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## **JOINT COMMITTEE ON HIGHER EDUCATION**

### **Inquiry into the desirability of a national higher education accreditation body**

#### **Final Report**

June 2008

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# 1 Executive Summary

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The Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) has requested the Joint Committee on Higher Education (JCHE) to undertake, on its behalf, an inquiry into the desirability of a national higher education accreditation body. PhillipsKPA, in collaboration with Peter Noonan Consulting, has been commissioned to conduct the inquiry.

Accreditation of higher education institutions and courses (other than existing universities established under State/Territory legislation) is undertaken by Commonwealth, State and Territory accreditation authorities under jurisdiction-based higher education legislation. All State and Territory governments, together with the Commonwealth, have adopted the *National Protocols for Higher Education Approval Processes* ('the National Protocols'), which provide for approval of new universities and other higher education institutions against broad common criteria.

The inquiry objective was to contribute to an informed discussion by Ministers and officials on ways to promote greater national consistency in recognition and accreditation, by describing and assessing current arrangements in each jurisdiction and canvassing options for improvement, including models for a national accreditation agency.

The inquiry included a detailed analysis of the current arrangements and a consultation process comprising focus groups and written submissions.

The analysis of the current arrangements identified a range of advantages and disadvantages of the current arrangements. It found that the approach to Mutual Recognition of outcomes reflected in the National Protocols is not consistent with Mutual Recognition principles as it allows for jurisdictions to re-assess compliance against the protocols in areas already assessed as compliant in the primary jurisdiction.

The consultations also found that stakeholders held divergent views about the effectiveness of the National Protocols, with consistent concerns expressed about the operation of Mutual Recognition, while noting that implementation of the revised National and associated guidelines was only occurring during the course of the Inquiry.

There was general support for an increased capability to more effectively coordinate the implementation of the National Protocols and to improve national consistency in interpretation and application. Support for a National Higher Accreditation Agency was mixed, with stronger support for such an Agency from multi-jurisdiction providers than other stakeholders.

The following models have been developed for consideration by JCHE and MCEETYA.

### Model 1 - National Protocols Coordination Secretariat

Functions that could be undertaken under this model include:

- a) Providing a secretariat and technical support for working parties;
- b) Monitoring of implementation across jurisdictions and providing a clearing house of information and advice to jurisdictions;
- c) Providing an initial contact point for cross-jurisdictional providers and assisting in facilitation of mutual recognition processes for multi-jurisdiction providers;
- d) Assisting in the coordination of offshore auditing;
- e) Acting as a reference point for liaison with other relevant national bodies; and
- f) Maintenance and updating of the national register.

### Model 2 - National Protocols Coordination and Improvement Secretariat.

Functions that could be undertaken under this model include:

- a) The coordination roles outlined in Model (1) above;
- b) Ongoing review and development of National Protocols and Guidelines;
- c) Development and implementation of moderation processes;
- d) Development of guidance and resources for panels and accreditation bodies;
- e) Training and professional development of panel chairs, members and staff;
- f) Development and maintenance of lists of potential panel members in relevant discipline areas; and
- g) Providing guidance and advice to accreditation bodies on the interpretation of the National Protocols and Guidelines.

### Model 3 Higher Education Accreditation Agency for National Providers and Offshore Delivery

Under this model, a National Higher Education Accreditation Agency would be established with specified powers in relation to:

- a) Accreditation of higher education courses covered by the National Protocols in more than one jurisdiction;
- b) Registration and audit of multi jurisdiction NSAs;
- c) Audit of offshore provision for all NSAs;

- d) Quality audit for the purposes of HESA;
- e) Registration and audit for the purposes of CRICOS and ELICOS for multi jurisdiction NSAs;
- f) Registration of self accrediting higher education institutions;
- g) The establishment of new universities;
- h) Responsibility for auditing offshore delivery and providers predominantly using distance delivery; and
- i) The coordination and improvement functions set out in Model 1(b).

#### **Model 4: Comprehensive National HE Accreditation Agency**

Under this model, a National Higher Education Accreditation Agency would be established with determinative powers in relation to:

- a) Accreditation of all higher education courses covered by the National Protocols;
- b) Registration of all NSAs;
- c) Quality audit for the purposes of HESA;
- d) Registration and audit for the purposes of CRICOS and ELICOS;
- e) Registration of self accrediting higher education institutions; and
- f) The establishment of new universities.

Under this model, a National Higher Education Accreditation Agency would fully assume the roles and functions covered by the National Protocols currently performed by the States and Territories.

Models 1 and 2 could be established as new entities or within existing Ministerial Companies without the need for additional powers perhaps under the auspices of JCHE. Model 3 could have advisory powers to jurisdictions, could operate under delegation from jurisdictions or could operate as a Commonwealth agency if jurisdictions referred powers or under Commonwealth legislation if the Commonwealth is found to have relevant powers. Model 4 could only effectively operate if jurisdictions referred powers or under Commonwealth legislation if the Commonwealth is found to have relevant powers.

The implications of each model should be assessed in terms of the role of the Australian Universities Quality Agency (AUQA).

Based on the analysis in this report, our assessment is that:

- a) There is a strong case for a continued focus on better regulatory practices through innovation, especially for NSAs operating in national markets;
- b) There is potential to reduce regulatory burdens, especially for multi-jurisdiction providers, through a national higher education accreditation agency:
  - but there is also a risk that such an agency could increase burdens for multi-sector NSAs in some jurisdictions unless the model is extended to encompass integrated registration and audit functions across both VET and higher education;
- c) The issue of direct and indirect costs (including transitions costs) associated with any national agency model will need to be carefully assessed:
  - particularly if the States and Territories were to withdraw from regulation in this area and resources currently associated with regulation were not transferred to a new entity; and
- d) While the higher education industry is becoming increasingly national and international in character, at present, most non self-accrediting institutions operate within State boundaries and only a minority operate across jurisdictions. An appropriate approach in the short to medium term could therefore be to establish national mechanisms to deal with the regulation of cross-jurisdictional and offshore providers, while retaining State/Territory based mechanisms, operating within National Guidelines, for jurisdiction-specific providers.

## 2 Introduction

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The Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) has requested the Joint Committee on Higher Education (JCHE) to undertake, on its behalf, an inquiry into the desirability of a national higher education accreditation body. PhillipsKPA, in collaboration with Peter Noonan Consulting, has been commissioned to conduct the inquiry.

Accreditation of higher education institutions and courses (other than existing universities established under State/Territory legislation) is undertaken by Commonwealth, State and Territory accreditation authorities under jurisdiction-based higher education legislation. All State and Territory governments, together with the Commonwealth, have adopted the *National Protocols for Higher Education Approval Processes* ('the National Protocols'), which provide for approval of new universities and other higher education institutions against broad common criteria.

Promoting greater national consistency in the application of the National Protocols across jurisdictions has been under discussion since November 2005, when MCEETYA endorsed the need for greater national consistency and requested the JCHE to examine options and report back to MCEETYA. Revised National Protocols were approved by the MCEETYA in July 2006 for introduction in December 2007. *National Guidelines for Higher Education Approval Processes* were adopted by MCEETYA in October 2007 to increase national consistency in the way in which the National Protocols are interpreted and applied across jurisdictions.

### 2.1 *Inquiry objective and terms of reference*

#### 2.1.1 **Inquiry objective**

The inquiry objective was to contribute to an informed discussion by Ministers and officials on ways to promote greater national consistency in recognition and accreditation, by describing and assessing current arrangements in each jurisdiction and canvassing options for improvement, including models for a national accreditation agency.

### 2.1.2 Terms of reference

The inquiry will:

- Describe current arrangements for accreditation and recognition of higher education institutions and courses in each jurisdiction, including the identification of differences in arrangements between and within jurisdictions.
- Assess the advantages and disadvantages of current arrangements in terms of maximising national consistency in recognition/accreditation and the efficiency of the current relationship between accreditation and quality audit functions.
- Develop options for maximising national consistency in the recognition/accreditation of higher education institutions and courses. Options should include:
  - improving current arrangements; and
  - developing models for the establishment of a national accreditation agency, including consideration of: roles, functions and decision making powers; governance arrangements, organisational and staffing structures; relationship between the agency and accreditation schemes for particular professions (e.g. health and teaching); and the relationship between the agency and the Australian Universities Quality Agency (AUQA).

For each option, consideration should be given to:

- constitutional and legal issues;
- structural impact on jurisdictions;
- the impact on service delivery to clients;
- human resource implications;
- an assessment of the costs and benefits to governments and clients of the options;
- how any additional costs might be met;
- location implications; and
- process and timeframe for establishment, including proposal(s) for a form of transitional arrangement if appropriate.

## 2.2 *Methodology and timetable*

The JCHE established a steering group to provide advice to the consultants in relation to inquiry methodology and current and emerging arrangements for the regulation of higher education institutions and courses.

The inquiry methodology included:

- Desktop research in relation to current arrangements for the recognition and accreditation of higher education institutions and courses;
- Detailed discussions with each government accreditation authority;
- Development of a consultation discussion paper;
- Stakeholder consultation through an invitation for written submissions, the conduct of focus groups in four capital cities and consultations with key peak bodies;
- Analysis of stakeholder feedback and development of a report on consultation outcomes by the consultants; and
- Development of roles and functions and potential models to improve the current arrangements and for a National Higher Education Accreditation Agency.

## 2.3 *Report Structure*

As the Consultation Discussion Paper and Report on Consultations directly address the first two terms of reference and have been accepted by the JCHE, and the potential models were discussed at a meeting of the project steering committee, the content of this Final Report reflects:

- The description of the current arrangements (section 3);
- Stakeholder views on the current arrangements and possible models (section 4);
- An analysis of the current arrangements (section 5) based on:
  - The COAG principles for regulatory reform;
  - The potential advantages and disadvantages of the current arrangements; and
- A description of possible models based on a paper prepared for the steering committee and reflecting the steering committee's feedback (section 6).

## 3 Current arrangements

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This section of the paper outlines current arrangements for:

- The approval of higher education institutions and courses within the framework of the National Protocols;
- Quality assurance and quality audit of approved higher education institutions; and
- Professional accreditation of higher education courses.

It also briefly describes recent developments in the regulation of Australian education and training that have some relevance to the issues under consideration within this inquiry.

### 3.1 *Arrangements for the approval of higher education institutions and courses*

#### 3.1.1 National quality assurance framework

While responsibility for the regulation of education and training rests with individual States and Territories within their jurisdictions and with the Commonwealth in respect of the External Territories, all Australian governments have worked co-operatively over the last decade or more to develop and refine a national quality assurance framework for higher education which recognises the increasing diversity within the higher education sector. The key components of the national framework are described below.

##### National Protocols

The National Protocols are implemented through a co-operative national approach to higher education accreditation and approval processes. All jurisdictions have enacted legislation to give effect to the 2000 edition of the National Protocols, and legislative amendments to reflect the revised National Protocols are also being enacted. There are five revised National Protocols that outline criteria and processes for higher education approvals:

Protocol A	Nationally agreed criteria and approval processes for all higher education institutions
Protocol B	Criteria and processes for the registration of non self-accrediting higher education institutions and the accreditation of their higher education course/s
Protocol C	Criteria and processes for awarding self-accrediting authority to higher education institutions other than universities
Protocol D	Criteria and processes for establishing Australian universities

Protocol E            Criteria and processes for overseas higher education institutions seeking to operate in Australia.

The revised National Protocols specify nationally agreed:

- Criteria for all higher education institutions;
- Additional criteria as they relate to different categories of higher education institutions and their courses;
- Processes relating to applications and the assessment of applications, including the assessment of applications to operate in more than one jurisdiction; and
- Quality assurance criteria.

Under the revised National Protocols, each government accreditation authority makes provision for the mutual recognition for higher education courses. The recognition of higher education institutions, however, requires a full assessment of 'local capacity to deliver' in each jurisdiction.

Protocol A of the revised National Protocols states:

*The standards and requirements set out in the National Protocols are expected to apply to all higher education students of the institution and to all courses leading to higher education qualifications made in the name of the institution, regardless of where the students are located or the mode of instructional delivery of the course.*

## AUQA

The revised National Protocols also outline obligations on government accreditation authorities, including the requirement for all jurisdictions to establish a legislative framework consistent with the National Protocols and for regular external quality audit by AUQA. The first round of these audits of government accreditation authorities has recently been completed. The second round of audits will be undertaken simultaneously to enable AUQA to assess national consistency in the application of the revised National Protocols.

## National Guidelines

National consistency in the implementation of the revised National Protocols is reinforced through National Guidelines developed for each category of higher education institution represented within the National Protocols. The National Guidelines were adopted by MCEETYA in October 2007.

The National Guidelines provide a detailed specification of the requirements outlined in the revised National Protocols. With respect to non self-accrediting higher education institutions, for example, the National Guidelines provide a nationally consistent elaboration of:

- Approval and post-approval processes;

- Evidence to be presented to demonstrate compliance with requirements for:
  - Registration (e.g. fitness and legality; goals and culture; corporate governance; protection of students);
  - Accreditation of a higher education course (e.g. course nomenclature; course design and outcomes); and
  - Mutual recognition of an institution and its courses (e.g. quality assurance; staffing; facilities and student services).

The revised National Protocols and Guidelines should deliver significant improvements in national consistency once they are fully implemented.

#### Other national framework features and development

A National Protocols Working Group, comprising officials from the Commonwealth and all State and Territory governments, has been established by the JCHE to facilitate ongoing collaboration in the implementation of the revised National Protocols and the further enhancement of national consistency. In addition, the Higher Education Recognition Officers (HEROs) group meets regularly and provides ongoing advice to the JCHE in relation to national consistency and other issues. This group is in the process of developing a suite of templates (e.g. application forms) that will be used consistently across all jurisdictions and is also developing a set of standards for higher education accreditation authorities.

### **3.1.2 Jurisdiction-based arrangements**

#### State and Territory governments

With the implementation of the revised National Protocols and National Guidelines, the State and Territory arrangements for the recognition and accreditation of higher education institutions and courses are in transition.

Each government accreditation authority currently operates similar higher education approval processes, consistent with the current National Protocols, which include the following elements:

- State/Territory legislation which gives effect to the National Protocols;
- An application process and the payment of fees;
- An application assessment process including assessment by an independent expert panel, a site visit and a financial probity check;
- The specification within legislation of a decision-making authority in relation to the approval of higher education institutions and courses;
- Provision for approving a higher education institution and/or course with or without conditions;
- A process for institutions to appeal against decisions;
- Monitoring processes, including processes for assessing major changes to institution circumstances and courses;

- Processes for amending or revoking higher education institution and course approvals; and
- Processes for re-registration and re-accreditation.

In addition, the designated authority in each State and Territory is responsible for recommending to the Commonwealth, institutions and their courses for registration under the *Education Services for Overseas Student (ESOS) Act*. Some State and Territory governments have also enacted parallel legislation, providing the relevant accrediting agency with associated enforcement powers in relation to ESOS.

#### Commonwealth Government

The Commonwealth Government is responsible for regulating the operation of the National Protocols in the external Territories.

In addition, the *Higher Education Support Act 2003* (HESA), administered by DEEWR, determines the eligibility of a higher education institution for Commonwealth funding. Accreditation by the relevant State or Territory authority is a pre-requisite for consideration of an institution's eligibility as a Higher Education Provider (HEP) for this purpose. Chapter 2 of HESA also requires an applicant institution to satisfy additional quality and accountability requirements before being eligible for funding. At 17 October 2007, DEST (now DEEWR) had approved 64 HEPs under HESA.

DEEWR is also responsible for administering the ESOS Act and its associated instruments. This includes registering, on the basis of recommendation by the relevant State or Territory designated authority, institutions which meet the requirements of the ESOS Act. DEEWR is responsible for investigating and instigating enforcement action for breaches of both the ESOS Act and its National Code.

#### Scale of activity by jurisdiction

The following table displays the number of non self-accrediting higher education institutions and associated courses approved by each jurisdiction, as reported by the *AQF Register of Recognised Education Institutions & Authorised Accreditation Authorities in Australia*<sup>1</sup> on 22 October 2007.

A number of institutions and courses are approved by multiple jurisdictions. The regulatory workload in each jurisdiction is impacted by both the number of institutions and course approval applications received and whether or not they are the primary or secondary jurisdiction when mutual recognition is sought.

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<sup>1</sup> See <http://www.aqf.edu.au/register.htm#highered>

**Table 1: Approvals of non self-accrediting higher education institutions and courses by jurisdiction (as advised by jurisdictions at June 10 2008)**

<b>Jurisdiction</b>	<b>Number of institutions</b>	<b>Number of courses</b>
Australian Capital Territory	5	19
Commonwealth government	0	0
New South Wales	55	330
Northern Territory	2	3
Queensland	30	60
South Australia <sup>2</sup>	28	312
Tasmania	7	39
Victoria	56	288
Western Australia <sup>3</sup>	25	84

### **3.1.3 Differences in arrangements between and within jurisdictions**

In developing and refining the national higher education quality assurance framework, the intent of governments has been to work towards the harmonisation of arrangements rather than absolute uniformity. While the arrangements for the approval of higher education institutions and courses are very similar across the jurisdictions, there are consequently a number of differences in practice.

There are varying stakeholder views as to the significance of these differences. Some stakeholders argue that many of the differences appropriately reflect the local conditions and government policies which apply within each discrete jurisdiction, while others believe that they have a substantial adverse impact on the level of national consistency and quality outcomes through the National Protocols, particularly in relation to the application of mutual recognition.

The key points of difference identified through desktop research and consultations with jurisdictions are outlined below. Some of these differences will be addressed with the implementation of the revised National Protocols and the National Guidelines.

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<sup>2</sup> Excludes two self-accrediting universities based in other jurisdictions offering courses within South Australia. The South Australian register of approved higher education courses requires the specialisations within a given course to be listed separately, and this serves to inflate the apparent number of course approvals compared with other jurisdictions.

<sup>3</sup> Includes two institutions approved to deliver courses on behalf of two self-accrediting universities.

- *Decision-making authority*

Legislative authority to approve a higher education institution or course rests variously with the Minister (e.g. Western Australia) or a statutory body (e.g. ACT Accreditation and Registration Council). The nature and extent of delegations to senior government officers also varies. In some States, the requirement for Ministerial approval extends to the membership of expert assessment panels.

- *Organisational structures*

There is considerable diversity across jurisdictions in the governance and structure of education and training accreditation authorities. In some jurisdictions (e.g. Victoria, Tasmania), all education and training regulatory functions have been brought together within a single authority with responsibility for schools, higher education institutions, VET institutions, and delivery of courses to overseas students. In a number of jurisdictions, however, education and training regulatory functions are distributed across a number of different organisational areas or entities.

- *Timeframes for the approval process*

The indicative timeframe for the approval process varies considerably from six months to at least 10 months. In practice, timelines are strongly influenced by the quality of the initial application, responses by the institution to feedback provided on the application, and the need for Ministerial approval in some instances.

- *Fees*

The fees charged by the accrediting authorities, and the extent to which governments subsidise the costs of the accreditation function, vary significantly across jurisdictions. Under the revised National Protocols, government accreditation authorities are required to 'work towards consistency in fee levels'.

- *Separation of the registration and accreditation approvals*

Some jurisdictions treat institution registration and course accreditation as separate parts of the approval process, while others integrate the two sets of requirements. The revised National Protocols clearly separate criteria for institution registration and course accreditation; however, they make provision for either concurrent or separate assessment processes.

- *Relative emphasis on registration and accreditation requirements*

Government accreditation authorities differ in the relative emphasis they place on specific requirements for registration and accreditation. One authority, for example, may place significant emphasis on governance arrangements, while another may choose to emphasise internal quality assurance mechanisms.

- *Definition of 'course'*

As noted in the footnote to Table 1, the approach taken by government accreditation authorities to the definition of a course varies. In at least one instance, the authority accredits courses separately for each specialisation offered within a course, whereas this is not the practice in most States and Territories.

- *Moderation of expert panel assessments*

Differing mechanisms are employed across jurisdictions for the moderation of expert panel assessments.

- *Role of government accreditation authority officers in the assessment process*

In some jurisdictions, officers of the designated authority provide advice to expert panels, carry out secretariat functions, such as drafting panel reports, and facilitate the moderation of accreditation decisions under the direction of the panel chair. In other jurisdictions, the officers of the authority may not participate in the meetings of expert panels and/or the panel secretariat function may be outsourced to independent contractors.

The extent to which the Department could provide alternative advice to that recommended by the panel to the decision making body or person also varies.

- *Appeal*

There are differing provisions between jurisdictions in relation to: whether the right of appeal is explicitly covered in relevant legislation; the nature of the appeal process; and the powers of appeal bodies. The revised National Protocols and Guidelines do not address these issues, except to indicate that the government accreditation authority will outline to the applicant the process through which an appeal of the decision may be made.

- *Annual reporting*

Some States and Territories require approved higher education institutions to provide annual reports as a quality monitoring mechanism, while others do not. The National Guidelines, when endorsed, will require higher education institutions to submit annual reports.

- *Relative emphasis on minimum standards/regulation and quality improvement*

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, particularly in the context of post-approval monitoring (e.g. annual reporting) and re-accreditation.

- *The regulation of offshore delivery*

Some jurisdictions currently assess all higher education courses to be delivered offshore, while other jurisdictions do not. As noted earlier, the revised National Protocols require the standards and requirements set out in

the National Protocols to apply to all students and courses regardless of where the students are located.

## **3.2 Relationship between accreditation and quality audit**

The Terms of Reference of this inquiry include assessing the advantages and disadvantages of current arrangements in maximising the efficiency of the current relationship between accreditation and quality audit functions within the framework of the revised National Protocols.

### **3.2.1 Distinction between the accreditation and quality audit functions**

The role of the registration/accreditation function is to certify that an institution or course meets appropriate standards. In the case of higher education, those standards are specified in the revised National Protocols.

The glossary of terms attached to the revised National Protocols defines quality audit as follows:

*In the context of quality in higher education, quality audit is a process for checking that procedures are in place to assure quality, integrity or standards of provision and outcomes.*

It also defines quality assurance as:

*... the policies, attitudes, actions and procedures necessary to ensure that quality is being maintained and enhanced. It requires actions internal to the institution, but may also involve actions of external bodies...*

In brief, accreditation is externally referenced insofar as it requires a demonstration of compliance with externally defined standards. Quality audit, however, is more self-referencing insofar as it typically involves a self-review of the institution's own quality assurance framework, including the identification of opportunities for quality improvement, which is subsequently assessed and validated by the external quality audit body.

There is an ongoing debate, both within Australia and internationally, about the extent to which accreditation and quality audit functions should be kept separate, both in terms of process and the bodies responsible for each function. This particularly relates to institutions that have previously demonstrated compliance with external standards.

### **3.2.2 Role of AUQA**

The revised National Protocols state that:

*The Australian Universities Quality Agency (AUQA) is the national quality audit body responsible for auditing all universities, other self-accrediting higher education institutions, some non self-accrediting higher education institutions and Government Accreditation Authorities.*

AUQA has recently completed its first round of quality audits of universities and other self-accrediting higher education institutions and is now commencing the second round. As noted earlier, AUQA has also completed its first round of audits of government accreditation authorities.

With the enactment of HESA, the role of AUQA was expanded to cover the quality audits of non self-accrediting higher education providers (discussed further below).

### 3.2.3 Revised National Protocols requirements

In addition to requirements for registration and course accreditation, the revised National Protocols specify quality assurance criteria for all higher education institutions. For existing higher education institutions (including universities) already operating in Australia, the National Protocols require that they ‘be regularly assessed through the standard quality assurance processes, including external quality audits, that apply to each institution’.

The quality assurance criteria specified in the revised National Protocols for the various types of recognised higher education institutions are outlined in the following table.

**Table 2: Quality assurance criteria in the revised National Protocols**

National protocol and type of institution	Quality assurance criteria specified in the revised National Protocols
B. Non self-accrediting higher education institutions	Regular re-registration and re-accreditation undertaken by jurisdictions and/or external quality audits undertaken by Government Accreditation Authorities or by AUQA
C. Institutions granted self-accrediting authority	Regular external quality audits by AUQA and/or Government Accreditation Authorities
D. Establishment of Australian universities	Regular external quality audit by AUQA
E. Overseas higher education institutions operating in Australia	Subject to the quality assurance requirements of their overseas accrediting authority and any other requirements specified as conditions of the approval to operate in Australia

National Protocols B, C and D state that the ‘quality assurance process will include consideration of offshore activities where these are undertaken’.

### 3.2.4 HESA requirements

Under HESA, all higher education institutions accessing DEEWR funding (including universities) are required to undergo quality audits by a quality auditing body named in the *Higher Education Provider Guidelines* (the ‘HEP Guidelines’). The HEP Guidelines currently list only AUQA as an approved quality auditor.

To avoid duplication and to assist in the streamlining of quality processes for institutions that are not Table A providers<sup>4</sup>, two options have recently been developed and piloted for the quality audit of HEPs:

1. An audit by AUQA; or
2. An audit integrated with local re-registration and/or other re-approval processes conducted on a cyclical basis by a State/Territory higher education accrediting authority.

It is intended that higher education providers will be able to nominate which option they prefer, taking into account their institutional needs, circumstances and aspirations.

As part of a pilot of the options, DEST, in collaboration with AUQA and other jurisdictions, developed a Draft HEP Pilot Audit Handbook which outlines four Quality Audit Factors (QAFs) and associated 'Criteria for review' as a framework for the quality audit process. The QAFs are:

1. Institutional and Educational Objectives and Institutional Governance;
2. Achieving Effectiveness in Teaching, Learning and other Core Functions;
3. Organisational Structures, Decision-making Processes and Resources to Support Teaching and Learning; and
4. Maintaining a Commitment to Quality Improvement.

Within the framework of the core requirements set out in the Handbook, it is anticipated that elements of the audit approach and format will vary depending on whether it is a State/Territory agency or AUQA which conducts the audit. At this stage, not all States and Territories have confirmed an interest in conducting integrated audits.

Three pilots have now been conducted, one by AUQA and two by State/Territory accrediting bodies. All pilots have been subject to independent evaluation and the findings of the pilot process are currently under consideration.

### **3.3 *Professional accreditation of higher education courses***

#### **3.3.1 Professional accreditation bodies**

In addition to the recognition and accreditation of higher education institutions and courses through the provisions of the National Protocols and parallel jurisdiction-based legislation, professional accreditation of higher education courses is well established in Australia across a range of professional areas (e.g. medicine, nursing, law, accountancy).

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<sup>4</sup> Table A providers are listed in section 16.15 of HESA.

The professional accreditation bodies vary substantially in terms of their origins, functions and formal recognition by government. The most common arrangements in Australia are represented in the following table.

**Table 3: Nature of professional accreditation bodies**

Type of recognition by government	Examples
Bodies established under government legislation to operate as independent statutory authorities	<ul style="list-style-type: none"> <li>■ Queensland College of Teachers established as a statutory authority under the <i>Education (Queensland College of Teachers) Act 2005</i> and funded by teachers</li> <li>■ NSW Nurses and Midwives Board established as a statutory authority under the <i>NSW Nurses and Midwives Act 1991</i></li> </ul>
Bodies fully independent of government and recognised in legislation or formed by royal charter as professional accrediting bodies	<ul style="list-style-type: none"> <li>■ The Australian Medical Council (AMC), an independent national standards body for medical education and training recognised in State/Territory medical practice legislation as a body that accredits medical schools and courses</li> <li>■ Engineers Australia, a not-for-profit corporate body formed by royal charter, which accredits undergraduate engineering courses</li> </ul>
Bodies fully independent of government with no formal recognition in legislation	<ul style="list-style-type: none"> <li>■ CPA Australia and the Institute of Chartered Accountants in Australia, which jointly accredit higher education accountancy courses</li> </ul>

Most States and Territories have statutory bodies responsible for the regulation of a number of professions (e.g. nursing, teaching, architecture) and the accreditation of associated higher education qualifications.

In some professions, statutory bodies operating at the State/Territory level have acted collaboratively to establish national accrediting bodies. For example, while each State and Territory Architects Registration Board is responsible for administering its own Act, each Board nominates two people as members of the Architects Accreditation Council of Australia (AACA). The AACA is a company limited by guarantee which establishes national standards for architects in Australia and facilitates the accreditation of programs of architecture in all tertiary education institutions in Australia<sup>5</sup>.

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<sup>5</sup> Some detail of this description of the role of ACAA is being checked

In a number of professional areas, there has been a growing and sometimes contentious debate about the relative benefits of national versus jurisdiction-based professional accreditation schemes.

Teaching Australia, for example, recently proposed a national system for the accreditation of pre-service teacher education and is currently undertaking a project to develop national professional standards for advanced teachers and principals.

Subject to intergovernmental agreements, COAG has agreed to establish by July 2008 a single national registration scheme for health professionals. In the first instance the scheme will cover the nine professions currently registered in all jurisdictions but other professional groups (including Aboriginal Health Workers) may be added over time. A national cross-professional registration body also involving profession-specific panels and committees will be established.

COAG also agreed to establish by July 2008 a single national accreditation scheme for health education and training, in order to simplify and improve the consistency of current arrangements. The communiqué from the April 13 COAG meeting indicated that:

*COAG agreed that the new scheme should support workforce responsiveness, flexibility, sustainability and innovation. National registration will also mean that doctors, nurses and other health professionals will be able to practise across State and Territory borders without having to re-register. This will improve workforce mobility, allowing health practitioners to move easily to a new State or to serve in times of emergency or provide locum services.*

*The new system will initially cover nine health professions: medical practitioners, nurses and midwives, pharmacists, physiotherapists, psychologists, osteopaths, chiropractors, optometrists and dentists (including dental hygienists, dental prosthetists and dental therapists).*

*Key features of the new arrangements include a continuing role for Health Ministers, a single, consolidated scheme and a new national professional board for each of the nine professions. Each profession will develop standards for its profession for approval by Health Ministers. Individual registration and accreditation decisions will remain the responsibility of the professions. Community representatives will play a key role in the new scheme. Health Ministers will be assisted by an independent Advisory Council which will provide transparent policy advice to Ministers. COAG agreed to consider further the membership of the Advisory Council.*

Many of the professional accreditation bodies, especially those operating at the national level, play a key role in:

- Establishing and maintaining mutual recognition agreements with overseas professional accreditation authorities; and
- Assessing the academic qualifications of prospective migrants wishing to enter Australia, often under contract to the Commonwealth Government.

Some professional bodies which accredit higher education courses are also providers of higher education courses in their own right.

### **3.3.2 Relationship to recognition and accreditation under the National Protocols**

Most government accreditation authorities have some form of relationship with relevant professional accreditation bodies. It is common practice, for example, for representatives of professional bodies to be invited to join expert assessment panels. Some government accreditation authorities report that they have been seeking to strengthen the participation of professional bodies in the accreditation process.

In the majority of instances, however, course accreditation through the government accreditation authority and the professional accreditation body proceed as quite separate processes. Where explicit linkages do exist between the two, there are varying approaches across jurisdictions and across professions in terms of the sequencing of the separate accreditation decisions:

- Professional accreditation as a pre-requisite for recognition and accreditation under the National Protocols;
- Recognition and accreditation under the National Protocols as a pre-requisite for professional accreditation; or
- Joint accreditation processes.

As an example of the last approach, the NSW Higher Education Directorate has reached an agreement with the NSW Institute of Teachers (a statutory authority with legislated responsibility for accrediting pre-service teacher education courses) to trial a coordinated course accreditation process. Applicants wishing to offer pre-service teacher education courses submit the component of the accreditation application dealing with the course content, methodology and assessment directly to the Institute for assessment. The Institute establishes an expert assessment panel and makes a recommendation as to whether the course meets the Institute requirements. If approved, the Directorate establishes a small panel to assess the criteria not assessed by the Institute panel. These relate chiefly to the institution's capacity to deliver the course such as staff, resources and facilities. The intention is to avoid duplication of assessment.

Arrangements of this nature are not common across jurisdictions, principally due to the fact that there has been minimal interest on the part of non self-accrediting institutions to offer courses in those professions regulated by State and Territory statutory authorities.

### **3.4      *Relevant developments in the VET sector***

In addition to the COAG decisions in relation to the health workforce, there have been recent developments in the regulation of the VET sector that have some relevance to the objectives of this inquiry.

In November 2006, the Ministerial Council for Vocational and Technical Education (MCVTE) agreed to the establishment of the National Audit and Registration Agency (NARA) within TVET Australia.

NARA was established to undertake re-registration processes for Registered Training Organisations (RTOs) operating in multiple jurisdictions so that these RTOs would have only one registering body to deal with. RTOs will be audited against the AQTF *2007 Essential Standards for Registration* under processes endorsed by the TVET Board and using contracted auditors. Where relevant, NARA will also be able to undertake audits for the purposes of compliance with the ESOS Act.

RTOs operating in multiple jurisdictions are able to 'opt in' to use NARA or can opt to be re-registered under the current jurisdiction-based arrangements.

NARA was established after several years of experience with the operation of the AQTF, in response to concerns raised by major RTOs, including enterprise RTOs operating in multiple jurisdictions, and national peak bodies about the effectiveness and efficiency of the operation of the AQTF.

NARA will operate under delegation from State and Territory RTO registration bodies although in some jurisdictions, legislation will be required to be amended before delegations to NARA can be effected. At the time of preparation of this report NARA had only received a delegation from one jurisdiction. NARA has 30 RTOs who have registered their intent to use its services and a further 150 who have expressed interest, although some of these RTOs may not be eligible to be registered through NARA.

## 4 Consultation outcomes

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### 4.1 *Consultation process*

The consultation process involved:

#### Four focus groups

The focus groups were held in Brisbane, Sydney, Melbourne and Adelaide. They comprised a cross-section of providers (principally non-self-accrediting but also some universities) in morning sessions, with State/Territory accreditation agencies (panel chairs and members, Department officers), representatives of professional accreditation bodies and other stakeholders in the afternoon sessions. Dates of, and a list of attendees at, the focus groups are at Appendix 3.

#### Written submissions

Fifty-six submissions were received from a diverse range of organisations, principally in response to a letter of invitation to identified stakeholder groups. Some other interested parties also provided submissions. A list of submissions received is at Appendix 2. All but one preliminary submission, (which was provided on a confidential basis) have been made available to the MCEETYA Secretariat for placement on the MCEETYA website.

#### Consultations with peak stakeholder groups

Direct consultations occurred with Universities Australia, the Australian Council for Private Education and Training (ACPET) and the Council of Private Higher Education (COPHE). These consultations allowed these peak stakeholder groups to foreshadow or elaborate on their written submissions. The Executive Director of the Australian Universities Quality Agency (AUQA) was also consulted.

To support the consultation process, the consultation issues paper approved by the JCHE was distributed to stakeholders identified by Committee members. All consultations were based on the questions raised in the Consultation Discussion Paper. However, the focus group and peak body consultations were conducted in a way that enabled participants to raise and articulate issues of primary concern to them, rather than requiring participants to address in detail each of the consultation questions.

### 4.2 *Consultation outcomes*

#### 4.2.1 **Basis of analysis**

The following analysis of consultation outcomes reflects inputs from all three phases of the consultation process. Consultation outcomes are reported against the relevant heading summarising the question(s) raised in the Consultation Discussion Paper.

The focus groups and direct consultations provided valuable insights into the issues, enabled some respondents to express their views freely and frankly and helped some respondents to frame their written submissions.

However, given the detailed and considered nature of the written submissions, the broad range of organisations from whom they were received and the capacity to reference written submissions, greater weight has been given to the written submissions in preparing this report than to the focus groups and peak body consultations.

References to, and quotes from, written submissions have been made to emphasise and illustrate points where relevant and are not intended to give undue weight to specific submissions.

#### **4.2.2 The context for regulation of higher education**

Timing and context for the inquiry

In the focus groups and key stakeholder consultations, the timing and relevance of the inquiry was raised. Some respondents also asked for clarification on the position of the new Federal government as the proposal for a national higher education accreditation agency had been raised by the previous government. In response, it was noted that the new Australian Government wishes to continue to participate actively in the MCEETYA inquiry process.

Some respondents also queried the need for an inquiry at this time given that the revised National Protocols were only just being implemented and revised National Guidelines being finalised (at the time of the consultations). Similar points were made in some written submissions (WA DoES, VRQA).

The implications of broader consideration of Commonwealth/State relations through the Council of Australian Governments (COAG) were also noted in the focus groups and in some submissions (OHE Queensland).

Regulatory environment

Most respondents who directly addressed this question indicated that they felt that the analysis of the context for regulation in the discussion paper was adequate. For example, the Western Australian Department of Educational Services indicated that:

*'The analysis in the paper of the context for regulation of higher education under the national quality assurance framework is generally seen as sufficient for the purposes of consultation and discussion.'*

A submission from the South Australian Vice-Chancellors Committee also indicated that the paper was:

*'...comprehensive and informative and is an excellent vehicle for taking the debate on these matters further and, hopefully bringing them to fruition.'*

In the focus groups there was also a strong and common theme relating to the complexity of overall regulation in education and training, particularly where providers are involved in both higher education and VET, where providers are also Higher Education Providers under the Higher Education Support Act (HESA), in relation to ESOS and CRICOS and in terms of the role of professional accreditation bodies. For some providers, this overall regulatory complexity is an overriding consideration.

The international dimensions of quality assurance and regulation were also raised, for example the growing trend for international accreditation of individual schools and faculties (e.g. business), for international recognition of professional and occupational standards and the potential for offshore providers to be required to meet both Australian and local in-country regulatory requirements.

#### Scope of the inquiry

Some respondents argued that a more thorough analysis of the role and interests of universities, professional associations and state and national governments was required, including an examination of the constitutional issues involved (James Cook University). Others pointed to what they saw as the narrow terms of reference for the inquiry which precluded examination of the potential for a national body to also have responsibility for HESA, ESOS and VET (Griffith University).

Some respondents also indicated that an examination of international models in federal systems (e.g. Canada and the USA) would provide useful examples against which models for Australia could be developed and considered<sup>6</sup>.

#### The national and regional characteristics of higher education institutions

In the focus groups and peak body consultations, and with reference to the COAG Framework for *Maximising the Efficiency of Regulation* outlined in the Consultation Discussion Paper, participants were asked to comment on the extent to which the activity regulated through the National Protocols was jurisdiction specific or increasingly national and international in character.

Responses to this question varied. Most providers recognised that they were operating in the context of national and international markets but smaller providers (both in scope and range of provision) tended to deliver within rather than across jurisdictions and in relatively narrow areas. However, a small number of larger providers, particularly those with operations in multiple jurisdictions or those involved in offshore and distance delivery, strongly emphasised the increasingly national and international character of their operations.

State and Territory accreditation bodies also emphasised the fact that in the main, Non Self Accrediting Institutions (NSAIs) were relatively small and jurisdiction specific. While recognising that the environment for higher education provision

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<sup>6</sup> Some of these models are summarised in the submission from the Executive Director of AUQA

could change through the entry of international providers or through structural change in the domestic industry (rationalisation and acquisition of smaller providers by larger players), they argued that these trends were likely to be incremental due to constraints in the domestic higher education market.

In support of this view, the Victorian Recognition and Qualifications Authority pointed out that:

*'The non self-accrediting institutions operating across state borders are a fairly highly concentrated group. Excluding self-accrediting universities, only 16 providers (9 from NSW), out of the 129 distinct entities approved across all jurisdictions, also operate in other states. Of this group of 16, only 9 operate across four or more jurisdictions, 4 operate across three jurisdictions, and 3 operate across two jurisdictions only.'*

The VRQA provided a useful and detailed analysis of this issue in its submission.

However, in both the focus groups and written submissions, a number of providers argued that national and international provision was likely to increase and that even where providers operated within single jurisdictions, inconsistencies in approaches to regulation between jurisdictions imposed significant additional direct and indirect costs on providers in some jurisdictions relative to others.

For example in its submissions, ACPET pointed out that the number of NSAs grew by over a third (35%) in the three years from 2005-2007.

ACPET also undertook a detailed analysis of emerging trends in private higher education provision and made the following observations:

*If present activity within the Australian higher education sector continues in a similar vein, a number of futures are possible over the next 2-5 years in the Australian higher education marketplace:*

- *Based on current trends, the number of pending applications before the STAAs, and general interest within the sector; the number of approved NSAs will grow at an increasing rate.*
- *While the number of NSAs will increase, consolidation of ownership will continue to form ever larger entities specialising in the provision of higher education.*
- *As consolidators of educational assets look to expand their presence in the higher education marketplace, the number of multi-jurisdictional NSAs will increase.*
- *The number of students choosing to study with NSAs will continue to increase as well as NSAs overall share of the higher education market.*
- *Depending on the success of Carnegie Mellon and Heriot-Watt Universities' Australian operations, other foreign universities may be encouraged to enter the Australian higher education marketplace and compete directly with Australian-based universities.*

Some providers also argued that the current regulatory framework did not take account of the scope and nature of their operations. Chifley Business College for example argued that:

*'---as a business school serving the needs of technical professionals through distance education – from Australian engineers working on projects in the Gulf one year then on to the next project in Europe the following year, to professional planners building careers in a range of remote local governments across Australia - we are particularly conscious that the notion of 'local' qualifications is nonsense. Careers are global'.*

The College of Law indicated that:

*'--- the national and global growth of higher education is likely to mean that central control of key processes will benefit both internal and external institutions in their desire to get optimum outcomes from their compliance efforts'.*

In the focus groups, and in some written submissions, the challenge of dealing with international and offshore provision was acknowledged. In general, individual providers indicated that the costs and risks of campus-based offshore delivery outweighed potential benefits, particularly if the auditing of offshore delivery was to be undertaken on a cost recovery basis. It was felt that costs and risks were likely to limit the scope of offshore campus-based delivery, except for some in relation to major national and particularly international providers and through distance and on-line provision.

However, some interesting examples of offshore campus-based delivery models emerged in the focus groups. For example, one provider participating in a focus group is internationally owned, with campuses in a number of countries through which AQF qualifications are delivered but with currently only a small domestic presence in Australia.

#### Framework for regulation

A number of respondents endorsed the COAG *Framework for Maximising the Efficiency of Regulation* as an appropriate regulatory framework against which to assess options for improvements to the National Protocols and for a national higher education accreditation agency (OHE Queensland, College of Law, and SA DFEEST).

The National Tertiary Education Union (NTEU) argued that the capacity of existing universities to compete against new entrants also needed to be taken into account within the regulatory framework.

### **4.2.3 Advantages and disadvantages of the current arrangements**

Not surprisingly, the advantages and disadvantages set out in the Consultation Discussion Paper drew the most significant and vigorous comment. It is interesting to note that agencies and organisations either involved in the regulation of NSAs or not directly affected by regulation (some self-accrediting universities) were more

likely to highlight the advantages of the current arrangements than the NSAI's subject to regulation, although this was not universally the case.

#### Perceived Advantages of Current Arrangements

All State/Territory accreditation bodies who submitted written responses strongly argued that the advantages of the current arrangements outweighed the potential benefits of a national agency model. Some also argued that the case for change had not been made or was not sustained by the analysis in the Consultation Discussion Paper<sup>7</sup>.

They also argued that the revised National Protocols and Guidelines were only just coming into effect and that the advantages and disadvantages of the current arrangements could only be properly considered after the full implementation and evaluation of the revised National Protocols and Guidelines. The VRQA said that:

*'We are currently 'between a harmonised and a uniform model' ... this will represent a significant change from previous practice as various state and territory guidelines and application forms are replaced by the National Guidelines and common application forms'.*

*'The revised National Protocols and associated National Guidelines (A&B) represent a significant step towards achieving greater national consistency'.*

Other arguments articulated in favour of the current arrangements included:

- The need for a consistent legislative basis for self-accrediting universities and the regulation of private higher education providers (UoM);
- The benefits of a strong local presence and of local knowledge to support effective and responsive regulation (SA) ;
- The current arrangements are consistent with the COAG regulatory principles in that they represent a harmonised model of regulation which is appropriate to the scale of the activity being regulated while creating national consistency of regulation (VRQA);
- A view that the growing trend towards national regulation could lead to a concentration of power, with the potential for greater damage to be done where regulation was carried out inappropriately by a single agency compared to a more devolved regulatory model;
- Consistency with State responsibility for regulation of professions and other areas of State regulation (SA);
- The performance of regulation can have regard to jurisdiction of specific policies and priorities (Deakin, SA); and

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<sup>7</sup> However, it is important to note that the consultation discussion paper did not purport to make the case for a national agency; this misconception is evident in some of the written submissions and was also evident in some of the focus group discussions.

- The potential for integration of regulation across education and training sectors and markets could be more easily achieved at a State/Territory level (VRQA).

Most respondents supporting the current arrangements also recognised the need for further improvements in the implementation of National Protocols and Guidelines to improve national consistency.

The Western Australian Department of Education Services said that, in relation to the potential advantages of current arrangements identified in the Consultation Discussion Paper:

*'The arguments put forward as potential advantages are generally supported. However the National Protocols are a national regulation scheme and efforts should be made to remove jurisdiction-specific impediments which impact adversely on maintaining high national regulation standards and effective and efficient processes'.*

The position of some self accrediting universities in support of the status quo also appears to be influenced by a concern that changes to the current arrangements could lead to uniform external national quality assurance or regulation of university provision, which could be in addition to existing requirements (professional accreditation) and the role of AUQA.

#### Perceived Disadvantages of Current Arrangements

The disadvantages of current arrangements summarised in the Consultation Discussion Paper were endorsed by many respondents, particularly NSAI's but also some self-accrediting universities and other parties.

A number of the criticisms of the current arrangements relate to both the harmonised model of regulation as it is implemented across jurisdictions, and to the performance of regulation of NSAI's within jurisdictions. Other comments go to the nature of the regulatory model itself.

In the discussion that follows, it should be noted that focus groups were conducted in only four locations, the number of providers attending the focus groups varied, submissions from providers mainly came from three jurisdictions and some respondents indicated that their comments did not necessarily apply universally. Therefore, criticisms about the effectiveness of regulation in some jurisdictions should not be taken as necessarily applying to all jurisdictions.

Moreover, the criticisms have not been independently assessed or tested because the performance of individual accreditation/registration agencies was not the focus on the consultation process and is not the purpose of this inquiry. Some State accreditation agency representatives pointed out that their functions are audited by AUQA and that those audit outcomes are publicly available<sup>8</sup>.

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<sup>8</sup> See AUQA website <http://www.auqa.edu.au/qualityaudit/agencies/>

### *Effectiveness of current arrangements*

Criticisms of current processes within jurisdictions went to the nature of regulation and its implementation. For example, providers highlighted concerns about the level of detailed and repetitive information required and a perceived preoccupation with inputs and processes rather than outcomes. Kaplan Higher Education said in its written submission that:

*'Under the present arrangements, it is possible for an untested provider with good documentation and articulate representation to achieve successful registration and accreditation outcomes and a provider with a demonstrable track record of quality higher education provision and significant market support to be saddled with onerous conditions that add no value to their enterprise or the higher education outcomes that they deliver'.*

These general comments about the focus and nature of the higher education regulatory model are consistent with feedback in focus groups and in direct consultations with peak stakeholder groups. Their criticisms included:

- A lack of understanding among both staff and panel members about the nature of the provider's business;
- The application of inappropriate benchmarks derived from large, self accrediting universities;
- More generally, concerns about the nature and composition of panels, including perceived conflicts of interest of panel members drawn from potentially competing institutions, lack of transparency, and inconsistencies between panels in assessing equivalence with a university standard provision;
- The frequency of changes in processes, forms and personnel; and
- Under resourcing of accreditation/registration offices.

Balanced against these critical comments is a submission from Anne Martin Consulting which stated that:

*'While I would not wish to claim that the State/Territory agencies have been above reproach with respect to either the efficiency or the efficacy of their accreditation processes, my experience as the chair of three AUQA agency audits, as a member of two state agency advisory committees and chair of many accreditation panels, and as a former academic DVC, leads me to conclude that the agencies have by and large done a reasonable job. Moreover, as the discussion paper points out, they have in recent years shown a growing commitment to CQI and to the development of more consistent national standards'.*

That submission further argued that, where agencies have not delivered on the level of regulatory efficiency required, this is due to inadequate resourcing and staffing levels in the face of rapid and dramatic growth in the NSAI sector.

### *Effect of practices on national consistency*

The critical observations outlined above also strongly influence the views of a number of providers about national consistency. These, typically larger providers compare and contrast administrative practices, resourcing levels, timeliness and interpretation of the revised National Protocols and Guidelines between jurisdictions. Moreover, in focus groups and consultations with peak stakeholder groups, perceptions that different States and Territory agencies apply higher and lower 'tests' were evident, although respondents were reluctant to 'go on the record' about the practices of individual jurisdictions.

Some individuals with experience on higher education panels across jurisdictions also supported these concerns in focus groups. For example a personal submission from Gail Hart, a member of the board of the Tasmanian Qualifications Authority, highlighted the difficulties she experienced in facilitating an accreditation/re-accreditation process across jurisdictions in 2002-2003, including a comment that '*...each of the jurisdictions appeared to be competing for the award of "most rigorous state agency"*'.

In focus groups, some accreditation panel members indicated that they felt that they were not sufficiently aware of the basis of panel decisions or recommendations in other jurisdictions, in particular, the basis of assessment that a course was equivalent to a university standard. Some panel members in focus groups also expressed concern that interpretations of the National Protocols and Guidelines varied between panels in different jurisdictions, for example, in relation to the role of academic boards, and saw the need for greater transparency in, and moderation of, outcomes across jurisdictions.

### *Effectiveness of Mutual Recognition*

More significantly, in relation to the terms of reference for this inquiry are the strength and frequency of comments in relation to the varying interpretations and application of 'mutual recognition' between jurisdictions or suggestions that, in some instances, mutual recognition had not been applied at all.

These comments are strongly evident in the written submissions from a number of 'cross jurisdictional' providers including Chifley, Kaplan, the Navitas Group, Bradford College, The College of Law, The Australian Lutheran College and the Australian College of Physical Education. Examples include:

- Bradford College - '*we have also experienced major inconsistencies in the interpretation of the mutual recognition principles across the various jurisdictions requiring different sets of documentation for the same program to be provided within each jurisdiction*';
- The College of Law - '*the federal system obliges the College to make separate applications for registration and accreditation in every state and territory. Irrespective of the availability of mutual recognition procedures, every jurisdiction has different requirements so every application is time-consuming and therefore expensive*'; and

- The Institute of Chartered Accountants – *‘In two States, for the reaccreditation, the process was as detailed and demanding as the original reaccreditation with our home State. Our expense in these two States was an external panel sitting for a full day, with Institute senior executives, the chair of our education board, representation from local staff, candidates and focus section leaders.*  
*‘In other states for example they accepted NSW’s assessment and their inspection focussed only on delivery with a site visit and interviews with our local general management and staff’.*

ACPET reported that its members have mixed experiences with the application of mutual recognition, citing in particular frustration with different formats between jurisdictions while acknowledging that a new template for mutual recognition applications was being developed. ACPET also highlighted problems with additional legislative requirements in jurisdictions.

The comments in the written submissions were also strongly made and amplified in some focus groups, through direct contact with the consultant undertaking the consultations, and in discussions with peak bodies representing NSAs.

In response to these comments and in written submissions, some State accreditation agencies highlighted what they saw as the inevitable differences in legislative and other regulatory requirements which affected mutual recognition. For example, the Western Australian Department of Educational Services indicated that:

*‘For multi-jurisdictional institutions whether under the current national system or a proposed centralised national body, mutual recognition will never be a rubber stamp – nor should it be – and local scale and standards of operation of any affiliates or branches must always be considered in some effective fashion.’*

In the focus group discussions with accreditation agencies, and with other stakeholders, the extent to which mutual recognition could be appropriately applied to provider registration in terms of assessing capacity to deliver locally was also canvassed.

Some accreditation bodies and other respondents also highlighted the fact that the revised National Protocols and Guidelines were only just in the process of being implemented, that comments received during the consultation process reflected weaknesses that the National Protocols were designed to address - but also recognised that further enhancements might need to be considered.

#### *Influence of legislative requirements*

Some respondents highlighted concerns about inconsistencies between jurisdiction specific legislation and the objectives of the National Protocols, for example: specified timelines for consideration of applications; the extent to which legislation enabled the National Protocols to be implemented or contained detailed provisions which complicated implementation of the National Protocols; and the likely time that would be required for States and Territories to bring the State legislation into line with the revised National Protocols and Guidelines, where required.

#### 4.2.4 Relationship between accreditation and quality audit

The relationship between accreditation and quality audit was the other major area of response and feedback from the consultation process.

A number of respondents drew attention to the overlap between re-accreditation processes under the National Protocols and quality audit requirements under HESA, arguing that this imposed additional direct and indirect costs on higher education providers, and could lead to inconsistent outcomes.

The focus groups benefited from the experience of participants in the two trials of integrated accreditation and quality assurance processes: in one instance, noting the difficulties and complexities that had arisen and the lessons to be learned from the experience (while supporting an integrated process); and in the other, reporting a favourable process and outcome.

However, there is no clear consensus view about the extent to which accreditation and quality audit processes can be combined (if at all), although on balance the majority of submissions which addressed this issue indicated that they should continue to be separated. The focus groups also had the benefit of the experience of some accreditation panel members who were also AUQA auditors, but these individuals also differed in their views about whether or not the functions could be combined.

The submission from Anne Martin Consulting best represents the views of those who believe that the functions should continue to be separated:

*'Accreditation is an atomistic process and is ultimately summative in intent, leading as it does to a pass/fail decision. It deals at a level of detail, within a framework of legislative and legal requirements, and with reference to specialist expertise, which would prove indigestible to audit. Academic quality audit, on the other hand, is a holistic check on the entity's implicit or explicit claims about itself, and is essentially formative in its outcomes. Such claims typically include both organizational purpose and organizational status, including accreditation status. The verification (audit) function thus sits on top of the regulatory (accreditation) function, like icing on the higher education cake.'*

Kaplan Higher Education, while recognising the potential savings and efficiencies in integrated process, commented that:

*'Only an external audit function can take the measure of an institution's actual educational practice, its actual governance arrangements, and its internal processes for continuous improvement during an accreditation cycle.'*

*It is difficult to see how this fundamental issue could be more effectively addressed by a national accreditation body under either a harmonized or a uniform model without a systematic audit function, independent of the accreditation process, running in parallel'.*

On the other hand, Chifley Business School indicated:

*--' it is essential that all processes are integrated such that access to registration accreditation and access to HESA limits the cost, time and paper burden, and mitigate the risk of double jeopardy (i.e. approval through one process but not the other).'*

NAVITAS similarly put forward the option of integrated re-registration/re-accreditation and quality audit but also argued that, given the rigour associated with initial registration and ongoing monitoring of NSAs through annual reporting and course re-accreditation processes, quality audits could be deemed to suffice for the purposes of re-registration/re-accreditation.

Some State accreditation bodies (e.g. VRQA, WA DES, Queensland Office of Higher Education) also argued that requirements for providers to undergo quality audits for the purposes of HESA duplicated and created additional costs for providers and also argued that greater integration of these functions was required. The Queensland Office of Higher Education indicated that in its view:

*'--the trial of an integrated re-accreditation/quality audit process is an example of how a very efficient relationship between accreditation and quality audit can be achieved within the current regulatory and quality framework.'*

The personal submission of the Director of AUQA also indicated that he:

*'Supports an approach that involves a good peer-based system that addresses audit and accreditation and takes into account the Federal and State issues in a coherent way'.*

His submission further argues that AUQA should be made the only national higher education body responsible for carrying out audits.

#### **4.2.5 Relationship with professional accreditation**

The Melbourne focus group was well attended by a range of national bodies responsible for professional accreditation. Some bodies responsible for State professional accreditation attended other focus groups.

A number of professional accreditation bodies, some recognised by government and others membership based, also made submissions. At present, the interface with recognised professional accreditation bodies and higher education accreditation agencies is limited and was not raised as a significant issue by providers. This is because very few of the courses offered by NSAs are subject to professional accreditation. As a consequence, much of the input from professional accreditation bodies is more relevant at present to the regulation of courses and provision in self-accrediting universities. Much of the content of their written submissions describes current practices and argues the effectiveness of these processes in terms of professional standing and the public interest.

In a number of areas of professional accreditation, national competency standards have been developed and national accreditation councils oversee the operation of State based accreditation bodies.

In the focus groups, discussions identified areas of potential growth in provision by NSAIs in areas of professional accreditation including accounting, nursing, psychology, some areas of physiotherapy and potentially, teaching.

In focus group discussions, and in some submissions, the potential to better integrate processes for professional accreditation of courses and registration providers was recognised, based on the principle that, where government was involved in the regulation of the same activity by different agencies, coordination and sharing of information and evidence should be encouraged.

However, some respondents argued that the processes of professional accreditation and the National Protocols should be kept separate as they were concerned with different outcomes. In addition, in some professional areas, it is evident that it would be difficult to integrate accreditation processes as the relevant professional bodies accredit courses and providers for the purposes of certification and professional membership only when they are being delivered so that candidates' competence against required standards can be assessed.

#### **4.2.6 Improvements to the current arrangements –harmonised and uniform models**

In response to consultation questions about options to improve the current arrangements through both harmonised and uniform models, three broad approaches are evident. These could generally be classified as:

- A more effective harmonised model;
- Some form of hybrid model; and
- A uniform model<sup>9</sup>.

However, some proposals from respondents are not clearly defined, others do not necessarily fall neatly within these models and some models are seen as a transition step to a national accreditation agency.

##### Level of support for a more effective harmonised model

Many respondents identified a range of measures which could continue to improve the current model through further harmonisation of practices, interpretation and application of the National Protocols.

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<sup>9</sup> As the term 'uniform model' was used in the consultation discussion paper, the term is used here as applying to a national agency. However, the *intent* of the National Protocols and Guidelines could also be characterised as a uniform model as they seek to apply common standards, although in practice and at present they are not applied in a uniform manner.

Specifically, many respondents supported the establishment of a body, without determinative powers, to coordinate or 'continually improve' the operation of the National Protocols.

For example, the Queensland Office of Higher Education indicated that a central or national mechanism could be established to undertake functions, including:

- Benchmarking processes and outcomes;
- Researching and promulgating best practice;
- Training of individuals involved in assessment applications;
- Providing advice and guidance to multi-jurisdiction applicants; and
- Maintaining a national pool of academics and other experts.

Additional functions identified include support to officers' groups involved in the implementation of the National Protocols.

Similar proposals are evident in the submissions from South Australia and Western Australia, and from a number of other respondents including NSAI (ACPE), a peak body (COPHE) and self accrediting institutions (UoM).

The AUQA Executive Director in his submission proposed three options for consideration, including establishing a small central national office or secretariat (within AUQA) to undertake a coordinating role for the State accreditation agencies.

He also suggested other measures to improve the current model:

- Reduce the number of State agencies to four or five, with the larger jurisdictions undertaking registration and accreditation functions for the smaller ones (e.g. current successful Queensland / Northern Territory collaboration);
- Have all jurisdictions adopt common legislation ('model clauses'); and
- Have a single set of national standards and processes for registration of NSAI.

In the focus groups, some respondents (e.g. ACPE) suggested that an independent national body could also monitor and report to MCEETYA on the operation of the National Protocols, providing a greater measure of transparency than under the current arrangements.

Deakin University suggested that:

*'The paper presents a strong argument for the creation of a new national higher education accreditation authority to:*

- *increase the level of uniformity across jurisdictions to improve consistency and efficiency*

- *monitor the performance of the State/Territory accreditation authorities in the application of the regulations.*
- ... such a body would achieve the objective of greater consistency and efficiency’.

An extension of this concept, raised in one focus group, was to empower such a national body to handle complaints and appeals in the form of an ‘ombudsman’.

Level of support for a hybrid model

Some respondents also saw a national body undertaking determinative functions under the National Protocols in specified areas.

While not supporting a national accreditation agency, the WA DES argues that, in relation to offshore provision:

*‘Offshore operations are another matter entirely and there are strong arguments that a clear national approach to offshore operations is required. It is proposed that a National Offshore Protocol and strict Guidelines should be developed under the National Protocols to guide non self-accrediting institutions seeking to offer AQF higher education courses offshore. The approach favoured is that institutions could choose whether offshore registration should be undertaken by their State accreditation agency or by AUQA. Equally State and Territory accreditation agencies could decide to contract their offshore registration functions to AUQA’.*

The VRQA, while not generally supporting a national accreditation agency, also indicated that:

*‘Offshore operations, across all sectors, should be dealt with nationally through the arrangements being developed for governing transnational quality assurance’.*

The VRQA also indicated that the case for a national accreditation authority appears strongest when considering higher education providers closely linked to the professions, which typically operate across State boundaries. The VRQA identified a number of providers falling in this category.

The VRQA also suggests that, while the creation of a national higher education accreditation agency would seem to meet the demands of cross jurisdictional providers, it could add to the complexity when these providers are also involved in VET and deliver to overseas students in Victoria. The VRQA therefore suggested that:

*‘...a resolution may lie in a model that would cover only cross jurisdictional higher education providers’.*

In its submission, COPHE also argued for an agency to handle cross jurisdictional and transnational providers.

### Level of support for a uniform model

Across the range of respondents, there is no clear consensus about the case for a national higher education accreditation agency with full determinative powers in relation to the National Protocols (a uniform model).

Most NSAs who submitted a written submission do support a national higher education accreditation agency under a uniform model (particularly the larger cross jurisdictional providers or firms with operations in a number of jurisdictions).

COPHE supports a dual system whereby providers can opt into a national agency.

Typical of the arguments in support of a uniform model is the Sydney College of Divinity which argues that:

*'As we near the end of another reaccreditation process, in all states, we would strongly support the idea of a national accreditation body. This would occupy much less time, which we could better use to develop and improve our work. The current variations in demand result in nothing useful to us by way of guidance. We would welcome the change to our efforts and the sequential expenses'.*

Kaplan Higher Education indicates that it doubts that 'harmonisation will ever work' and, similarly, the College of Law argues that:

*'...the revised National Protocols will probably inspire some efficiencies, but uniformity is preferable to harmonisation as uniformity precludes the differences of emphasis and interpretation which remain possible under a harmonised (but federal) system'.*

The South Australian Vice-Chancellors Committee favours moves towards greater uniformity, including a regulatory body that supersedes the functions of current State or Territory authorities providing *'...stringent mechanisms are in place to ensure this does not exacerbate the current compliance burden...'* and including provision for a post-establishment review.

ACPET indicated that:

*Whilst the immediate reaction was that a national agency might resolve some of the "regulatory headaches" which currently exist, a centralised system may create more risk associated with a less diverse range of views coming to bear on regulatory matters.*

ACPET highlighted a number of concerns about the operations of a national body including location, loss of local service delivery, the risks of a single centralised model and whether or not the current model should be given more time to work.

Holmesglen Institute of TAFE indicated its support for a uniform model, but under a devolved governance arrangement to the States and Territories.

The NTEU argues for a dual model whereby all higher education institutions would be required to submit an expression of interest to the State/Territory Minister for a

regulatory impact assessment on the viability of existing universities in the jurisdiction. If the application is supported by the State Minister, a National Accreditation Agency would undertake an accreditation process and make a recommendation to the Commonwealth Minister.

As outlined above, some NSAs that support a uniform model are also prepared to support a national body to more effectively coordinate implementation of the National Protocols and also possibly to monitor and report on the effectiveness of their implementation. For example NAVITAS supports an improved harmonised model:

*'---as an interim step only, with a longer term uniform model solution developed in time, to address' higher audit issues' such as potential integration with Professional Accreditation, better harmonisation with dual sector providers, maximum levels of consistency and a stronger alignment with an environment increasingly characterised by national regulation.'*

A number of self accrediting universities (e.g. Griffith, Charles Sturt) also support a uniform model.

However other NSAs, in written submissions and in the focus groups, did not support a uniform model. For example, Bradford College highlighted specific concerns that under a national accreditation agency:

- *'the process of accreditation would become more bureaucratic (with a national body superimposed on State bureaucracies) and therefore slower;*
- *a national body would offer fewer opportunities to establish effective relationships with specific personnel, thereby building confidence on both sides; and*
- *things could become even more expensive and time consuming, with all contacts and consultation being undertaken through Canberra'.*

Similar concerns were expressed in the focus groups by some NSAs, particularly where providers operate in a single jurisdiction and where they value the effectiveness of regulation in the jurisdiction, and their relationship with the accreditation agency.

In its preliminary written submission and in consultations, Universities Australia did not support a uniform model while recognising some of the arguments in its favour. Some self-accrediting universities (e.g. UoM, ANU, and Tasmania) are opposed to a uniform model, or argue that the case for change has not been made.

State and Territory accreditation agencies are all opposed to a uniform model, although some are prepared to consider a hybrid model in relation to specified areas such as national providers and offshore provision.

In general, professional accreditation bodies (e.g. AMC, ADC, and APAC) either did not support a national higher education accreditation agency or argued that the case has not yet been made. Some indicated that they are not able to comment as there is a lack of detail in the proposal.

### **4.3**     *Features of models*

In general, most respondents did not address the detailed roles and governance arrangements for the models they proposed beyond some general principles or descriptions of functions. Similarly, responses did not go into detail in relation to resourcing requirements. However, some observations about the features of possible models identified in the consultation process can be made.

#### **4.3.1**     **Harmonised model**

Proposals for more effective coordination of the current arrangements refer to a secretariat or body established on a cooperative basis between the Commonwealth, States and Territories (through MCEETYA).

As previously indicated, the submission from the Executive Director of AUQA included an option to establish a small, central national office or secretariat within AUQA with a coordinating role for the State accreditation agencies.

#### **4.3.2**     **Uniform model**

The Executive Director of AUQA also proposed two models for a uniform national accreditation body:

- Model A: new National Higher Education Quality Agency with separate branches for audit and improvement and registration and audit but building a harmonised relationship between the branches.
- Model B: two separate (MCEETYA) companies: AUQA and a new accreditation company with separate and distinctive responsibilities for all audit and accreditation functions respectively.

The Executive Director's submission argues that the benefit of Model A is that it would bring together all quality auditing responsibilities under HESA, while maintaining a separation between quality audit and accreditation. This would also have the advantage of providing a single QA body that other national and international agencies could relate to. He cites some overseas examples where higher education quality audit and accreditation functions have been brought together.

His submission also suggests that, if Model A is not supported, a separate company (also through MCEETYA) could be established as a new accreditation company. The submission suggests that, under this option, a coordinating council or committee would be required to minimise the potential load on institutions and to coordinate relationships with international agencies and institutions. The submission also identifies the need under both models for mechanisms to access relevant knowledge at a State or local level.

James Cook University proposed two options for a national agency: a uniform model where a central body sets standards and makes decisions on accreditation; and a harmonised model where the central body sets standards which are

administered by jurisdictions, with decisions being certified by the central body. (This option could be more accurately described as a devolved, rather than harmonised, model if the central body has overriding determinative powers.) A similar model is proposed by Holmesglen Institute.

Kaplan Higher Education suggested that:

*'Our initial thoughts on the structure of the body are consistent with the current jurisdictional structures in many states. This would involve a governing Board, possibly reporting to MCEEYTA, a policy and administrative bureaucracy led by a Chief Executive Officer, a register of appropriately qualified and experienced individuals who can be drawn upon to serve as panel assessors, and a pool of subject matter experts across the disciplinary spectrum who are qualified to comment upon curricula and can be drawn upon to assist the assessment panels.'*

*The national body should be independent of jurisdictional interests and be empowered to interpret and apply the national Protocols and national Guidelines approved by MCEETYA.'*

None of these models addressed the legal basis upon which the national agency or agencies could make decisions, given that constitutional authority currently resides with the States and Territories.

Some respondents who favour a national higher education agency addressed the question of the relationship between this body and AUQA. Among these respondents, some favoured an integration of functions within AUQA (e.g. James Cook) while others (e.g. Martin Consulting) were strongly opposed to the integration of quality audit and accreditation functions within a single agency.

With respect to the relationship between professional accreditation bodies and a national higher education accreditation agency, professional accreditation bodies argued strongly that their specific role should be maintained, emphasising the importance of the industry and professional expertise and standing they bring.

However, where national professional competency standards have been developed, a number of respondents recognised that these standards provide an appropriate benchmark for course accreditation. In focus groups, most of the professional accreditation bodies saw the potential benefits for cooperation between any national higher education accreditation agency and professional accreditation bodies, but noted that specific decisions still reside with State and Territory-based decision-making bodies, even where professional accreditation occurs within a national framework. As such, the benefits of closer cooperation between professional accreditation agencies and higher education accreditation agencies are evident under both a harmonised and uniform model.

As noted earlier, NSAs currently provide courses in only a limited number of areas subject to professional accreditation.

### 4.3.3 Other models

Some respondents also argued for other models that depart quite fundamentally from approaches based on government regulation.

For example, COPHE suggested that industry based accreditation models should be considered.

*'COPHE wants to explore the establishment of a national industry based course accreditation agency along the lines of the approach taken in the USA. We note that Harvard University is accredited by such an agency. Given national policy that encourages competition in services provided by government, the reluctance of some jurisdictions to commit resources and the outsourcing of compliance certification that is evident in other industries such as development should be explored'.*

Anne Martin Consulting queried the need for government regulation of the higher education sector arguing that:

*'There is overseas precedent for such a move. It has been the trend in the US in recent years to disestablish state government accreditation of HE courses and to transfer the responsibility for determining whether or not courses meet quality expectations to the consumers (students, parents, graduate employers) themselves, aided by the advice of voluntary, membership based organizations (such as the professional associations) or commercially-prepared institutional rankings'.*

## 4.4 Other issues

The other dominant theme to emerge from the focus groups, and in some written submissions from NSAI, is the perceived need for any national higher education accreditation agency to adopt a more contemporary and responsive approach to regulation, in particular addressing NSAI's concerns about the quality, consistency and transparency of decision-making; the expertise and independence of panels; responsiveness and timeliness; and levels of resourcing.

In other words, any change from a State/Territory based model to a nationally based regulatory model will not of itself address the concerns raised by the NSAI unless these operational issues are addressed. Indeed, some NSAI who support a national agency harbour a concern that, if the function is not effectively performed, things could actually get worse as there will be no opportunity to identify and compare performance levels between agencies as they can at present.

A specific concern raised by a number of respondents is the staffing and resourcing model for a national higher education accreditation agency given the variable and cyclical nature of the activities involved and, consequently, the extent to which it would be able to maintain a local presence in all, and particularly smaller, jurisdictions.

On the other hand, a number of respondents argued that resources and expertise of staff, panel chairs and panel members are currently diffused thinly across jurisdictions and would be better concentrated in a national agency focused on a clear mission and specific functions across Australia.

## 5 Analysis of current arrangements

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### 5.1 COAG principles

The Consultation Discussion Paper suggested that consideration of the advantages and disadvantages of the current arrangements for the recognition of higher education institutions and accreditation of higher education courses should be undertaken against an agreed regulatory reform framework and an understanding of the purposes of regulation.

In November 2006, COAG agreed to a series of resolutions on *Maximising the Efficiency of Regulation*. COAG defined regulation in the following terms:

*Regulation refers to the broad range of legally enforceable instruments which impose mandatory requirements upon business and the community as well as to those government voluntary codes and advisory instruments, for which there is a reasonable expectation of widespread compliance.*

COAG also agreed to a set of principles to maximise the efficiency of new and amended regulation and to avoid unnecessary compliance costs and restrictions on competition.

The principles are:

1. Establishing a case for action before addressing a problem.
2. A range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed.
3. Adopting the option that generates the greatest net benefit for the community.
4. In accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:
  - a. the benefits of the restrictions to the community as a whole outweigh the costs; and
  - b. the objectives of the regulation can only be achieved by restricting competition.
5. Providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear.
6. Ensuring that regulation remains relevant and effective over time.
7. Consulting effectively with affected key stakeholders at all stages of the regulatory cycle.
8. Government action should be effective and proportional to the issue being addressed.

Against these principles, COAG also agreed that a regulation impact analysis of policy options should be undertaken having regard to whether:

- (a) An existing regulatory model is in place outside the jurisdiction that would efficiently address the issue in question; and
- (b) A uniform, harmonised or jurisdiction-specific model would achieve the least burdensome outcome (or generate the greatest net benefit for the community).

In guiding decisions on whether or not government should adopt uniform, harmonised or jurisdiction-specific models, COAG also agreed that government should have regard to:

- The potential for better regulatory practices to be developed through regulatory competition, innovation and dynamism;
- The relative effectiveness and efficiency of the alternative models, including regulatory burdens and any transition costs; and
- Whether the issue is State-specific or national, and whether there are substantial differences that may require jurisdiction-specific responses.

Consideration of future options for the regulation of higher education, particularly in relation to consideration of options about national, versus jurisdiction-specific responses, should be guided by the COAG principles. The principles also provide a useful framework against which the advantages and disadvantages of current arrangements and other models can be assessed.

While not defined by COAG, the following working definitions are used for the purpose of this paper:

- Jurisdiction-specific regulation is taken to mean that activities are regulated under standards and processes relevant only to the jurisdiction and which may differ;
- Harmonised regulation is taken to mean that, where jurisdictions do regulate similar activities, they do so in a broadly consistent way; and
- Uniform regulation is taken to mean that the same activities are regulated in the same way in all jurisdictions or by a national regulator.

When fully implemented, the revised National Protocols and Guidelines could be characterised as a *harmonised* model, operated on a mutually agreed basis between the jurisdictions but allowing for differences in the application of the model to reflect differences between jurisdictions. A national higher education accreditation body with powers to register providers and accredit courses would represent a *uniform* model.

## 5.2 *Mutual Recognition under the National Protocols*

Before proceeding to assess the advantages and disadvantages of the current arrangements, it is necessary to consider the way in which the application of Mutual Recognition is specified in the National Protocols and Guidelines.

Mutual Recognition, as it is generally applied, involves a standard being recognised as equivalent between jurisdictions so that a person or business is able to operate across jurisdictions based on automatic recognition of their qualification or licence to undertake a particular activity.

Mutual Recognition does not mean that the person or organisation is automatically registered or licensed by the second jurisdiction; rather that the standards underpinning registration are the same. Other jurisdiction-specific legislation (e.g. OHS, fit and proper person tests, financial viability) may affect the capacity of the person or business to undertake the activity covered by the standard.

For example, where an occupation is regulated in one state (A), but not in another (state B), a person with a qualification from state A would need to be registered with the occupational regulator in state B before they could operate - but the regulator would automatically recognise the qualification obtained in state A in applying registration.

Section 6 of the National Protocols indicates that:

*'For institutions seeking approval to operate in more than one jurisdiction, mutual recognition will apply when the same course is to be offered using similar delivery arrangements in different jurisdictions'.*

This is broadly consistent with the principles of Mutual Recognition outlined above.

The section goes on to indicate that:

*'Although the institution will be required to seek registration and accreditation in each of the jurisdictions in which it operates, a full registration and accreditation process will only be carried out by the secondary jurisdiction where significant differences exist in the requirements for professional registration or practice' (our emphasis).*

This part of section 6 is also broadly consistent with the concept of mutual recognition in that it limits the requirement for a full registration and accreditation process to areas where a jurisdiction has additional legislative requirements not able to be addressed through the National Protocols and Guidelines.

However, in the next section, the National Protocols in effect contradict these Mutual Recognition principles by indicating that:

*'However, mutual recognition may involve investigation of specific local issues by an expert panel established by the secondary jurisdiction. This will cover only areas of delivery and content that require local consideration. Areas investigated may include*

*curriculum and delivery differences in the local context, professional practice requirements (if relevant), local administration and governance issues, staff, student support, resources, premises and facilities.*

Section 12 of the Guidelines also states that:

*'The full course accreditation and registration process will take place in the primary jurisdiction and the secondary jurisdiction will focus **only on the local delivery arrangements in the secondary jurisdiction**'.*

While this may appear to be a limitation on what might be assessed, section 19 of the National Guidelines sets out 17 specific local delivery standards which must be satisfied in the application of Mutual Recognition. In practical terms, this means that NSAIs may be required to produce evidence and undergo a full registration and assessment process to meet the same standards already accepted by the primary jurisdiction. This is not consistent with Mutual Recognition as it is commonly understood.

This is not to argue that an assessment of 'capacity to deliver' is not a legitimate criterion for registration (although it is not required under the AQTF in the VET sector). There is a conscious policy decision to include it in the National Protocols and Guidelines.

The problem appears to be that the concept of Mutual Recognition is being applied to criteria (capacity to deliver) which may in fact not be capable of Mutual Recognition because:

- The evidence, assessments and outcomes of the test of local capacity to deliver is by definition jurisdiction-specific and cannot be mutually recognised in another jurisdiction;
- The criteria set out in B1 and B2 of the National Protocols and section 19 of the Guidelines are very broad and will be subject to differing interpretations by different panels and decision makers in different jurisdictions. Even where guidelines are very specific and similar evidence is produced, it is inevitable that at times different decision makers will reach different conclusions based on the evidence.

It is beyond the terms of reference for this inquiry to make recommendations for further refinements to the National Protocols and Guidelines. However, the reasonable expectations of NSAIs and other stakeholders in relation to the application of Mutual Recognition will continue to be frustrated by the National Protocols and Guidelines in their current form, and confidence in their application between jurisdictions will be eroded.

### 5.3 *Advantages and disadvantages of the current arrangements*

The following consideration of the advantages and disadvantages of the current arrangements is substantially based on the statements tested during the consultation process, together with the consultants' own analysis of the arrangements. The advantages and disadvantages have been articulated in a way which has regard to the COAG regulatory reform principles to assist the JCHE and MCEETYA to assess the case for change.

#### 5.3.1 **Advantages of current arrangements**

With respect to advantages, the current arrangements could arguably be characterised as:

- *Appropriate*, because the States and Territories have ongoing legislative responsibility for universities and education delivery, and the nature of the activities are essentially jurisdiction-specific, but arrangements have been put in place to ensure that national consistency will occur in the areas of importance through the revised National Protocols and Guidelines and regular meetings of officers from jurisdictions. Where variations do exist between jurisdictions, they do not significantly advantage or disadvantage institutions.
- *Relevant*, in that the performance of regulation can have regard to jurisdiction-specific policies and priorities, for example the development of higher education as an industry within a jurisdiction and with appropriate reference to other relevant jurisdiction legislation, e.g. consumer protection, occupational health and safety, professional accreditation.
- *Responsive*, in that regulators have a local presence, are able to develop ongoing relationships with the organisations subject to regulation, have a direct knowledge of the circumstances and environment of higher education provision and are directly accountable for their decisions.
- *Efficient*, in that regulators are able to easily assemble and draw upon expertise for panels and committees, are able to maximise the potential for the streamlining of regulation across the various regulatory frameworks (schools, VET, higher education, ELICOS and ESOS) and can potentially integrate quality and re-accreditation audits.
- *Effective*, in that there is no clear evidence that the current arrangements fail to achieve the core purposes of regulation and, while there is significant support for substantial improvements in the effective implementation of the current arrangements, there is no clear consensus, including from NSAI's and their industry bodies, for the establishment of a National Higher Education Accreditation Agency. Where processes are not as effective as they might be (for example the time taken to consider and determine applications), there is a substantial risk that these processes would be no more effective in a national agency model.

### 5.3.2 Disadvantages of current arrangements

With respect to disadvantages, the current arrangements could arguably be characterised as:

- *Not appropriate*, in that higher education policy is effectively a national responsibility and higher education provision is increasingly taking place in the context of national and international markets for education, requiring the maximum level of national consistency in costs, processes and decision-making for recognition and accreditation, together with a capacity to provide a national point of contact for major national overseas institutions wishing to establish operations and offer courses in Australia. Differences in regulatory arrangements across jurisdictions (e.g. fee levels) introduce differential barriers to entry for higher education institutions.
- *Not relevant* to the growing trend towards national regulation or harmonised regulation of business entities, professions and occupations, industrial relations, consumer and environmental protection and occupational health and safety to enhance the mobility of labour and capital, as exemplified by the COAG decisions on national reform of regulation.
- *Not sufficient* to protect the integrity of AQF qualifications and the standing of the Australian higher education sector in offshore markets.
- *Not efficient*, in that eight different regulatory bodies are regulating a relatively small number of institutions and applications for course accreditation, both onshore and offshore, with differing and varying fee levels, administrative processes, timelines, decision-making bodies and processes. It is also difficult to efficiently align the various regulatory requirements associated with a mix of national (i.e. HESA and ESOS Act) and State/Territory legislation.
- *Not effective* for the reasons outlined above which collectively lead to a high risk that the National Protocols will not lead to decisions being taken on a consistent national basis, resulting in institutions operating across jurisdictions facing additional costs and differing barriers to entry in meeting compliance requirements.

## 6 Options for improvement and possible models

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### 6.1 *Roles and functions*

The following four models have been developed to:

- Improve the current arrangements (1 and 2); and
- For a National Higher Education Accreditation Agency (3 (a, b and c) and 4).

While specific administrative options for each model are canvassed, particularly in relation to the role of AUQA, the focus of this report is on the development of the conceptual models rather than a detailed exploration of administrative options. Models to improve current arrangements

#### Model 1 - National Protocols Coordination Secretariat

In the consultation process, there was strong support from most stakeholders for a strengthening of the coordination arrangements for the implementation of the National Protocols and for more effective coordination of activities in some areas, such as auditing for offshore delivery. A national capability could be established for this purpose to support and give effect to decisions of bodies such as HEROs and JCHE. Functions that could be undertaken under this model include:

- a) Providing a secretariat and technical support for working parties;
- b) Monitoring of implementation across jurisdictions and providing a clearing house of information and advice to jurisdictions;
- c) Providing an initial contact point for cross-jurisdictional providers and assisting in facilitation of mutual recognition processes for multi-jurisdiction providers;
- d) Assisting in the coordination of offshore auditing and assisting in the re-registration and re-accreditation of NSAs with offshore delivery;
- e) Acting as a reference point for liaison with other relevant national bodies; and
- f) Maintenance and updating of the national register.

Under this model, a national capability (not necessarily a separate entity) could be established to undertake the coordination functions outlined by augmenting the capability of JCHE, HEROs and NPWG with full time dedicated resources in the form of an Office or Secretariat. . This model in effect reflects an enhanced status quo as States and Territories would retain full responsibility for all aspects of the implementation of the National Protocols within the jurisdictions, but with

strengthened national arrangements to support the implementation of the National Protocols between jurisdictions.

#### Model 2 - National Protocols Coordination and Improvement Secretariat

In the consultation process and in written submissions, several stakeholders argued that a national body could improve the quality and consistency of the implementation of the National Protocols. This could be regarded as an extension of the coordination function described above by providing some services to both agencies within jurisdictions. Functions that could be undertaken under this model include:

- a) The coordination roles outlined in Model (1) above;
- b) Ongoing review and development of National Protocols and Guidelines;
- c) Development and implementation of moderation processes;
- d) Development of guidance and resources for panels and accreditation bodies;
- e) Training and professional development of panel chairs, members and staff;
- f) Development and maintenance of lists of potential panel members in relevant discipline areas; and
- g) Providing guidance and advice to accreditation bodies on the interpretation of the National Protocols and Guidelines.

Again, a national capability (not necessarily a separate entity) could be established to undertake these functions

#### **Constitutional and legal issues**

There are no constitutional or legal impediments to the establishment of either of these models under the arrangements outlined above.

An office or secretariat could be established:

- By a jurisdiction on behalf of all jurisdictions;
- As a new ministerial company; or
- Within an existing ministerial company or relevant established entity including: the MCEETYA secretariat, the AQF advisory Council (which is co-located with the South Australian Department of Further Education, Employment, Science and Technology), within TVET Australia or AUQA.

The agency could be governed by:

- A Commonwealth/State officials group (e.g. JCHE);
- A board comprising officials, nominees of key stakeholder groups and expert individuals; or

- The governance arrangements of an existing entity.

### **Structural impact on jurisdictions**

There would not be a significant structural impact on States and Territories as responsibility for higher education accreditation would not be altered. However, jurisdictions would receive assistance and support in undertaking accreditation and registration functions.

The impact on service delivery to clients

Model 1 would not involve direct service delivery to clients but could improve service delivery by:

- Further improvements to the National Protocols and Guidelines and their implementation;
- Acting as an initial contact point and assisting with coordination of registration and accreditation for multi-jurisdiction providers;
- Providing a clear point of reference for auditing of offshore delivery; and
- Ensuring effective and consistent maintenance of the national register.

The impact on service delivery to clients of Model 2 would be more substantial. Over time, in addition to the points raised above, it should result in:

- Improved consistency in the interpretation and implementation of the National Protocols and Guidelines; and
- Increased quality of service delivery through the development of resources and professional development for panels and officers.

### **Human resource implications**

Model 1 would only require minimal staffing, possibly one full-time policy officer and a part-time administrative assistant, and a small project budget to engage contractors and consultants as required.

Model 2 would require some additional resources, possibly 1.5 - 2 full time officers and a part time administrative assistant, with a more substantial project budget to engage contractors and consultants. Model 2 would also be most effective if specific projects were undertaken by individuals in jurisdictions with expertise in relevant project areas.

### **An assessment of the costs and benefits to governments and clients of the options and how any additional costs might be met**

The costs to governments of these models are limited relative to the potential benefits which would flow to both governments and clients. Core staffing costs are estimated at between \$180,000 - \$300,000, depending on the range of functions undertaken under the models. There would be a requirement for an additional small project budget. While this represents an increased direct cost for either or both governments and clients, there are substantial potential savings to both government

and clients through the more effective implementation of the National Protocols and Guidelines, in particular through the facilitation of effective mutual recognition and coordination of auditing of offshore delivery.

The implementation of the National Protocols and Guidelines across jurisdictions is a complex process with substantial risks of inconsistent interpretation and application. There is currently no effective single interface for multi-jurisdiction providers. The current lack of clarity and uncertainty around auditing of offshore delivery represents a further risk.

Additional costs could be met by either a proportionate contribution from each jurisdiction calculated on either a similar basis to the funding of Ministerial Companies or the MCEETYA and AQF Advisory Council Secretariats, or through Commonwealth funding on a similar principle to the funding provided by the Commonwealth to TVET Australia for the National Quality Council and NARA.

There may also be some scope for cost recovery for the direct services provided by the body. Jurisdictions could also consider any impact on their own budgets in setting accreditation and registration fees.

### **Location implications**

As the primary interface of this body is with jurisdictions and not directly with clients, location is not a major issue and should be determined by the most appropriate organisation in which the capability could be located and supported.

#### Process and timeframe for establishment

Both models could be established in a short timeframe following a decision by MCEETYA, particularly if the capability is located and supported within an existing organisation.

## **6.2 National Accreditation Agency Models**

Based on the analysis in this report, there are two broad models for a National Higher Education Accreditation Agency. These models are based on the functions the agency would perform. For each model, there are variants based on the form of legal authority to undertake the functions.

### **Model 3 Higher Education Accreditation Agency for National Providers and Offshore Delivery**

Under this model, a National Higher Education Accreditation Agency would be established with specified powers in relation to:

- a) Accreditation of higher education courses covered by the National Protocols in more than one jurisdiction;
- b) Registration and audit of multi jurisdiction NSAI's;

- c) Quality audit for the purposes of HESA by listing under HESA in relation to multi-jurisdiction NSAs;
- d) Registration and audit for the purposes of CRICOS and ESOS for multi jurisdiction NSAs;
- e) Registration of self accrediting higher education institutions;
- f) The establishment of new universities;
- g) Responsibility for auditing offshore delivery and providers predominantly using distance delivery; and
- h) The coordination and improvement functions set out in Model 1(b).

In addition, small jurisdictions may choose to 'outsource' all of their registration and accreditation functions to such a national agency.

A further extension of functions could include accreditation of courses and registration of 'consortia providers', i.e. those offering the same course through different entities but under a common ownership structure.

Under this model, appropriate national panels would undertake a single process across jurisdictions in relation to multi-jurisdiction providers for both course accreditation and registration on an opt in basis.

### **Constitutional and legal issues**

Under this broad model, there are several options under which the agency could be established and given authority to act.

#### *Model 3(a): Through advice to jurisdiction decision makers*

The agency could be established as a new ministerial company or within an existing ministerial company with advisory powers to jurisdiction decision makers in relation to its functions.

This model is similar to that operating in the VET sector through the National Quality Council (NQC) in relation to National Training Packages. The NQC advises Ministers on the adoption of National Training Packages. State-based course accreditation does not apply in areas where National Training Packages have been endorsed. The model is in effect a centralised and streamlined approach to concurrent registration and would supersede mutual recognition.

As such, legal authority for decisions on registration and accreditation would continue to reside with the States and Territories. This model could only work if the recommendations from the national agency were accepted at face value by decision makers, with jurisdiction-specific issues being resolved prior to advice to Ministers from the agency. The model would need to be underpinned by detailed policy and operational guidelines.

Under this model, jurisdictions would also need to reserve the right to initiate audits where required as they would retain full accountability for the ongoing compliance (although the audit could be undertaken by the national agency).

*Model 3(b): Under delegation from jurisdiction decision makers*

The agency could be established as a new ministerial company or within an existing ministerial company with specific powers delegated by decision makers in the States and Territories. This is the model that applies to the operation of NARA in the VET sector.

*Model 3(c): Under legislative authority*

The agency could also be established as a statutory body under Commonwealth legislation, subject to limited referral of powers by the States or if the Commonwealth is found to have constitutional authority (e.g. through the use of the Corporations Power) to undertake the functions specified above. The significant difference between Model 3(c) and Models 3(a) and 3(b) is that multi-jurisdiction providers would be nationally registered under Model 3(c) while registered in each State and Territory under the first two models.

Under each of these options, the agency would probably need to be governed by an independent board appointed by MCEETYA due to the ongoing, shared nature of responsibility for the regulation of higher education institutions.

In relation to effective implementation:

- Model 3(a) would be the easiest to implement in the short term, but would be least effective in the longer term as jurisdiction decision makers would not be bound by the recommendations of the agency. In effect, the full support of each relevant jurisdiction accreditation agency would be required before a recommendation could be made.
- Model 3(b) may be difficult to effect, as experience with NARA has shown. Legislation may need to be amended for a delegation to be provided to an external body. In addition, jurisdiction decision makers would still be legally and politically accountable for the decisions of the delegated agency. The delegated powers could be withdrawn if the jurisdiction decision-maker is not satisfied with the performance of the delegation.
- Model 3(c) is therefore a preferred model in that powers and decision-making processes are all assigned to one entity with a single point of accountability to a ministerial council, rather than multiple accountabilities to individual ministers as well as to a ministerial council, as would be the case under the first two options.

### **Structural impact on jurisdictions**

Each of these models would have some structural impact on jurisdictions, in particular NSW where nine cross jurisdictional providers are located<sup>10</sup>. In its submission, ACPET identified 18 NSAs as multi-jurisdictional in scope. ACPET noted that this is a relatively small number to come within the scope of a national agency, but further estimated that up to 37 providers could be covered if smaller jurisdictions delegated their authority for all providers to the agency.

The long term structural impact on jurisdictions would depend on the extent to which provision becomes national rather than jurisdiction-specific in character.

Under each of the models, there would be an ongoing role for State/Territory jurisdictions in relation to multi-jurisdiction providers as it is highly likely that a national agency would draw on the resources and expertise within jurisdictions to gather evidence to assist the national panel in forming its recommendations. Under Model 3(a) the State/Territory accreditation agency would also be required to play an ongoing role in the facilitation of decisions on the advice of the national agency.

### **The impact on service delivery to clients**

These models, if effectively implemented, have the potential to improve significantly the quality and consistency of service delivery (regulation) to multi-jurisdiction NSAs, at least those choosing to opt in to use its services. For the first time, these organisations would have a single agency and single decision-making process to deal with. This should significantly reduce transaction costs, establish a clear decision-making process and timeframe, and provide consistency in decision-making.

There is also potential to incorporate responsibility for assessment of CRICOS and ELICOS registration and accreditation, and potentially HEP quality audits, for multi-jurisdiction NSAs within the ambit of the national agency under these models. This would further improve service delivery and reduce transaction costs for multi-jurisdiction NSAs.

These models also have a potential to mitigate the risk and reduce costs for auditing of offshore delivery.

The other benefits to clients under Model 2 above would also be available under this model.

### **Human resource implications**

The level of human resource requirements for the functions under this model are difficult to estimate as they will be driven by the volume and scale of applications and the cycle of re-accreditation and re-registration. However, in the short term, it is estimated that two full time positions for officers with significant experience in

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<sup>10</sup> Based on the assessment undertaken by the VRQA

the administration of the National Protocols and Guidelines would be required to lead and manage the national registration, accreditation and re-accreditation process (possibly through secondment from an existing accreditation agency), together with administrative assistance. Additional assistance could then be contracted or seconded, in relation to specific applications or re-accreditations based on the scale of activity. The officers could also assist with the coordination and improvement functions of the agency.

Based on the experience with the establishment of NARA, which is potentially dealing with a much larger number of providers, an initial subsidy to the agency in the order of \$300,000 from the Commonwealth or jurisdictions on a shared basis, reducing over a three year period as volume increases would be required.

An assessment of the costs and benefits to governments and clients of the options

The greatest and most immediate priority in relation to the regulation of NSAI is to address the current shortcomings in the regulation of providers operating across jurisdictions. There is strong support from national providers and their representative bodies for NSAI to at least have a choice to use the services of a national agency.

There are also potential benefits to government in reducing both the duplication of regulatory activity and the potential for growing client dissatisfaction with the current arrangements for multi-jurisdiction NSAI (dealing with complaints, potential appeals and even potential legal action).

How any additional costs might be met

While it is beyond the scope of this report to undertake a detailed cost and revenue modelling exercise for such an agency, the long term objective should be to provide the registration and accreditation services across all areas on a full cost recovery basis so that there is no net cost to government and, in terms of total costs (fees plus direct compliance costs), no additional and ideally reduced costs to NSAI.

Potential savings to the State and Territories could be re-directed to providing services to the agency (site visits, gathering of evidence, short term secondments), again on a reducing basis as revenue for registration and accreditation increases.

Location implications

For the most effective interface with clients, the agency should be located in either Sydney or Melbourne where most of the jurisdiction-specific NSAI have their primary registration. The potential for co-location or integration with other relevant organisations could be an additional factor in determining location.

Process and timeframe for establishment

Model 3 (a) could be established relatively easily by adoption of relevant guidelines by jurisdictions and by establishing the agency within or co-located with an existing body (including one of the jurisdictions on an interim basis).

Model 3(b) could take some time to be effectively established, based on the experience with NARA, as jurisdictions make required amendments to legislation to give delegations to an external body.

Model 3(c) could take considerable time to be effectively established as any decision on partial referral powers would require whole of government consideration in jurisdictions, or alternatively the need to clarify the Commonwealth's powers in the area if it is found to have the power to enact legislation.

#### **Model 4: Comprehensive National HE Accreditation Agency**

Under this model, a National Higher Education Accreditation Agency would be established with determinative powers in relation to:

- a) Accreditation of all higher education courses for NSAs covered by the National Protocols;
- b) Registration of all NSAs;
- c) Registration and audit for the purposes of CRICOS and ELICOS;
- d) Registration of self accrediting higher education institutions; and
- e) The establishment of new universities.

Under this model, a National Higher Education Accreditation Agency would fully assume the roles and functions covered by the National Protocols currently performed by the States and Territories.

The Agency could also be listed under HESA as a quality audit body for the purposes of that Act.

#### **Constitutional and legal issues**

While in theory such a National Higher Education Accreditation Agency could act through advisory powers or under delegation as in Models 3 (a) and 3(b), the only fully effective basis for the sustainable operation of such an agency would be as an entity under Commonwealth legislation (either through the Corporations Power or through clear referral of powers from the States), on the same basis and governance principles as Model 3(c).

A transfer of responsibility for an existing area of State/Territory responsibility is a major decision most likely requiring COAG consideration and would need to be considered by heads of government in the context of the broader range of regulatory reforms under consideration by COAG.

A further issue for consideration is that the transfer of regulation for higher education institutions to the Commonwealth would raise the broader debate about whether or not higher education generally should be the sole responsibility of the Commonwealth rather than the States and Territories. This proposition was not

supported by the States and Territories or, in the main, by universities when it was raised by the previous government.

#### Structural impact on jurisdictions

This model would have paid substantial structural impact on States and Territories which would no longer perform the functions currently covered by the National Protocols and Guidelines. There would be an associated structural impact on the Commonwealth in terms of assumption of these responsibilities, albeit performed by an independent agency.

#### The impact on service delivery to clients

As outlined in the report on consultations and the assessment of the advantages and disadvantages of the current arrangements, the potential impact of this model on service delivery to clients is contested.

The advantages to multi-jurisdiction NSAs under Model 3 (c) would of course also be evident under this model. In addition, there would be greater consistency in the application of standards embedded in the National Protocols and Guidelines. Some respondents also argued that concentrating resources and expertise in a single agency would increase the quality and professionalism of the service delivered to all clients.

However, the majority of NSAs are not multi-jurisdiction providers. It is unlikely that a National Higher Education Accreditation Agency could maintain a presence in all jurisdictions as the costs could not be justified given the current number of NSAs in some States. This could result in a decline in the quality of service to clients, at least in some jurisdictions. Concern about this potential outcome was evident from the focus groups and in the written submissions.

The benefits of integrated regulation across VET, higher education ESOS and CRICOS now available in some States could also be lost under this model. This opens up the much broader question, which goes beyond the terms of reference for this inquiry, of whether options for a fully integrated, national approach to the regulation of both VET and higher education should be considered.

#### Human resource implications

At present, it is estimated that approximately 15<sup>11</sup> equivalent full-time staff are engaged in the functions associated with the National Protocols and Guidelines in the State and Territory accreditation agencies. While there may be some savings through efficiencies and removal of duplication, relevant officers currently employed in States and Territories also undertake other functions, in particular in jurisdictions where a cross sectoral regulatory approach has been adopted.

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<sup>11</sup> Advice from the JCHE is sought to confirm this estimate

Functions associated with improved coordination between jurisdictions and improvements in the application of the National Protocols and Guidelines would not be needed under this model, although some resources for internal quality improvement, moderation, training and professional development would be required and budgeted for.

The likely high variability in workloads, and the need to deploy resources for site visits, evidence gathering etc, argue for a staffing model with a small core of experienced officers supplemented by a capacity to employ contractors or seconded staff for specific activities, in particular large scale registration and audits including offshore delivery.

An assessment of the costs and benefits to governments and clients

Again, it is beyond the scope of this report to develop a detailed costing and revenue model for a National Higher Education Accreditation Agency. Ideally, the principle that the agency should become self supporting over time should apply.

Initially, with a core staff of 6-8 people, a budget to engage contractors and to second staff, and a reasonable travel budget, such an agency would require a revenue base of \$1-\$1.5 million dollars, depending on the model adopted<sup>12</sup>. In the short to medium term, it is highly likely that these recurrent costs would need to be subsidised by government. The scale of activity in any one year is not likely to generate sufficient fee-for-service income to meet these recurrent costs, as is the case with NARA. A more detailed assessment of potential revenue based on current fees charged by accreditation agencies, the cycle of re-accreditation over the next few years and the extent to which the number of providers is likely to grow or diminish is required if this model is to be further considered.

In principle, there is a strong case to argue that a uniform regulatory model administered by a single, dedicated agency would create consistency and improve the level of expertise in the performance of the regulation of higher education, with substantial benefits to both clients and government. It could be argued that such a model is consistent with, and could facilitate, the development of a national higher education industry with an increasing number of multi-jurisdictional providers. At an operational level, however, there is a risk that the benefits of local service delivery could be lost in a move to a single national agency, given that it would be difficult to maintain a presence in all jurisdictions.

How any additional costs might be met

While it could be argued that the resources currently associated with the function should be transferred from the States and Territories to the Commonwealth, it is highly unlikely that the States and Territories would agree to such a proposal. The resources involved are likely to be too small to be included in any general adjustment to Commonwealth payments to the States and Territories.

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<sup>12</sup> AUQA revenue in 2007 was around \$2 million although functions are not necessarily comparable.

Unless there is a special agreement to transfer resources, there would be additional costs to the Commonwealth Government in providing establishment costs and an ongoing subsidy to the agency. The level of this subsidy is difficult to quantify. The costs would be less if the agency were to be integrated with an existing body such as AUQA or a revised NARA.

Additional costs could also be met by increased fees and charges. However, while multi-jurisdiction NSAs may be prepared to pay additional costs through fees in anticipation of reduced compliance costs, smaller jurisdiction-specific NSAs are not likely to see increased benefits - particularly if local service delivery diminishes.

#### Location implications

For the reasons outlined above, the agency under this model would most rationally have a principal location in Sydney or Melbourne where most NSAs are located and the fastest growth is being experienced. The agency could maintain a network of recognised contractors in each jurisdiction who provide a direct interface and service to clients.

#### Process and timeframe for establishment

As outlined above, this model could take some time to establish due to the substantial legislative and whole of government policy issues to be determined. There would also be some time required to establish and staff the organisation. Considerable planning would need to be undertaken to manage the transition between the existing agencies and the new agency, particularly in relation to registration, accreditation and re-accreditation processes currently in train.

There would also need to be detailed consideration given to the transfer of information held by existing agencies, including potentially sensitive issues associated with privacy.

As such, consideration would need to be given to the national agency progressively assuming responsibility for new applications and re-accreditations which fall due after its establishment rather than assuming all of the functions of the existing agencies from the time of its establishment.

### 6.3 *Relationship with AUQA*

Under each model, there could be possible benefits from integrating the functions outlined in each model with those of AUQA, as suggested in broad terms by the Executive Director of AUQA in his submission to the inquiry.

These possible benefits include:

- The potential to leverage, share and build expertise and resources in the quality assurance of higher education institutions:
  - including in areas such as moderation, professional development and in the formation of standing panels for registration, accreditation and quality audit functions;
- The potential to integrate re-accreditation and quality audit functions
- The creation of a single national reference point for quality assurance of higher education in Australia.

Balanced against these benefits are the potential difficulties that would be created where a single agency has responsibility for both regulatory and quality audit functions, including the problem of 'who audits the auditor' (particularly under Model 4). It may also be difficult under Model 3 for AUQA to continue to audit State and Territory accreditation agencies if it is itself auditing NSAs.

To address this concern, the Executive Director of AUQA proposed a structural separation between quality audit and accreditation functions. Consideration would have to be given to whether or not this arrangement would provide sufficient separation and transparency of the functions.

A further consideration is the extent to which it is desirable to have quality audit and accreditation functions within a single organisation. As noted previously, significant differences in views were evident on this point in the consultation process.

The adoption of a registration and accreditation role for NSAs would also represent a fundamental change in the original charter agreed for AUQA. It would be important to ensure that the original and perhaps primary purpose of AUQA would not be compromised by the addition of these new functions.

It is suggested that the JCHE consider these issues in further development of the model/s emerging from this report. This process should include discussions with AUQA to investigate the potential benefits that may be derived from AUQA assuming some or all of the functions outlined in each model.

## **6.4**     *Relationship with professional regulators*

At present, there is a limited but potentially growing relationship between the regulation of professional occupations and the operation of the National Protocols and Guidelines. There is also a growing recognition by both State higher education accreditation agencies and State-based and national professional regulators of the potential for concurrent processes to minimise the cost and complexity of compliance.

All areas of professional occupational regulation which were identified in the consultations and submissions for this inquiry are now subject to national approaches based on national competency standards.

All of the models set out in sections 6.1 and 6.3 provide, to varying degrees, an opportunity for an improved national interface between higher education accreditation agencies and the national bodies responsible for regulation of the professions. The models also provide opportunities for the provision of enhanced services such as a clearing house of standards and other requirements of professional occupational regulators. There is also the potential to establish recognised lists of potential panel members, and the development of joint national panels.

However, improvements in the interface between different accreditation bodies do not resolve the fundamental concern of providers about the cost and complexity of the current arrangements and the potential for 'double jeopardy'. That is, they may be accredited by a higher education accreditation authority but then not accredited by a professional regulatory body, particularly if that body does not undertake accreditation until after the provider has begun to operate, or they may be re-accredited under one process but not the other.

Most professional accreditation bodies see their functions as distinct from those of higher education accreditation agencies. Nonetheless, the scope for joint or concurrent registration and accreditation processes should be further explored under each of the models outlined in this report, because the current arrangements impose undue compliance costs on providers and have the potential for differing outcomes.

## 7 Conclusion

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The terms of reference for this inquiry do not require the consultants to recommend a specific model, but rather to identify options for improvement to the current arrangements and to propose models for a National Higher Education Accreditation Agency.

The intention is to assist the JCHE, and subsequently MCEETYA, to consider the issues and options involved.

As outlined in section 5.2 of the report, if the current arrangements are to be retained then there is an urgent need to further consider the way in which Mutual Recognition is applied under the National Protocols and Guidelines. It is important to clarify what can be effectively mutually recognised and what cannot be, and then to apply Mutual Recognition properly. This means that there should be no secondary tests at the jurisdictional level in the areas agreed to be mutually recognised.

In considering the models outlined in section 6, the principles for regulatory reform adopted by COAG could be applied.

- The potential for better regulatory practices to be developed through regulatory competition, innovation and dynamism;
- The relative effectiveness and efficiency of the alternative models, including regulatory burdens and any transition costs; and
- Whether the issue is State-specific or national, and whether there are substantial differences that may require jurisdiction-specific responses.

Based on the analysis in this report, our assessment is that:

- a) There is a strong case for a continued focus on better regulatory practices through innovation, especially for NSAs operating in national markets;
- b) There is potential to reduce regulatory burdens, especially for multi-jurisdiction providers, through a national higher education accreditation agency:
  - but there is also a risk that such an agency could increase burdens for multi-sector NSAs in some jurisdictions unless the model is extended to encompass integrated registration and audit functions across both VET and higher education;
- c) The issue of direct and indirect costs (including transitions costs) associated with any national agency model will need to be carefully assessed:
  - particularly if the States and Territories were to withdraw from regulation in this area and resources currently associated with regulation were not transferred to a new entity; and

- d) While the higher education industry is becoming increasingly national and international in character, at present, most non self-accrediting institutions operate within State boundaries and only a minority operate across jurisdictions. An appropriate approach in the short to medium term could therefore be to establish national mechanisms to deal with the regulation of cross-jurisdictional and offshore providers, while retaining State/Territory based mechanisms, operating within National Guidelines, for jurisdiction-specific providers.

## Appendix 1: Consultation questions

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The following consultation questions flow directly from the framework analysis outlined above and specifically the COAG decisions on *Maximising the Efficiency of Regulation* and the statement of potential advantages and disadvantages.

1. Is the analysis in this paper of the context for regulation of higher education under the national quality assurance framework sufficient? What other issues and drivers might be considered particularly in terms of the extent to which the nature of the activity is state-specific or national in character?
2. How do you assess the advantages and disadvantages, as outlined in section 3 above, of the current arrangements in relation to:
  - a. national consistency; and
  - b. the efficiency of the current relationship between accreditation and quality audit functions?

Are there advantages/disadvantages not covered?

3. Are there further improvements that could be made to the current arrangements towards further harmonisation (including options for the establishment of a national higher education accreditation body) to strengthen national consistency and improve the efficiency of the current relationship between accreditation and quality audit functions?
4. What uniform models (including options for the establishment of a national higher education accreditation body) might be considered to improve national consistency and the efficiency of the current relationship between accreditation and quality audit functions?
5. For each national body option under both harmonised and uniform models, how should it be configured in terms of the following factors:
  - a. Roles, functions and decision-making powers;
  - b. Governance arrangements;
  - c. Resourcing requirements;
  - d. Relationship between the body and professional accreditation schemes; and
  - e. Relationship between the body and AUQA?
6. What are the relative advantages and disadvantages of these models in relation to the regulation of offshore provision?

7. Would the likely establishment and transition costs of any new models outweigh the potential benefits in terms of improved national consistency (taking into account direct and indirect costs for both government and institutions?)
8. Are there other issues and considerations that should be taken into account in developing and analysing options?

## Appendix 2: Submissions received

Organisation
ACT Accreditation Registration Council
Australian Council of Private Education and Training
Advertising Federation of Australia
Anne Martin Consulting
Australian National University
ANZ Association of Forensic Educators
Architects Accreditation Council
Australian Universities Quality Agency
Australian Psychology Accreditation Council
Australian College of Physical Education
Australian College of Dermatologists
Australian Institute of Food Science and Technology
Australian Institute of Radiography
Australian Institute of Music
Australian Lutheran College
Australian Physiotherapists Council
Avondale College
Bradford College
Centre for Pavement Engineering
Charles Darwin University
Chifley Business School
The College of Law
Council of Private Higher Education

<b>Organisation</b>
Certified Practising Accountants
Central Queensland University
CSU
Deakin University
Dental Assoc
South Australian Department of Further Education Employment Science and Technology
West Australian Department of Educational Services
Griffith University
Holmesglen Institute of TAFE
James Cook University
The Law Society of South Australia
The University of Melbourne
National Institute of Forensic Medicine
National Tertiary Education Industry Union
National Herbal Association
Occupational Therapy Australia
Queensland College of Teachers
Royal Australian Institute of Architects
Royal Australian College of General Practitioners
Raffles Design
Royal Australian Chemical Institute
Sydney College of Divinity
South Australian Vice-Chancellors Committee
Tasmanian Qualifications Authority

<b>Organisation</b>
Teaching Australia
Universities Australia
The University of Western Australia
The University of Tasmania
University of Technology Sydney
Victorian Registration and Qualifications Authority

## Appendix 3: Focus groups

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### Focus Group

#### ADELAIDE

**Thursday 21st February 2008**

**Training Room, Level 4,**

**11 Waymouth Street Adelaide**

Meeting 1 9.30 – 12.30pm Providers	Meeting 2 1.30 – 4.30pm Professional Accreditation Bodies, panel members, jurisdictions
Birgit Lohmann Pro Vice Chancellor, Learning & Quality University of Adelaide	Alyson Smith CEO Registrar SA Nurses Board
Michael Lin CEO ACELIN Institute of Business	Prof. Rod Oxenberry Chair of Panel
Ms Param Abraham Paran Abraham Gibaran Learning Group	Mr Richard Symonds Vic Korobacz Anne Doolette Irina Peroulera DFEEST
Professor Hilary Winchester University of South Australia	Professor John Cooper Architects Board of South Australia

Greg Fitzpatrick Le Cordon Bleu Australia	Bronte Treloar Gail Adams Dept Premier & Cabinet
Peter Gray Tabor College	Professor Emeritus Kym Adey
Anne Field Chief Operating Officer Bradford College	Mr David Hester
Professor Andrew Parkin Deputy Vice Chancellor (Academic) Flinders University	Associate Professor Halia Silins
Janet Buchan Adelaide College of Divinity	Professor Emeritus Ruth Grant
Malcolm Baiztsch Ursula Franck  Australian Lutheran College	
Graham Jobling Law Society of SA	
Briony Sterk University of South Australia	

**Focus Group**

**BRISBANE**

**Thursday 14<sup>th</sup> February 20083**

**Conference Room Level 9,**

**215 Adelaide Street, Brisbane**

Meeting 1 9.30 - 12.30pm Providers	Meeting 2 1.30 - 4.30pm Professional Accreditation Bodies, panel members, jurisdictions
Heather Tinsely College Director & Principal Queensland Institute of Business & Technology	Cathie Nesvadba Director Research & Policy Queensland Nursing Council
Dr Terry Clark Academic Director, Higher Education Education Partnership Unit South Bank Institute of Technology	Denis Bergin Registrar Board of Architects, Queensland
Christina Katterfield Manager, Academic Programmes Australian College of Applied Psychology	Professor Philip Almond (Board Member) Qld OHE Ministerial Advisory Panel - (Higher Education)
Professor Gary Marchant Pro Vice Chancellor (Information)& Dean , Faculty of Business, Technology & Sustainable Development Bond University	Ian Kimber Catherine McTavish Elissa Greer Helen Lawrance Office of Higher Education

	DETA Queensland
Dr Brian Millis Principal Christian Heritage College (to be checked)	
Lawrence Stedman Principal Policy Advisor Queensland University of Technology	

**SYDNEY**

**Tuesday 19th February 2008**

**Department of Education and Training**

**Conference Room, Level 4,**

**No.1 Oxford Street, Darlinghurst**

Meeting 1 9.30 - 12.30pm Providers	Meeting 2 1.30 - 4.30pm Professional Accreditation Bodies, panel members, jurisdictions
Julie Renwick Manager Governance & Compliance Wollongong College	Professor Tony Blake Chair NSW Higher Education Advisory Council
Raffaelli Marcellino Dean Australian Institute of Music	Professor Cliff Blake Panel Chair
Irene Booth Director, Education & Training Chartered Secretaries Australia	Andrew Little General Manager Australian College of Applied Psychology(ACAP)
Malcolm Coulson Vice President, Learning & Teaching Avondale College	Prof John Richards Chair ACT Accreditation & Registration Council
Mark Harding Dean & CEO	Anne Deans Physiotherapy Registration Board of

Australian College of Theology	NSW
Professor Anne Cusick University of Western Sydney	Chris Harding Registrar Architects Accreditation Council of Australia
Dr Joe McKenzie Director UTS Institute for Interactive Media & Learning	Adrian McComb Executive Officer Council of Private Higher Education Inc.
Professor Rob Castle Deputy VC (Academic & International) University of Wollongong	Collette Garrett Principal Policy Officer Quality & Regulation DET NSW
Greg Pritchard Raffles College of Design & Commerce	Nino Bellantonio Chairman ACT Architects Registration Board

**Focus Group**

**MELBOURNE**

**Tuesday 26th February 2008**

**Level 27, The Southern Cross Building**

**121 Exhibition Street Melbourne**

Meeting 1 9.30 - 12.30pm Providers	Meeting 2 1.30 - 4.30pm Professional Accreditation Bodies, panel members, jurisdictions
Dr Julie Jackson Pro Vice Chancellor, Quality Enhancement La Trobe University	Bob Hart Australian Computer Society
Greg Cusak Manager Education Quality Monash College	Robert Broadbent CEO Australian Dental Council
Angela Burroughs Director of Planning & Policy Deakin University	Judy Forsyth Australian Qualifications Framework Advisory Board
Rev. Dr Brendan Roach Principal Harvest Bible College	Nicholas Voudouris Australian Psychology Accreditation Council
Fay Bellis Quality Assurance NMIT	Rob Fearnside, Deputy Director Victorian Registration & Qualifications Authority

<p>Neil Edwards CEO Chifley Business School</p>	<p>Professor Alan Bradley Associate Director Engineers Australia</p>
	<p>Andrew Ius CEO Victorian Institute of Teaching</p>
	<p>Alex Njoo Board member Architect Registration Board</p>
	<p>Stuart Hamilton Chair Victorian Registration &amp; Qualifications Authority</p>
	<p>Martha Liew Royal Australian Institute of Architects</p>
	<p>Dr Graeme Hall Manager Pre-Service Teacher Education &amp; Research Teaching Australia</p>
	<p>Brendan Sheehan Stephanie Lawrence Office of Higher Education DIIRD</p>

## Appendix 4: Glossary of terms

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This consultation paper adopts the following glossary of terms as defined within the revised National Protocols for Higher Education Approval Processes:

### Approval:

A process of assessment and review which enables a higher education course or institution to be recognised or certified as meeting appropriate standards.

### Australian university:

A university which meets the requirements of National Protocols A and D and is established by an Australian legislative instrument, in accordance with Part 3.

### Course accreditation:

The term 'course accreditation' includes the assessment, approval, accreditation or authorisation of courses of study that lead to higher education qualifications.

### Government Accreditation Authorities:

Those Commonwealth and State/Territory agencies listed on the Australian Qualifications Framework *Register of Recognised Education Institutions and Authorised Accreditation Authorities*.

### Higher education qualification:

The qualifications covered by higher education legislation and processes are Australian Higher Education Qualifications defined as higher education qualifications in the Australian Qualifications Framework.

### Institution:

The term 'institution' includes the full range of institutions and other providers offering higher education qualifications.

### Jurisdictions:

Those governments in Australia which have agreed to enact the National Protocols.

### Mutual recognition:

Refers to registration and accreditation by one jurisdiction (the 'secondary' jurisdiction) of a course based on registration and accreditation of the course by another jurisdiction (the 'primary' jurisdiction).

### Non self-accrediting institution:

An institution which meets the requirements of National Protocols A and B and does not have the authority to accredit its own courses.

Overseas higher education institution:

An overseas higher education institution refers to a university or other recognised higher education institution whose legal origin is in a country or countries other than Australia.

Quality assurance:

Quality assurance refers to the policies, attitudes, actions and procedures necessary to ensure that quality is being maintained and enhanced. It requires actions internal to the institution, but may also involve actions of external bodies. It includes course design, staff development and the collection and use of feedback from students and employers. Quality assurance is also used as a general term to refer to the range of possible approaches to addressing concern for quality in higher education.

Quality audit:

In the context of quality in higher education, quality audit is a process for checking that procedures are in place to assure quality, integrity or standards of provision and outcomes.

Registration:

The term 'registration' includes the registration, authorisation or approval of an institution to deliver one or more courses of study leading to a higher education qualification.

Regulation

Regulation refers to the broad range of legally enforceable instruments which impose mandatory requirements upon business and the community as well as to those government voluntary codes and advisory instruments, for which there is a reasonable expectation of widespread compliance.

Responsible decision-maker:

Any Commonwealth, State or Territory Minister or other person with responsibility for higher education in Australian jurisdictions that have agreed to the National Protocols.

Self-accrediting institution:

A self-accrediting institution is one which has authority to accredit its higher education courses. Self-accrediting institutions include Australian universities established or recognised under Protocol D, institutions with authority to self-accredit their higher education courses under Protocol C and a number of institutions established prior to the National Protocols.