

HIGHER EDUCATION STANDARDS PANEL

**Report on the Independent Review of the Higher
Education Standards Framework**

December 2014

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1. Introduction

Function of the Panel

Under the *Tertiary Education Quality and Standards Agency Act 2011* (the TEQSA Act 2011), the Commonwealth Minister responsible for higher education and research may only make and vary Standards for higher education on the advice of the Higher Education Standards Panel.

In January 2012, the Higher Education Standards Panel (the Panel) was formed under the TEQSA Act 2011 with the following membership (positions held at the time of appointment, if different, are given in parentheses):

- Emeritus Professor Alan Robson AO CitWA (Chair), former Vice-Chancellor of The University of Western Australia
- Professor Richard James, Pro Vice-Chancellor (Academic), The University of Melbourne (former Pro Vice-Chancellor Participation and Engagement and former Director of the Centre for the Study of Higher Education, The University of Melbourne)
- Ms Adrienne Nieuwenhuis, Director: Office of Strategic Programs, University of South Australia (former Principal Policy Advisor and Director: Policy and Strategy, University of South Australia and former Director, Quality, Tertiary Education, Science and Research at the South Australian Department of Further Education, Employment, Science and Technology)
- Emeritus Professor David Siddle, former Deputy Vice-Chancellor (Research), The University of Queensland
- Professor Joanne Wright, Deputy Vice-Chancellor (Academic), The University of Queensland (former Deputy Vice-Chancellor and Vice-President: Academic at the University of South Australia).

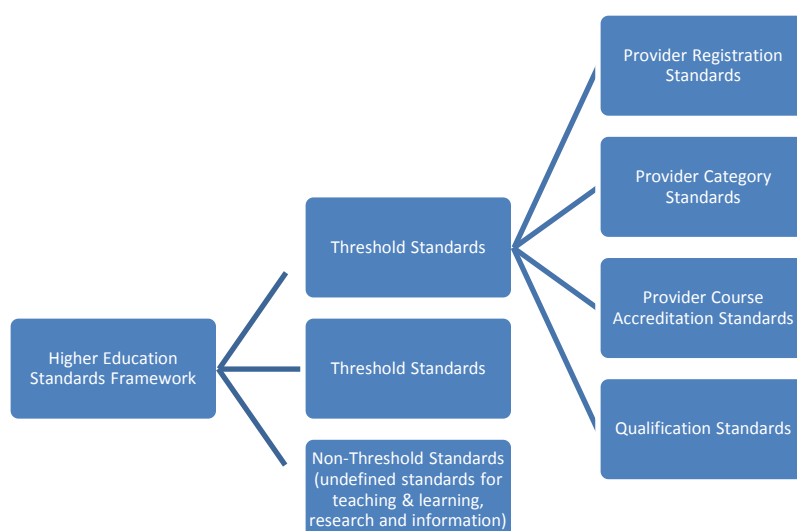
In February 2012, the Panel commenced its review of the Higher Education Standards Framework in accordance with Section 29 of the *TEQSA Consequential Amendments and Transition Provisions Act 2011*, which required the Panel to commence a review of the existing Standards within the first year of the Panel's operation.

Background on the existing Higher Education Standards Framework

The existing Higher Education Standards Framework is defined in the TEQSA Act 2011 and consists of Threshold and Non-Threshold Standards. The Threshold Standards were developed in consultation with the sector prior to the establishment of the Tertiary Education Quality and Standards Agency (TEQSA) and the Panel. The Threshold Standards are based in part on the former National Protocols for Higher Education Approval Processes and the Australian Qualifications Framework (AQF). These source documents were adapted for regulatory purposes in the development of the existing Framework.

The Threshold Standards are made up of four parts – provider Registration Standards, Provider Category Standards, provider Course Accreditation Standards and Qualification Standards. The legislation also makes provision for the development of Non-Threshold Standards for teaching and learning, research and information. These Standards are not intended for regulation and other than naming the areas to be addressed, the Non-Threshold Standards have not been defined in terms of scope and nature.

Figure 1: Structure of the existing Higher Education Standards Framework



The Regulation Impact Statement¹ that accompanied the making of the existing Framework examined the regulatory impact of the existing Threshold Standards on higher education providers and stated² that *'analysis and mapping 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.'*

The Statement also notes³ that *'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'*. The Statement details consultations undertaken in relation to the Provider Standards⁴ and the Qualification Standards. The consultations on the Provider Standards were undertaken through two drafts of the Provider Standards released for comment in March 2010 and November 2010. Twenty-eight submissions were received in response to the first draft and thirty-seven submissions were received in relation to the second draft. In the case of the Qualification Standards, these were developed in close collaboration with the Australian Qualifications Framework Council. The Statement notes⁵ that *'in light of the consultation already undertaken by the AQFC on the development of the AQF, the Government has focused 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 assessing the distributional impacts of the existing Framework, the Statement places heavy reliance on TEQSA's risk framework⁶ which envisaged *'lower-risk providers will be able to operate without unnecessary intrusion.'* The analysis did not foresee the initial approach taken by TEQSA to ensure all providers, existing and new, met all of the Standards when applying for registration or course accreditation.

¹ *Reform of National Reform of Regulation of Higher Education Providers Regulation Impact Statement* (available at the time of writing at <http://ris.dpmc.gov.au/2012/01/12/higher-education-standards-framework-threshold-standards-2011%E2%80%93regulation-impact-statement-%E2%80%93-department-of-industry-innovation-science-research-and-tertiary-education/>).

² Ibid, p.30.

³ Ibid.

⁴ Ibid. Page 15 identifies the Provider Standards as Registration Standards, Category Standards and Course Accreditation Standards.

⁵ Ibid, p.29.

⁶ Ibid, p. 20.

Environment of the review

In commencing the review of the existing Higher Education Standards Framework, the Panel considered a number of factors relating to the sector and the application of the existing Standards by TEQSA.

The Panel was mindful of the composition of the sector, later detailed in TEQSA's 2014 Statistics Report⁷, that although the majority of students (93%) were enrolled with universities, the majority of higher-education providers (76%) are non-university providers. The Panel had been informed by peak bodies that most private higher education providers were accustomed to addressing the National Protocols and the requirements for the AQF on which the existing Framework was derived, whereas the opposite was true for university providers who are self-accrediting providers.

Many of the findings of the *Review of Higher Education Regulation*⁸ were consistent with the Panel's early consultations with providers undergoing re-registration. These consultations highlighted the regulatory burden arising from the existing Standards and their application.

Early in its review, the Panel was aware of the sector's view that TEQSA's approach to the existing Framework had been '*unnecessarily bureaucratic*' as stated⁹ in the *Review of Higher Education Regulation*. The Panel noted that the primary source of regulatory burden raised by providers during early consultations was in relation to TEQSA processes for registration and course accreditation. For example, for course accreditation providers were required to provide evidence of meeting all 58 items within Chapter 3 Provider Course Accreditation Standards. Consequently, the Panel's initial approach to the review was based on TEQSA's original approach to the Framework.

Other influencing factors included the impact of the uncapping of student numbers on providers and consequently on the quality of education, and scheduled reviews of the Australian Qualifications Framework, the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (the National Code) and the *Higher Education Support Act 2003*. In the later stages of its review, the Panel was also mindful of the Government's deregulation agenda and consulted with key stakeholders involved in providing advice on the proposed reforms to ensure the approach of the Panel was compatible with current thinking.

The Panel's review was undertaken in two phases. Phase one was focused on the parameters of the review including scope. Phase two was focused on the style and detailed substance of the Framework.

⁷ TEQSA, *Statistics report on TEQSA Registered Higher Education Providers*, 2014.

⁸ Professors Kwong Lee Dow and Valerie Braithwaite, *Review of Higher Education Regulation*, August 2013.

⁹ *Ibid*, p.42.

2. Commencement of the review

Phase one of the review

The Panel agreed that as the Threshold Standards currently form the centerpiece of the existing regulatory environment, the review of the existing Threshold Standards would be the Panel's first priority. The Panel's decision regarding the scope of the review was outlined publicly in Communique 2 (August 2012). The Panel commenced its review by scoping the degree of revision the existing Framework required and began consulting with the sector about its experience of the existing Standards in undergoing re-registration and course accreditation processes. These consultations supported the observations that Panel had made in analysing the Framework, including:

- there is uncertainty in the interpretation of the concept of threshold – at what point had a Standard been met?
- the outcome of many of the standards statements was ambiguous
- there was no common understanding of the role of Non-Threshold Standards
- although there were Standards within the existing Threshold Standards relating to teaching and learning, research and information, there was a lack of clarity regarding the scope and nature of these areas intended for the undefined Non-Threshold Standards
- some Standards implicate independent, external material such as the Australian Qualifications Framework
- suitability of the Framework for types of higher education providers was variable
- the Framework lacked flexibility in relation to innovation and diversity of offerings
- there were issues with the form, style, complexity and internal consistency of standards statements.

Following this initial analysis, the Panel concluded that the existing Standards posed difficulties for both providers and the regulator in their interpretation and in demonstration of compliance. As the Standards form the basis for the regulation of providers, shortcomings in their design are amplified once applied in a regulatory regime. To address these shortcomings, TEQSA had prepared numerous guidelines and application forms which in turn became de facto standards. From this assessment, the Panel formed a view that clear, demonstrable Standards oriented towards high quality outcomes rather than processes would provide the certainty in quality of the sector necessary to providers, the regulator and students.

The Panel also analysed feedback from the sector on a discussion paper released by the former Department of Education, Employment and Workplace Relations in 2011. A summary of the Panel's analysis was provided to the sector in Communique 3 (September 2012). The discussion paper, *Developing a Framework for Teaching and Learning standards in Australian Higher education and the role of TEQSA*¹⁰, pre-dated the establishment of TEQSA, the Panel and the regulatory Framework. Although some of the responses from the sector had been overtaken by the establishment of TEQSA and the Threshold Standards, the feedback was helpful in assisting the Panel's thinking in scoping the review of the Framework. In particular:

- the development of standards for teaching and learning was broadly supported
- standards for both teaching and learning can be developed independently from one another but the relationship between the two areas should be maintained
- the relationships between the various existing and proposed Standards should be clarified including the place of 'minimum' and 'other' types of standards

¹⁰ <http://www.hestandards.gov.au/sites/default/files/TeachingLearningDiscussionPaper.pdf>

- the importance to the sector of external referencing and moderation of courses was highlighted, including the value of peer review
- Standards developed for other purposes (e.g. by disciplines and professional bodies) are potentially important in informing the Panel's work
- standards development should be informed by a global perspective on higher education
- standards for teaching and learning must at least codify the minimum level of performance expected of all providers of higher education in Australia
- standards should not inhibit innovation, creativity and a diversity of educational offerings
- the processes for standard setting and regulation against the Standards should continue to be separate

Further consultations with parts of the sector that had been through re-registration and course accreditation and had engaged with the existing Standards in detail, identified a number of factors that detracted from the utility of the existing Threshold Standards and Framework. These factors included:

- the mixture of regulated Threshold Standards and unspecified and unregulated Non-Threshold Standards
- although the Non-Threshold Standards are indicated to apply to teaching, learning, research and information, some Standards addressing these areas are covered in the existing Threshold Standards, although not necessarily explicitly or sufficiently
- there is overlap across the different sections of the Threshold Standards which resulted in multiple cross-referencing and repetition of responses in preparation of applications to TEQSA for re-registration
- the Threshold Standards have inconsistent formats such as the use of headings and sub-headings that are standards statements in some Standards (e.g. Provider Course Accreditation Standards) and only taxonomic headings in others (e.g. Provider Registration Standards)
- the Threshold Standards give limited indication about their interpretation or the types of evidence that would indicate compliance.

Assessment of the scale of the review required

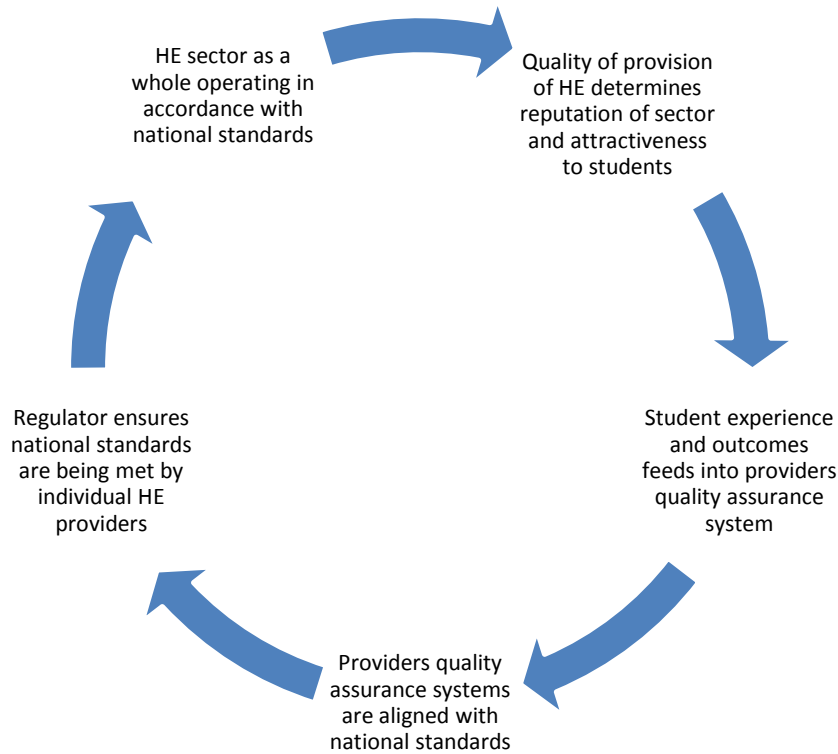
The Panel assessed that the difficulties identified were in part due to the origins of the existing Threshold Standards in the National Protocols, the structuring of the Threshold Standards for regulatory purposes and the deferral to the Australian Qualifications Framework for a large part of the Qualification Standards. This resulted in an information asymmetry, where the degree of difference between providers and TEQSA in interpretation of the Standards had necessitated the development of extensive guidance documents to reduce inefficiencies in demonstrating compliance with the Threshold Standards. The impact of the information asymmetry was also evident in the understanding of other parties, such as current and prospective students, of how the quality of education and the reputation of the sector were intended to be protected by the Standards.

In considering the issues identified in the existing Framework, the Panel concluded that the problems were substantial and could not be solved by editing, and rather that the underlying organisation of the Standards should be improved as a first step in developing a new Framework. The Panel's description of its approach to organising the new Framework was outlined publicly in Communique 4 (November 2012).

Aims of the review

As a result of phase one of its review, the Panel was keen to ensure the revised Framework produced a streamlined, value-adding system that utilised existing processes of providers that were focused on achieving quality educational outcomes for students while safeguarding the quality of the Australian higher education sector.

Figure 2: Role of the national Standards in safeguarding the quality of Australian higher education



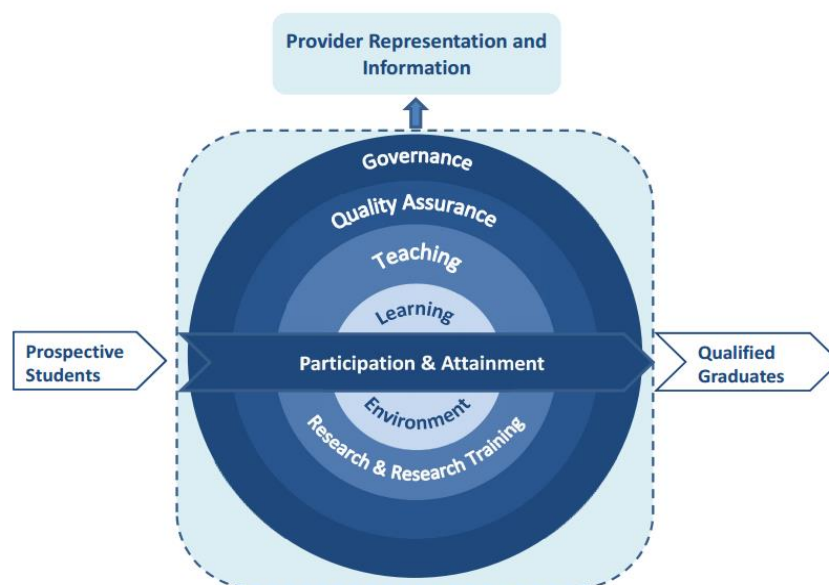
The Panel considered that the best means of reducing the regulatory burden without compromising the maintenance of quality outcomes was to develop a system that aligned with quality assurance systems that should already be in use by prudent HE providers.

A new organisational structure for the Standards

In considering a possible organisational framework for future standards, the Panel came to the view that the structure should be based on the characteristics that are common to providers of higher education in Australia. Because the Standards are about providers and the provision of higher education, it seemed fundamentally sound to organise the Standards around the features of providers and what they normally do. This did not presume that there was, or would be, only one model of a higher education provider, as the Panel did not want to inhibit a diversity of offerings of higher education or promote standardisation. The Panel was conscious that a new organising framework needed to cater for a variety of models of provider and modes of delivery, both existing and emerging, where these deliver quality educational outcomes.

In terms of a high-level organising framework, the Panel used the following representation of the characteristics of a higher education provider to underpin the development of Standards.

Figure 3: Schematic overview of higher education provision



This approach is consistent with various international quality frameworks of business excellence that use a coherent, high-level schematic representation to map organisational features in a systematic way. The above schematic was used by the Panel to identify the relevant characteristics of higher education providers for regulation. These characteristics evolved, through the development process and following consultations with the sector, into the domains covered in the proposed Framework:

1. Student Participation and Attainment
2. Learning Environment
3. Teaching
4. Research and Research Training
5. Institutional Quality Assurance
6. Governance and Accountability
7. Representation, Information and Information Management

In developing the above Framework, the Panel identified a number of benefits for stakeholders, including:

- aligning the framework in the practical realities of the provision of higher education would remove the information asymmetry of the existing Standards
- offering a systematic and comprehensive approach to examining the characteristics of providers as a basis for deciding whether such characteristics would warrant an associated Standards statement
- encouraging systemic clarification of higher education provision in terms of inputs, activities, processes, outputs and outcomes
- providing a practical method for comparisons and gap analyses between existing and proposed Standards
- freeing the revision of Standards from the structure of the former national protocols and from the ambiguities of the existing Framework
- discouraging overlap and redundancy in the organisation of a Standards framework, and

- offering a structure for the Standards in which relevant statements can be readily located as part of a coherent systematic approach.

Deciding which characteristics of higher education provision to regulate

The identification of the domains for the development of Standards provided a means for the Panel to check that the set of Standards developed was both comprehensive and coherent, highlighting any gaps in the coverage of the proposed Framework. In developing Standards, the Panel used the seven identified domains to consider whether Standards for a particular characteristic should be developed. The Panel applied a set of decision criteria that considered the likelihood of risks and the impact for each proposed Standard on the quality of the educational outcome and whether a minimum level of performance need to be specified. This was not intended to codify every element of the provision of higher education but instead to focus on areas of risk while maintaining the coherency of each set of Standards.

The Panel sought to achieve a number of goals in its approach, one of which was that the Standards should be applicable to different types of provider which include comprehensive and specialist providers, providers that engage extensively in research or have no or modest research activities, and new or recently established providers.

In order to accommodate the different approaches across the sector, the Panel agreed to develop outcomes-focused Standards wherever possible that would allow for differing mechanisms used by providers to achieve the same outcome. The Panel also considered the role of professional accreditation bodies and proposed that the planned alignment of the revised Framework with the characteristics of providers would assist such bodies in their dealings with providers.

As part of its process, the Panel considered whether and to what extent a selected characteristic was addressed by the existing Threshold Standards and whether regulating the characteristic duplicated any other regulatory processes or instruments. For instance, under proposed Standard 6.2.1(a) the governing body is responsible for the provider's compliance with legislation under which it is established, recognised or incorporated. This deferral to other legislative requirements avoids duplication and potential additional burden for providers.

In summary, the following factors were considered in deciding whether any particular characteristic of higher education provision would warrant a Standards statement:

- to what extent the characteristic is addressed in the existing Threshold Standards
- whether regulating the selected characteristic would duplicate other regulatory processes
- whether the selected characteristic is an outcome rather than an input or process
- whether the characteristic can be demonstrated and/or measured
- whether the characteristic is material to quality educational outcomes.

In applying this process, the Panel found that selection of measurable outcomes was not always possible and in some cases Standards specifying processes were included, for example in the qualifications and attributes of teaching staff.

Consistent with the principles for regulation of higher education specified in the TEQSA Act 2011, the Panel also considered the necessity of regulating the identified characteristics. This resulted in the decision not to regulate some aspects covered explicitly by the existing Threshold Standards. For example, Standards for the management of professional staff have not been included in the proposed Framework as they are mostly focused on processes.

Developing Standards statements

The second part of the Panel's decision-making process focused on whether the proposed Standards could be applied to all providers of higher education and were suitable for any accepted or reasonably expected modes of participation by students or models of delivery by providers. The Panel also considered whether the Standards would inhibit the diversity of educational offerings in Australian higher education.

The Panel further considered whether evidence of meeting the requirements of the Standards could be demonstrated through existing business operations and internal quality assurance processes in providers. Again, this consideration was based on the Panel's view of a reasonable provider of higher education. Finally, the Panel looked at whether the proposed Standards were proportional to the intrinsic risk to the delivery of the quality of the educational outcomes compared with the potential change in regulatory burden.

In summary, this second part of the decision-making process involved the review of the proposed Standards in relation to:

- their applicability to all providers of higher education
- their suitability to any accepted or anticipated modes of participation or modes of delivery
- whether or not the proposed Standard would inhibit the diversity of educational offerings in Australia
- any departures from the existing Threshold Standards and the potential impact of the changes on the sector
- whether evidence of compliance is likely to be available or obtainable, and
- whether the proposed Standards are proportional to the intrinsic level of risk and changes in the regulatory burden.

Feedback from the sector on the proposed Standards in relation to regulatory burden was addressed by the Panel in its review of the Standards. For example, in Call for Comment 2, a number of providers were concerned that the requirement for a repository of the research outputs of staff and research students implied that a database similar in nature to that being established by the Australian Research Council for publicly funded research would be required. The Panel clarified the Standard by using the more general description of a system for recording (Standard 4.1.3) that is appropriate to the scale and nature of the provider concerned.

3. Development of the Framework

Phase two of the review

Phase two of the Panel review involved the development of the full proposed Framework, taking into account feedback from the sector and developments in relation to TEQSA, the ESOS Framework and the Australian Qualifications Framework (AQF).

The recommendations of the Review of Higher Education Regulation by Professors Kwong Lee Dow and Valerie Braithwaite were noted by the Panel during development of the proposed Framework, and Recommendation 6¹¹ in particular regarding reducing duplication across the regulatory architecture is evident in the alignment of relevant standards with the ESOS National Code 2007. An early analysis by the Panel noted that the majority of the standards of the ESOS National Code relating to the quality of educational outcomes should be equally applicable and important for domestic students as they were to international students. To assist in rationalising the number of standards related to quality educational outcomes applicable to the sector, the Panel decided to align relevant standards of the ESOS National Code with the proposed Framework. As a result, the National Code standards not linked exclusively to migration matters were incorporated in the proposed Framework wherever possible.

In relation to the Australian Qualifications Framework, following consultation the Panel addressed the relationship between the two Frameworks in a number of ways:

- i. requiring the proposed Framework to be consistent with AQF level classifications for AQF qualifications (see Section 1.5 of Part A of the proposed Framework)
- ii. incorporating the intent of aspects of the AQF policies into the proposed Framework (see Section 1.5 & 1.2 of Part A of the proposed Framework), and
- iii. including the AQF as a Reference Point where it would provide useful background information.

The role of consultation in the development process

Consultation with the sector in the review of the Standards is required under the TEQSA Act 2011. From the commencement of its review, the Panel engaged in formal and informal consultation processes with providers, students, provider peak bodies, TEQSA, other regulators, departments and offices of State and Territory education ministers, business groups, accreditation bodies and other interested stakeholders. This transparent, iterative approach to consultation provided excellent opportunities for the Panel to test elements of the proposed Framework and discuss and overcome issues raised by stakeholders.

Consultations were undertaken formally through three calls for comment, and informally through over 100 meetings with, and presentations to, the sector. Consultations were also undertaken with the TEQSA Advisory Council in September and November 2014, where the Council provided a number of suggestions that were considered by the Panel and mostly adopted.

In January 2013, the Panel established a website providing information about the review and its progress, and where communiques, calls for comment and submissions (except those provided in confidence) were made available. The website has received approximately 21,600 visits since March 2013, with a peak of more than 4,600 visits during the Call for Comment 3 consultation period. A mailing list was also established and maintained to distribute communication from the Panel, including the communiques and calls for comment. The mailing list for Call for Comment 3 included approximately 1200 contacts, with some contacts (e.g peak bodies) acting as forwarding agents to other stakeholders.

¹¹ Ibid, p.58.

The Panel has issued regular communiques to the sector throughout the review’s progress, including following each call for comment on the issues raised during consultations as well as the Panel’s response. A discussion paper accompanied each call for comment explaining the guiding principles used by the Panel and describing the intent of elements of the Framework. The first communique to the sector was issued in June 2012 and 11 more were issued up to August 2014 on development of the proposed Framework. Communiques 6 (December 2012) and 10 (December 2013) provided a summary of the review’s progress for the year. Communique 14 will be issued with a copy of the final version of the proposed Framework in December 2014 and is attached to this report.

During Panel meetings, members reported on feedback received from informal meetings with stakeholders and presentations to the sector. The Panel considered all the feedback received in formulating standards. In response to the formal Calls for Comment, the feedback was discussed in detail by the Panel and used to review the proposed Standards.

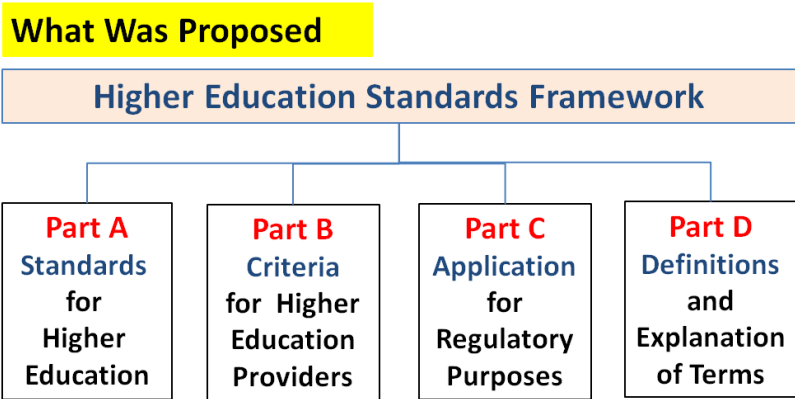
The formal Calls for Comment were undertaken in three stages:

- **Call for Comment 1** (April 2013) which focused on the proposed structure and style including the use of reference points, using draft standards on course design and learning outcomes to test the Panel’s approach. The Panel received 72 submissions in response to the Call for Comment 1.
- **Call for Comment 2** (May 2013) focussed on specific standards for research and research training (including learning outcomes) which were nominated as part of the group of Non-Threshold Standards in the existing Framework. The Panel received 71 submissions in response to the Call for Comment 2.
- **Call for Comment 3** (April 2014) invited feedback on the complete proposed Framework (except in relation to Provider Category Standards) which incorporated all of the feedback from previous consultations. The Panel received 87 submissions in response to the Call for Comment 3.

Testing the proposed Framework with stakeholders

The third and final round of consultation with the sector (Call for Comment 3) was held from 23 April to 27 June 2014 with the aim of testing the proposed Framework with the sector. The consultation included an information session for the sector on 14 May 2014, attended by approximately 200 stakeholders, the outcomes of which were reported in Communique 11 (June 2014). The consultation draft introduced a four-part structure for the Higher Education Standards Framework to replace the existing arrangement of Threshold and (mooted) Non-Threshold Standards.

Figure 4: Call for Comment 3 Proposed Framework



Forty-six of the eighty-seven responses received to Call for Comment 3 were from providers. Responses that were not submitted confidentially were posted on the Panel website

(<http://www.HEstandards.gov.au>). The majority of responses supported the proposed Framework, as well as providing many constructive suggestions for improvements or clarification. There was also strong support for the integration of requirements from the AQF and ESOS National Code within the Framework and for the value and applicability of the Framework for internal quality assurance purposes.

The comments were broken down according to the structure of the Framework and reviewed by the Panel. The Panel worked through the broader issues in relation to drafting style and the content of Part D (definitions and explanations), and completed its review of the more detailed comments received in relation to Part A (Standards for Higher Education).

Feedback to Call for Comment 3 regarding **Part A** was overwhelmingly positive, with numerous suggestions for improvements in relation to form, style and content. Some respondents felt that some aspects of the existing Standards had potentially been softened e.g. the requirement for financial viability. Others expressed concern about the absence of certain prescribed features of the existing Standards, e.g. prescription of an academic board where the prescription has been replaced with more generic requirements or outcomes. TEQSA raised issues about the potential regulatory difficulties with a few Standards, particularly in relation to its approach to regulation. There was minor criticism of the retention of some input/process Standards and a small number of respondents indicated that some Standards were overly prescriptive. The Panel considered each comment and assessed the range of suggestions for each Standard to seek to strike a balance in the revised Standards.

The majority of standards statements contain the same intent as in the version released in Call for Comment 3, however substantive changes have been made to the Standards for corporate governance and academic governance. The changes reinstated some categorical statements of demonstrated performance within the broader context of 'governance', but outside of the actions of the board. Two domains of the Standards in Part A have been renamed: Institutional Quality Assurance, and Governance and Accountability; the former recognising that all of the Standards are about 'quality assurance' while this particular domain is about institutional systems to self-assure quality, and the latter to reflect strengthened corporate governance requirements. Some sections within domains have also been streamlined, merged or relocated. For example, 'Orientation' and 'Progression' have been merged and streamlined, 'Course delivery' has been refocussed on 'Staffing', and 'Delivery Arrangements with other Parties' has been transferred to 'Institutional Quality Assurance' to better reflect the focus of these Standards.

The Panel had originally sought to streamline the drafting of the Standards by transferring some details, e.g. 'qualifiers' and 'lists', to either footnotes or definitions. This approach was widely unpopular for various reasons. It also created a number of unintended consequences. In light of these issues, all of the detail associated with particular standards statements has now been included in the standards statements themselves. While this approach has added detail, the Panel feels that it has not detracted unduly from the streamlining of the Standards and removes any doubt about the content and intent of the individual Standards concerned. In addition, a number of standards statements have been edited to better reflect an outcome rather than a process.

Some commentators suggested that a minority of standards statements could be deleted for various reasons, such as being 'unnecessary' or 'too prescriptive' or about 'process vs outcome'. In response, the Panel has undertaken some streamlining of the Standards and some editing of various Standards towards outcomes as discussed above, but on the whole the Panel believes that the scope of the Standards is balanced. In forming this view the Panel has taken account of the overall feedback received, the potential risks associated with each standards statement, the role of each component of the Standards as part of a coherent framework for internal quality assurance, the appropriateness of particular Standards given the varying scale and scope of providers and the differing scope and

maturity of their internal quality assurance mechanisms, and the importance of internally generated evidence of quality assurance in reducing external regulatory burden.

In response to Call for Comment 3, respondents overall valued the separation of criteria for providers in **Part B** from the Standards for the quality of education provided (**Part A**). There was widespread interest in the eventual outcomes of the review of the existing Provider Category Standards. Some respondents felt that the proposed criteria for Self-Accrediting Authority may result in lower requirements for authorising providers. This was not the Panel's intention in revising and streamlining the current criteria, and this concern was addressed in the Panel's subsequent revision of the criteria. Following further consultation with TEQSA, the criteria have been modified to address the concerns raised and to focus on the requirements of providers rather than on TEQSA's actions. The revision will not alter the current arrangements for Australian universities, university colleges and universities of specialisation.

Part C of the proposed Framework was developed partly in response to feedback from providers seeking some direction from within the Standards about how the Standards would apply to the regulatory processes of course accreditation and provider registration. In addition, the proposed structure necessitates an indication of their application for certain regulatory purposes. This is because the proposed Standards for Higher Education are structured according to the characteristics for the provision of higher education rather than a sequence of regulatory processes (e.g. provider registration and course accreditation) as is the case in the existing Threshold Standards. Part C sought to address this difference by specifying the relevant Standards for specific regulatory purposes.

How the Standards were proposed to be applied and which particular Standards were chosen for each process was guided by the three basic principles of regulation set out in the TEQSA Act 2011 (i.e. necessity, risk and proportionality). The Panel was very conscious that it is the responsibility of the regulator to determine the scope of its regulatory activity, having regard to the requirements of the legislation and the circumstances of individual providers. However, this Part of the Framework specified those aspects of the Framework designed to identify significant potential risks with a minimum of regulatory burden on higher education providers.

The presence of Part C would not have absolved providers from having to meet all the Standards for Higher Education as this would be a requirement of registration. In addition, the underlying structure and approach to the application of the Standards envisaged that a provider would assure itself that the Standards are being met in the normal course of its higher education operations.

The intent of Part C would have seen a regulatory assessment against the specified Standards for a particular regulatory purpose provide the regulator with risk-based confidence in the provider's capacity to meet the Standards for that purpose. In specifying the application of particular Standards for certain regulatory processes, Part C was not designed to limit the scope of the regulator's processes, nor to intrude on regulatory decision making as a result of the regulator's assessments against the Standards. The proposed application of the Standards for regulatory processes was intended to reduce regulatory burden by acknowledging the internal monitoring capacities of a provider in the ordinary course of its operations. The Panel foresaw the Standards only being applied more broadly or in their entirety for external regulatory processes in exceptional circumstances and in the face of significant risks. It was expected that a regulatory assessment involving a wider sweep of the provider's operations beyond a particular specified regulatory purpose, such as a compliance assessment (under Section 59 of the TEQSA Act 2011, for example) would still be undertaken according to identified risks.

Although the intent of Part C was widely welcomed by respondents to Call for Comment 3, this was not universal. TEQSA expressed particular concerns and potential drafting issues were also raised in relation to the appropriateness of the proposal in a legislative instrument under the TEQSA Act 2011.

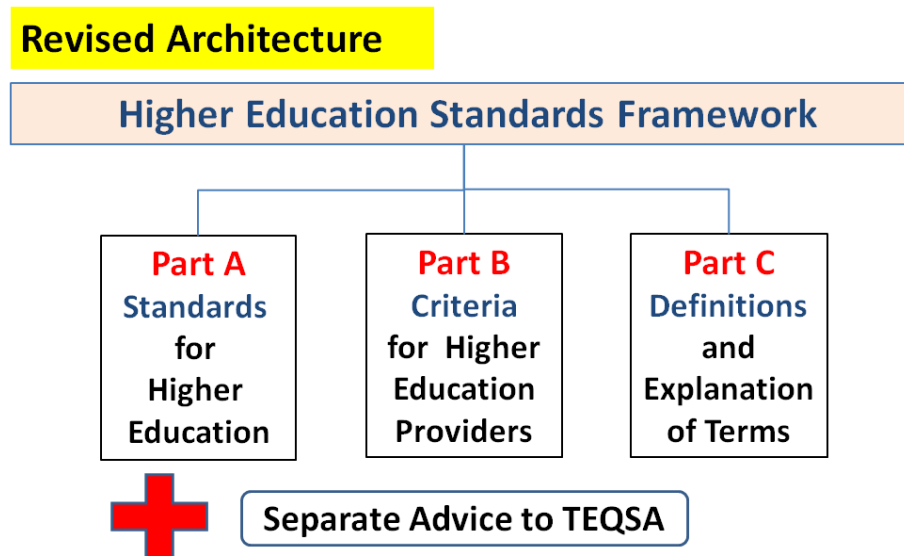
The Panel is still of the view that a check on the regulatory burden of TEQSA's application of the proposed Framework is required and that Part C was a means of providing that check. Following further consultation with TEQSA and the Department, the Panel agreed to develop a functional equivalent to Part C that will be provided as advice to TEQSA under section 168(1) (b) of the TEQSA Act 2011 rather than as part of the Framework. The advice was developed in consultation with TEQSA in relation to its practicability for regulatory purposes.

For **Part D**, responses to Call for Comment 3 widely welcomed the inclusion and content of a section on Definitions and Explanation of Terms. Several suggestions for additional definitions and clarification were made, including the possibility of replacing some of the proposed definitions with definitions from existing legislation and other sources. There were mixed responses to the definitions that contain an elaboration of a corresponding Standard, e.g. by adding a 'list' of further content such as specifying the required content of a testamur. Some respondents supported the Panel's intention to simplify the text of standards statements through elaboration of additional detail in a definition, while others considered that anything that constituted a requirement should be in a standard statement itself. In revising the proposed Framework, the Panel accepted the view that mandatory requirements that are part of Standards should be incorporated in Part A and that any elaborations of meaning will remain in Definitions and Explanation of Terms.

4. The proposed Higher Education Standards Framework

Following the Panel's consideration of feedback to Call for Comment 3 and engagement with TEQSA on the application of the Standards, the structure of Framework was modified to consist of three parts described in detail below.

Figure 5: Revised Architecture of the Proposed Framework



Part A – Standards for Higher Education

Part A is concerned with the Standards for the provision and outcomes of higher education. The Standards in Part A are organised into seven Domains, each of which consists of a number of Sections that contain standards statements. The standards statements in Part A replace most of the existing Threshold Standards and represent collectively the minimum acceptable institutional conditions, arrangements and levels of performance for the provision of higher education in or from Australia by registered providers under the TEQSA Act 2011. Some of the Threshold Standards not covered by Part A of the proposed Framework were found not to be standards of provision of education and were reviewed for consideration of inclusion in Part B.

The Panel believe that the Standards do not ask for anything that a responsible provider would not ordinarily seek to do in understanding, monitoring and improving its higher education operations. This is also consistent with the aim for regulation identified in the Review of Higher Education Regulation (2013), to 'enable a dynamic and increasingly self-managed regulating environment'.

In taking account of the large amount of feedback received, the Panel has developed the Standards in Part A to be:

- i. consistent with the objects and the three basic principles for regulation (necessity, risk and proportionality) of the TEQSA Act 2011, and take account of the recent Review of the Regulation of Higher Education
- ii. organised according to the characteristics of higher education, rather than by regulatory purposes, such as registration and course accreditation, so as to avoid duplication of requirements
- iii. focused on the educational experience of students, i.e. Domain 1 – Student Participation and Attainment
- iv. supporting informed participation by students including prospective students, e.g. Domain 7 – Representation, Information and Information Management

- v. applicable to all providers who undertake the higher education activities encompassed by the Standards, regardless of the category of provider
- vi. supporting a diversity of educational offerings and different types of educational provider and to be applicable to any mode(s) of delivery or participation
- vii. used by providers as a basis for internal monitoring, quality assurance and quality improvement of their higher education operations, not just for external regulatory purposes
- viii. flexible to allow different approaches by providers to achieve the Standards according to their particular circumstances. The standards statements do not presuppose any particular approaches or types of evidence that individual providers might adopt to ensure or confirm that specific Standards are being met
- ix. addressing a particular risk to quality, or a related set of risks, that are regarded as material risks
- x. streamlined as Standards pertaining to a particular quality risk are not repeated throughout the Standards (although for some aspects of delivery, a standard in one section requires the collection of data and in another section, analysis of the data is required to inform review and improvement)
- xi. focussed where practicable on outcomes rather than inputs and processes
- xii. enabling the gathering of evidence through the usual course of internal monitoring by the provider
- xiii. flexible for the regulator to applied differently across different providers for regulatory purposes, according to regulatory necessity and risk, and
- xiv. high-level and do not impinge on specific discipline content or discipline-related curriculum details.

Part B – Criteria for Higher education providers

The purpose of this part of the Framework is to separate the criteria for characteristics of providers from the Standards that address the quality and outcomes of providing education. Parts A and B of the Framework serve different purposes for providers as well as for regulation.

The purpose of *Criteria for eligibility to make an initial application for registration as a higher education provider in Australia (Part B1)* is to bring together the set of criteria to be met by an entity that is seeking to apply for initial registration as a higher education provider. This set of criteria is clearer and more accessible to intending applicants than the existing requirements. No new requirements are prescribed as a result of the streamlining.

The *Criteria for Higher Education Provider Categories (Part B2)* incorporate the purpose of the Provider Category Standards of the existing Threshold Standards into the proposed Framework as a means of classifying providers. Like **Parts B1** and **B3**, these criteria are seen as being of a different kind of requirement from the Standards in Part A.

The *Criteria for granting authority for 'self-accreditation' of courses of study (Part B3)* is based on the existing criteria for self-accreditation that are currently located within the Provider Course Accreditation Standards of the existing Threshold Standards. The current set is a mix of criteria concerning the track record of the provider and certain characteristics of its higher education provision. Following extensive consultation with TEQSA, the proposed set retains some of the criteria in the existing set concerning a provider's track record. However, where the criteria relates to a standard for the provision of higher education, the proposed criteria reference the relevant Standards in Part A of the Framework rather than raise additional criteria as occurs in the existing Threshold Standards. This separation of standards from criteria streamlines the criteria and reduces the duplication of Standards.

Part C Definitions and Explanations

In response to numerous requests in Calls for Comment 1 and 2, the Panel developed a section to explain or define terms used in the Framework. In accordance with feedback to Call for Comment 3, this section no longer contains any mandatory requirements.

Key differences between the proposed Framework and the existing Threshold Standards

Detailed comparisons of the proposed Framework with the relevant existing Threshold Standards were undertaken to identify the differences between the Frameworks. These comparisons were released as part of the background to consultation with the sector and updated versions are attached to this report.

The comparisons look at how the objective of each Standard in the proposed Framework is addressed by existing requirements, including the Threshold Standards, the ESOS National Code 2007, the AQF and the AHEGS. In general, standards that also meet requirements of the ESOS National Code make up about a quarter of Part A of the proposed Framework and standards that address risks not specified in the existing Threshold Standards make up another quarter of Part A of the proposed Framework. The remaining standards in Part A are in essence a redraft of the existing Threshold Standards to achieve a similar intent and to clarify the educational quality outcome to be met.

The comparisons also identified fifteen standards in the Threshold Standards that are not addressed in any way in the proposed Framework. The majority of the identified standards not covered in the existing Threshold Standards are process oriented, covered by other legislative requirements or the TEQSA Act 2011, not related to the quality of education provision, or too ambiguous in terms of the outcome.

In summary, the changes to the Framework arising from the Panel's review are:

- a new organising framework aligned primarily with the characteristics of the provision and outcomes of higher education, rather than solely for regulatory purposes
- consistency with the objects and regulatory principles (risk, necessity and proportionality) of the TEQSA Act 2011, rather than historical antecedents developed for different purposes
- abolition of the concept of Threshold/Non-Threshold Standards in favour of a single set of standards
- a hierarchical arrangement of the Standards that allows TEQSA to scale the degree of application of the Standards in line with their risk-based approach and supports self-regulation
- a centrepiece of 'Student Participation and Attainment', supported by strong information standards to enable informed student choices and participation
- separation of the criteria for providers to apply for registration, self-accrediting authority and categorisation from the quality of education they provide
- elimination of redundancy and overlap of standards
- a principal focus on outcomes
- the use of clear language that is familiar to the sector, and
- a capacity to apply the Standards to any reasonably expected mode of participation or delivery.

5. Benefits of the proposed Framework

The Panel sees substantial benefits arising from the revised Framework. The following points outline the key benefits.

- The alignment of the Standards with the characteristics of the provision and outcomes of higher education rather than regulatory purpose means that the proposed Framework provides a useful framework for internal quality assurance by providers. The Standards encompass and are expressed in terms of normal higher education business processes, i.e. the ordinary business of the provider, and focus on the risks to the quality of education therein that need to be managed. The Panel believes that the Standards ask nothing of a provider that a provider delivering quality education would not want to do itself in understanding, monitoring and improving its offerings. From a regulatory standpoint, a provider that is meeting the Standards will be collecting its own evidence as part of its usual business and that evidence should be readily accessible to the regulator with limited further preparation or processes being necessary for regulatory purposes. This feature of the proposed Framework is of fundamental importance to reducing regulatory burdens of the type that arise as a consequence of the construct of the existing Standards.
- The hierarchical structure within Part A of the Framework will facilitate the regulator's application of the risk-based approach and reduce regulatory burden by calling on key standards that demonstrate execution of 'feeder' standards. This internal structure also supports the move towards a more self-regulatory model.
- The focus on student participation and attainment clearly identifies what students might expect of a provider in ways that are absent from the existing Standards, and the Information Standards will ensure that students have an array of information to inform their choice and participation. From a regulatory standpoint, the Information Standards will also allow the regulator to understand a provider far better than at present, without requesting additional information from the provider.
- The terminology used for the Standards is relevant to the provision of education. It will be readily understood by students and by the international community for comparative purposes. From a regulatory point of view the Panel believes that the cognate nature and language of the Standards should markedly reduce the need for guidance material to be produced by TEQSA.
- Alignment of the requirements of the AQF and the educational requirements of the ESOS National Code of Practice for Providers of Education and Training to Overseas Students 2007 creates a significant means for streamlining regulation by TEQSA, and for the sector a reduction in duplication of processes.
- An emphasis on the educational outcomes of provision where practicable allows greater flexibility for providers in meeting the outcomes without prescribing a particular process. This is reflected in the absence of standards relating to management processes in the new Framework.

Although the Panel took careful note of any potential impost highlighted by stakeholders during consultations, a quantification of the costs and benefits of the proposed Framework is yet to be undertaken. The Panel is confident however that the benefits of the proposed Framework will outweigh any costs to providers and will reduce the regulatory burden to the sector, a primary aim of the review from the beginning. A quantification of the proposed Framework will also need to consider the transitional costs which will intersect with TEQSA's current processes of registration and course accreditation as outlined below.

Implementation and evaluation

Under the sections 36 (1), 56 (1) and 59 of the TEQSA Act 2011, registered providers are required to maintain compliance with the existing Threshold Standards. Compliance with the existing Threshold Standards is a condition of continuing registration of all providers, and for accreditation of courses by

those registered providers without authority self-accredit courses of study. This will also be the case for the proposed Framework should it be implemented.

Monitoring

The Panel recommends monitoring through continuing engagement with the sector and TEQSA on the effectiveness of the proposed Framework. In addition, a full review of the Framework should be undertaken in 3 years (the equivalent of half a registration period for a provider) and include analysis of the advice sought by TEQSA from the Panel in accordance with section 168 (1) of the TEQSA Act 2011. Monitoring should include testing the implementation of the Framework according to the objects and principles of the TEQSA Act 2011 as well reports from TEQSA on the sector's ability to meet the Standards of the Framework.

Implementation as a legislative instrument

Following the submission of the Panel's advice to the Minister, and following consultation by the Minister in accordance with the TEQSA Act 2011, the Framework as a new legislative instrument could be made during 2015. In addition to the making of the Framework as a legislative instrument, a number of other factors will also impact on the date of effect of the new Standards.

If accepted by the Minister, the implementation of the proposed Framework will require minor changes to the terminology of the TEQSA Act 2011 and some adjustments to TEQSA's processes and communication with providers. TEQSA has formally advised the Panel in writing of its unqualified support for the proposed Framework, and is confident of the effectiveness of the proposed Framework for regulatory purposes. TEQSA has also indicated that the Framework will support the streamlining of its regulatory approach.

Implementation for registration of providers

Section 35(1) of the TEQSA Act 2011 requires providers to apply for re-registration a minimum of 180 days prior to the expiration of their existing registration. Under the streamlined approach introduced in 2014, TEQSA Case Managers typically contact providers about 12 months prior to the due date of the registration renewal application about the application's scope. On average, providers begin preparations for registration following this initial contact.

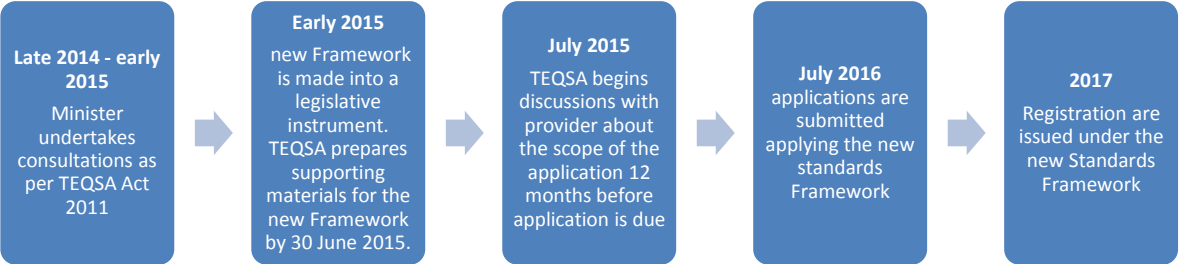
According to these timeframes, if the new Framework is made into a legislative instrument during the first half of 2015, following the development of new supporting materials, TEQSA could begin discussing applications under the new Framework with providers in the second half of 2015. These providers would have applications for renewal of registration due in the second half of 2016, with registrations expiring in the first half of 2017. This means the earliest the proposed Framework could take effect is for those providers with registrations ending in 2017.

For those providers with applications due in 2016 and before, the existing Threshold Standards would apply, unless the 180 day period is shortened or the period of registration extended by TEQSA.¹²

Due to the potential impact associated with new processes, the Panel recommends further consultation with providers in relation to the implementation of the proposed Framework, particularly those whose current registration will end in the first half of 2017.

¹² TEQSA can currently shorten the 180 day period and the new amendment to the TEQSA Act 2011 will allow the regulator to extend the period of registration.

Figure 6: Timeline for introduction of new Higher Education Standards Framework



Implementation for course accreditation

The same timeframe as for registration of providers applies for the accreditation of courses for non-self-accrediting providers. That is, the earliest the proposed Framework could take effect is for those providers with course accreditations ending in 2017.

6. Addressing Regulation Impact Statement questions

As mentioned earlier in this report, although the Panel consistently considered the impact of the proposed Framework throughout the review, the detailed quantification of the regulatory costs and offsets have yet to be undertaken. Apart from the quantification of impacts, the review has undertaken a process and analysis equivalent to a Regulation Impact Statement (RIS) and addressed the seven questions¹³ that form the basis of a RIS. A summary of how the seven questions have been addressed in this report follows:

1. *What is the problem you are trying to solve?*

From the start of the review, the Panel considered whether the existing Threshold Standards were effective and efficient in protecting the quality of education being delivered by Australian registered higher education providers. This consideration included the impacts of the move to a demand-driven system, the review of related legislation and frameworks, and TEQSA's approach to the implementation of Threshold Standards. The Panel also undertook consultations early in the review with university and non-university providers undergoing assessment for re-registration. During the review, the Dow-Braithwaite *Review of Higher Education Regulation* also took place and many of the findings were consistent with the Panel's consultations.

2. *Why is government action needed?*

The Panel's analysis of the existing Threshold Standards and early consultations found that the existing Threshold Standards contained significant overlap and did not address key elements for quality higher education provision completely. Some of these key elements may have been expected to be addressed in the Non-Threshold Standards but had not been specified and under the TEQSA Act 2011 were not intended for regulation. The Panel also found that due to the structure of the Threshold Standards having little alignment with the provision of higher education and the orientation of the standards statements solely to reflect a regulator's perspective, TEQSA had developed a complex system to facilitate how providers should demonstrate they met the Standards. The cumulative effect of these factors resulted in unreasonable burden on the sector without commensurate benefits.

3. *What policy options are you considering?*

Section 29 of the *TEQSA Consequential Amendments and Transition Provisions Act 2011* requires the Panel to commence a review of the existing Standards within the first year of the Panel's operation. Following the Panel's initial analysis, it was concluded that an edit of the existing Threshold Standards would not address the issues identified and that a wholesale redraft would be required. The redraft would include standards for those areas nominated for the Non-Threshold Standards yet partly covered in the Threshold Standards. The Panel developed a proposed structure for the new set of Standards, sample standards relating to course design, learning outcomes, research and research training and sought sector feedback on the proposed format and content of these components before developing the full framework.

4. *What is the likely net benefit of each option?*

The proposed Framework was developed to provide the following key benefits:

- the structure being according to the educational participation of students and the outcomes attained
- the focus of standards statements to be outcomes rather than process wherever possible
- the alignment with existing quality processes of most providers

¹³ <http://cuttingredtape.gov.au/handbook/answering-ris-questions>

- the alignment with the ESOS National Code 2007 and the AQF, and
- the links between standards that can be utilised in TEQSA's risk-based approach.

5. *Who will you consult about these options and how will you consult them?*

The Panel undertook a transparent, iterative consultation with the sector and other stakeholders. This included over 100 meetings with and presentations to the sector, 12 Panel Communiques to a mailing list of approximately 1200, an information session as part of consultation on the full proposed Framework and three formal Calls for Comment that received a total of 230 submissions. The Panel communications with the sector and submissions to Calls for Comment have been documented on the Panel website¹⁴. The Panel also sought independent feedback from Professor Kwong Lee Dow and the TEQSA Advisory Council.

The consultation process provided excellent opportunities for the Panel to test elements of the proposed Framework and discuss and overcome issues raised by stakeholders. A further Panel Communique to the sector will be released with the final version of the proposed Framework.

6. *What is the best option from those you have considered?*

Following the consideration of feedback from Calls for Comment 1 & 2 and other consultations with stakeholders, the Panel further developed the proposed Framework that was the basis of Call for Comment 3. Feedback to Call for Comment 3 was used to review the proposed Framework in detail and the resulting document does not differ in overall direction and intent. Many improvements detailed above were incorporated following consideration of the impacts.

7. *How will you implement and evaluate your chosen option?*

TEQSA has formally advised the Panel in writing of its unqualified support for the proposed Framework, and is confident of the effectiveness of the proposed Framework for regulatory purposes. TEQSA has also indicated that the Framework will support continued streamlining of its regulatory approach.

In relation to the timing of the implementation, to minimise the transitional impact on the sector for those providers that have commenced preparing applications, the new Framework should apply to those registrations and course accreditations due in 2017. An effective date of 2017 will require TEQSA to begin transition to the new Framework by mid-2015 to ensure timelines required under the TEQSA Act 2011 are met and providers are given sufficient time to prepare for the new Higher Education Standards Framework.

Evaluation of the effectiveness of the Framework should continue to be undertaken by the Panel, in accordance with Section 168 of the TEQSA Act 2011.

¹⁴ <http://www.hestandards.gov.au/>

Appendices

- A. Communique 14 – Final Proposed Higher Education Standards Framework
- B. Comparison of Part A (Standards for Higher Education) of the Proposed Higher Education Standards Framework to requirements of the current Framework - December 2014
- C. Comparison of Part B (Criteria for Higher Education Providers) of the Proposed Higher Education Standards Framework to requirements of the current Framework - December 2014
- D. Comparison of the ESOS National Code 2007 Parts C & D to the Proposed Higher Education Standards Framework - December 2014
- E. Elements of the current Higher Education Standards Framework that are not covered by the Proposed Framework - December 2014