

AUSTRALIAN UNIVERSITIES QUALITY AGENCY

Report of an Audit of the
Australian Government Department of Education,
Science and Training
Higher Education Approval Functions
under the National Protocols

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OVERVIEW OF THE AUDIT

Background

In December 2006 the Australian Universities Quality Agency (AUQA) appointed an Audit Panel to undertake an audit of the Department of Education, Science and Training's (hereinafter 'DEST' or 'the Department') responsibilities for higher education approval functions under the National Protocols. Taking the scale and scope of the audit into account it was agreed that a Panel consisting of an AUQA Audit Director supported by an AUQA-trained auditor (adviser), whose role was to comment on the DEST Performance Portfolio and the draft Audit Report, would be appropriate.

This Report of the audit provides an overview, and then details the audit findings, commendations, affirmations and recommendations. A brief introduction to DEST is given in Appendix A; the mission, objectives, vision and values of AUQA are shown in Appendix B; the Audit Panel composition is at Appendix C and Appendix D defines abbreviations and technical terms used in this Report.

The Audit Process

AUQA bases its audits on each organisation's own objectives, together with the five MCEETYA *National Protocols for Higher Education Approval Processes* ('National Protocols' or 'Protocols') and legislation within the jurisdiction designed to give effect to the National Protocols. The major aim of the audit is to consider and review the procedures an organisation has in place to monitor and achieve its legislative and related objectives and to implement the National Protocols. Appendix E provides brief information about the National Protocols. Further details are available at <http://www.mceetya.edu.au/mceetya/>. Full details of the AUQA audit process are contained in the AUQA Audit Manual available at <http://www.auqa.edu.au/qualityaudit/auditmanuals/index.shtml>.

On 12 February 2007 the Department, through the Quality Branch (QB), presented its submission (Performance Portfolio) to AUQA along with 11 Supporting Materials. The Audit Director and the adviser considered these documents and discussed via teleconference on the 15 March 2007 which additional information and documents to request from DEST.

The Performance Portfolio (or Portfolio) was prepared by the QB of the Higher Education Group which has responsibility for higher education approval functions under the National Protocols within the Department. The Portfolio provides a presentation and assessment of these responsibilities. DEST's policy roles and responsibilities not related to the National Protocols approval processes are outside the scope of this audit. As a consequence of the definition of the scope of the audit, the Portfolio does not include information on the Department's administrative procedures and policies.

The AUQA Audit Director held a Preparatory Meeting with the Department by teleconference on 23 March 2007 to clarify the Panel's request for further information and to review arrangements for the Audit Visit.

The Audit Director undertook the Audit Visit to the DEST offices in Canberra on 27 April 2007. In addition to the interviews on-site, four interviews were undertaken by teleconference. The last of these interviews took place on Monday 30 April 2007. The Audit Director spoke with 14 people during the Audit Visit. Sessions were set aside for any persons involved in the higher education approvals processes to meet the Audit Director. There were no requests for such a meeting. The Audit Panel acknowledges the open and constructive approach taken to the audit by the Department and, in particular the manager of the QB and her team.

This Report relates to the situation current at the time of the Audit Visit, which ended on Monday 30 April and does not take account of any changes that may have occurred subsequently. It records the

conclusions based on the documentation provided by DEST, and other available information. While every attempt has been made to reach a comprehensive understanding of the Department's higher education approval processes, the Report does not identify every aspect of quality assurance and its effectiveness or shortcomings.

The Report contains a summary of findings together with lists of commendations, affirmations and recommendations. A commendation refers to the achievement of a stated goal, or to some plan or activity that has led to, or appears likely to lead to, the achievement of a stated goal, and which in AUQA's view is particularly significant. A recommendation refers to an area in need of attention, whether in respect of approach, deployment or results, which in AUQA's view is particularly significant. Where there is evidence that similar matters have already been identified by the Department, they are termed 'affirmations'. It is acknowledged that recommendations in AUQA audit reports may have resource implications, and that this can pose difficulties for organisations. Accordingly, AUQA does not prioritise these recommendations, and recognises that it is the responsibility of DEST to respond in a manner consistent with its local context.

This Audit Report largely follows the structure of the DEST Performance Portfolio, but contains additional sections.

CONCLUSIONS

This section summarises the main findings and lists the commendations, affirmations and recommendations. Other comments and suggestions are mentioned in the text of the Report.

Introduction to Findings

It is necessary to note that the audit took place after the approval by MCEETYA of the revised *National Protocols for Higher Education Approval Processes*, but before they have come into effect, and as the National Protocols Guidelines were being prepared. The audit was therefore conducted against the National Protocols approved by MCEETYA in 2000.

The review of the existing National Protocols was initiated in 2004 by the Australian Government. AUQA recognises the proactive role that the QB has taken in the organisation and implementation of this review.

It is a significant aspect of this audit that the regulatory framework that DEST has put in place to manage its responsibilities in the external territories under the National Protocols has not been tested as no applications have been received from potential provider wishing to operate in the external territories. AUQA commends DEST for having developed an appropriate legislative and regulatory framework for the higher education approval processes under the National Protocols in the external territories. AUQA notes that DEST has amended its legislation and it is ready for implementation of the revised National Protocols when they come into effect from 31 December 2007.

The lack of activity under the regulatory framework means, however, that the Audit Report does not include an assessment of the implementation and outcomes of the processes in place and the improvements of processes based on practice. DEST will inform AUQA in its Progress Report if an application has been lodged and an application process undertaken at that stage, and AUQA will have discussions with DEST on the timing of its next audit.

DEST contracted the Queensland Office of Higher Education to assist with the development of the Higher Education in the External Territories (HEET) Guidelines and AUQA commends DEST for this initiative which has allowed the Department to benefit from the expertise and experience of a state accrediting agency.

It is the view of the Department based on its risk analysis that there is a very low likelihood that a reputable provider would seek to establish a presence in the external territories. The QB acknowledges that if an application were received, lack of staff expertise in implementing the HEET Guidelines could affect the effectiveness of the assessment process. DEST has entered into a mentoring agreement with the Queensland Office of Higher Education to provide advice in the event of an application being lodged. AUQA commends DEST for this initiative. DEST also operates a flexible staffing policy in regard to the implementation of the approvals functions under the National Protocols in the external territories. This means that staff with relevant experience from units other than the QB could be involved in an application process.

Given that the staff who could be involved in an application process could have very little experience with the process, AUQA recommends that the Department develop a handbook for practices to apply in the implementation of the HEET Guidelines.

If DEST's assumption is correct that only a very limited number of applications will be lodged by providers seeking approval to operate in the external territories, it is all the more important that the experiences from these processes are recorded. AUQA affirms DEST's decision to develop review processes for the HEET guidelines.

DEST is responsible for protecting the university title under the Commonwealth *Corporations Act 2001*. AUQA commends DEST for having rigorous processes in place for the assessment of applications for the use of the word ‘university’ in body corporate names and for the effective implementation of these processes.

The application process is guided by the ‘Guidelines for the Use in Body Corporate Names of the Word ‘University’. These Guidelines were subject to an internal review in 2006 and comments on the revised Guidelines were sought from the Higher Education Recognition Officers in the states and territories. Given that applications are received on a regular basis, AUQA recommends that DEST develop a mechanism through which to obtain formal and regular feedback on the process from applicants.

The responsibility for the protection of the university title is currently being strengthened through the Department’s cooperation with .auDomain Administration Limited to restrict inappropriate uses of the term ‘university’ in domain names.

DEST monitors online activity in the external territories through quarterly scans of the internet and liaison with the Australian Government Department of Transport and Regional Services about higher education activity. DEST also hosts a website which provides information about unaccredited or doubtful providers throughout Australia. Although these measures appear to be appropriate, AUQA recommends that DEST remain vigilant to the possibility that providers, including online and virtual providers, may find ways of appearing to operate from, or target students, in the external territories.

Commendations

1. AUQA commends DEST for contracting the Queensland Office of Higher Education to assist with the drafting of the Higher Education in the External Territories Guidelines and thereby benefiting from the expertise and experience of this office in the development of those guidelines.11
2. AUQA commends DEST for the development of an appropriate legislative and regulatory framework for the higher education approval processes under the National Protocols in the external territories.12
3. AUQA commends DEST for building on the cooperation with the Queensland Office of Higher Education through a mentoring agreement that ensures a minimum level of preparedness in case an application is received.13
4. AUQA commends DEST for the processes which are in place for the assessment of applications to use the title ‘university’ in body corporate names and for the effective implementation of these processes.15

Affirmations

1. AUQA affirms DEST’s decision to develop review processes for the HEET Guidelines which include feedback from DEST staff involved in the process, applicants and assessment panel members.14
2. AUQA affirms DEST’s decision to cooperate with .auDomain Administration Limited to develop processes to restrict inappropriate uses of the term ‘university’ in domain names.16

Recommendations

- 1. AUQA recommends that DEST develop a handbook comprising practices to be used in the implementation of the Higher Education in the External Territories Guidelines, such as criteria for identifying panel members and minimum criteria for the provision of secretarial support.....14
- 2. AUQA recommends that DEST develop a mechanism through which to obtain formal and regular feedback from the applicants on the process for applying to use the word ‘university’ in body corporate names.16
- 3. While the measures in place for monitoring unaccredited higher education providers in the external territories appear to be appropriate, AUQA recommends that DEST remains vigilant to the possibility that providers, including online and virtual providers, may find ways of appearing to operate from, or target students, in the external territories.....17

1 CONTEXT OF THE AUDIT AND THE ROLE OF THE DEPARTMENT EDUCATION SCIENCE AND TRAINING

The purpose of this section of the Report is to provide an outline of the regulatory and operational context within which the Australian Government Department of Education, Science and Training's (DEST or the Department) management of its higher education approvals functions under the National Protocols has been considered.

1.1 *Organisational Overview*

Responsibility for regulation of higher education approval and accreditation is shared between the Australian Government and the state and mainland territory governments. Under the National Protocols, the states and territories are responsible for this function within their jurisdictions. The Australian Government regulates activity in the external territories under Chapter 6 of the *Higher Education Support Act 2003* (HESA) and DEST is responsible for the approval of applications for university status from non-university higher education institutions established under Commonwealth legislation (Appendix A).

The National Protocols require all jurisdictions to protect the title 'university' in business names legislation and corporations law. Under the *Corporations Act 2001*, the term 'university' cannot be used in any Australian company name without approval of the federal Minister for Education, Science and Training. Similarly, under Chapter 6 of HESA, the term 'university' can not be used in a company or business name in the external territories without the consent of the federal Minister for Education, Science and Training.

The Department comprises the National Science and Technology Centre (Questacon) and nine agencies. DEST carries out its business through its executive which consists of the Secretary, four deputy secretaries and 16 groups.

The responsibilities covered in the audit are vested within the Quality Branch (QB) of the Higher Education Group (HEG). The QB was established in 2005 and has four units. The QB is responsible for working strategically to maintain and enhance Australia's reputation for quality higher education (PF p1).

Three of the QB's four units and a total of six staff are directly involved in the responsibilities covered in the audit. The Private Providers Unit (PPU) has been responsible for developing the Higher Education in the External Territories (HEET) Guidelines, and the Quality Improvement Unit is responsible for the implementation of the National Protocols. The Quality Assurance Framework Unit has responsibility for the general oversight of possible unaccredited and/or unauthorised providers who may be operating in Australia.

Appendix A provides additional information on DEST.

1.2 *The External Territories*

Only three of the seven external territories have a permanent civilian population. They are Norfolk Island, Christmas Island and the Cocos (Keeling) Islands. The external territories are administered through the Australian Government Department of Transport and Regional Services (DOTARS), with the exception of Heard and McDonald Island and the Australian Antarctic Territory which are the responsibility of the Australian Government Department of Environment and Heritage.

There are currently no higher education providers operating in the external territories (PF page i). There have been no applications to establish a higher education institution in the external territories since the establishment of Greenwich University in 1998.

1.3 *Context for the Audit*

The following section is provided to assist the reader to understand the context that led to the decision to give the Department responsibility for higher education approval functions in the external territories which is the main focus of this audit.

Greenwich University was set up under the *Greenwich University (Norfolk Island) Act 1998* (GU Act) which was passed by the Norfolk Island Legislative Assembly. The University started operating from Norfolk Island in January 1999.

At that time there was no legislative framework in place to regulate higher education in the external territories. Even so it had been expected that a university would be established by specific legislation given that all mainland states and territories had legislative or procedural arrangements in place which effectively required applicants wishing to operate as a university to be established with legislative instruments. Greenwich University did not seek formal authorisation, but was nevertheless legally established in Norfolk Island and was therefore in a position to use the title 'university' and offer higher education awards (PF p4).

It was questioned, however, whether the quality of Greenwich University's academic activities and infrastructure were similar to those found in other Australian universities. In April 1999 the University underwent an external review of its academic and financial credentials initiated by MCEETYA to inform the decision on whether to include the Greenwich University on the Australian Qualifications Framework Register of Recognised Education Institutions (AQF Register). The committee recommended to the then federal Minister of Education, Training and Youth Affairs that the University not be included on the AQF Register as the standards of its courses, quality assurance mechanisms and its academic leadership were not considered to meet the standards of other Australian universities.

The exclusion from registration on the AQF Register did not prevent Greenwich University from offering higher education awards and advertise itself as an accredited Australian university. This situation led the Australian Government to enact amending legislation which extended the National Protocols to the external territories under the *Higher Education Funding Act 1988* and which overrode the operation of the GU Act. The legislation was passed on 2 December 2002 and meant that Greenwich University could no longer legally operate on Norfolk Island from that date. DEST has a webpage on its website with a warning about Greenwich University.

While the legislative amendment meant that the GU Act was no longer of any effect, it remains on the statute books of the Norfolk Island Legislative Assembly. The federal Minister of Education, Science and Training has written to the Chief Minister of the Norfolk Island Legislative Assembly on a number of occasions to seek repeal of the Act to prevent any possible confusion about Greenwich University's current status. The Australian Government has no powers in respect to Norfolk Island legislation, and DEST is currently liaising with DOTARS to pursue opportunities that could lead to action to repeal the GU Act. The repeal of the GU Act and the latest contact made by the federal Minister in that regard were discussed in the Norfolk Island Parliament on 28 February and 7 March 2007. A motion to repeal the GU Act failed.

The initiatives taken by the Department in regard to informing the public about Greenwich University and repealing the GU Act are positively noted by the Audit Panel.

1.4 *Strategic Planning and Quality Assurance*

DEST's vision reads: 'Education, Science and Training – Creating Australia's Future'. DEST's Strategic Plan further states that: "DEST provides national leadership in developing and implementing innovative policy solutions in three areas: learning; skills acquisition; and building Australia's knowledge."

DEST operates a strategic framework consisting of seven goals and 24 strategies. The groups and associated branches are required to develop business plans that link to the Strategic Plan. The HEG's Business Plan comprises key objectives ('deliverables'), mechanisms to achieve these and key performance indicators in relation to the relevant parts of the Department's Strategic Plan. The QB's Business Plan is structured like the HEG's and links to the relevant goals of the HEG Business Plan. Progress of all branch business plans are reviewed twice a year and as the need arises.

The goals in the QB Business Plan are reflected in the manager's as well as staff 'Personal Development Plans' and are discussed at the annual performance review. This is considered by staff and senior management to ensure that all staff are aware of the QB's objectives and they are integrated into staff workload.

The QB Business Plan comprises the following objectives ('deliverables') that are of direct relevance to the audit:

DEST Strategic Goal 2. Raise the Quality of Outcomes: Strategic Priority 2.1-Improve Quality and Performance Standards:

Group Key Deliverable

1. Assure and improve the quality of higher education: (Branch deliverables)

- *Continue to implement the elements of the existing National Protocols related to the use of university title in company names.*
- *Revise current Guidelines to reflect the new National Protocols and resolve anomalies in current guidelines.*
- *Develop and implement guidelines regulating the use of 'university' in domain names in collaboration with .auDA.*
- *Review a process for the accreditation of higher education in the External Territories.*
- *Train PPU staff in procedures.*

Specific key performance indicators are formulated against each objective.

Of direct relevance to the audit, the following specific strategic initiatives are listed in the Quality Branch Business Plan (p13) to help the QB develop its capabilities to successfully deliver its key business outcomes:

- "The Quality Branch will continue to build and maintain strong working relationships with the higher education sector including States and Territory Governments and other relevant key stakeholders.
- Managers will identify and appropriately manage risks associated with each key business outcome through the Department's risk management processes."

In addition to the feedback, which is built into the strategic planning processes outlined above, all new policy initiatives are required to go through a consultation phase and the responses received are published. Some procedural reviews are undertaken as needed, while stakeholder consultation

is required as part of the development and amendment of legislation. Consultation also occurs typically (but is not mandated) as part of policy development and implementation processes.

It is not within the scope of the audit to review the Department's overall quality assurance arrangements. Given that the QB is the unit that holds operational responsibility for the implementation of the higher education approval processes under the National Protocols, the relevant aspects of the QB's continuous improvement activities are commented on as appropriate in relation to its various responsibilities covered in the Audit Report.

1.5 *Commitment to the National Protocols*

The establishment of Greenwich University and the ensuing process prompted the development of the *National Protocols for Higher Education Approval Processes*. The Greenwich University experience highlighted the need for the introduction of a common set of criteria covering accreditation of higher education institutions in the states and territories. It was recognised that this was an initiative critical to the protection of quality in the Australian higher education system nationally as well as internationally.

A review of the existing National Protocols was initiated in 2004 by the Australian Government through the Joint Committee on Higher Education (JCHE). The revised National Protocols were approved by MCEETYA on 6 July 2006 and will take effect from 31 December 2007. The QB has been proactive in organising and implementing the review and the QB's Quality Improvement Unit has provided support to the JCHE throughout the process. The JCHE Chair recognised the quality and importance of their work by providing support for the Unit's nomination for the DEST Secretary's Excellence Awards in 2006.

The Audit Panel recognises the commitment of DEST in revising the National Protocols and for its active role in organising and implementing the review.

2 LEGISLATIVE AND REGULATORY FRAMEWORK

This section considers general issues related to the adequacy of the regulatory framework in place for DEST's responsibilities with respect to higher education approval processes as laid out in the National Protocols.

2.1 The Higher Education Support Act 2003

Prior to the endorsement by MCEETYA of the National Protocols in 2000, there was no legislative framework allowing regulation of higher education in the external territories. The *Higher Education Support Act 2003* (HESA) enacts the Australian Government's National Protocol responsibilities with specific provision for regulation of higher education activity in the external territories. The National Protocols were previously extended to the external territories under the *Higher Education Funding Act 1988*.

Chapter 6 of the HESA (The provision of higher education in the external territories) provides for approval of higher education providers as self-accrediting entities and for accreditation of courses of study in the external territories. The HESA needed to be amended to allow guidelines for applications for accreditation in the external territories to be developed. The amendments received Royal Assent on 4 November 2006. Given that the HESA came into effect in 2003 the introduction of the amendments to allow for the development of guidelines for the application for accreditation in the external territories appears to have been lengthy.

Also under Chapter 6 in respect to approval and accreditation, the federal Minister is empowered: to approve the form of application for approval as a self-accrediting institution or for accreditation of a course in an external territory; to approve a person that applies for self-accrediting status and complies with the requirements in relation to an external territory; to accredit a non-university course of study; to determine the duration of approval of self-accrediting institutions and accreditation of a course of study; and to amend or revoke the approval of self-accrediting entities. The Department has developed a schedule of delegations and regularly reviews and updates the schedule particularly with regard to legislative amendments such as the recent amendments to Chapter 6 of the HESA.

2.2 *Higher Education in the External Territories Guidelines*

As mentioned in section 2.1, the HESA makes provision for the Minister to develop guidelines for an application for accreditation in the external territories. The QB has developed the HEET Guidelines made under subsection 238-10(1) of the HESA. Section 217-5 of the HESA states that matters relating to higher education in the external territories are dealt with in the Guidelines.

In 2006 the QB contracted the Queensland Office of Higher Education (OHE) to assist QB with the development of the Guidelines and to help build capacity within the QB in handling applications. It was decided to cooperate with another jurisdiction in order to benefit from their experience and expertise accumulated from having developed guidelines and having implemented several application processes. QB was of the belief that this approach would lead to a rigorous set of guidelines.

The OHE provided a number of draft documents based on their own higher education approval guidelines as input for the development of individual chapters of the HEET Guidelines. The drafts were then rewritten and restructured by QB to conform to Australian Government requirements in terms of content, style, format, and legislative references.

Commendation 1

AUQA commends DEST for contracting the Queensland Office of Higher Education to assist with the drafting of the Higher Education in the External Territories Guidelines and thereby benefiting from the expertise and experience of this office in the development of those guidelines.

The HEET Guidelines provide information about application and accreditation processes and requirements for higher education providers intending to operate in the external territories. They cover the following topics and processes – references to the National Protocols (NPs) are listed in brackets where appropriate:

- Introduction (chapter 1)
- the information which must be provided by an applicant in an application to the Minister for approval as a self-accrediting entity (chapter 2, NP 1)
- the information which must be provided by an overseas institution in an application to the Minister for approval as a self-accrediting entity (chapter 3, NP 2)
- the information which must be provided by an applicant in an application for accreditation of a course (chapter 4, NP 3)
- the criteria and processes for approval as an Australian self-accrediting entity or an overseas entity or for the accreditation of a course (chapters 5–7, NP 2 & 3)
- the information required, the criteria and processes for the accreditation of a course using mutual recognition procedures (chapter 8)
- approval of an Australian university to operate under an agency agreement (chapter 9, NP 4)
- requests for further information and deadlines for submission (chapter 10)
- fees payable for approval processes (chapter 11)
- offences (chapter 12).

Protocol 5 ‘Endorsement of courses for overseas students’ is not included in the Guidelines. The reason is that the Commonwealth *Education Services for Overseas Students Act 2000* which regulates the provision of Australian awards offered to international students in Australia does not allow for the registration of courses offered by higher education institutions in the external territories.

Before the Guidelines were approved by the federal Minister of Education, Science and Training they were circulated to peak bodies for comment, ie the Australian Vice-Chancellors’ Committee, the Australian Council for Private Higher Education and Training and the Council for Private Higher Education. All these bodies responded in favour of the HEET Guidelines. The HEET Guidelines were approved by the Minister on 27 March 2007. When the disallowance period expires, information on the HEET Guidelines will be made available on the DEST website and an entry made in the Department’s newsletter that they have been finalised.

DEST has been aware of the need to review the Guidelines and adapt them to the revised National Protocols before they come into effect on 31 December 2007. The Commonwealth Parliament has already passed the amendments to HESA necessary for the implementation of the revised National Protocols.

Commendation 2

AUQA commends DEST for the development of an appropriate legislative and regulatory framework for the higher education approval processes under the National Protocols in the external territories.

The framework has not yet been tested, as DEST has not received applications from any potential providers. However, as the purpose of an AUQA audit is not only to audit the planned approaches but also the implementation of the approaches and the results of the processes, DEST will inform AUQA in its Progress Report if an application has been lodged and an application process undertaken at that stage, and AUQA will have discussions with DEST on the timing of its next audit.

2.3 *The Commonwealth Corporations Act 2001*

The use of the word 'university' in company names was protected under the Corporations Regulations 1990, schedule 6 part 3. The protection of the use of the title 'university' was tightened with the introduction of the National Protocols and Protocol 1 provides for the protection of the title 'university' under states business names and associations legislation, and under the Commonwealth *Corporations Act 2001*. Subsequent to the endorsement by MCEETYA of the National Protocols in 2000, the Corporations Regulations were amended on 15 October 2001 to transfer the word 'university' from part 3 to part 4 of schedule 6. This in effect transferred the responsibility for approving the use of the term 'university' under the Act to the federal Minister of Education, Science and Training.

The Minister has delegated the responsibility to the:

- Group Manager Higher Education
- Branch Manager, Quality, Equity and Collaboration, Higher Education Division.

3 HIGHER EDUCATION APPROVAL PROCESSES

The Audit Panel investigated the extent to which the Department has effective management of its responsibilities for those National Protocols with which DEST has had experience. The Audit Panel notes that DEST has only had experience in assessing applications under Protocol 1.

3.1 *Risk Analysis*

DEST has received no applications to establish any higher education institution in the external territories since Greenwich University was established in 1998. DEST has developed a risk matrix to assist the Department to assess the likelihood of higher education activities being set up in the external territories. The risk matrix characterises each of the territories against a common set of risk factors. The analysis of the risk matrix provided in the Portfolio concludes that it is unlikely that a reputable individual/corporate entity would seek to initiate higher education activities in an external territory primarily due to the low population base and that access to the territories is not easy. The Portfolio (p8) states that it is possible that a virtual higher education institution could be established in an external territory, but concludes that it seems unlikely that the territories would be cost effective or a logical choice for such providers.

The risk assessment is a valuable tool which informs the scope of DEST's actions in regard to the external territories. Nevertheless, the Audit Panel is of the view that the online and virtual higher education activities in the external territories are an area that needs attention (section 3.4).

3.2 *Implementation of Higher Education Approval Processes*

An appropriate legislative and regulatory framework has been put in place to handle possible applications under the Protocols in the external territories. It is the Department's view based on its risk assessment that there is a very low likelihood that any reputable provider will wish to operate in the external territories. The QB acknowledges that if an application were received, lack of staff expertise in implementing the HEET Guidelines could affect the effectiveness of the assessment process. Therefore the QB has chosen to enter into a mentoring agreement with OHE. The purpose of the agreement is for OHE to provide the necessary advice to QB throughout an application process.

In addition to this initiative, two QB staff members who had been involved in the development of the HEET Guidelines attended a training session organised by OHE in August 2006. The aim of the training session was to prepare staff for handling an application process.

Commendation 3

AUQA commends DEST for building on the cooperation with the Queensland Office of Higher Education through a mentoring agreement that ensures a minimum level of preparedness in case an application is received.

During the Audit Visit the Audit Panel raised issues in relation to practical aspects of the implementation of the HEET Guidelines, for example processes for the identification of panel members and allocation of staff to an application process and how both groups would be trained.

The Panel was presented with several sound and reasonable ideas for approaches to apply in response to these questions. However, these ideas have not been formalised, for example, in the form of a handbook or other written guidelines for procedures to be used if an application is received.

Management representatives mentioned that since DEST's responsibilities relating to external territories approval processes are unlikely to be called upon regularly, it is necessary to have a flexible staff policy to respond to such an application, were this to occur. The lack of experience of QB staff in these particular processes is to some extent off-set by the fact that QB and HEG, more broadly have staff with expertise in related tasks who could work on an external territories application as necessary.

If DEST's assumption is correct that only a very limited number of applications will be received (if any), it is important that there are documented processes in place if an application is lodged to guide staff with the various steps in the application process and minimum requirements of administrative or secretarial support processes.

Recommendation 1

AUQA recommends that DEST develop a handbook comprising practices to be used in the implementation of the Higher Education in the External Territories Guidelines, such as criteria for identifying panel members and minimum criteria for the provision of secretarial support.

Furthermore, it is all the more important that processes are thoroughly revised based on the experiences and outcomes of an actual application.

QB has draft material, including processes to obtain feedback from staff, applicants and assessment panel members. However, this material has not been finalised because DEST currently considers it to be unlikely that any application will be received, and therefore the allocation of further resources to this task is not justifiable.

Affirmation 1

AUQA affirms DEST's decision to develop review processes for the HEET Guidelines which include feedback from DEST staff involved in the process, applicants and assessment panel members.

3.3 Protocol 1 – Criteria and Processes for Recognition of Universities

3.3.1 Application to Operate as a University

There are two non-university higher education institutions established under Commonwealth legislation, ie the Australian Maritime College (AMC) and the Australian Film, Television and Radio School.

AMC wrote to the Australian Government in April 2001 requesting that its name be changed from 'college' to 'university'. The then Minister appointed a panel to review the application under Protocol 1 of the National Protocols. The panel members were people in senior management positions within government agencies and higher education institutions. They were chosen for their high level of expertise and experience within the higher education sector. Given their level of experience they were expected to be able to provide input into the organisation of the review process as well as to be responsible for the assessment of the application from AMC to gain university status.

There were no procedural guidelines to assist the panel at that stage. The HEG, whose staff provided secretariat and general support to the panel, in cooperation with the panel members developed the review process that included: several meetings; consideration of public comment which had been invited on the AMC's application for university status; the AMC AUQA Audit Report and AMC's reply to that; a site visit to AMC; and a final report.

The assessment of the application revealed some areas where Protocol 1 provided incomplete guidance. Panel members interviewed by the Audit Panel emphasised that the review panel's discussion of these areas was useful for the Department and was used in the revision of the HESA and the National Protocols.

The panel was not invited to provide formal feedback on the strengths of the review process and areas for improvement. However, the panel members interviewed characterised the process as well organised and generally appropriately implemented. The support provided by the Department staff was considered to have been invaluable.

As noted above the Panel is of the view that the infrequency of activities carried out under the National Protocols increases the need to have written guidelines on good practice which builds on previous experiences to support the review process and to guide and inspire Department staff and panel members who will be involved in a review. The handbook on good practices referred to in Recommendation 1 should include practices with respect to reviews under Protocol 1. The Audit Panel is aware that the Australian Film, Television and Radio School is currently the only non-university institution that can apply for university status with DEST under Protocol 1.

3.3.2 Protection of the University Title

In 2001, when the then federal Minister of Education, Training and Youth Affairs assumed responsibility for the protection of the university title (section 2.3), the Department in consultation with the states and territories developed guidelines for the use of 'university' in body corporate names (PF p11). The Guidelines, which are published on the Australian Securities and Investments Commission website (<http://www.asic.com.au>), are provided to assist applicants prepare a submission to the federal Minister. The Guidelines comprise information on the: background for the application and the approval process; criteria that applies for approval to be granted; supporting documentation which applicants are required to submit; and how to submit applications. In addition to the approval process, there are penalties included in the Commonwealth *Corporations Act 2001* that apply if a company uses the word 'university' without proper approval.

The Quality Improvement Unit of the QB is responsible for the assessment of applications and for drafting a response according to the Guidelines for the Use in Body Corporate Names of the Word 'University'. Responses are presented to DEST's legal branch for consideration and comment and a decision made under the delegated authority by the Group Manager, Higher Education Group and the Branch Manager, Quality, Equity and Collaboration, Higher Education Division. The Unit then finalises the response and it is signed of by the Manager of the QB. Since assuming responsibility for the protection of the use of the university title, DEST has assessed 21 applications out of which 20 have been successful and one has been rejected.

Commendation 4

AUQA commends DEST for the processes which are in place for the assessment of applications to use the title 'university' in body corporate names and for the effective implementation of these processes.

The Guidelines were reviewed in 2006 through an internal review process led by the Quality Improvement Unit. The review built on issues raised by applicants over the last three to four years and the Unit's own assessment of areas that would benefit for being tightened. The review was also undertaken to prepare them for the revised National Protocols. Formal consultation on the Guidelines was limited to the states and territories through the Higher Education Recognition Officers and the Australian Securities and Investments Commission. The revised Guidelines are due to be finalised in the first half of 2007.

The Panel endorses the Department's review of the Guidelines which was aimed at addressing some of the issues identified by the users and to prepare them for the revised National Protocols. Given that this is a process that involves external users it would be appropriate for the Department to more systematically request feedback from the users on the usefulness of the Guidelines and for input into future revisions.

Recommendation 2

AUQA recommends that DEST develop a mechanism through which to obtain formal and regular feedback from the applicants on the process for applying to use the word 'university' in body corporate names.

In 2005 the auDomain Administration Limited (auDA), the authority which is responsible for the licensing of Australian domain names, developed a Reserve List Policy of the names which are protected by Commonwealth legislation and cannot be used in domain names and conducted an audit of existing domain names. The results of these initiatives led auDA to suggest that auDA and DEST cooperate on developing processes aimed at restricting the inappropriate use of the term 'university' in domain names. Draft guidelines for applicants seeking to use university in a domain name have been developed and the processes for their implementation are now being discussed. The guidelines are expected to be finalised later in 2007. auDA already conducts three-monthly audits of domain names for unauthorised use.

The Audit Panel supports the introduction of a process to strengthen the procedures through which the use of the word university in domain names is checked.

Affirmation 2

AUQA affirms DEST's decision to cooperate with .auDomain Administration Limited to develop processes to restrict inappropriate uses of the term 'university' in domain names.

3.4 Protocol 3 – Accreditation of Higher Education Courses, Including Online Provision Offered in the External Territories

No higher education providers currently operate in any external territory (PF page i) nor have any applications been received. DEST is of the view that it would be possible for a provider to establish a 'virtual' higher education institution on an external territory, but it is considered unlikely that the external territories would be considered a cost effective or logical choice for such a high-risk venture (PF p8).

While there is potential for online or virtual providers based offshore to target the small populations on the inhabited external territories, this is likely to fall outside of the definition of operating in Australia, and in such cases DEST has no capacity to take action, other than drawing it to the attention of the overseas jurisdiction which may appear to be responsible.

According to the HESA it is an offence for a person to operate or to purport to operate in an external territory without the proper accreditation. The HESA, section 228-15(1) provides the meaning of operating in an external territory as a:

- “reference to a person operating, or purporting to operate, in an external territory:
- (a) as a university, or part of a university, providing courses of study leading to higher education awards; or
 - (b) as another provider of courses of study leading to higher education awards;

includes a reference to a person operating, or purporting to operate, as such a university, part of a university or other provider in or from that Territory by means of any of the following telecommunication devices:

- (c) a computer adapted for communicating by way of the Internet or another communications network;
- (d) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or other communications network;
- (e) a telephone;
- (f) any other electronic device.”

Procedures in place by DEST to monitor online activity in the external territories include quarterly scans of the internet and liaison with DOTARS. DEST also hosts a website which provides information about unaccredited or doubtful providers, not only in the external territories but throughout Australia, and it includes an email inquiry service. As DEST does not have authority to investigate or pursue allegations about unauthorised and/or unaccredited providers who may be operating on the mainland the website directs queries to relevant state and territory higher education accrediting agencies. However, the QB does not regularly monitor the number of people accessing the site. At the Audit Visit interviewees quoted some examples of providers which had been brought to DEST’s attention via the website and which had been forwarded to the relevant jurisdiction. There have also been examples in the past of foreign universities which have given the impression of operating out of the external territories and appearing to offer Australian degrees.

As one of the reasons for introducing the National Protocols was to protect the quality of the Australian higher education system nationally and internationally, and there is a level of risk of doubtful or unaccredited providers operating in the external territories, the Audit Panel has formed the view that there is a need for maintaining a high level of monitoring of possible higher education activity in the external territories, including online and virtual providers.

Recommendation 3

While the measures in place for monitoring unaccredited higher education providers in the external territories appear to be appropriate, AUQA recommends that DEST remains vigilant to the possibility that providers, including online and virtual providers, may find ways of appearing to operate from, or target students, in the external territories.

APPENDIX A: DEPARTMENT OF EDUCATION, SCIENCE AND TRAINING

Organisation

As set out on the Department's website <http://www.dest.gov.au>, "DEST provides national leadership and works in collaboration with the States and Territories, industry, other agencies and the community in support of the Government's objectives. We develop and implement policies to ensure the continuing relevance of education, science and training to contemporary needs and the growing requirement for lifelong learning. We also ensure high quality and value for money in delivering Government funded programmes."

The DEST portfolio is made up of the Department including the National Science and Technology Centre (Questacon) and nine agencies. DEST delivers its business through its Executive (the Secretary and four deputy secretaries) and 16 groups (10 business groups and six enabling groups). The Minister responsible for the portfolio is the Honourable Julie Bishop MP.

The Higher Education Group comprises four branches: Funding and Student Support; Quality; Teaching, Equity and Collaboration; and Policy and Analysis.

The Quality Branch, established in 2005, has four units and a total of 20 staff that work strategically to maintain and enhance Australia's reputation for quality higher education.

Responsibilities under the National Protocols

Under the National Protocols, states and mainland territories have primary legislative responsibility for the approval of higher education institutions and accreditation of courses in their jurisdictions.

The *Higher Education Support Act 2003* (HESA) enacts the Australian Government's National Protocols responsibilities with specific provision for regulation of higher education activity in the external territories. It also provides for protection of the term 'university' in the external territories.

Australia's seven external territories comprise:

- Christmas Island
- Cocos (Keeling) Islands
- Norfolk Island
- Ashmore and Cartier Islands
- Coral Sea Islands
- Australian Antarctic Territory
- Heard and McDonald Islands

The federal Minister is also responsible, under provisions of the *Corporations Act 2001*, for considering applications to use the term 'university' in company names.

Key statistics

Since the National Protocols were approved in 2000, DEST has considered:

- 1 application for university status from the Australian Maritime College
- 21 applications for use of the term 'university' in company names

There have been no applications for approval of higher education institutions or courses in the external territories under the National Protocols.

APPENDIX B: AUQA'S MISSION, OBJECTIVES, VISION AND VALUES *

Mission

AUQA is the principal national quality assurance agency in higher education with the responsibility of providing public assurance of the quality of Australia's universities and other institutions of higher education, and assisting in enhancing the academic quality of these institutions.

Objectives

AUQA is established to be the principal national quality assurance agency in higher education, with responsibility for quality audits of higher education institutions and accreditation authorities, reporting on performance and outcomes, assisting in quality enhancement, advising on quality assurance; and liaising internationally with quality agencies in other jurisdictions, for the benefit of Australian higher education.

Specifically, the objectives of AUQA are as follows:

1. Arrange and manage a system of periodic audits of:
 - the quality of the academic activities, including attainment of standards of performance and outcomes of Australian universities and other higher education institutions;
 - the quality assurance arrangements intended to maintain and elevate that quality;
 - compliance with criteria set out in the National Protocols for Higher Education Approval Processes;and monitor, review, analyse and provide public reports on the quality of outcomes in Australian universities and higher education institutions.
2. Arrange and manage a system of periodic audits of the quality assurance processes, procedures, and outcomes of State, Territory and Commonwealth higher education accreditation authorities including their impact on the quality of higher education programs; and monitor, review, analyse and report on the outcomes of those audits.
3. Publicly report periodically on matters relating to quality assurance, including the relative standards and outcomes of the Australian higher education system and its institutions, its processes and its international standing, and the impact of the National Protocols for Higher Education Approval Processes on Australian Higher Education, using information available to AUQA from its audits and other activities carried out under these Objectives, and from other sources.
4. Develop partnerships with other quality agencies in relation to matters directly relating to quality assurance and audit, to facilitate efficient cross-border quality assurance processes and the international transfer of knowledge about those processes.

Vision

To consolidate AUQA's position as the leading reference point for quality assurance in higher education in and for Australia. Specifically:

- AUQA's judgements will be widely recognised as objective, accurate and useful, based on its effective procedures, including Auditor training and thorough investigation.
- AUQA's work will be recognised by institutions and accrediting agencies as adding value to their activities, through the emphasis on autonomy, diversity and self-review.
- Through AUQA's work, there will be an improvement in public knowledge of the relative academic standards of Australian higher education and an increase in public confidence in Australian higher education.
- Through AUQA's work with other quality assurance agencies, the international quality assurance requirements for Australian higher education institutions will be coherent and rigorous, avoiding duplication and inconsistency.
- AUQA's advice will be sought on quality assurance in higher education, through mechanisms including consulting, training and publications.
- AUQA will be recognised among its international peers as a leading quality assurance agency, collaborating with other agencies and providing leadership by example.

Values

AUQA will be:

- *Rigorous*: AUQA carries out all its audits as rigorously and thoroughly as possible.
- *Supportive*: AUQA recognises institutional autonomy in setting objectives and implementing processes to achieve them, and acts to facilitate and support this.
- *Flexible*: AUQA operates flexibly, in order to acknowledge and reinforce institutional diversity, and is responsive to institution and agency characteristics and needs.
- *Cooperative*: AUQA recognises that the achievement of quality in any organisation depends on a commitment to quality within the organisation itself, and so operates as unobtrusively as is consistent with effectiveness and rigour.
- *Collaborative*: as a quality assurance agency, AUQA works collaboratively with the accrediting agencies (in addition to its audit role with respect to these agencies).
- *Transparent*: AUQA's audit procedures, and its own quality assurance system, are open to public scrutiny.
- *Economical*: AUQA operates cost-effectively and keeps as low as possible the demands it places on institutions and agencies.
- *Open*: AUQA reports publicly and clearly on its findings in relation to institutions, agencies and the sector.

* *AUQA's Mission and Objectives were revised in March 2007, as recommended by MCEETYA. AUQA's Vision and Values have been modified accordingly.*

APPENDIX C: THE AUDIT PANEL

Ms Dorte Kristoffersen, Audit Director, Australian Universities Quality Agency

Adviser:

Emeritus Professor Phil Meade

APPENDIX D: ABBREVIATIONS AND DEFINITIONS

The following abbreviations, acronyms and definitions are used in this Report. As necessary, they are explained in context.

Accreditation	An approval process to ensure that the standards of a course are appropriate for the qualification to which it leads and that the course and methods of delivery are likely to achieve its purpose.
AMC	Australian Maritime College
AQF Register	Australian Qualifications Framework Register of Recognised Education Institutions
auDAau Domain Administration Limited
AUQA	Australian Universities Quality Agency
Department, the	Australian Government Department of Education, Science and Training
DEST	Australian Government Department of Education, Science and Training
DOTARS	Department of Transport and Regional Services
GU Act	<i>Greenwich University (Norfolk Island) Act 1998</i>
HEET	Higher Education in the External Territories
HEG	Higher Education Group
HESA	<i>Higher Education Support Act 2003</i>
JCHE	Joint Committee on Higher Education
MCEETYA	Ministerial Council on Education, Employment, Training and Youth Affairs
National Protocols/Protocols	<i>National Protocols for Higher Education Approval Processes</i>
NPs	<i>National Protocols for Higher Education Approval Processes</i>
OHE	Queensland Office of Higher Education
Portfolio	Performance Portfolio
PPU	Private Providers Unit
Provider(s)	Persons or organisations which provide higher education courses to students
QB	Quality Branch

APPENDIX E: NATIONAL PROTOCOLS FOR HIGHER EDUCATION APPROVAL PROCESSES

These Protocols are a key element of a new national quality assurance framework for Australian higher education:

- Protocol 1: Criteria and processes for recognition of universities
- Protocol 2: Overseas higher education institutions seeking to operate in Australia
- Protocol 3: The accreditation of higher education courses to be offered by non self-accrediting providers
- Protocol 4: Delivery arrangements involving other organisations and,
- Protocol 5: Endorsement of courses for overseas students.

These Protocols provide a set of common principles and a cooperative approach to the quality assurance of all higher education accreditation and registration processes. They were designed to ensure consistent criteria and standards across Australia in such matters. All the Australian states and mainland territories, which have responsibility for managing higher education and approval processes, have agreed to their adoption.

The higher education accreditation and registration processes of the approval bodies of Australian states and territories are subject to audit against these Protocols by AUQA.

The National Protocols are available as a PDF from the MCEETYA website at: <http://www.mceetya.edu.au/pdf/protocols.pdf>. They are also available from the DEST website at: http://www.dest.gov.au/sectors/higher_education/policy_issues_reviews/key_issues/MCEETYAS/

A copy of the Guthrie, Johnston, King (2004) report *Further Development of the National Protocols for Higher Education Approvals Processes* is available from the DEST website at:

http://www.dest.gov.au/sectors/higher_education/policy_issues_reviews/reviews/guthrie_review/Further_Development_of_the_National_Protocols_for_Higher_Edu.htm

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