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Tertiary Education Quality and Standards Agency
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DOC21/45288

Email: consultation@teqsa.gov.au

Dear Mr MacLean

TEQSA consultation paper – fees and charges proposal

TAFE NSW appreciates the opportunity to provide input to consultation on TEQSA's proposed cost recovery model and new regulatory fees and charges.

Higher education at TAFE NSW is a critical component of our overall training strategy, with our delivery footprint extending throughout NSW we provide educational opportunities to those who might not typically have access to higher education. TAFE NSW are proud to have enrolled over 2,500 students in higher education delivery during 2020.

TAFE NSW is fully supportive of a transparent, consistent and predictable funding model for the regulation of the higher education sector.

As TEQSA transitions from the current model of partial cost recovery to one of almost full cost recovery for higher education regulation, we are aware changes to the structure of regulatory fees and charges are required. TAFE NSW acknowledges and supports the open approach to the development and explanation of the fees within your proposal.

However, as detailed within our enclosed submission, TAFE NSW has a number of concerns on the proposed approach to implement the new cost recovery model. Principally, TAFE NSW is concerned that the proposals may disadvantage small and non-university higher education providers such as ourselves, and we suggest that further consideration is given to ensuring the transition is fair and equitable across different providers.

TAFE NSW also remains concerned at the relatively short transition to the new fee structure (April to December 2021) and the preparedness of both providers and students to adjust to significantly higher fees over such a compressed period.

Our enclosed submission provides greater detail on areas for further consideration by TEQSA. We hope this will be informative as you implement a new model for regulatory fees and charges that supports all providers, and helps to ensure that students from all backgrounds are provided with increased access to high-quality higher education.

TAFE NSW looks forward to further engagement with TEQSA on the proposals. If you require additional information or wish to discuss this matter further, please contact Ms Brenda Cleaver, General Manager Standards and Compliance, by telephone on 02 9942 0612 or email at Brenda.Cleaver@tafensw.edu.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steffen Faurby', with a stylized flourish at the end.

Steffen Faurby
Managing Director
TAFE NSW
8 June 2021

TAFE NSW**SUBMISSION IN RESPONSE TO: CONSULTATION PAPER, FEES AND CHARGES PROPOSAL, APRIL 2021, TEQSA***Cost recovery for quality assurance and regulation of higher education**10 June 2021***1) EXECUTIVE SUMMARY**

TAFE NSW welcomes the opportunity to comment on TEQSA's proposed model for regulatory fees and charges to apply from 1 January 2022, as outlined in the April 2021 Consultation Paper.

TAFE NSW supports a transparent, consistent and predictable funding model for regulation of the higher education sector that provides confidence and certainty that quality assurance and regulatory standards will be sustained across the sector.

TAFE NSW acknowledges the context of the proposed changes to the structure of TEQSA fees and charges: from a current model of partial cost recovery to one of close to full cost recovery from providers who are both individually subject to TEQSA regulation and collectively benefit from a well-regulated and quality assured higher education sector.

TAFE also recognises the design features of the proposed fee structure that reflect the differential regulatory burden of small and larger providers, with some fees allocated on the basis of student load.

However TAFE NSW considers further mitigation of the effects of the proposed fee changes are required in the transition to the new structure to take account of the following:

- the relatively short transition period (April to December 2021) before the new fee structure comes into effect
- the impact of proposed significant increase in fees, including for registration renewal and course accreditation for both providers and students
- whether sufficient consideration has been given to the relative impact of the fee proposals across providers of different size and the mitigation strategies required to ameliorate those impacts
- the combined impact of the fee changes with other recent decisions of TEQSA, particularly the "smoothing" of registration renewals.

Without further consideration of these effects, TAFE NSW considers the fee proposals in the Consultation Paper will pose significant financial challenges for some providers, particularly small and non-university higher education providers.

TAFE NSW recommends the following be considered in the transition to the new fee structure:

- an extension of the transition period to allow further time for providers and students to prepare and adjust to the new fee structure
- grandfathering of existing registration renewal fees for 2021-22 for providers subject to TEQSA "smoothing" strategies during 2020-21
- greater clarity on the impact of the proposed fee structure on different providers, including the regulatory levy
- further calibration of the course accreditation fee structure according to size and complexity of the course mix.

2) TAFE NSW – OVERVIEW OF OUR HIGHER EDUCATION DELIVERY

TAFE NSW Higher Education was registered as a Higher Education Provider in 2010 in response to the Bradley Review of Higher Education (2008) commissioned by the Commonwealth government.

Key recommendations of the Bradley review included:

- increasing higher education participation particularly among students from low SES backgrounds
- developing better pathways from VET to higher education
- supporting regional tertiary education provision.

These three recommendations of the Bradley review are the fundamental principles on which TAFE NSW Higher Education is based.

In 2020, over 2,500 students were enrolled in qualifications offered by TAFE NSW Higher Education. The majority of TAFE NSW Higher Education students are mature-age and come from low SES backgrounds.

TAFE NSW Higher Education currently has 42 accredited qualifications ranging from Undergraduate Certificates, to Higher Education Diplomas, Bachelor degrees as well as Graduate Certificates and Graduate Diplomas.

TAFE NSW's higher education delivery is a critical component of the overall TAFE NSW training strategy, with its footprint extending into regional NSW providing educational opportunities to those who might not typically have access to Higher Education. Our applied learning approach provides our graduates with the knowledge and skills to equip them for employment in their chosen field, with many being offered employment opportunities prior to graduating.

3. TAFE NSW COMMENTS ON THE CONSULTATION PAPER PROPOSALS

3.1 Application based fees

TAFE NSW acknowledges and supports the transparent approach to the development and explanation of the application based fees in Section 3 of the Consultation Paper.

While supporting the principles on which the proposed application fee model is based, TAFE NSW recommends further consideration be given to mitigation of the impact of proposed fee changes during the transition period on both providers and students.

TAFE NSW recommends these mitigation strategies include:

- a longer transition period (beyond 1 January 2022) is required for the introduction of revised application based fees
- consideration of application fees being calibrated according to the size and complexity of the course offering
- additional clarification on levels of complexity for provider registration or reregistration
- an assessment of potential barriers in the new fee structure to innovation and efficiency in the higher education sector, due to proposed fee increases for self-accreditation.

Specific comments are provided below.

3.1.1 Proposed fees for course accreditation and renewal of accreditation

Impact on students and providers

The proposed application fee model is based on a transparent estimation of TEQSA's costs of application based activities, including registration and re-registration, with the fee schedule calibrated according to provider size based on EFTSL value.

Under the sliding scale of fees, using EFTSL (section 3.6.3 of the consultation paper), TAFE NSW estimate that it is most likely to fall within the band that would receive a 40% reduction in assessed accreditation and re-accreditation fees.

However, even with the introduction of the sliding scale for fees, the implementation of the proposals would represent a significant increase above fees currently applied by TAFE NSW from 1 January 2022.

For example:

- the current fee charged for a First course accreditation (substantive assessment) is \$7,000, which would increase to a maximum of \$25,200 under the consultation paper proposals – an almost four fold increase
 - even with a 40% discount, TAFE NSW is facing the prospect of the accreditation fee for these courses more than doubling under the proposals, to around \$15,100
- course renewal of accreditation would be increased to \$23,400 in the consultation paper – an almost three fold increase
 - based on a 40% reduction TAFE NSW would be faced with fee increases of around 75% (around \$14,000).

However even when taking into account all the adjustments to fees and charges within the Proposal, we estimate our total fees for course accreditation and renewal of course accreditation from 1 January 2022 will increase by between 25% - 50% per annum, dependant on our course profile.

Fee increases of this magnitude will place a significant financial burden on small non-university higher education providers such as TAFE NSW, which will result in either fee increases being passed indirectly on to students (see below) or smaller providers being forced to withdraw from the market.

TAFE NSW suggests that consideration is given to the gradual introduction of fee increases for course accreditation and reaccreditation to assist smaller providers in planning for the substantial fee increases detailed in the proposals.

Calibration of accreditation fees according to size or complexity of the course offering

The proposed course accreditation fees in the consultation paper do not appear to differentiate between composition and AQF levels of higher education courses.

Under the proposed approach, the fee for course accreditation (substantive assessment) for a Diploma comprising eight subjects will be the same fee charged for course accreditation (substantive assessment) for a Bachelor program comprising 24 or more subjects.

TAFE NSW notes that the amount of time and effort required by TEQSA to assess these different types of course accreditation submissions will not be equal, and as such the fee structure should be calibrated to address this difference.

TAFE NSW suggests that consideration is given to a sliding scale of course accreditation fees based on the AQF level or volume of learning of individual qualifications.

3.1.2 Proposed fees for Registration and Registration Renewal

Section 3.2 of the Consultation Paper details that registration renewal assessment by TEQSA will be costed based on level of regulatory effort, reflecting the different workloads that can occur with registration renewals.

Three levels are identified (minimum 'level 1', average 'level 2' and maximum 'level 3'), with the proposal noting that the process to determine which level a provider falls within will be only be determined by TEQSA through direct consultation with the provider prior to the submission of a registration renewal application.

There is no further guidance in the Consultation Paper as to the scope of effort that would apply to each of the levels, apart from the schematic representation of "average effort" in section 3.2 of the paper.

TAFE NSW is concerned with this lack of specificity, given the significant gap between the proposed Level 1 Registration Renewal fee of \$38,500 and the Level 3 fee of \$163,000.

This concern reflects the following:

- with insufficient understanding of the levels of effort, there is little incentive or direction to providers as to what pre-emptive action they can undertake to minimise the registration effort and therefore the applicable fee
- uncertainty as to which fee will apply – and the sizeable range across the fee structure will also present difficulties for financial planning, forecasting and budgeting - particularly for small providers

TAFE NSW suggests that a more structured and transparent approach to determining registration renewal costs is developed and adopted to ensure providers, particularly smaller providers, are given greater certainty on renewal costs and associated budget requirements.

3.1.3. Proposed fees for self-accreditation

The Consultation Paper (section 2.1) notes that TEQSA places a significant emphasis on promoting and facilitating a culture of effective self-assurance, as required by the *Higher Education Standards Framework (Threshold Standards) 2015*.

TAFE NSW supports a rigorous risk-based model of self-assurance for the tertiary sector, that encourages providers to be innovative and dynamic within a robust regulatory framework.

The success of a self-assurance model – and the benefits that flow from it – depend importantly on access to the self-assurance regime being readily available to quality assured providers.

TAFE NSW is concerned that the proposed increase in fees for self-accreditation in the Consultation Paper may limit access to self-accreditation status, stifling innovation and performance in the sector.

Currently, the cost of applying for self-accreditation is \$22,000.

However, under the new proposals, this fee will be increased to \$103,700, an almost five-fold increase. This would create a significant financial impediment to small higher education providers who may wish to apply for self-accreditation.

TAFE NSW welcomes the proposed approach for self-accreditation applications made concurrently with registration renewals to be at nil cost. However it is not clear from the Consultation Paper whether an application for self-accreditation made at the same as registration renewal will impact the Tier at which the registration costs are considered.

In particular, TAFE NSW has the following concerns:

- As registration costs are determined by TEQSA based on regulatory effort, it is likely that concurrent self-accreditation applications will lead to increased costs of up to \$163,900.
- Given that registration with TEQSA can be provided on a 7-year basis, this may delay or disincentivise providers from pursuing self-accreditation status for lengthy periods.

For providers with a long history with TEQSA, TAFE NSW considers that previous regulatory interaction with TEQSA should be a useful indicator of a Provider's risk-profile and the level of regulatory effort required to consider an application for self-accrediting authority. For instance, TAFE NSW has now over seven years of interaction and regulatory engagement with TEQSA, and would consider ourselves to be a low risk for self-accreditation status.

TAFE NSW suggests that a more structured and nuanced approach to determining self-accreditation costs is developed and adopted to ensure that any potential disincentive to providers, particularly low-risk providers, are reduced to achieving self-accrediting status.

3.2 Non-application based charges

TAFE NSW acknowledges and supports the transparent approach to the development and explanation of the non-application based costs and charges in Section 4 of the Consultation Paper.

While supporting the principles on which the proposed non-application based costs are based, including the introduction of an annual levy for registered providers, TAFE NSW recommends further consideration is given to how these costs are calculated, and that further information is provided to mitigate the impact of proposed costs for both providers and students.

TAFE NSW recommends these mitigation strategies include:

- further clarity is provided on the total costs of the annual levy for each provider
- consideration is given to the use of a sliding scale for the regulatory annual levy based on provider EFTSL value
- additional clarification is provided on the impact that the introduction of per hourly charges for specific regulatory activities will have on individual registered providers.

Specific comments are provided below.

3.2.1. Proposed regulatory levy

Section 4.5.2 of the Consultation Paper proposes the introduction of a new regulatory annual levy for all registered providers to cover the cost of non-application based activities (such as concern management, communication, risk assessment, enquiries, business support, and guidance materials).

Although the total attributable allocation for the annual levy is detailed (at \$5,665,000 per annum), the proposal does not provide an assessment of the impact on individual providers.

TAFE NSW notes the proposed approach to phase in the levy over 3 years, commencing at 20 per cent from 1 January 2022, increasing to 50 per cent from 1 January 2023 and then 100 per cent from 1 January 2024.

However, TEQSA also indicates that the majority of costs within the annual levy will be allocated equally, not proportionally, across all providers. Section 4.5.1 of the Paper notes that this decision is based on the Australian Government Charging Framework (AGCF), which states that if there is no difference in effort required among providers for a particular activity, all providers would receive an equal charge irrespective of difference in their characteristics.

TAFE NSW considers that it would be useful for TEQSA to provide further evidence in support of this approach, and suggests it may be inequitable for a standard fee to be applied to all providers regardless of size, particularly given TEQSA's proposed approach to account for provider size for course accreditations.

TAFE NSW suggests that further clarity is provided on the total costs of the annual levy for each provider, and also that consideration is given to the use of a sliding scale for the regulatory annual levy based on provider EFTSL value.

3.2.2. The full cost of provider specific regulatory activities is not defined and TEQSA should provide further guidance on expected costs

Section 4.5.1 of the Consultation Paper details activities for which TEQSA will charge an hourly rate of \$150 to those providers requiring activities such as investigations, compliance assessments and monitoring of conditions. These charges will be introduced fully from 1 January 2022. The proposal notes that where no adverse findings arise out of an investigation, no charge will be made.

TAFE NSW notes that implementation of this proposed approach to recover non-application-based costs may have a significant further financial impact on registered higher education providers. However, without

a clear indication of the average or expected duration of such activities, providers will not be able to accurately budget for the potential cost of these activities.

TAFE NSW suggests that TEQSA provides further information to identify the typical duration of specific regulatory activities to provide transparency as to the maximum fee that can be charged to providers for such activities.

3.3. Transition arrangements to the new scheme

TAFE NSW recommends that two specific considerations be taken into account in the transitional period leading up to the introduction of the new fee structure from 1 January 2022:

- the impact on providers of TEQSA’s “smoothing strategy” under which providers acted on TEQSA advice to delay their re-registration – the direct impact of which will be a substantial increase in fees for those providers
- the impact of fee changes during the 2021-22 financial year, which will remain a challenging financial environment for both providers and students.

Specific comments are provided below.

3.3.1. Fee impact on providers of TEQSA “smoothing strategy”

In March 2020, TEQSA approached TAFE NSW Higher Education with a proposal to extend TAFE NSW’s current period of registration to March 2023, extended from June 2022. TEQSA also extended the accreditation period of a number of TAFE NSW Higher Education courses.

TEQSA indicated that the purpose of this strategy was to enable TEQSA to manage the number of reregistrations and course accreditations across the whole Australian higher education sector that would fall due simultaneously 7 years after the commencement of TEQSA’s existence. This was referred to by TEQSA as its ‘smoothing strategy.’

TAFE NSW notes that the impact of TEQSA’s proposed new fees is that TAFE will incur vastly increased reregistration and course accreditation renewal costs as a result of the ‘smoothing strategy’ extensions which were agreed to in good faith. Under prior arrangements, TAFE NSW would have submitted an application for reregistration ahead of the introduction of the new fee structure, however the ‘smoothing strategy’ extension will mean that the new, increased cost structure will be in effect.

TAFE NSW suggests that TEQSA consider the provision of grandfather clause arrangements for both reregistration and course reaccreditation fees. This will enable providers whose registration expiry date was extended as part of the smoothing strategy are not to be negatively impacted.

3.3.2. Impact of fee increases on the higher education sector and students

If implemented, TEQSA’s proposals will lead to substantial and sudden increases to regulatory fees for registered higher education providers. Given the timing and magnitude of the fee increases, TAFE NSW notes that this creates a significant risk for providers that additional costs may not be able to be accommodated within agreed FY2021-22 budgets.

Overall, the proposed changes to fees may lead to a reduction of higher education providers, especially those that do not have self-accrediting status. This would result in less opportunities for students including pathways to access higher education.

One approach that providers may need to take to ensure they are able to continue the delivery of high-quality higher education courses is to pass these cost increases on to new or existing students through an increase to course fees.

As noted above, a large proportion of TAFE NSW Higher Education students are from low SES backgrounds. To cover the cost of the increased fees proposed by TEQSA, if TAFE NSW is required to increase fees to students in the form of tuition fee increases, this would likely have a negative impact on enrolments and potentially threaten the viability of TAFE NSW as a Higher Education provider. Fees increases could also impact the future viability of specific TAFE NSW Higher Education qualifications.

TAFE NSW suggests that TEQSA further consider the potential impacts that the new fees and charges may have on the broader higher education sector and students, particularly those from low SES backgrounds.