The University of Tasmania welcomes the opportunity to respond to the Review of the Impact of the TEQSA Act on the higher education sector and submits the following comments against the six terms of reference.

TOR 1
What has changed for the sector in moving to a single national regulatory framework from multiple state- and territory-specific arrangements?

Prior to the implementation of the Act, each state and territory had its own legislation setting out the requirements to operate as a higher education provider within its jurisdiction, with the National Protocols for Higher Education Approval Processes providing a common frame of reference.

The introduction of a single national regulatory framework for the higher education sector has led to a number of changes, which have had positive outcomes. These are highlighted below.

1. **Clearer and easier to understand university regulatory requirements.** This includes the processes for developing and setting these regulations.
2. **Consistency across the sector.** This was not the case under the previous regime, which saw each Australian state and territory enacting its own legislation. A national regulatory framework reduces duplication of administrative procedures across the sector and covers off on any perceived gaps between separately applied legislative requirements across states and territories.
3. **A fairer system for students by providing a guarantee that providers are uniformly registered through the national system.** The University has also seen an improvement in arrangements for mutual recognition of providers and courses operating across state and territory boundaries. It also sends a clear message to our international students about a national commitment to ensuring the quality of our higher education providers.
4. **Greater protection for students** through increased scrutiny of newly emerging and extant Non-University Higher Education Institutions (NUHEIs).
5. **Increased consequences for non-compliance.** Non-compliance under state and territory legislation was not as serious for providers as non-compliance with the TEQSA Act. The agency has more power, but this is not a bad thing as it has presumably forced the sector to concentrate more on compliance, risk assessment and quality improvement.
6. **Overall designated authority has brought an impetus to align and streamline the various legislative instruments.** TEQSA is the designated
authority for the Education Service for Overseas Students (ESOS) and the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). It is also responsible for establishing and maintaining a National Register of Higher Education Providers. The establishment of TEQSA under the Act has remedied what the Bradley Review called “different and overlapping frameworks that regulate the quality and accreditation of higher education institutions, the operation of vocational education and training providers, consumer protections for overseas students studying in Australia and institutional approval for the purposes of student loan assistance.” (Bradley, D et al, Review of Australian Higher Education: Final Report, 2018, p, 115).

TOR 2
The extent to which the TEQSA Act has contributed to improved quality in the delivery of higher education?

The University was last audited in 2011/2012 and this was a whole-of institution thematic audit. The audit was commissioned by Australian University Quality Agency (AUQA) and finalised by TEQSA, as the audit period spanned the introduction of the Tertiary Education Quality and Standards Agency Bill 2011 and the Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Bill 2011.

The Australian Universities Quality Agency (AUQA) was an independent, not-for-profit national agency whose remit was to “promote, audit, and report on quality assurance in Australian higher education.” AUQA was formally established by the Ministerial Council on Education, Training and Youth Affairs (MCEETYA) in March 2000. It operated independently of governments and the higher education sector under the direction of a Board of Directors. AUQA was also charged with auditing compliance with criteria set out in the National Protocols for Higher Education Approval Processes.

However, this was always done through the improvement lens. If an institution received a negative audit report, reputational risk and increased follow up was the consequence. AUQA was not empowered to undertake compliance monitoring to assess whether a higher education provider continued to meet the (previous) Threshold Standards and had no powers to deregister/penalise institutions. It also operated prior to the establishment of the current standards-based framework. AUQA also had a strong focus on developing partnerships with other quality agencies from around the world (but not TEQSA’s focus on internal relationships with bodies such as ASQA and Professions Australia).

Conversely, TEQSA has wide-ranging investigative powers including powers to compel the provision of information and search and seizure powers, as well as powers to grant and withdraw self-accrediting authority to and from providers. TEQSA has put the onus on the institution to undertake the quality assurance and enhancement and has instituted the external referencing component to assist universities in connecting to the remainder of the sector. In essence it is adopting an approach that supports the providers to undertake this as an ongoing priority rather than at the point of audit. From a QI/QE perspective this would appear
to be a more sophisticated approach and gives more rights as well as responsibilities to providers to undertake this with reference to their own context.

TEQSA’s focus to date has been largely around monitoring data for each institution on an ongoing basis. The University sees this as a more sophisticated approach than a response every five years and gives each institution more context and an ability to be more responsive to changes as a result of this benchmarking.

It can be argued that the renewal of registration process is not a quality assessment – but an accreditation exercise. For example, the standards around quality assurance indicate that a provider must have certain policies and processes in place (review monitoring etc.), whilst the standards are thresholds and together with the guidance notes they do provide a picture of what is expected in terms of process. There is also an opportunity to share examples of good practice as identified through the former audit process. In this way, there could be a catalysing of practice across the sector.

An example of this relates to admissions. The standard says that the University must have clear policies and procedures which are published and accessible to students. It does not, however, outline just what those policies should say and does not tell us if our entry standards are acceptable. Presumably, this is picked up in the external referencing requirements and the requirements to monitor and evaluate courses. There are clear guidelines, according to which we must collect and monitor student data and from this the University may make judgements as to whether or not their practices are acceptable. The University sees this as a positive, in that TEQSA is not mandating particular standards and is therefore allowing universities to decide, based on holistic and ongoing use of data.

This has resulted in an increased cost to the University in developing a Business Intelligence system which ensures that the University is able to monitor and report in a timely way.

In addition, the Higher Education Standards Panel is investigating the use of the ATAR nationally and the publishing of these floors (Consultation on the Transparency of Higher Education Admissions Processes) and TEQSA has distributed guidance notes on how to interpret the standards. Whilst there may not be a desire to standardise specific admission criteria across the sector, some parameters drawn around such things would be useful. Naming these Threshold Standards presumably means that once an institution meets these thresholds, they should be continuing to aim to exceed them, however without any sector-wide scholarship there is currently no way of knowing what such excellence looks like.

Bradley et al cite the findings of the earlier Phillips KPA report (2007), commissioned by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). The idea was to create a national body that fully assumed the role of the state and territory bodies in accrediting courses for NSAI, registration of SAI (new and renewals), and CRICOS registration. The final component was “conducting quality audit” (i.e. subsuming AUQA).

There is a real question as to whether one agency has the capacity to handle both regulation and quality assessment (for improvement). As Lee Dow and Braithwaite have pointed out “TEQSA carries out its functions in a difficult environment with competing priorities; registration and accreditation demand timely processes, while quality assurance requires more strategic thoughtful preparation and engagement.”
Who should conduct these assessments? It could be said that TEQSA, as currently constituted is not equipped to do so. However, if these assessments are actually explicitly purposed towards improvement, then the sector itself should do them. Peer assessment and benchmarking beyond the current level would be a significant financial burden to most institutions and if this approach was adopted, support funding through a grant-based model would be optimal.

The more important question is: unless thematic quality assessments are tied to registration, will anyone want to do them? Whilst we would not recommend a return to the whole-of institution quality audits, perhaps small scope quality assessments around selected standards would be an improvement measure and whilst some institutions are already doing this independently, it remains a function of TEQSA under the Act that is not currently being fulfilled.

In its submission to the 2014 Senate Inquiry on the 2014 Amendment Bill, Universities Australia supported amendments to the Act that would remove TEQSA’s quality assessment function. Universities Australia argued for this in its submission and noted that the Review Panel agreed with this approach, stating that the quality assessment already undertaken (e.g. on third party service provision/arrangements) “will neither ensure quality for the Australian community nor provide value for money in the effort required on behalf of providers.” (Universities Australia Submission to Senate Inquiry on Tertiary Education Quality and Standards Agency Amendment Bill 2014, 2 May 2014, P.1)

The University of Tasmania took part in that quality assessment (on third party arrangements). It was extensive and we looked forward to TEQSA publishing its findings, in terms of statements of good practice, advice and so on. The answer to the question of thematic audits may be in terms of how TEQSA uses them to improve practice across the sector. For example, participating in a thematic audit is onerous, and if the findings are not reported back to participating institutions, they have not been utilised to their fullest potential.

In its submission, Universities Australia argued that Section 134(e) (iii) should be repealed. This Section instructs TEQSA to “collect, analyse, interpret and disseminate information relating to quality assurance practice, and quality improvement, in higher education”. Universities Australia argued that this function was not needed, because “TEQSA’s role in assessing achievement of the standards, combined with internal university quality assurance processes and structures, as well as the competitive pressures of the market system created by the demand driven funding policy, act together to ensure that universities have the tools and the incentives to effectively monitor and address quality in absolute and relative terms. … The activities mandated in this clause will only serve to distract the agency from its core functions of registration and course accreditation.” ((Universities Australia Submission to Senate Inquiry on Tertiary Education Quality and Standards Agency Amendment Bill 2014, 2 May 2014, P.2)

The Act has contributed to enhancing quality. Clearly the Higher Education Standards Framework has led universities to refine management and quality systems such that there will be ongoing benefits for both the institutions and students. However, there is a sense in which improvement and shared practice
across the sector has been less effective and Lee Dow and Braithwaite recognise this when they say “the application of a standards framework provides quality assurance of a minimum setting; it is the idea of continuous improvement and the feedback loop that is then removed from quality assurance.” (Lee Dow, K & Braithwaite, V, Review of Higher Education Regulation: Final Report, 2013, p.47).

The previously held AUQA Forum, where universities shared good practice together, networked and connected has been replaced with Provider Information Sessions, where representatives are invited to listen to the agency’s latest news and are advised of what evidence universities must provide.

The University also recommends that the much anticipated Commendations and Affirmations which were included in the previous AUQA Audit Reports form part of the renewal of registration process.

**TOR 3**
The extent to which the TEQSA Act has contributed to improved regulation?

Whilst the University of Tasmania is yet to undergo renewal of registration it is our experience that TEQSA has adhered to the basic regulatory principles, as specified by the Act: (a) the principle of regulatory necessity; (b) the principle of reflecting risk; (c) the principle of proportionate regulation.

In the pre-TEQSA Act regulatory environment, audit was less structured, and the AUQA Audit process was somewhat arcane in nature. At times, the University felt at the whim of certain audit panel members’ interests. The University could also not be sure what the audit panel would focus on and this resulted in the “Data on Site” part of the process being particularly worrisome. The Act (together with the Standards Framework and ESOS) does clearly lay out the terrain for the University and this has assisted in our preparations for renewal of registration.

It is difficult to provide specific comment on comparative compliance costs at this point in time as the University is yet to undergo the renewal process. It is clear, however that TEQSA is serious about taking the provider’s history (regulatory, financial, student outcomes etc.) into account. There is a real perception that TEQSA knows the University in a way that AUQA did not (and could not). There is something like a sense of “earned autonomy” at work.

**TOR 4**
Whether there is unnecessary overlap with other legislation, for example, the Education Services for Overseas Students Act 2000, the National Vocational Education and Training Regulator Act 2011 and the Higher Education Support Act 2003?

The University agrees with Lee Dow/ Braithwaite when they say: “In effect, TEQSA is regulating the majority of higher education providers under two separate pieces of legislation. The parallel operation of the TEQSA and ESOS Acts creates complexity and regulatory burden for providers, as they are faced with two registration processes, two course approval processes and two sets of standards (the Threshold Standards and the National Code). Providers have identified duplication and administrative burden during the registration and re-registration process as

The different registration and accreditation periods make matters worse. “In practice providers registered under both Acts are often subject to different registration cycles. This creates a situation where requests for information and data occur on an apparently constant basis.” (Lee Dow, K & Braithwaite, V, Review of Higher Education Regulation: Final Report, 2013, p.36).

Lee Dow/Brathwaite called for a reduction in duplication across the four acts. This hasn’t been done to date but if this remains the intention, the University strongly supports this.