</p> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- The Threshold Standards are a translation of the National Protocols and AQF, documents already very familiar to every higher education provider in Australia.</li> <li>- More streamlined registration and accreditation processes.</li> <li>- Dealing with only one agency for registration, accreditation and quality assurance, not 2 or more.</li> <li>- Clear identification of agency responsible for regulation and quality assurance of providers.</li> <li>- No longer dealing with multiple jurisdictions as well as a quality assurance agency.</li> <li>- Know that they are being regulated against the same set of standards, by the same agency, thereby providing national consistency.</li> <li>- More certainty in how they will be regulated and what their responsibilities are under the Threshold Standards.</li> </ul> |
| Self Accrediting Providers | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- As above for non-self accrediting providers.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- The Threshold Standards are a translation of the National Protocols and AQF, documents already very familiar to every higher education provider in Australia.</li> <li>- More streamlined registration and accreditation processes.</li> <li>- Clear identification of agency responsible for regulation and quality assurance of providers.</li> <li>- Know that they are being regulated against the same set of standards, by the same agency, thereby providing national consistency.</li> <li>- More certainty in how they will be regulated and what their responsibilities are under the Threshold Standards.</li> </ul>   |
| Students                   | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- More consistent quality across the sector.</li> <li>- Moving from S/T regulation to national regulation arrangements would result in very little direct impact for students.</li> <li>- More certainty in how providers of higher education will be regulated.</li> </ul>  |
| Employers                  | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul>   |

|                    |  |
|--------------------|--|
|                    | <u>Benefits</u> <ul style="list-style-type: none"> <li>- Consistency in quality of graduate students.</li> </ul>   |
| Community          | <u>Cost</u> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <u>Benefit</u> <ul style="list-style-type: none"> <li>- More consistent quality across the sector.</li> <li>- Moving from S/T regulation to national regulation using the Threshold Standards would result in very little impact.</li> </ul> |
| S & T Governments  | <u>Cost</u> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <u>Benefit</u> <ul style="list-style-type: none"> <li>- Function transferred to the Federal Government.</li> </ul>   |
| Federal Government | <u>Cost</u> <ul style="list-style-type: none"> <li>- Greater cost in funding TEQSA as State and Territories contributed to AUQA funding.</li> </ul> <u>Benefit</u> <ul style="list-style-type: none"> <li>- Streamlining the functions and responsibilities for ESOS.</li> </ul>   |

#### Fees and funding implications

The new fees have not been released. They will be set by TEQSA. The fees will not be considered in this RIS analysis and will be subject to separate consideration.

However, there are some general comments we can make. State and territory regulators charged a range of fees to recover some of the costs associated with registration and course accreditation, however it is unlikely that fees were structured to cover the full or efficient costs of undertaking these activities.

Fees associated with registration under the previous arrangements (Option 1) typically ranged between \$40,000 and \$50,000 — though Tasmania was a clear exception charging only \$13,330.

There was a range of fees associated with accreditation for example, Tasmania only charged for application fees of \$1,463, whereas New South Wales charged an application fee of \$2,080 as well as an assessment fee ranging from \$3,640 to \$7,280 depending on the scope of the assessment. Additionally, NSW charged \$3,120 for assessment of a major variation in the accreditation application.

A number of jurisdictions also charged registration fees for higher education providers seeking to deliver services to international students. These fees ranged from \$665 in Tasmania to approximately \$5,000 in New South Wales and Victoria.

Registration and course accreditation under the Threshold Standards will require the payment of fees. Whilst the details of these fees are not yet available, it could be surmised that there will be providers who will both benefit from the streamlining of quality assurance and national regulation and be subject to additional fees under TEQSA.



The main impacts relating to fees and funding implications include:

- Only one payment to one agency;
- Lower- risk providers will have longer registration periods and therefore lower fees overall;
- State and territories can now direct funding and resources towards other activities as they are no longer responsible for registration and accreditation; and,
- Self-accrediting providers will now need to pay fees for registration and re-registration.

| <b>Stakeholder</b>         | <b>Option 2</b>  |
|----------------------------|--|
| Non-self Accrediting       | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- Some providers may pay more as their fees paid to their respective state government may have been subsidised.</li> <li>- Some providers may be registered more frequently as they are identified as higher-risk providers.</li> <li>- Fees may be paid more frequently and overall costs may therefore be higher for some providers.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- Some providers may pay less as their fees to their state governments were on the basis of full cost recovery.</li> <li>- Only one payment to one agency.</li> <li>- Providers identified as lower-risk will have longer registration periods.</li> <li>- Fees may be less for some providers</li> </ul> |
| Self-accrediting Providers | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- For the first time providers will pay fees for registration and re-registration.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- Providers identified as lower-risk will have longer registration periods.</li> </ul>  |
| Students                   | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- Some providers may pass on increased fees to students.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul>  |
| Employers                  | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul>   |
| Community                  | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul>   |
| S & T Governments          | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- Some S &amp; T who received revenue from higher education providers under full cost recovery arrangements will lose this source of funding.</li> </ul> <p><u>Benefit</u></p>   |

|                    |   |
|--------------------|---|
|                    | <ul style="list-style-type: none"> <li>- Those S &amp; T that were subsidising fees for registration and accreditation can now direct this funding towards other activities.</li> <li>- No longer the need for administrative processes and resources for fee collection.</li> </ul>                                |
| Federal Government | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- Federal government allocated funds for regulator for the ongoing regulation and quality assurance of higher education providers.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> |

### Quality

The main impacts relating to quality include:

- Providers will know they are being regulated against the same set of standards, ensuring national consistency;
- Greater confidence in the quality of qualifications issued;
- Reduction in risk to Australia's reputation in higher education;
- Increased number of students will not impact on quality of higher education;
- Appropriate enforceable action can be taken as necessary.

| <b>Stakeholder</b>             | <b>Option 2</b>   |
|--------------------------------|---|
| Non-self Accrediting Providers | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- Regulatory arrangements are made on a risk-based approach rather than process related.</li> <li>- Able to demonstrate their graduates have the capabilities required for employment.</li> <li>- Will know that they are being regulated against the same set of standards, by the same agency, thereby providing national consistency.</li> <li>- It is expected that providers will focus on graduate outcomes and meeting standards rather than on inputs and processes.</li> <li>- Will be regulated against standards that are able to accommodate changing global and national agendas.</li> <li>- Providers and other interested stakeholders (such as peak bodies) will have the opportunity to provide input into the making of the standards. The Minister must have regard to input received from Providers.</li> </ul> |
| Self Accrediting Providers     | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- As above for non-self accrediting providers.</li> </ul>   |
| Students                       | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p>  |

|                    |   |
|--------------------|---|
|                    | <ul style="list-style-type: none"> <li>- Able to easily determine the performance of a provider and make informed decisions.</li> <li>- Able to make informed decisions about courses.</li> <li>- Greater confidence in the quality of qualifications issued.</li> <li>- Can be assured that TEQSA will have the legislative power to take appropriate enforceable action as necessary.</li> <li>- Student bodies will have the opportunity to provide input into the making of the standards. The Minister must have regard to input received from students.</li> </ul>  |
| Employers          | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- Can be assured that graduates have the capabilities required for employment.</li> <li>- Greater confidence in quality of qualification issued.</li> </ul>   |
| Community          | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- It is expected that an expansion in numbers of students will not impact the quality of the education as TEQSA will be measuring against the Threshold Standards and be able to identify shortfalls in quality.</li> <li>- Greater confidence in the quality of qualifications issued.</li> <li>- Can be assured that TEQSA will have the legislative power to take appropriate enforceable action as necessary.</li> <li>- Tertiary Education Unions will have the opportunity to provide input into the making of the standards. The Minister must have regard to input received from interested stakeholders.</li> <li>- It is clear who is responsible for quality in higher education.</li> </ul> |
| S & T Governments  | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- S &amp; T governments will have the opportunity to provide input into the making of the standards. The Minister must have regard to input received from S &amp; T.</li> </ul>   |
| Federal Government | <p><u>Cost</u></p> <ul style="list-style-type: none"> <li>- None identified in this scenario.</li> </ul> <p><u>Benefit</u></p> <ul style="list-style-type: none"> <li>- Greater confidence in the quality of qualifications issued.</li> <li>- This will mean less of a risk to Australia's reputation for higher education.</li> </ul>   |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>- Federal Government can be assured that graduates have the capabilities required for employment.</li> <li>- It is expected that an expansion in numbers of students will not impact the quality of the education as TEQSA will be measuring against the Threshold Standards and be able to identify shortfalls in quality and respond appropriately.</li> <li>- Know that providers are being regulated against the same set of standards, by the same agency, thereby providing national consistency.</li> <li>- Providers will be focusing on graduate outcomes and meeting standards rather than focusing on inputs and processes.</li> <li>- Providers will be regulated against standards that are able to accommodate to changing global and national agendas.</li> </ul> |
|--|---|

## 5. Consultation

Key to the success of the new regulatory and quality assurance arrangements has been the active involvement of stakeholders. The Department has been engaged in an extensive consultation process with the sector on the development of the Threshold Standards.

Consultation of the development of the Provider Standards commenced in March 2010, with peak education bodies and state and territory governments invited to comment on the first draft of the standards. Feedback received included 28 written submissions, 11 individual and group teleconferences and six face-to-face meetings.

Feedback primarily indicated the need for more contextual information on how the Provider Standards will fit into TEQSA's approach along with the need for more information and clarity around the level and type of evidence that may be required, and the need to remove areas of duplication. These comments assisted in shaping a second draft of the Provider Standards, which was a more streamlined and succinct document and included substantial contextual information. Clarification was also provided around the separate development of guidelines on the standards which will assist providers in the transition to the new standards.

The second draft of the Provider Standards was released to stakeholders for comment in November 2010 and was also discussed at the exposure draft process for the draft TEQSA legislation on 10 November 2010. As part of the consultation process, a stakeholder workshop was also held in Melbourne on 7 February 2011. More than 80 participants including a number of Vice-Chancellors, Deputy Vice-Chancellors, Pro Vice-Chancellors, peak bodies and state and territory governments attended the workshop. This stage of the stakeholder consultation process closed on 17 February 2011. The Department received 37 written submissions and participated in two teleconferences and two face-to-face meetings.

Most feedback received during the second consultation process noted that the draft standards are by and large close to hitting the mark but identified 'self-accrediting authority' and 'categories of providers' as areas that required further work. As a result additional provisions were made regarding self-accrediting status for the relevant provider categories. Changes were also made to clarify and tighten language. The feedback received throughout this process was incorporated into a third draft of the Provider Standards which was released for consultation on 12 April and closed on 2 June 2011. The Department received 41 written submissions during this public consultation round. The feedback received will be incorporated into a fourth and final draft.

Development of the Qualification Standards has taken place in close collaboration with the AQFC to ensure the standards reflect the strengthened AQF which was endorsed by the Ministerial Council for Tertiary Education and Employment (MCTEE) in March 2011.

The strengthened AQF is the product of a 20-month long project undertaken by the AQFC to improve linkages and connections between qualifications and sectors. The objective of the project was to provide more robust mechanisms for the design and accreditation of qualifications, for comparing qualifications, facilitating pathways and providing the basis for any future credit system.

Stakeholders were actively engaged throughout the project. Three consultations processes were undertaken in May and October 2009 and July 2010. These processes were supported by the release of a consultation paper in which stakeholders were invited to comment. The May and October consultations focussed on the AQFC's proposal for strategic strengthening of the AQF and the proposed levels-based structure for qualification types.

In July 2010, the consultation paper *Strengthening the AQF: A Framework for Australia's Qualifications* was released. The paper sought comment on the complete package of policies that comprised the proposed strengthened AQF. More than 100 submissions were received from stakeholders.

In November 2010, MCTEE accepted the AQFC's preliminary advice on the proposed strengthened AQF. MCTEE requested further discussions with the sector on amendments to the Masters and Doctoral Degree. Following consultation with the sector, the new AQF was presented to, and endorsed by, MCTEE in March 2011.

In light of the consultation already undertaken by the AQFC on the development of the AQF, the Government has focussed its consultation on the translation of the AQF as an enforceable regulatory tool. This consultation has not replicated the process undertaken by the AQFC.

In accordance with Section 29 of the *Tertiary Education quality and Standards Agency (Consequential Amendments and Transitional Provisions) Act 2011*, on 7 November 2011 the Minister wrote to the Standing Council on Tertiary Education, Training and Employment, the Research Minister, TEQSA and other key stakeholders inviting their feedback on the draft Provider Standards and Qualification Standards. The Minister received 16 responses and as a result of the feedback minor amendments were made

to the Qualification Standards to address concerns that the Standards were too prescriptive, to ensure the Standards maintained consistency with the AQF, and to clarify the relationship between the Standards and the AQF.

## 6. Conclusion and Recommended Option

Maintenance of the status quo National Protocols and AQF as the standards applied by TEQSA could be viewed by some in the sector as beneficial because it avoids possible disruption to business processes and potential for increased costs. Further, providers are familiar with the requirements of the National Protocols and the AQF and may prefer to retain them. Becoming accustomed to the new Threshold Standards may require an increase in resources and potentially the risk of failing to meet them.

However, the cost of retaining the National Protocols and the AQF, as noted in this RIS, include:

- The difficulty in TEQSA being able to measure performance because of the guideline nature of the National Protocols and the AQF;
- The difficulty in TEQSA being able to enforce compliance;
- A retention of the focus on inputs and processes rather than performance and outcomes; and,
- Students are not able to determine performance of providers and make informed decisions.

The Threshold Standards will ensure that standards are clear, performance can be measured against them and action to enforce compliance can be undertaken.

The analysis and mapping (see [Attachment A](#)) shows that the foundation of the standards are the National Protocols and the AQF, The Threshold Standards do not change the fundamental scope or general intent of the status quo standards, but rather ensure that they can be clearly understood and consistently interpreted, applied consistently to all providers and enforceable.

Whilst it is difficult to determine the exact costs and benefits of adopting of the Higher Education Standards Framework, there are clearly some benefits for all stakeholders.

For providers:

- Familiarity with the Threshold Standards, given that they draw from the existing National Protocols and the AQF;
- Streamlining:
- providers will no longer be subject to multiple forms of regulation from multiple agencies;
- data requests from multiple agencies will be rationalised, duplication of data will be ameliorated.

More generally however the Threshold Standards:

1. Provide clear articulation of the criteria and standards for the higher education sector.
2. Can be applied across the sector in order to establish objective and comparative benchmarks of quality and performance.

3. Will provide TEQSA with the regulatory framework to enable it to undertake enforcement activities as necessary. Where poor quality is identified, TEQSA will intervene with an escalating series of responses in accordance with the principles of regulation. The action TEQSA will take will depend on the risk of the provider and the seriousness of the contravention.
4. Facilitate and support providers in their self-regulatory efforts, as TEQSA will only intervene as necessary using the principles of regulation. Providers will continue to have regulatory authority over their institutions but will ultimately remain accountable to TEQSA.
5. Provide a minimum set of standards providers will be required to meet or exceed in order to be registered and deliver higher education in Australia.

The cost of adopting the Threshold Standards includes educating the sector on the new requirements and possible resistance from stakeholders, although this has been ameliorated by extensive consultation.

In conclusion, the recommended option is to adopt the Threshold Standards.

## **7. Implementation and review**

TEQSA has commenced working with providers to ensure smooth implementation of the Higher Education Standards Framework once they are approved as legislative instruments. All existing registered higher education providers will automatically be registered by TEQSA and accredited courses of registered providers will also be taken to be accredited by TEQSA. TEQSA will be taking a risk based approach to regulation and will have a close working relationship with providers that have issues raised as part of their risk evaluations.

### Higher Education Standards Panel

The Higher Education Standards Panel will be responsible for developing and maintaining the Higher Education Standards Framework including the Threshold Standards. The members of the Standards Panel are experts in the field and independent of the TEQSA Commission. This will ensure:

- The separation of standard setting and the monitoring and enforcement functions carried out by TEQSA; and,
- The Standards are regularly reviewed by subject matter experts to ensure they remain relevant and up to date.

### Making the Standards

The legislation provides that the Minister must consult key stakeholders before making a Standard. In practice, the Panel will develop a draft of the Standards in consultation with interested parties. On receiving the draft Standard, the Minister will be required to consult with TEQSA, the Commonwealth Minister for Research and State and Territory Ministers for Tertiary Education. It is only after this process that the Minister may make the Standard.

### Review of the Standards

The legislation stipulates that the Standards Panel is to commence a review of the Threshold Standards within 12 months of the Panel's operation.

*Summary comparison of structure of the National Protocols for Higher Education Approval Processes and National Protocols Guidelines with Draft Threshold Standards (Provider Registration Standards, Provider Course Accreditation Standards and Provider Category Standards)*

| <b>National Protocols</b>   | <b>NP Guidelines</b>                    | <b>Draft Threshold Standards: Provider Registration Standards (PRS), Provider Course Accreditation Standards (PCAS) and Provider Category Standards (PCS)</b> |
|---|---|---|
| A1 Legal entity   | 1. Fitness and legality                 | PRS 1. Provider Standing  |
| A2 Contributes to goals of Australian higher education<br>A3 Higher education purpose   | 2. Goals and culture of the Institution | PRS 4. Primacy of academic quality and integrity  |
| A10 Protection of students in event of closure  | 3. Protection of students               | PRS 6. Responsibilities to students   |
| A5 Appropriate governance, quality assurance and staffing profile                       | 4. Governance                           | PRS 3. Corporate and academic governance  |
| A6 Sound financial and business management practices                                    | 5. Finances and management              | PRS 2. Financial viability and safeguards<br>PRS 5. Management and human resources  |
|   | 6. Quality assurance                    | PRS 3. Corporate and academic governance and<br>PR 5. Management and human resources  |
| A8 Academic staff active in scholarship and research (for research student supervision) | 7. Staffing                             | PRS 5. Management and human resources   |
| A9 Provides sufficient support and infrastructure for effective student learning        | 8. Facilities and student services      | PRS 6. Responsibilities to students<br>PRS 7. Physical and electronic resources and infrastructure  |
| A4 Teaching and learning engages with advanced knowledge and inquiry                    | 9. Course requirements                  | PCAS 4. Teaching and learning are of high quality<br><br>PCAS 1. Course design is   |



|  |   |   |
|--|---|---|
| A7 Complies with Australian Qualification Framework descriptors      |   | appropriate and meets the Qualification Standards   |
| B2 course comparable to that at an Australian university             |   | PCAS 1. Course design is appropriate<br>PCAS 4. Teaching and learning are of high quality   |
| B1 Omnibus requirements for registration                             | (various above)                           | Provider Registration Standards, 1-7  |
| C1-C4 Requirements to be equivalent to Australian universities       | (various above)                           | Provider Registration Standards, 1-7  |
| D1 Culture of sustained scholarship                                  | Culture of scholarship (for universities) | PCS 1 (higher education provider category)<br>PCS 2 (Australian university category)<br>PCS 3 (Australian University College category)<br>PCS 4 (University of specialisation category) |
| D2 Undertakes research   | Research culture                          | PCS 2 (Australian university category)<br>PCS 3 (Australian University College category)<br>PCS 4 (University of specialisation category)   |
| D3 Commitment of staff to free inquiry and advancement of knowledge  | (Culture of scholarship as above)         | PCS 2 (Australian university category)<br>PCS 3 (Australian University College category)<br>PCS 4 (University of specialisation category)   |
| D4 Operations underpinned by the values of universities              | (as above in several places)              | PRS 3 Corporate and academic governance<br>PRS 4 Primacy of academic quality and integrity  |
| D5/6/7 Breadth of operations   | 17-18 in Guidelines for universities      | PCS 2 Australian university category  |
| E1 Legally established   | (1 above)                                 | PCS 5.1 'Overseas University' category  |
| E2 Demonstrates institutions and courses are of appropriate standing | (1 and 9 above)                           | PCS 5.1 and 5.2 'Overseas University' category  |
| E3 offers properly accredited courses                                | (9 above)                                 | PCS 5.1 'Overseas University' category  |

|   |                              |  |
|---|------------------------------|--|
| E4 delivery arrangements comparable to Australian higher education institutions | (various above)              | PCS 5.2 'Overseas University' category |
| E5 local partners or agents have appropriate standing                           | (1 above)                    | PCS 5.2 'Overseas University' category |
| E6 appropriate financial and other arrangements                                 | (various above, including 3) | PCS 5.2 'Overseas University' category |

*Summary comparison of structure of Australian Qualifications Framework policy documents and the Draft Qualification Standards*

| <b>Australian Qualifications Framework</b>                                | <b>Qualification Standards</b>   |
|---|--|
| AQF levels criteria and AQF qualification type descriptors (Introduction) | Summary Statement<br>1.1 Higher education awards delivered meet appropriate criteria   |
| AQF levels summaries and learning outcomes criteria                       | 1.1 Higher education awards delivered meet appropriate criteria  |
| AQF qualification type learning outcomes descriptors                      | 1.1 Higher education awards delivered meet appropriate criteria  |
| AQF qualification type specifications                                     | 1.1 Higher education awards delivered meet appropriate criteria  |
| AQF qualifications issuance policy  | 1.1.2 Award is titled using nomenclature consistent with the AQF Qualifications Issuance Policy<br>2. Certification documentation issued is accurate |
| AQF Pathways Policy   | 3. Articulation, recognition of prior learning and credit meet the appropriate criteria  |
| AQF Qualification Type Addition and Removal Policy                        | 1.1 Higher education awards delivered meet appropriate criteria  |