Report of the Review of the national architecture for schooling in Australia
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Disclaimer

This report was prepared by Ms Simone Webbe, as the independent expert appointed by the Council of Australian Governments' Education Council to conduct the Review of the national architecture for schooling in Australia. Ms Webbe is a barrister and former senior public servant with significant public sector experience in governance, accountability, constitutional and public law, anti-corruption and integrity reforms.

This publication reports on an independent review and does not necessarily reflect the views of Education Council or of Australian and state and territory governments. This publication also does not constitute legal assistance or advice.
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<th>Definition</th>
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<tbody>
<tr>
<td>ABS</td>
<td>Australian Bureau of Statistics</td>
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<tr>
<td>ACARA</td>
<td>Australian Curriculum, Assessment and Reporting Authority</td>
</tr>
<tr>
<td>ACARA Act</td>
<td><em>Australian Curriculum, Assessment and Reporting Authority Act 2008</em></td>
</tr>
<tr>
<td>ACECQA</td>
<td>Australian Children’s Education and Care Quality Authority</td>
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<tr>
<td>ACER</td>
<td>Australian Council for Educational Research</td>
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<tr>
<td>ACNC</td>
<td>Australian Charities and Not-for-profits Commission</td>
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<tr>
<td>ACTS</td>
<td>Australian Curriculum and Teaching Services</td>
</tr>
<tr>
<td>AEEYSOC</td>
<td>Australian Education, Early Childhood Development and Youth Affairs Senior Officials Committee</td>
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<tr>
<td>AESOC</td>
<td>Australian Education Senior Officials Committee (formerly AEEYSOC)</td>
</tr>
<tr>
<td>AEU</td>
<td>Australian Education Union</td>
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<tr>
<td>AIHW</td>
<td>Australian Institute of Health and Welfare</td>
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<tr>
<td>AITSL</td>
<td>Australian Institute for Teaching and School Leadership</td>
</tr>
<tr>
<td>ANR</td>
<td>National Report on Schooling in Australia</td>
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<tr>
<td>APS</td>
<td>Australian Public Service</td>
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<tr>
<td>ASL</td>
<td>Average staffing level</td>
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<tr>
<td>ASX</td>
<td>Australian Stock Exchange</td>
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<tr>
<td>ATSIEAG</td>
<td>Aboriginal and Torres Strait Islander Education Advisory Group</td>
</tr>
<tr>
<td>BCG</td>
<td>Boston Consulting Group</td>
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<tr>
<td>CEO</td>
<td>Chief Executive Officer</td>
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<td>COAG</td>
<td>Council of Australian Governments</td>
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<td>DSG</td>
<td>Data Strategy Group</td>
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<td>EC</td>
<td>Education Council</td>
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<td>ECPG</td>
<td>Early Childhood Policy Group</td>
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<tr>
<td>ELLA</td>
<td>Early Learning Languages Australia</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>ESA</td>
<td>Education Services Australia</td>
</tr>
<tr>
<td>FTE</td>
<td>Full Time Equivalent</td>
</tr>
<tr>
<td>ICT</td>
<td>Information and communication technology</td>
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<tr>
<td>IEU</td>
<td>Independent Education Union</td>
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<tr>
<td>ISCA</td>
<td>Independent Schools Council of Australia</td>
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<tr>
<td>IT</td>
<td>Information technology</td>
</tr>
<tr>
<td>LOE</td>
<td>Letter of Expectation</td>
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<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
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<tr>
<td>NAPLAN</td>
<td>National Assessment Program – Literacy and Numeracy</td>
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<td>NCEC</td>
<td>National Catholic Education Commission</td>
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<td>NEI</td>
<td>National Evidence Institute</td>
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<td>NMF</td>
<td>National Measurement Framework</td>
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<td>NQF</td>
<td>National Quality Framework</td>
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<td>NSRA</td>
<td>National School Reform Agreement</td>
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<td>PBS</td>
<td>Portfolio Budget Statements</td>
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<tr>
<td>PGPA Act</td>
<td>Public Governance, Performance and Accountability Act 2013</td>
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<tr>
<td>PGPA Rule</td>
<td>Public Governance, Performance and Accountability Rule 2014</td>
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<tr>
<td>PISA</td>
<td>Programme for International Student Assessment</td>
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<td>PS</td>
<td>Public Service</td>
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<tr>
<td>RBA</td>
<td>Reserve Bank of Australia</td>
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<tr>
<td>SPG</td>
<td>Schools Policy Group</td>
</tr>
<tr>
<td>SRO</td>
<td>Senior responsible officer</td>
</tr>
<tr>
<td>TEMAG</td>
<td>Teacher Education Ministerial Advisory Group</td>
</tr>
<tr>
<td>USI</td>
<td>Unique Student Identifier</td>
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<tr>
<td>VETiS</td>
<td>Vocational Education and Training in Schools</td>
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Executive summary

The purpose of this Review is to identify the most effective, efficient and enduring institutional and governance arrangements to support the National School Reform Agreement and other national priorities for schooling as determined by the COAG Education Council. The national architecture for schooling is currently defined by the Australian Curriculum Assessment and Reporting Authority (ACARA), the Australian Institute for Teaching and School Leadership (AITSL) and Education Services Australia (ESA).

Following consultations with all jurisdictions, leadership of the non-government schools’ sector, and the architecture bodies, the Review found that the current arrangements were not fit for purpose because:

- excessive autonomy in the institutional design for ACARA’s board was fundamentally inconsistent with intent in practice and the legitimate needs of Education Council and the Australian Education Senior Officials Committee (AESOC). The current design is no shield for Ministerial responsibility for events like NAPLAN online 2019 but worse – duplicated governance and structural conflicts of interest cause split accountabilities, more ‘red tape’ and inefficiency, but less scrutiny – achieving no better line of sight and risking poorer performance.

- regularly perceived lack of role clarity, and an absence of coordination across the architecture for teachers (e.g. support material) limits responsiveness, effectiveness and sponsors inefficiencies.

- AITSL faces a twin challenge of needing buy-in from all jurisdictions and whether it has an enduring mandate despite any synergy with the national evidence institute and emerging needs for vocational education and training in schools (VETiS) and the Australian Children’s Education and Care Quality Authority (ACECQA).

- inadequate transparency, suspicion of mission creep, unclear or unmanaged performance expectations, undermine accountability for performance, and ultimately trust and confidence.

If the quality of teaching is the most influential school factor in better student outcomes, then an approach that posits the teacher’s needs as the organising principle rather than the traditional functional/specialisation design is optimal. Such an approach would re-shape the architecture in seeking a coordinated focus on maximising the benefit from national investment in curriculum, assessment, reporting and teaching quality, around priority for the experience of the teacher. A problem-solving and risk-managing approach responsive to the fit for purpose concerns arrives at the same institutional design where a new corporate statutory authority, the Australian Curriculum and Teaching Services (ACTS), would replace ACARA and AITSL and, for the first time in Australia, provide a single integrated focus in national support to curriculum, assessment and teaching.

Instead of a Board, ACTS would have a CEO as an accountable authority responsible for performance directly to AESOC and Education Council, which provide the CEO with strategic direction. This is akin to a secretary or director-general of a department responsible to a minister. With a clearer line of sight and governing influence on policy outcomes by AESOC and Education Council, this governance is more proportionate, responsive, efficient and effective and is a model that demands excellence. Enabling legislation would preserve the current intention for expertise and independence of function in curriculum, reporting and standards by a requirement for recommendations from the CEO to first be supported by the relevant expert advisory (not governing) committee. A majority of Education Council would agree to the appointment and tenure of the CEO. ACTS as a legally separate and distinct entity from the Commonwealth would hold funds on its own terms for the Education Council, maintaining existing funding flexibility for national project initiatives.

ESA is a self-sustaining, not for profit, expert technology provider offering favourable access terms for the direct benefit of schools, as well as valued products outside the schooling sector (e.g. My Skills). ESA would continue in its appropriate current corporate form, but with role and governance changes. ESA’s strategic direction is set by Ministers jointly, but the relationship should be clarified as one of purchaser/provider to specification under contract or grant agreement. ESA can be preferred supplier, or ACTS and others could go to market for these services. Removing AESOC and Australian Government representation from the Board would avoid the current directorial risks to AESOC and Education Council under the Corporations Act 2001 (Cth), promote commercial independence, and clarity of accountability.

These recommendations lead a suite of governance improvements in a significant reform moment for the national architecture to best serve the next tranche of national priorities for schooling.

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1 The national evidence institute is a national policy initiative under the National School Reform Agreement to be established in 2020.
Considerations in the design of a new national architecture

The contributions of the national bodies in achieving major reforms such as the development of national curriculum and assessment programs and national standards for teaching quality were recognised in the consultations. However, stakeholders expressed a clear and unanimous intent for a step change in the focus, capacity, governance and accountability of the national architecture to serve current needs and those emerging in the next tranche of education reforms.

Stakeholders expect the national architecture to provide consistency and assurance of outcomes with leading practices, expertise, agility and responsiveness, transparency, integrated risk management, effective accountability mechanisms, and ‘gracious, ethical and transparent leadership’.

Each of the three bodies in the national architecture for schooling has a set of different legal structures and governance arrangements according to the circumstances and degree of ‘independence’ determined at the time of their creation. ‘Independence’ of organisational form for specific functions that should be at arm’s length such as national standards in curriculum, or for the pursuit of specific commercial trading, is unproblematic. However, independence of design for managing a federalist desire for arrangements not to be dominated by the Commonwealth or a dominant jurisdiction becomes problematic if the design is structuring independence away from joint governing influence (against the interests or intent of all jurisdictions). Protection from uni-jurisdictional character could be achieved by other mechanisms.

This Review concludes that the addition of a governing board to increase the degree of independence of the statutory authority for the ACARA functions is disproportionate and fundamentally inconsistent to the nature and extent of the independence intended for intergovernmental collaboration, for the following reasons:

• the independence or arm’s length nature of organisational form offers no excuse for Ministerial responsibility if ‘things go wrong’ such as experienced with NAPLAN online in 2019;
• there should not be a governing board unless there is a full delegation of power to the board, which would conflict with the legitimate governing and policy steering roles of AESOC and Education Council;
• the stakeholder nomination of representatives on a governing board creates structural conflicts of interest and further duplication;
• jurisdictional interests and control are already available through AESOC and Education Council;
• excessive autonomy is not required or appropriate in contemporary public administration that is subject to greater transparency and accountability; and
• the duplication in decision-making and potential gaps in scrutiny that a dual governance practice and split accountabilities generate are costing AESOC and Education Council time and risk.

The recommended model for a new national architecture for schooling was developed from two different organising principles. The first was to consider a customer-focussed design built around a priority for the teacher’s needs of a national architecture. A first principles thinking, prospective approach that seeks structural alignment to strategy. The second conceptual approach to formulate organisational design options was to map the problems or risks identified in the current architecture to their cause with the aim of problem-solving or risk-managing them in a less problematic version of the body. The recommended model (see Figure 11) was developed from both these different approaches. The recommended option was preferred over three other options that followed a traditional functional design/specialisation of tasks approach and a fourth approach that considered the degree of change (see Figures 9 and 10). The recommended model is expected to deliver the highest positive impact with the second least amount of change required which positions it most favourably on a spectrum of all four options explained in chapter 5.
Recommendations

The Review’s recommendations are grouped below according to changes recommended to the institutional and governance arrangements of the national bodies in Parts A and B and recommended governance improvements within the national architecture more generally in Part C.

A. Establish the new Australian Curriculum and Teaching Services (ACTS)

For the most effective, efficient and enduring institutional and governance arrangements to support implementation of the eight national policy initiatives in the National School Reform Agreement and delivery of other national priorities for schooling as determined by Education Council, it is recommended that:

1. A single new body responsible for teaching quality support, curriculum, assessment and reporting in accordance with the responsibilities of the national architecture for schooling as directed by Education Council, should be established. The new body could be named the Australian Curriculum and Teaching Services (ACTS) and would replace ACARA and AITSL under a streamlined governance model that prioritises a customer-centred approach. (p. 72)

2. ACTS should be established as a statutory authority (corporate Commonwealth entity) under new enabling legislation. The enabling legislation should include a preamble for recognising the federated roles and responsibilities involved in providing for such a national body (similar to the drafting approach of using a preamble in contemporary legislation that was taken for the Australian Education Act 2013). (pp. 72, 74)

3. ACTS should be led by a CEO as an accountable authority under the Public Governance, Performance and Accountability Act 2013 (PGPA Act). The CEO would be responsible to AESOC and the Education Council under the enabling legislation. The enabling legislation would also subject the CEO to strict accountability mechanisms and provision for targeted independence of function, including:
   a) the requirement to only make a recommendation to AESOC and Education Council on proposed content change for the Australian Curriculum, or nationally consistent teaching standards, after first receiving a recommendation from an expert advisory committee;
   b) Education Council would still ultimately need to approve any proposed change to the content of the Australian Curriculum or nationally consistent teaching standards;
   c) a majority of Education Council would need to agree to the appointment of the entity’s CEO and Deputy CEO positions;
   d) the requirement to act in accordance with any directions set by AESOC or Education Council; and
   e) all duties and reporting requirements of an accountable authority, as set out under the PGPA Act. (pp. 52–53, 72)

4. The enabling legislation should provide for the appointment of six expert advisory committees to support ACTS as indicated in Figure 11 (p. 79) and described at p. 73.

5. A stocktake of existing projects and initiatives in ACARA and AITSL should be undertaken to consider whether those projects and initiatives should be transferred to ACTS or the national evidence institute. A stocktake should also be undertaken of existing projects and initiatives being delivered by ESA to consider the appropriateness of ACTS or the national evidence institute taking carriage of some of those projects or initiatives directly. (pp. 80–81)
B. Make changes to the role and governance of ESA

The ESA’s corporate form is appropriate for its role although its operating model would benefit from remedy of structural conflicts of interest and clarification of its role under grant or contract arrangements. For improved accountability and strengthened governance within the national architecture, it is recommended that:

6. The ESA Board should be an independent skills or experience-based governing board and AESOC and Australian Government representative positions on the ESA Board should be replaced with independent positions such as a member with appropriate experience with government schools, and an independent expert on government relations to complement the current mix. (p. 75)

7. Except within the terms of relevant contract or grant agreements or specific engagement on the setting of the strategic directions by its joint ministerial owners, ESA should not directly report to, nor get directly involved with, the processes of AESOC and Education Council in its operations, to remove any ambiguities of respective roles and liability risks. (pp. 38, 75)

8. ACTS, as a legally separate and distinct entity from the Commonwealth and able to hold funding on its own terms, should fully undertake the role currently administered by the Education Council Secretariat in the ESA in relation to the coordination of funding contributions for national reform priorities and project initiatives, including but not limited to the National Project Fund. (pp. 76–78)

9. The administrative role of the Education Council Secretariat should transfer out of ESA as the ESA should focus on its role as a trading company and its expertise in digital technology services. (pp. 77–78)

Options for the Education Council to consider for relocation of the Education Council Secretariat include transfer of the secretariat support responsibilities to:

a) the Commonwealth Department of Education;

b) a State or Territory Department of Education;

c) the State or Territory Department of Education of the jurisdiction that is currently chair of AESOC for the duration of the chair responsibilities; or

d) ACTS with similar arrangements for operational independence as currently in place except without the responsibilities of a Board to a company under the Corporations Act 2001 (Corporations Act). (pp. 76–78)

C. Implement governance improvements in the national architecture for schooling

Improve clarity of purpose, roles and mandates

For improved governance in aligning expectations of role and performance, it is recommended that:

10. A set of explicit service principles and objectives for the bodies in the national architecture should be developed and agreed with the expectation that they apply to the everyday endeavours undertaken by the national architecture and in respect of which they can be held accountable. (A possible draft purpose statement and supporting service principles and objectives appears at Box 1 at p. 22.)

11. Each Charter Letter, Letter of Expectation or Letter of Instruction to the bodies in the national architecture should be provided in a timely way and should represent the current set of expectations or instructions and replace all earlier Letters. These authorising documents should be published with any corresponding and approved Letters of Intent in response from the bodies, as well as their relevant corporate and strategic plans in the usual course. (p. 41)

12. The inconsistency between a view that ACARA is not to progress senior secondary school curriculum and the counter-indications in the documented Charter and workplan for ACARA should be resolved. [This resolution of contrary indications for ACARA, or for ACTS.] (p. 25)

13. ACARA’s role in research should be clarified, particularly with the development of the national evidence institute role. [This clarification for ACARA, or for ACTS.] (pp. 26–27)
14. AITSL [or ACTS] should be provided with a direction to support a clear mandate to cooperate further with ACECQA on early childhood education teaching standards. (pp. 20–21, 57)

15. The work outputs of the national evidence institute should be provided to the architecture bodies in a regular and streamlined way to ensure that the national architecture integrates relevant research and evidence seamlessly in its products and services for the benefit of the teachers in the classroom. (pp. 18–20, 79)

16. Workplans should be submitted to AESOC with sufficient lead time for the draft workplans to be reviewed specifically by the jurisdictions in the context of agreed scope of mandate and any emerging expectations of performance. The workplans should not be ‘starred’ through as a matter of practice but considered for inclusion on the agenda for discussion in an effort to manage concerns of mission creep. (pp. 27, 41)

17. The national bodies should undertake coordinated promotion and awareness-raising of their existing products and services with the government and non-government school sectors on an ongoing basis to maximise their accessibility, and ultimately the return from national investment. (pp. 33, 57)

Support improved performance

For improved outcomes through managing for risk, planning and performance and building capability, it is recommended that:

18. The risk tolerance thresholds and appetite of AESOC and Education Council need to be a critical inclusion in all planning and reporting to ensure shared understanding of the risk boundaries so that they can drive effective and responsive planning and performance. (p. 46)

19. Further work could be done to develop more meaningful and responsive performance measures in the performance management framework for corporate planning and reporting documents. There should be a direct line of sight to clear performance criteria that identifies specific, measurable, realistic and timely performance. (pp. 40, 59)

20. ACARA [or ACTS] should review the quality of the National Report on Schooling in Australia and the nature of the independent process for development of the national report to ensure the analytical quality serves its original purpose. (p. 42)

21. The Education Council Secretariat should further assist AESOC in holding the national bodies to account by periodic reporting on performance by the bodies against the commitments set out in the authorising documents of the Charter and Letters, as well as any additional undertakings made at meetings or otherwise. The Education Council Secretariat’s role in managing a reporting framework to account for performance of allocated responsibilities should also expose any undue delay occasioned by working group business. (p. 43)

22. Specific support to the national bodies to build capability could assist in improving the quality of workplans, budget submissions and other papers submitted to AESOC, given the ongoing nature of the quality concerns. Such improvements in the quality of submissions to AESOC could include a clear connection of budget bids to strategy and reference to the authorising source for undertaking that activity, so that stakeholders are not trying to track and source the connections themselves in the first instance. A re-design of format and re-focus of purpose with more explicit, targeted submissions that transparently directs AESOC’s attention to the prioritised issues they need to decide, and the information they need to have to make those decisions well, should also be considered.

To build capability of the relevant operational staff in a national body to achieve these improvements, a jurisdiction could offer them a meeting, with their knowledge experts (e.g. corporate or executive services) and the Education Council Secretariat, to coach and provide practical advice in how to prepare better quality papers in accordance with good public sector governance principles. (p. 41)

23. Appropriate feedback and opportunity for learning and improvement should be provided to the CEOs (formally by letter from the Chair of AESOC or informally through the Education Council Secretariat) following presentations to AESOC or Education Council. (p. 41)
Improve commissioning and coordination of work in the national architecture

For improved good governance towards better outcomes in the commissioning and coordination of work for specific multi-party projects or cross-group collaborations across the national architecture, it is recommended that:

24. The following good project governance principles and practices should be adopted:

Set directions and expectations
a) Clearly identify a senior responsible officer (SRO) who accepts that responsibility with the necessary authority and levers of control (responsibility with accountability).
b) Ensure early and inclusive engagement of stakeholders in developing projects in the concept stage and then to assist the SRO in scoping, risk assessing and providing a clear and detailed work plan (including a statement of risk appetite).
c) Clarify roles, interrelationships and priorities including agreement as to ‘who directs whom, and to whom the architecture is to be responsive’ (e.g. identification of appropriate decision-making authorities and oversight roles for that project).
d) Settle agreed and proportionate governance of the funding arrangements.
e) Require responsibility of project partners in their agreed roles to quality assure and certify the quality of their project contribution, as a large coordinated effort may only be as strong as its weakest link.
f) Support a genuinely joined-up effort across architecture and jurisdictions focussed on achieving approved outcomes.
g) Agree on internal (architecture, government and non-government schooling sector) and external (media) communication plan and authority as part of the project plan.

Manage risks
h) Adopt an integrated risk management approach, where the project risk plan includes appetite of risk (pursuit) and tolerance of risk (limits) to inform planning and project management.
i) Regularly review workplans and project performance tracking and adapt to conditions (proactive problem solving).
j) Identify duplication of effort and ineffective processes for resolution by an appropriate level of authority.
k) Promote open and honest reporting of relevant information, progress and risks, with options for suggested solutions or mitigation.
l) Set escalation pathways at the outset for deploying urgently when required so that when an issue becomes high risk and/or time is of the essence, decision-making by consensus or collaboration is not the only option.

25. The following good governance practices should be adopted to promote the efficiency and effectiveness of the Standing Working Groups and sub-working groups:

a) Ensure working groups are steered by relevant terms of reference.
b) Establish or continue working groups on condition that they are subject to review (if a standing working group) or a sunset clause (if a sub-working group) in requiring that they be purposeful and continue to add value.
c) Delegate decision-making to the lowest appropriate level in the working group structure that is proportionate and responsive to risk and on the expectation that attendees at working group meetings are at the appropriate level to contribute productively to the agenda and have the requisite authority to make decisions. Such decision-making by attendees should be supported by their own internal agency processes to inform that decision-making in advance and report decisions subsequently for good knowledge governance to support decision-making elsewhere in the architecture.
d) Require delegation of work to working groups to be time-bound and specific as to its purpose and relevance to national strategy.

e) Ensure attendees at working groups are clear as to the proper limits of their role so as not to over-reach or burden the process.

f) Ensure meetings are an appropriate size and not ‘too unwieldy.’ (pp. 47–48)

26. The Data Strategy Group (DSG) would no longer be required as a separate standing working group with responsibility for its strategic brief transferred to the other two standing working groups reporting to AESOC, which function as strategy groups: Schools Policy Group (SPG) and the Early Childhood Policy Group (ECPG). SPG and ECPG should determine re-assignment of the technical functions of DSG within their sub-working group structures. (p. 47)

27. In addition to their strategic and policy development support role to AESOC, SPG and ECPG could collaborate in mitigating policy silos and triage AESOC’s agenda and workload. To do so effectively, both standing working groups (and their sub-working groups) should be empowered to deal with as many matters as appropriate to their authority (see recommendation 25 in favour of delegated decision-making and recommendation 24 for project governance to specify oversight and decision-making roles). SPG and ECPG should also provide oversight of the sub-working group structures to manage an ongoing streamlining effort and responsible resource impost on stakeholders.

These governance arrangements collectively should assist in carving out more time for AESOC and Education Council to progress higher level strategic policy discussions. (pp. 47–48)

28. Following implementation of ACTS, integration of the Aboriginal and Torres Strait Islander Education Advisory Group (ATSI EAG) with the new Aboriginal and Torres Strait Islander Educational Outcomes committee of ACTS, should be considered. (p. 48)

Implement process improvements

For improved communication processes, it is recommended that:

29. A Protocol should be established on the circumstances in which the national architecture entities should attend Education Council, AESOC, or working-group meetings (noting that ESA should not be required to attend) and communication of relevant decisions to the national architecture entities. (p. 48)

30. A public communication Protocol should be settled by the architecture bodies with the Education Council and AESOC to clarify how to handle media enquiries and the logistics for approvals through identifying the role, process and expectations; and general communication expectations (including agreed process for updating key stakeholder contacts). (pp. 33, 75)

31. Protocols should be established for advance notice of regional and school visits by the national bodies with the jurisdictions, Independent Schools Council of Australia (ISCA) and National Catholic Education Commission (NCEC) as may be responsive to each stakeholder’s needs and interests. (p. 18)

For further technical improvements in the governance arrangements for boards and committees in the national architecture for schooling, it is recommended that:

32. The quorum for boards and committees should be realistic to facilitate reasonable progress of business such as decision-making. For example, the quorum for ACARA’s board should be 6 or 7 instead of 9 of the 13 members. (p. 37)

33. Boards and committees should seek to stagger appointment terms to rotate the board or committee through a succession plan, as informed by the needs of its board or committee capability matrix and advised to the appointing authority. (p. 37)

Part B (6 and 7) and Part C recommendations can proceed without Part A.
1. Introduction

1.1 Scope

The scope of this Review is to examine the governance and institutional arrangements of the national architecture for schooling in Australia. The Review is to provide the COAG Education Council with options that include at least two different approaches for configuration of the national architecture in support of implementation of the National School Reform Agreement and other national policy priorities. The Review is also to make recommendations for the most appropriate arrangements to achieve an efficient, effective and enduring national schooling architecture.

The national architecture for schooling is defined by the terms of reference as comprising three national education organisations:

- The Australian Curriculum, Assessment and Reporting Authority (ACARA) established to manage and develop a national curriculum, the National Assessment Program, and a national data collection and reporting program.
- The Australian Institute for Teaching and School Leadership (AITSL) established to provide national leadership for the Australian, state and territory governments in promoting excellence in the profession of teaching and school leadership.
- Education Services Australia (ESA) established to advance nationally agreed initiatives and provide technology-based products and services for education in Australia.

The terms of reference also advise that the Education Council agreed in-principle in February 2019 that a new national evidence institute will focus on generating new evidence, translating and curating evidence and mobilising evidence in school and early childhood settings. The operating model, governance structure, legal framework and funding arrangements for the new institute are yet to be agreed by Education Council and do not form part of this Review although this Review is to have regard to the scope and focus of the national evidence institute.

The terms of reference also require this Review to consider the outcomes of the reviews of the National Quality Framework (NQF) and the Australian Children’s Education and Care Quality Authority (ACECQA). To date, the outcomes of both reviews are not available as they are still underway (findings and recommendations may be relevant to future arrangements):

- Sector consultation on the issues paper for the NQF review was conducted between April and June 2019 and the Consultation Regulation Impact Statement is to be submitted to Education Council for consideration.
- The ACECQA review commenced in April 2019 with consultation in May and June. The final report is to be submitted to AESOC and Education Council later this year.

A copy of the terms of reference for this Review appears at Appendix 1.

1.2 Methodology

In line with the Review’s terms of reference, the report was informed by in-depth, targeted consultations with:

- Education Council’s standing working groups
- Australian Curriculum Assessment and Reporting Authority (ACARA)
- Australian Institute for Teaching and School Leadership (AITSL)
- Education Services Australia (ESA)
- Education Council Secretariat
- Independent Schools Council of Australia (ISCA)
- National Catholic Education Commission (NCEC)
The Reviewer sought the perspectives of each jurisdiction through individual consultations with Australian Education Senior Officials Committee (AESOC) members and their Schools Policy Group (SPG) and Early Childhood Policy Group (ECPG) representatives. An invitation to participate in the consultations was extended to Commonwealth, State and Territory ministers with responsibility for school education, with the Australian Government Minister for Education and one state Minister accepting the invitation to share their views.

Every effort was made to undertake consultation discussions face-to-face, however due to scheduling and logistical issues, some consultations were conducted via teleconference. The Reviewer met with some of the targeted stakeholders more than once over the course of the Review.

The consultation discussions were framed around the following themes:

- the ideal state of the national architecture, and stakeholder needs and expectations
- strengths, weaknesses and opportunities for improvement with the current architecture
- the prospective role of the national evidence institute.

A list of stakeholders consulted appears at Appendix 2.

In addition, to broaden and validate the range of perspectives across the membership of each of the bodies, a voluntary and anonymous online survey was conducted with the board and leadership teams of AITSL, ACARA and ESA. The intention was for the survey to extend to employees of each of the organisations, however at the request of the CEOs, it was restricted to board members and executives. Participants from all three organisations provided insightful and well-considered responses, which were a valuable contribution to the review process.

The Reviewer also considered extensive publicly available materials including annual reports and other planning and performance documentation from each of the three national architecture entities. Analysis of international governance arrangements of the education as well as non-education sectors was included as part of the Review’s research and literature review. The Reviewer undertook extensive analysis of the Commonwealth’s accountability, financial management, and governance frameworks. Recommendations from all previous strategic reviews, both public and internal, of the national architecture including the Australian Curriculum were considered along with their implementation status.

For the sake of clarity, references in this report to ‘stakeholder’ include all jurisdictional representatives and other consultation interviewees who do not represent ACARA, AITSL or ESA. The national architecture bodies are referred to specifically, or as ‘bodies’ or ‘agencies’ throughout the report.

No warranty of accuracy or completeness is provided in relation to the statements, information and documentation provided by stakeholders consulted as part of this process and which may be included in this report. This report also does not constitute legal assistance or advice. Appropriate independent professional advice should be obtained prior to relying on, or entering any commitment based on material in this report.

1.3 Acknowledgements

The Reviewer is grateful to all those who shared their views and experiences during consultations, and for generously accommodating the tight review schedule. The Reviewer also wishes to acknowledge and express gratitude to the Review Secretariat for their expertise and commitment to the Review effort.
2. Purpose of a national architecture for schooling

The national architecture for schooling should be contextualised by both the sharing of political and public power in Australia’s federation, and by the complexity of education policy and its strategic governance. Understanding these contextual drivers, and the history when the architecture bodies were created, will assist in reviewing the most effective and efficient governance and institutional arrangements, beginning with the threshold questions: what is the purpose of the national architecture, and what are the needs and expectations of its stakeholders?

2.1 Contextual drivers

Federalism

The States and Territories have constitutional responsibility for schools in their jurisdiction which includes the registration and regulation of all schools (government and non-government) and the operation of public schools. The Commonwealth provides funding for both government and non-government schools on conditions under the Australian Education Act 2013. The provision of funding by the Commonwealth for specifically conditioned purposes enables the Commonwealth to influence education policy, including through national and bilateral agreements with the States and Territories. Currently, the bilateral agreements between the Commonwealth and each jurisdiction set out annual funding contribution arrangements which must be met as a condition of receiving Commonwealth funding. The bilateral agreements also set out additional state-specific reform activities, tailored to the context of each State and Territory, to lift education outcomes within their jurisdiction.

The Australian Government funding for education is significant with a $310.3 billion investment in recurrent funding for schools from 2018 to 2029. Recurrent funding for schools will grow from $17.5 billion in 2017 to $32.4 billion in 2029. This represents per student funding growth at an average of 4.1 per cent each year.\footnote{4}

With substantial change to funding arrangements after 2009, the priority education reform agreement focus since 2008 has been on school performance and the measured and reported outcomes achieved in literacy and numeracy skills with the development of a national curriculum and implementation of a National Assessment Programme for Literacy and Numeracy (NAPLAN), as well as initiatives for teacher quality. The three key bodies of the national architecture for schooling – ACARA, AITSL and ESA – are to support the delivery of these national policy initiatives.

A number of review stakeholders acknowledged that education funding from the Commonwealth is a significant incentive in achieving national agreement on activities for coordinated reform. As one stakeholder explained, the imperative for jurisdictions to participate in national initiatives such as NAPLAN was in order to receive federal funding. This means that jurisdictions must participate in national initiatives to secure that funding and contribute to those that they may have developed themselves, as part of the arrangements.

As in other policy domains in Australia’s collaborative federalism, agreement to receive funding (or contribute towards funding) for nationally-agreed activities does not necessarily align with the first preference of an individual jurisdiction due to their different local needs. However, unlike some other non-education portfolios, national collaboration on educational priorities enjoys high levels of consensus around a unified cause to improve student outcomes for learning which can smooth potential areas of disagreement for a national good.

\footnote{2 Section 96 of the \textit{Australian Constitution} allows the Commonwealth to ‘grant financial assistance to any State on such terms and conditions’ as the Commonwealth Parliament sees fit.}

\footnote{3 The nature of Australia’s vertical fiscal imbalance (where there is misalignment between the funding responsibilities of the sub-national governments and their capacity to raise revenue, compared with the national government) is relatively high compared with other federations. Horizontal fiscal equalisation mechanisms recognise the different capacities across jurisdictions to raise revenue and the risk of inequity.}

\footnote{4 Australian Government (2019).}
As stakeholders reported, intergovernmental fora in education typically benefit from ‘reasonable’, ‘sustained’, ‘high levels of bi-partisan support’ with a ‘common agenda’.

Notwithstanding the strategic advantage that a national architecture for schooling enjoys as a result of a common agenda, there is not an open charter for the national architecture to stray ‘outside one’s lane’. Furthermore, there are particular areas of political sensitivity or jurisdictional sovereignty for States and Territories which will provoke contest, if not resistance, such as in industrial relations. Several stakeholders cited AITSL’s recent work concerning violence in schools, red tape, phonics and the use of mobile phones as examples.

While the Commonwealth has a legitimate role in identifying and catalysing effort around ‘national interest’, as it successfully did in seeking national standards for teacher quality in establishing AITSL, the national architecture is to expect that there will be policy debates in the federation to dispute what is in the public good.

Even with agreed participation and pathways for reaching agreement on policy and scope, federalism also needs to negotiate around jurisdictional vested interests. These may include gaps or duplication in service provision across the federation associated with being a small or large jurisdiction. The risk of failing to reach satisfactory outcomes is increased if there is uncertainty about the coordinated action of others. An example of this noted in the national architecture for schooling might be the hesitancy to contribute funds towards an ESA product because the product may cease prematurely, or it might be converted to a subscription basis, if other contributors with more funding and more options later decide to withdraw their contribution. This can undermine the successful development of an initiative for want of funding, which might have been available were it not for this hesitancy by other contributors.

Constitutional commentators or game theorists would describe this type of scenario as being caught by a ‘prisoners’ dilemma’ or ‘tragedy of the common’ which can be self-destructive because ‘no one wants to be the sucker’.5 It is recognised in federalism that:

> arguments about harmonisation and uniformity, for example, involve genuine disputes about sharing the long-term costs and benefits. Complications also arise because different actors have varying levels of interests in an issue. Even in the simple case of the goats on the common, a crop farmer with one goat has a very different perspective on the nature of the common interest from a goat herd with no other means of support. Further complexities clearly exist where differences in power or capabilities are taken into account.6

The successful equilibrium for the national architecture has been continued effort for cooperative or collaborative federalism which can look to define conflicts as of positive-sum character where there are gains for all, rather than a zero-sum game or winner-loser perspective.

Cooperative or collaborative federalism seeks to avoid fragmentation in education service delivery across the nation. This includes for example a concern for the inconvenience and disadvantage for citizens where jurisdictional boundaries are less relevant with increased mobility across states for school education and subsequently vocational education and training, higher education or employment.

Experiences shared during stakeholder consultations suggest that, despite best endeavours, federalism in implementing national educational reform is fraught with challenges and that the national architecture needs to bring a focus on the evidence and practitioners. The challenges of the federation model can also mean that the ‘pace of consistent change is slow’. A number cited the ten years or so passage of considering a national Unique Student Identifier (USI) for the schools’ sector. The seven years to implement changes to teacher education requirements through universities and other higher education providers was another example.

One stakeholder suggested that the national architecture would ideally bring Australia ‘one step closer’ to national agreement on the reforms that ‘really matter’ so the good ideas ‘hit the school gate’.

> There was ‘no lack of evidence or ideas for reform’. However, within Education Council and its surrounds, education outcomes could on occasion get lost in the politics of federalism, which is not meeting the needs of practitioners. The architecture could not overcome this, but the architecture has a role in ‘bring[ing] government with them in areas where government is not necessarily committed to change’.

5  Painter (1998), 5.
These comments suggest a perception that, out of necessity, the architecture has a leadership or consensus-building role generated by driving a focus on and engagement with practitioners and their needs. Other stakeholders look to the national architecture to harness the policy innovation and experimentalism benefit of federalism (competitive federalism) by facilitating the sharing of this knowledge efficiently around the constituent parts of the system.

The architecture should facilitate a warehouse to share good ideas and learning. Help us learn efficiencies from others. Federated architecture should be helping drive innovation and not go down to the lowest common denominator... help us find out what we do not know already.

Moreover, stakeholder feedback considered that the federation enabled important leadership and policy continuity for key education policy settings as well as the opportunity to readily access other jurisdictions’ support for advocacy in some areas such as for indigenous or regional and remote considerations. It is also important for traditional cynicism or mistrust of the Commonwealth not to ‘get in the way’ of achieving national outcomes for the public good of education. Equal ownership or other mechanism to ensure buy-in and promote trust for all jurisdictions needs due consideration.

Australian executive federalism has long been described as a ‘marble-cake’ federalism because of the multiple layers of government involved to a greater or lesser extent in functions, such as education and unlike the more ‘layer-cake’ federalism of the structured German horizontal model of power allocation. The key principle in guiding the division and balancing of this shared public power is the principle of subsidiarity which holds that the provision of public goods and services should be devolved to the most proximate level of government for responsive and accountable delivery according to an understanding of local needs. The principle of subsidiarity helps inform national interest considerations.

Policy and Culture

Education has a deep reach to all Australians at some, or at many, points in their lives and thus the public policy and public service choices made – and indeed the effectiveness of their delivery – are subject to constant scrutiny and contestability. Governments seek the economic returns expected from the success of educational outcomes to reward future budgets in a growing and productive economy. The social mobility and individual prosperity that a good education promises approaches the cultural status of an Australian right of citizenship which has driven major education reforms including the key elements of the current national architecture of schooling in Australia. The social value of a cohesive society shaped by the quality of its school education also drives policy commitments keenly into this century.

The landscape for education policy and implementation is made complex by the many stakeholders.

The presence of multiple actors in [education] decision-making turns policy issues into ‘wicked problems’ (Klijn and Koppenjan, 2014). Multiple actors, such as policymakers, parents, and teachers have varying perspectives on the system’s problems and how to solve these. Interpretations of reality differ, and so do expectations and preferred solutions. Even when information is widely gathered, this is subject to diverse interpretations, which leads to distinct and sometimes conflicting bodies of knowledge and policy agendas.8

Additional to complexity stemming from the multilevel character of many modern [education] governance systems, challenges regarding the policy process revolve, first, around accommodating various stakeholders with different motivations, interests and time horizons. Education policy faces strong a priori beliefs, tied both to identity and personal experience. Stakeholders have often formed robust subjective sentiments about good and bad practices in education, and these opinions may not be aligned with research findings.9

Decision-making on education policy is also challenged by the dynamic, unbounded and multi-factorial condition of problems or needs that typically demand some time to effect transformative impact, which the modern reality of political cycles can ill-afford.

... the lack of time for strategic thinking and policy exploration results in fewer improvements to policy design and implementation, thereby reducing successes and increasing the need for new intervention and policies. This ultimately decreases the capacity for system-based learning. A simple lack of time thus has a series of

7 Wiltshire (1992), 175–176.
8 Frankowski (2018), 7,10.
9 Burns et al. (2016), 76.
knock-on effects that translate into poor system capacity and a reduced ability to function and adapt. This all works against the ability to develop and sustain a whole of systems approach... One of the trickiest questions for education governance is when a reform is considered a success or failure. If there is no immediate success, is it better to end it, or to wait and see if it might produce results in a longer term?\textsuperscript{10}

In explaining the complex operating environment for the national architecture, stakeholders advised that because education is so impacted by reform there is a ‘risk of change fatigue’ (which impacts heavily on teachers and school leaders) but also a profound risk that education reforms are not succeeding as they should (according to research) if the system cannot sustain a long enough commitment. Stakeholders also identified ongoing ‘red tape’ pressure; and potentially ‘over-sampling’ by the architecture of small jurisdictions with priority student cohorts. Feedback also indicated frustration where either reform ‘incubates’ too long and all ambition and ‘elegance’ of the reform is lost, or there are ‘unrealistic expectations’ and undue haste in implementation. An additional challenge in the operating environment, is the changeover, sometimes unpredictably, of Ministers and chief executives in strategic and decision-making roles.

Research in education governance would suggest that the national architecture needs to be able to cope with unpredictability because implementation occurs in a context of policy and landscape complexity. Essential to that ability to cope is being able to respond quickly to open and constructive feedback. Many stakeholders were highly critical of all three architecture bodies to a greater or lesser extent for variously ‘having a tin ear’, ‘not reading the room’, being non-responsive to feedback and for failing to gear up and address the ‘turn the table over’ moment when there was implementation failure.

…governance needs flexibility and adaptive capacity. On the one hand, addressing complex issues implies being able to respond to varying local conditions and needs. On the other, it requires being aware of and prepared for potentially diverging and even unexpected effects of policy interventions. A crucial condition for flexibility and adaptability is feedback – information from a variety of sources, reflecting a rich array of perspectives, delivered regularly and quickly and tailor-made to the needs of users.\textsuperscript{11}

The governance of risk-taking on a system level requires the involvement of many interdependent stakeholders with different cultures, motivations and time horizons, in a careful exercise of coordination towards a common goal of identifying which policies work and which do not. As part of this, being able to use constructive criticism is essential. Suggestions, feedbacks and discussion must involve all relevant stakeholders and occur for every stage of policy experimentation and reform. This can only be achieved if a culture of open discussion prevails, with the objective, not of laying blame, but of discovering novel solutions that can be used to steer the system towards better outcomes. While governing complex education systems poses many challenges, educational systems must build risk-taking into their policy-making in order to continue to innovate and change.\textsuperscript{12}

In terms of a wide scope for policy and whole of system thinking, stakeholder feedback favoured an approach that could break down the silos and compartmentalised nature of education to give smoother transition from early childhood to school, from school to vocational education and training and the higher education sector. Several stakeholders agreed that there is a cultural effort to keep the early childhood education and school sectors separate, despite best practice evidence to the contrary, and that this institutional thinking was not in the interests of children or the education system. There are advantages to conversations that share thinking and understanding of educational issues for children and families regardless of their stage in the learning journey. These concerns are considered further within the limits of the scope of this Review in sections 2.2 of this report.

Research suggests that some of the relevant processes that could be applied to the national architecture include: flexibility, adaptability, capacity building, open dialogue, stakeholder involvement, alignment and whole of system thinking.\textsuperscript{13}

\textsuperscript{10} Burns et al. (2016), 170, 182-183.
\textsuperscript{11} Frankowski (2018), 6.
\textsuperscript{12} Burns and Köster (2016), 216–217.
\textsuperscript{13} Burns et al. (2016), 172–173.
History

Many stakeholders agreed that the current configuration of the national architecture for schooling was context-specific to the period and circumstances following the Melbourne Declaration on Educational Goals for Young Australians made by all Australian Education Ministers in December 2008. Some suggest that the choices made when establishing the bodies and their governance arrangements were a ‘pragmatic response taken at the time’; followed a ‘robust distrust of the Commonwealth’; and provided ‘leverage for change’.

Over the last decade, the landscape has changed and it is widely said that much has been achieved. The national architecture for schooling has seen the introduction of NAPLAN and the development of a national curriculum (from Foundation–Year 10) and the development of national standards for teacher quality. Stakeholders merit the significance of those achievements and note that the national bodies’ efforts have generally moved from development to implementation and review. With the significant development work achieved some have questioned the nature of the national bodies’ future role and whether the current governance and institutional arrangements are fit for their purpose in 2019 and beyond, which will be examined in this Review.

Figure 1 summarises the key developments over the last decade as reflected through comparative timelines of reform, reviews or events for the national architecture.

It should be noted that subsequent to the creation of the three national bodies, the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and the Public Governance, Performance and Accountability Rule 2014 (PGPA Rule) introduced a clear and well-supported principles-based system of governance, accountability and performance for Commonwealth entities. The new PGPA Act introduced positive provisions to support cooperative interjurisdictional arrangements for governments to work in a more joined-up way and ‘removed many of the legal blockers to cooperation’.

Previous reviews

A number of reviews have made recommendations in respect of the national architecture for schooling since 2008.

The first, by Boston Consulting Group (BCG), followed rapid change in the education environment in the prior year such as the development of NAPLAN. The BCG review led to the establishment of ACARA as a statutory authority under the former Commonwealth Authorities and Companies Act 1997. The BCG recommended the Ministerial Council have responsibility for strategic policy decision-making as the representative governing body and an ‘expert board of directors’ be responsible for the policy execution level with jurisdictional nomination of members.

The BCG also recommended converting the then Curriculum Corporation into an independent (not for profit) corporate, to provide services to other parties under contract. The ESA was created as a company limited by guarantee under the Corporations Act 2001 in 2010 as the last of the three national bodies to be established.

In 2013, the National Education Reform Agreement (NERA) included a commitment to undertake a review to identify the most efficient and effective governance and institutional arrangements to deliver the reforms outlined in the NERA. The NERA stated that such review was also to include a further process to establish an Australian School Performance entity following an independent process to identify the roles, functions and governance; consider the appropriate institutional arrangements; and consider the most cost-efficient and effective delivery of the recommended functions in a way which avoided duplication of existing agencies.

The Nous Group conducted this 2013 review and recommended maintaining the three-entity structure in the existing institutional forms although ownership of AITSL could be transitioned from the Commonwealth to Ministerial Council ownership. The Review Secretariat in consultation with the Education Council Secretariat advises that there is no record of consideration of this AITSL recommendation although it is noted that there was a change of government in September 2013 and ultimately no change was made to ownership in any event. Education Council agreed that it was not necessary to establish a new entity to deliver national strategic priorities including those reforms that support school improvement and enhance national data, accountability, analysis and research capability. The other recommendations were not implemented.

14 Alexander and Thodey (2018), 45.
The Donnelly and Wiltshire Review of the Australian Curriculum in 2014 was conducted following election commitments to refocus ACARA on curriculum development and the National Assessment Program only. Also, data, reporting and compliance work was to return to departmental responsibility. This 2014 review recommended limiting ACARA’s functions to the National Assessment Program, curriculum research, updates and benchmarking only; and to change its governance from a representational board to one comprising independent curriculum and assessment experts only with a reconstituted entity possibly a company to put ACARA at arm’s length from control or influence by Education Ministers or officials.

This 2014 review also recommended a National School Performance Authority be established to evaluate the Australian Curriculum and assist authorities improve its delivery. Reporting only to the Ministerial Council, the new agency would also maintain the My School website and oversee ACARA’s cyclical review of the Australian Curriculum. The Australian Government supported the recommended change to ACARA’s function and governance and referred the recommendations for consideration in the terms of reference for the review of ACARA in 2015.

The National Commission of Audit in 2014 (Phase One report) recommended the abolition of AITSL on the basis that schooling is primarily a responsibility of the States and Territories. The National Commission of Audit also recommended that ACARA be merged back into the Australian Government Department of Education. Detailed reasoning was not contained in the report.

The Cook Review of ACARA commenced in December 2014 and concluded in June 2015. This 2015 Review of ACARA did not progress the governance recommendations from the 2014 Review of the Australian Curriculum. The 2015 ACARA Review made the following seven recommendations relating to ACARA’s governance which were endorsed by the Education Council in September 2015:

1. Education Council revises the current Charter with reference to the next endorsed quadrennial work plan and budget.
2. Education Council removes the Letter of Expectation from the suite of authorising instruments under which ACARA operates.
3. Education Council delegates authority to the Australian Education, Early Childhood Development and Youth Affairs Senior Officials Committee (AEEYSOC) to monitor the progress of ACARA's work against the Charter including progress against the one and four year work plan and budget within the agreed parameters set by Education Council.
4. AEEYSOC maximises alignment between ACARA's planning documents – the annual work plan, the four-year plan and related budget as well as the Commonwealth Public Governance, Performance and Accountability Act 2013 requirement for a four year corporate plan.
5. Education Council reviews ACARA's role, function and governance every six years against the aims and objectives of ACARA's Charter.
6. Education Council considers moving towards an ACARA Board appointment process that retains the current representational nominations and includes a more collaborative assessment of the skills of board members.
7. ACARA reviews and simplifies its advisory and consultative mechanisms to make them more efficient, effective, timely and strategically aligned with future priorities.

Five of the seven recommendations (recommendations 1–4, 7) from the 2015 review of ACARA have been implemented.

A summary of the relevant recommendations of the four main reviews with an implementation status of whether the recommendation was accepted and implemented appears at Appendix 3.
In the 11 years between the Melbourne and proposed Alice Springs declarations, the major reform concerning the national architecture has been the transition to NAPLAN online which is now forecast to be completed in 2021.

Despite the regularity of reviews, the recommendations have not impacted the architecture’s structure, suggesting a disconnect or lack of consequence between reviews and architecture reforms.

The timeline shows significant recent changes to the bodies’ leadership.
2.2 Needs and expectations of stakeholders

While stakeholders credited the contributions of the national bodies in achieving major reforms such as the development of national curriculum and assessment programs and national standards for teaching quality and accept that their governance and institutional arrangements are a product of the time and circumstances of their creation, stakeholders expressed a clear and unanimous intent for a step change in the focus, capacity, governance and accountability of the national architecture to serve current needs and those emerging in the next tranche of education reforms.

Stakeholders need clarity of mandate for the national role of these bodies in a coherent and high-performing national architecture that is value for money.

- what are the functions for a national role and which are the most important?

- the architecture needs to be able to address the issues affecting schools and students...

- national architecture should be national enablers...

- the national interest requires results return for the investment...

- the national architecture should have a clear national contribution, deliver value for money, provide efficiency and support globalisation and mobility between jurisdictions and internationally. There are always tensions as to how much should be done by a national entity versus that provided by State and Territory entities, but in articulating the value for money proposition it is crucial to identify the national contribution from which the need for a national body arises particularly for the larger states where the value for money proposition needs to be over and above what large states could achieve by delivering these functions themselves, such as practically deliver to the states what states need to support schools and teachers in their jurisdiction...

- there are limitations on what a State or Territory can achieve in improving outcomes without knowledge of the nation-wide context and experience... the national architecture should be providing advocacy and leadership in addressing key Australia-wide issues...

- the education landscape has evolved, the bodies have not necessarily done the same...

- facilitate making decisions as a nation...

- need to translate objective into reality...

- need to have the ability to support longer-term thinking in a complex policy landscape rather than thinking about a requested project ...

- architecture should be orientated towards the reforms ‘that really matter’ and the needs of practitioners... need to be collaborative and effective in design of solutions...

- how do we promote growth and progress at its heart – how do we enable kids to progress? Architecture should be in the service of the profession.

Stakeholders expect the national architecture to provide consistency and assurance of outcomes with leading practices, expertise, agility and responsiveness, transparency, integrated risk management, effective accountability mechanisms, and ‘gracious, ethical and transparent leadership’.

- [bodies] could leverage a lot of good will by demonstrating ethical leadership and greater collaboration... the current political and overly bureaucratic approach focussing on processes rather than the big picture, stifles innovation and does not deliver outcomes. Australia is trailing behind many like countries when it should not be if all more outcomes-driven...

- a realistic and contemporary architecture with the attributes of modern agencies for a national role, ideally should have strategic analytical capability and be transparent with outputs that are easy to consume and ready to inform jurisdictional strategies...
...streamlined governance and accountability... a national distribution presence is of utmost importance, to be inclusive and truly national, the architecture needs to draw on a wider workforce of experiences...

...avoid undue cost, delay and administrative burden...

...funding national bodies comes at an opportunity cost and efficiencies need to be found...

There could be value in settling protocols for communication to jurisdictions in advance of visits by bodies directly to schools. An example was provided of missed opportunity where the department did not know of ACARA running a workshop in a school in a remote location until a departmental senior executive happened to visit the same day. This was regarded as a significant missed opportunity for capacity-building in a remote location because had the department received advance notice they would have leveraged greater value from the visit through organising key placements to shadow the workshops. It was also noted that when the department contacted ACARA to clarify the nature and duration of the visit that day in an attempt to adapt, ACARA could not provide clarity on the details either.

By jurisdiction, there is asymmetry of need as the geographic, demographic and economic circumstances are so diverse across the nation of learners. The national architecture is integral to supporting collaborative federalism in an expert and experienced way to facilitate positive-sum outcomes in the national interest.

...a formal mechanism is needed to deliver national functions efficiently and effectively, this includes core constructs such as the curriculum... there is a role for a national body to lead assessment, however the needs are different across jurisdictions. The smaller states derive more value from the organisations than larger jurisdictions. A resource such as Scootle supported by ESA is not necessarily of significant value to a large jurisdiction if they have developed their own resource to provide similar material that is better tailored to their needs...

...schools that are independent (non-systemic) or in small systems strongly benefit from national resources provided by a national body...

...smaller jurisdictions rely on the national organisations to provide resources and services that can be easily adapted for the education needs of the jurisdiction...

...the architecture needs to facilitate and respond to views that are not dominated by city-centric, metropolitan approaches...

...teachers of Aboriginal and Torres Strait Islander students, teachers in remote and regional areas and other identified priorities need the shortest distance between commissioning a target strategy and performing it...

...the future vision of the national architecture delivers a low or no bandwidth platform in order to provide truly national access and take up – not just of NAPLAN – but future national initiatives such as formative assessments and resources. This is critical for rural and remote schools in Australia.

Emerging needs

The national architecture has current responsibilities for eight national policy initiatives under the National School Reform Agreement both collaboratively such as the learning progressions and online formative assessment project (now in discovery phase) and individually such as the National Teacher Workforce Strategy, delivered by AITSL.

The following contributions during consultations indicate areas of emerging need which a fit for purpose architecture should contemplate for it to be as ‘enduring’ as reasonably foreseeable.

National Evidence Institute

Generally, stakeholders hold hope that the national evidence institute has ‘the potential to be the heartbeat’ for education policy and it could play a ‘big role in the wicked policy questions that need answering’. Mobilising the evidence for direct support to school leaders and teachers is regarded as key to success for this major initiative.

Many stakeholders recognised that a competing factor in the establishment of the national evidence institute is that AITSL, ACARA and ESA may all claim to be able to deliver some or all of the functions of the national evidence institute. AITSL may claim to be able to perform the mobilisation role, but this would not compensate for the existing tension.
between the larger jurisdictions that already have established mobilisation methods. ACARA may also see a role for their organisation to deliver quality assurance and analysis functions of the evidence base (and the Productivity Commission had concluded similarly). Their ability to deliver on school improvement and data analysis in the past though was not rated highly by the jurisdictions. Similarly, ESA may see significant functions of the national evidence institute including hosting and development work that could be delivered through their organisation.

Consultation interviews confirmed that the three bodies contended synergies and ‘good fit’ with the national evidence institute that would justify their individual body being the most suitable to take on that additional mandate. There was support in the Review Survey results for integration of the national evidence institute into the existing architecture rather than introducing an additional body. Review Survey results also supported the potential opportunities, provided there was clarity of focus on what the system needed of the new function:

... A one-stop-shop for the collection, maintenance and storage of data and information creates opportunities by: giving visibility to the importance of value of the information with adequate resourcing more likely to follow; creating efficiencies; could result in a simpler, more transparent relationship between policy-making and the evidence that underpins it, should lead to better outcomes...

... excellent relations with schools is core. Schools are awash with data, but bankrupt on interpretation in too many places. An evidence centre working with schools to help interpret their evidence will make a difference...

...there is a real opportunity to bring key levers for quality education together including: explicit curriculum frameworks (what to teach), capacity building for educators (how to lead, teach assess and report), technology systems to support teachers and enhance learning outcomes (value add technology) all supported by building on a rich evidence base of what can make an impact on student learning moving from research to supporting changed practices in schools (what really works and how do systems/teachers know their impact). Systemised integration of the four areas can provide solid support to optimise a positive impact on the learning of Australian students...

Most stakeholders consulted were of the firm view that the existing organisations in the education architecture have ‘too much baggage’ and capability challenges for them to be credible in fulfilling the national evidence institute functions. In this respect, the value of good governance underpinned by clear roles and responsibilities between the existing organisations and the national evidence institute are paramount. To help give it a broader purpose and ensure it is not burdened with the existing bodies’ baggage, some stakeholders suggested that the formative assessment work also could sit in the national evidence institute.

During stakeholder consultations, the gap in the capability of the national architecture to bring together data analysis and program evaluation was explained as also needing to provide the type of analysis on which the School Policy Group could draw, to support future policy development.

Stakeholders considered the national evidence institute could play an integral role in answering some of the difficult problems and questions facing the education sector in tandem with delivering on a solid research agenda.

Some see the ‘heavy lifting being delivered by the national evidence institute’ and the information translated and mobilised by the jurisdictions through their existing evidence institutes and hubs would allow the jurisdictions to align to their current priorities. It would be expected that the smaller jurisdictions and non-government schools’ sector would favour greater support in maximising their utility of the national evidence institute outputs as they do not have similar evidence institutes at their local level. Provision of the national evidence institute work outputs to the national bodies also would be essential to ensure that the national architecture integrates the research and evidence seamlessly in its products and services for the benefit of the teachers in the classroom.

Stakeholders have stressed the critical need to be able to identify where and for whom the evidence is working. This would provide jurisdictions with valuable data to inform strategic and contextual decision making. The ability of principals to access what works, when, and for whom, is invaluable. Considerations also around the security and functionality of the platform used to store and provide access to the evidence is critical. Additionally, the integrity of the data and who undertakes the analysis of evidence must be transparent and quality assured.
It is beyond the scope of this Review to resolve some of the issues stakeholders raised in relation to the national evidence institute (and a parallel development process for the national evidence institute initiative currently is acknowledged) but it is noted that beyond the threshold clarity of ambition, at the time of this Review’s consultations, stakeholders held some varying perspectives as to the following matters:

- whether the national evidence institute is just commissioning, or conducting, the research;
- responsibility for translating and mobilising the evidence;
- whether the focus should be on practice-based evidence—how teachers can use the evidence in practice—rather than simply an evidence institute;
- whether the national evidence institute is producing research for ‘edutainment’ and professional learning vs quality evidence;
- independence of the evidence function;
- potential overlap with state evidence institutes;
- reluctance for creating a new ‘fourth’ national body in the national architecture;
- whether the national evidence institute could pursue analysis of domestic performance outcomes such as NAPLAN data to identify positive systemic indicators of success for sharing and improving outcomes across jurisdictions; and
- how the Australian Council for Educational Research (ACER) would interrelate with a national evidence institute.

Stakeholders agreed that there needed to be clarity of role and responsibilities with good governance and oversight arrangements settled at the outset. This Review defers to the parallel national evidence institute development process in this regard but offers some observations as relevant to the national architecture in sections 3.2 and 5.2.

While there was a dominant view by stakeholders for the national evidence institute function not to be added to one of the existing three bodies, there was also some reluctance to create a new (fourth) national body in the architecture. A stakeholder suggested that, at the least, the national evidence institute needed to ‘be wired’ into the three national bodies because ‘more overlay for teachers is not needed’. The research and policy ‘need to speak to teachers and translate for my practices in my classroom’ and therefore there needs to be an interplay with ACARA and AITSL.

The recommended option in sections 5.2 and 5.3 has included regard for the national evidence institute as required by this Review’s terms of reference. Recognition of the emerging need of the national evidence institute is included in the purpose of the national architecture to support the architecture’s enduring design.

**Early childhood education**

A number of stakeholder jurisdictions were concerned that the value of having the early childhood education cohort in the line of vision of the Education Council is underrated.16 There are early childhood education national goals and there is ‘clearly a national need’ which might be considered for the national architecture. These children will be part of the school system within years and are the same individuals who will enter the labour market at the end of their schooling. There are many similar issues for consideration for early childhood and school education (e.g. labour market, professional development, use of data, age appropriateness) which would benefit from a space for joined-up conversation.

It was further contended that it is a struggle to include early childhood education on the agenda for the Education Council; and it is understood that the Early Childhood Teacher Standards have failed to progress through Education Council. Another jurisdiction described a ‘missed opportunity’ not to have early childhood within this Review’s scope because there is a strong need for ‘end to end support to teachers’ as part of the architecture.

This Review was further advised that ACECQA and AITSL have similar roles and functions in relation to providing leadership to teachers. Another jurisdiction advised that the early childhood education sector would welcome more interaction from AITSL with ACECQA. For this to happen, there would need to be a clear direction from Education Council (and then through the authorising arrangements) as AITSL does not currently have a mandate in this regard.

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15 It was also suggested that one of the limitations for AITSL currently is that its evidence is viewed as a product for teachers rather than as research-based tools.

16 The lengthy and unresolved challenges relating to the expectations of early childhood education teachers gaining full qualifications in all jurisdictions also cited as an example.
The compartmentalised view of education, such as schooling compared with early childhood education as well as vocational education and training (VET) and higher education was noted as a problem for the broader national architecture and outcomes. More ‘seamlessness’ of process and experience is desired with the anticipation of better outcomes.

**A national regulator for consistency and best practice to support quality teaching**

It is understood that there were mixed reactions to the recommendations of the Teacher Education Ministerial Advisory Group (TEMAG) regarding national registration of teachers and teacher mobility considerations – and they are beyond the scope of this Review to explore – other than to note that for the enduring nature of the architecture that there may be some future role in national teacher registration. The current company structure of AITSL would be inappropriate for a regulatory role.

### 2.3 Perspectives of national bodies as an architecture

The three architecture bodies jointly conveyed to this Review that to be regarded as a ‘national architecture’ their governance arrangements could treat them as a coordinated collective. This approach would empower them to perform their roles in a coordinated and informed manner meaning that their impact as an architecture might become more than the sum total of their individual and potentially isolated effort. Further, one body submitted that more connected opportunities for accessing information and opportunities would promote innovation.

In addition to being fit and accountable for a defined purpose, it was suggested that a national education body needs to act with integrity and be transparent in its operations to ensure confidence in value for public monies and that the ‘interconnected nature of the environment in which a national education body will operate requires that special attention must be paid to the resolution of perceived and actual conflicts of interest’. A national education body should be aligned to its stakeholders and a trusted partner that enjoys close relationships to understand contexts and priorities.

### 2.4 Objectives and service principles

The stressors caused by the complexity of the operating environment whether by reason of federalism, policy or the ‘multiplexity’ of stakeholders could be ameliorated by an anchor for the conduct and decision-making of the architecture to a set of agreed and well-practised objectives and service principles, which ultimately support the purpose of the national architecture. There was stakeholder support for service principles.

These principles and objectives could provide a decision-making framework for resolving competing choices as well as for holding actors (national education bodies) to account to the forum (Education Council/ AESOC) in the traditional accountability sense. In practice, they should align the collective behaviours of the architecture bodies and they can define the expectations of the jurisdictions. For example, it would be expected that an AESOC member would not need to remind a body about the implications or accommodation of a decision for Aboriginal and Torres Strait Islander needs, and the body can be accountable for any failure to engage meaningfully with the objectives and principles of their service.

ACARA has a set of principles in its Charter: national interest set by Education Council; alignment; quality and innovation; efficiency (products and services within budget and timeframes); transparency and accountability; and engagement with all jurisdictions. However, from consultation questions specifically and stakeholder feedback generally as noted in this report, consideration and further development for ownership of a more explicit set of shared service principles may offer a re-set opportunity for relations and mutual expectations. Such framing may also provide guidance for rallying any necessary cultural change.

The following statement of purpose, service principles and objectives in Box 1 are suggested as a ‘starting point’ draft and were developed following analysis of the matters reported in this chapter.

It is recommended that a set of explicit service principles and objectives for the bodies in the national architecture be developed and agreed with the expectation that they apply to the everyday endeavours undertaken by the national architecture and in respect of which they can be held accountable.
Purpose

The purpose of the national architecture for schooling in Australia is to provide coherence across jurisdictional boundaries in service of a shared national vision and endeavour through an organisational framework that is structurally aligned to clearly defined strategy and operates consistently with the following service principles and objectives.

Service principles

<table>
<thead>
<tr>
<th>The Shared Vision&lt;sup&gt;b&lt;/sup&gt; of the Melbourne Declaration</th>
</tr>
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<tbody>
<tr>
<td>promote equity and excellence</td>
</tr>
<tr>
<td>support for successful learners, confident and creative individuals, active and informed citizens,</td>
</tr>
<tr>
<td>support for quality teaching and school leadership,</td>
</tr>
<tr>
<td>world-class curriculum and assessment,</td>
</tr>
<tr>
<td>strengthen accountability and transparency</td>
</tr>
</tbody>
</table>

- legitimacy of purpose<sup>a</sup>
- equity and inclusiveness such as priority focus for Aboriginal and Torres Strait Islander needs and regional, rural and remote schools
- efficiency, effectiveness, economy and sustainability
- transparency and accountability
- consensus-building
- meaningful and open stakeholder engagement and collaboration
- agility and responsiveness
- ethical leadership

Service objectives

- respect the principle of subsidiarity as resolved by the governing and strategy decision-makers in consideration of a national approach in the national interest
- pursue a value proposition that provides a positive-sum outcome for the diversity of needs of jurisdictions<sup>c</sup>
- promote capacity-building<sup>d</sup>
- practise and share strategic thinking to advance purpose
- engage with risk to create value in innovation and protect value in managing activities within tolerances and risk appetite agreed in consultation with key stakeholders
- be a trusted partner and solution finder within and of the architecture

Notes:

- <sup>a</sup> Legitimacy of purpose. Includes fidelity to approved mandate and commitments which are subject to periodic strategic review to assess ongoing public value, relevance and need. Also, inclusive processes of substance in determining work plans and undertakings.
- <sup>b</sup> As at 18 October 2019.
- <sup>c</sup> e.g. accessibility to technologies for rural and remote schools; or identify the national contribution and over and above value for large State.
- <sup>d</sup> e.g. avoid silo mentality which inhibits potential; advise jurisdictions of planned visits to schools (in accordance with agreed protocols) to open up leveraging and capacity-building opportunities and maximise public value activities.
3. Governance and institutional arrangements

Governance arrangements typically refer to the structures, rules, systems and processes that direct and manage an organisation (often described as ‘hard’ governance). Relationships and culture are also responsible for steering the way an organisation performs (‘soft’ governance). Good governance results from the successful interplay of ‘hard’ (rules, systems and processes) and ‘soft’ (behaviours, competencies and relationships) governance. Seeking ‘good governance’ is essentially an organisation’s strategic response to risk. Figure 2 outlines the key elements which interdependently build good governance. Figure 2 also describes indicators of good governance.

Figure 2: Good governance: elements and indicators

<table>
<thead>
<tr>
<th>Elements</th>
<th>Indicators</th>
</tr>
</thead>
<tbody>
<tr>
<td>strong, visible, committed, responsible, available, capable, leadership</td>
<td>Clarity of purpose, roles responsibilities, accountabilities and reporting relationships</td>
</tr>
<tr>
<td>Successful interplay of ‘hard’ (rules, systems, processes)/‘soft’ (behaviours, competencies and relationships) governance</td>
<td>Fit for purpose, not one size fits all, proportionate, adaptable and dynamic as risks change. Regularly reviewed</td>
</tr>
<tr>
<td>Integrity, acting in the public Interest, openness, transparency, responsive, accountability, economy, efficiency, diligent, publicly defensible, ethical, impartial, legitimacy</td>
<td>Clear and efficient reporting and escalation triggers, pathways and procedures. Appropriate exit strategies</td>
</tr>
<tr>
<td>‘want to’ \v ‘required to’ ability to integrate good governance principles, practices and systems every day</td>
<td>Effective communication and information flows (timely and of appropriate quality and quantity)</td>
</tr>
</tbody>
</table>

© Webbe 2018.
Stakeholders believed that there is ‘plenty of opportunity to provide clearer and more efficient governance’ of the national architecture bodies. Despite the appearance of layers of governance around the bodies in the national architecture, including reporting and performance measures, such a framework has not proved effective as there seems to be a ‘complete disconnect’ between accountability and performance. In underscoring this concern, several stakeholders expressed frustration that AESOC spends ‘valuable national bandwidth fighting bushfires’ (‘in the weeds’ to rescue failures of performance; ‘why are we discussing the technical detail of firewalls’?) There would be significant benefit in a solution that provides AESOC – and Education Council – with the opportunity to be more strategic in its functions.

Clarity of purpose and operating principles for the national architecture for schooling, as informed by consultations and contextual factors, were suggested in chapter 2. This chapter examines the next level of governance detail as framed by the Review’s terms of reference, beginning with the roles, responsibilities and functions for each of the national bodies.

### 3.1 Roles, responsibilities and functions

Stakeholders supported the national standards such as those contained in the Melbourne Declaration to deliver national priorities that provide consistent measures and governance. Sharing a national vision around which standards and initiatives are important has a flow-on effect that steers decision making. Stakeholders supported the important role of the national architecture in this national endeavour.

Stakeholders also reported an increasing sense over the past 18 months within AESOC that some of the organisations have started to discharge functions outside of their remit and without reference to Education Council and AESOC. A suggested example was a belief that executives of one body had embarked upon significant travel to undertake research despite having no remit to deliver the work they were researching.

Although each of the three bodies has different legal structures, the authorising source of their roles are clear. However, the rigour or process around subsequent iterations of their role and functions are less clear and could be source of these disconnects.

**Australian Curriculum Assessment and Reporting Authority (ACARA)**

The second-reading speech for ACARA’s legislation concluded with, ‘[ACARA] will be at the forefront of the Australian government’s commitment to provide all young Australians with better opportunities and the best start in life. It will be the engine room of reform, a key driver of our education revolution’.

ACARA is responsible for the management and development of a national curriculum, the National Assessment Program, data collection and reporting. ACARA was established in 2008 as an independent Commonwealth statutory corporation under section 5 of the Australian Curriculum, Assessment and Reporting Authority Act 2008 (the ACARA Act).

ACARA is required to perform the functions listed in the ACARA Act in accordance with strategic directions set by the Education Council in the form of a Charter, or other written instruction issued by the Education Council. Prior to adoption of the 2015 ACARA Review recommendations, the Education Council also issued a letter of expectation, but this practice was discontinued in the anticipation that ACARA would be ‘more strategic if governance was less constrictive’.

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ACARA’s functions, as specified in its enabling legislation, are to:

- develop and administer a national school curriculum, including content of the curriculum and achievement standards, for school subjects specified in the Charter
- develop and administer national assessments
- collect, manage and analyse student assessment data and other data relating to schools and comparative school performance
- facilitate information sharing arrangements between Australian government bodies in relation to the collection, management and analysis of school data
- publish information relating to school education, including information relating to comparative school performance
- provide school curriculum resource services, educational research services and other related services
- provide information, resources, support and guidance to the teaching profession
- perform such other functions that are conferred on it by, or under, this Act or any other Commonwealth Act
- perform such other functions that are ancillary or incidental to the functions mentioned in the preceding paragraphs.

ACARA’s most recent Charter of November 2016 adds a qualitative project dimension (e.g. comprehensive national measurement framework, world-class curriculum from Foundation to Year 12) to the three principal functions of assessment, data and reporting, and curriculum. The Charter adds an expectation for ‘effective national leadership’ to be provided in relation to the three principal functions and ‘close collaboration’ in pursuing the national education agenda.

ACARA’s stated mission is to improve the learning of all young Australians through world-class school curriculum, assessment and reporting.

Curriculum

From an analysis of materials and then questioning in consultations, it would appear that the Charter may not currently align with expectations at least in relation to the absence of a current consensus for ACARA to provide a senior secondary school curriculum. ACARA and other stakeholders indicated an understanding that ACARA is not to progress that work, whereas a smaller jurisdiction considered that ACARA not progressing the senior secondary school curriculum was a significant gap. However, the Charter requires ACARA to ‘scope options for further development of senior secondary curriculum in partnership with interested jurisdictions’ which would suggest that ACARA has more work to do with at least one interested jurisdiction to re-align with the Charter. The ACARA workplan for 2019–21 notes the senior secondary Australian Curriculum as a responsibility but no relevant activities are listed for action. The inconsistency between the view that ACARA is not to progress senior secondary school curriculum and the indications in the documented Charter and workplan should be resolved.

Unlike concerns expressed during the 2015 review and with the establishment piece achieved with the first national curriculum developed already, the ‘adopt and adapt’ the curriculum approach by jurisdictions as supported by national agreements lends a thin interpretation to ACARA’s statutory role to ‘develop and administer’, which works around any sensitivity that ‘administer’ overstates ACARA’s role because the jurisdictions implement the curriculum and ACARA does not have a compliance function in that regard. No concern was evident as to ACARA’s role in the six-year review of the national curriculum due next year although it was suggested that the next version was an opportunity to ‘re-think whether to allow State and Territory versions in the next stage or move to the same curriculum’. Another stakeholder recommended that the national curriculum be reviewed in a regularised way so that students can ‘be the best they can be’ and connected well to work in a globalised world. There should be a mechanism to analyse data, to know

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18 There is a separate review by Mr Peter Shergold currently, although it is understood to concern structural arrangements and pathways rather than curriculum.
what is having an impact and what is needed to address it. There should also be something separate to content and assessment that is outward facing, looking beyond the classroom so it can be known what else makes students and schools competitive. As part of this analysis and improvements, the architecture needs to strengthen capability and advice to teachers about how to bring the Australian Curriculum cube19 to life in a subject area. The curriculum review needs to ask how the curriculum can be organised into big ideas.

There was stakeholder perception that ACARA's value has ‘diminished over time’ and that increasingly the organisation is ‘operating in isolation from its customers’. One of the biggest sources of concern from schools is that while the national curriculum provides a good framework, it is too large and there is considerable frustration that there are significant resources required to make it fit for purpose because it is not suitable to pull out the desired section and plug it in for jurisdictional delivery. As a result, the larger jurisdictions have reshaped the curriculum for their needs, however smaller jurisdictions do not have the resources to undertake this.

Given such perceptions, an organisation with an embedded focus on strategic outcomes and customer need may look to respond to those perceptions and consider, for example, the suitability of scalable offerings of the Australian Curriculum package in consultation with the jurisdictions. For example – and only by way of suggestion to illustrate a concept for differentiating service for responsiveness – one approach may be to develop an Australian Curriculum in Principle for those larger jurisdictions that wish to have a product easily able to be adapted and implemented through jurisdictional-based syllabus, while still retaining key content requirements, and an Australian Curriculum in Practice that builds upon those principles but offers a much more targeted and practical-based product for smaller jurisdictions. Thereby providing value across all jurisdictions, while strategically still ensuring that there is consistency in the curriculum offerings of all jurisdictions for the purposes of a national curriculum. Whichever approach might be adopted through the appropriate authorising channels, some approach is recommended to respond to the concern of the diminishing value and the concern for duplicated or inefficient spend of resources to achieve implementation of the curriculum.

An additional concern explained as evidence of ACARA's distance from its customer base is the lack of measurement and evaluation of the national curriculum. It was suggested that States and Territories have not been consulted on the specific measures that matter to them or even if the national curriculum is working in their schools. This has led to the sense that ACARA has set themselves up as the experts giving the jurisdictions the sense that their perspectives are irrelevant.

Another stakeholder perceived that ACARA has lost its focus on curriculum and reporting, as a result of the attention given to the National Assessment Program – Literacy and Numeracy (NAPLAN). NAPLAN is very public but not the most important in terms of improving educational outcomes. This jurisdiction saw value in expanding ACARA's role into professional support and learning, however, ACARA does not see this as their role. It was countered that ACECQA's strength for example is that the early childhood education sector has greater visibility of ACECQA and is perceived positively because it provides professional development and proactively identifies and undertakes work of assistance to the sector.

**Data analysis, research and evidence by ACARA**

ACARA's role in research is a contested space and should be clarified, particularly with the development of the national evidence institute role.

ACARA's statutory functions include analysis of student assessment data. ACARA's current Charter requires it to ‘assemble the necessary data to provide for future evidence-based policy and curriculum development’ with specific priority to ‘collect curriculum implementation information to assist with development of the next generation of curriculum’. ACARA's approved workplan includes for 2019/20 and 2020/21 ‘maintain research into international curriculum developments and trends to inform advice and agreed refinements to the Australian Curriculum’.

Stakeholder comment relayed a 'push' by ACARA to 'take on a research role' that was being resisted by AESOC. ACARA suggested that there was a wealth of evidence but little opportunity to leverage it. For example, ACARA had unsuccessfully submitted a $150,000 proposal to AESOC for a research project to look at those schools which were consistently high gain. ACARA also suggested that there was a clear need to pull together statistics' capability (for example, the statistics ACARA currently publishes in the National Report on Schooling in Australia) and policy development capability to draw on evidence to identify what practices should change, as per the Australian Institute for Health and Welfare model. ACARA suggested that the gap in the evidence base and architecture was not to

19 The ACARA cube highlights the central importance of disciplinary knowledge, skills and understanding; general capabilities and cross-curriculum priorities.
identify what works in teaching practice (which it was submitted is already known) but rather how to get teachers
to do it – how to build collective teacher efficacy and build momentum for change in schools.

One jurisdiction framed the ideal state for national bodies as encompassing both policy development and
implementation – with the balance between those functions naturally shifting over time in response to the policy
cycle. Presently, for ACARA though, now that significant policy reform has been achieved, implementation is the
priority. The national bodies need to focus on performing the core national work well. Another jurisdiction emphasised
that the architecture needs to ‘identify the priority, do it well, do it deep, and land it’ before vying for other work.
The consequences of any failure to implement to the expected standard, for example in relation to NAPLAN, are
potentially grave. ‘Mission creep’ of these entities is a secondary issue that needs strategic consideration. Essentially,
there is a reluctance to fund the architecture to explore new areas of opportunity in the policy space (within those more
broadly worded mission statements) until the core functions of the entity are performed to the expected standard.

Although the workplan was approved for research activity, the practice of the workplan being ‘starred’ on the AESOC
agenda means that it is not discussed by AESOC other than by exception as may be raised which culturally, it is
suggested, and by sheer workload of an already busy AESOC agenda is unlikely.

Assessment and Reporting

Implementing a national assessment program is a critical element of the educational reform since ACARA’s
establishment. This responsibility and function remains a high, and now critical, priority following the individual failure
events in the transition for NAPLAN online in 2019.

As at November 2016, the current ACARA Charter provides that ‘ACARA’s highest priority is to ensure successful
transition to online assessment, particularly NAPLAN online’. The Review of ACARA in 2015, which pre-dated the current
Charter, appreciated that NAPLAN online was to be transformational in providing speedy feedback. The 2015 Review
also emphasised the risks for NAPLAN online: ‘being clear about the respective responsibilities of ACARA and ESA in
the development and delivery of NAPLAN online and ensuring that ACARA has overall accountability are considered
critical to success’. The approved ACARA workplan articulates ACARA’s delivery as researching, developing and
supporting the required activities and then managing the planning and development, and overseeing the delivery and
reporting. Specifically, for 2019 NAPLAN online, ACARA’s workplan committed to preparing for the full cohort online in
2019 and managing test item development and delivery of NAPLAN 2019 (online assessment). The Deed of Agreement
between ACARA and ESA in May 2019 similarly articulated respective roles.

In terms of roles and responsibilities, the recent introduction of Senior Responsible Officer (SRO) arrangements
should assist in confirming ACARA’s leadership role and respective responsibilities for ensuring a successful transition
to online assessment where there may have been a lack of clarity. The NAPLAN online experience is analysed further
as a governance and accountability case study in section 3.4.

Stakeholder doubt was expressed as to ACARA’s ‘entrepreneurialism and innovation’ suggesting that it will be a bold
ambition to put Australia back on the map for assessment – one that is in the service of the profession. Specifically,
online and on demand assessment options as summative assessment at national level is ‘archaic’.

ACARA’s responsibilities for managing data collection and quality assurance and for providing accessible and
comprehensive national reporting are key to the transparency and accountability objectives of educational reforms
to drive school improvements. This includes the My School website and National Assessment Program reporting.
ACARA is also responsible for reviewing the performance indicators in the National Measurement Framework
under the 2016 Charter and as confirmed in its workplan. There is an expectation of a review of the key performance
measures triennially. Negative feedback was provided to this Review as to the quality of the recent review of the
National Measurement Framework and that it has failed to progress accordingly.

Independently of those concerns there would also appear to be concerns as to the quality of the annual national report
that ACARA prepares in that it is not serving the original intent of providing an accessible and comprehensive account of
the system’s performance against the Melbourne Declaration. Stakeholders commented that these reports released by
ACARA are operational rather than analytical. Further, analytical opportunity within the assembly of tables provided should
facilitate assessment of performance against the national goals. It was suggested that there is a risk that the interactive

portal experiences mask the full picture and undermine accountability because the user needs to know what they are
interrogating in order to find it. A compliant, risk-averse, lowest common denominator, culture or the over-governance
of working groups watering down what should be an independent report on performance, are offered as potential
reasons for the annual national report failing to honour its responsibility for transparency and accountability. As for the
content of national curriculum, there is an argument for national reporting of performance to also be of independent
character. It is recommended that ACARA review the quality of its annual national report and the nature of the
independent process for development of the national report to ensure the analytical quality serves its original purpose.

It was also suggested that currently there are two evidence roles missing from the architecture: teacher focused
evidence, and national tracking – what the evidence says about the effectiveness of system-level policies (for example,
why NSW students perform so much better than ACT students in spelling). This would be important learning in a
positive, constructive sense but that analysis is not being provided. Initially there was a view that ACARA would perform
this function, however this did not eventuate. It is recommended that articulation of this responsibility, and its allocation
within the national architecture, be resolved in consideration with the introduction of the national evidence institute.

**Australian Institute for Teaching and School Leadership (AITSL)**

AITSL was established in 2010 by the Commonwealth to provide national leadership in promoting excellence in the
profession of teaching and school leadership. AITSL’s mission as stated in its last annual report is to promote excellence
so that teachers and leaders have the maximum impact on learning in all Australian schools and early childhood
education settings. AITSL operates under its own constitution with priorities set by the Australian Government
from time to time.

AITSL developed, promotes and supports implementation of the *Australian Professional Standards for Teachers* and
the *Australian Professional Standards for Principals* in partnership with jurisdictions. AITSL also works with States and
Territories to ensure all accredited Initial Teacher Education programs align with nationally agreed standards developed
by AITSL and endorsed by Education Council. AITSL is also the skills assessing authority for school teacher occupations
for Australia’s skilled migration program.

**Box 3: Functions (AITSL)**

AITSL’s work agenda as set out in its Ministerial Letter of Instruction dated February 2019, includes:

- Strengthening the approach to Initial Teacher Education accreditation to achieve further national
  consistency, rigour and transparency
- Supporting the improved cultural competency of teachers
- Developing resources to support high quality professional learning for teacher impact
- Assessing and evaluating links between the Australia Professional Standards for Teachers and
  teacher effectiveness
- Strengthening the preparation and ongoing support of school leaders and principals
- Scoping and preparatory work on teacher consultation and professional learning to support
  implementation of assessment resources linked to learning progressions initiative
- Continuing existing work priorities including:
  - maintaining and renewing resources for teachers
  - implementation of Teacher Education Ministerial Advisory Group reforms and further reforms
    to strengthen initial teacher education to achieve further national consistency, rigour and
    transparency as agreed by Education Council
- Working with Education Council processes and in consultation with States and Territories and
  the profession in undertaking its work.
Some stakeholders considered that AITSL's strength in the architecture is that it can shape data into resources useful for the profession. Smaller jurisdictions in particular were grateful of a history of a highly consultative approach producing materials of a high quality that are easy to apply to the curriculum and highly valued. It was also considered that AITSL has delivered very useful work around consistency and quality assurance relating to the national standards. AITSL explained that its role is to strengthen, support and develop resources rather than undertake a regulatory role in respect of teachers. There was stakeholder suggestion though that AITSL could play a role in harmonisation by having a role as a national accreditation body.

AITSL identified its strength to the architecture as being close with and well-respected by the profession. Other stakeholders shared this assessment and commended AITSL’s role in giving the highly accomplished and lead teacher program a strong reach for it ‘having momentum on the ground’ through their contribution.

AITSL continued that its understanding and reputation positions AITSL well to translate and mobilise resources. In particular, AITSL expressed the belief that teachers have a strong sense of engagement with and sense of ownership over AITSL. As a testament of teacher interest and engagement with AITSL and its resources, AITSL advised that AITSL’s website receives 5.1 million page views annually (of these, 3.9 million are unique page views) and AITSL had 167,363 individual email accounts registered (as at 16 October 2019). An additional stakeholder perspective was that while AITSL does well at being a voice for the profession, AITSL is also too beholden to the profession in terms of delivery and therefore cannot get the full intent of the policy objective. Another consultation comment reflected a similar view of capture which led to a culture of consistency and ‘playing it safe’.

There was stakeholder suggestion that AITSL has a lot to contribute by continuing to shine the light on sectors, jurisdictions and schools that have implemented different approaches in raising school and student outcomes. Currently, AITSL bridges many gaps between sectors and jurisdictions, and is well positioned to do so given they are not affiliated with any sector.

Another commented that AITSL works in an, at times, extremely difficult operating environment but AITSL was regarded as having gone to significant efforts to build consensus in relation to reform; ‘bringing government with them, in areas where government is not necessarily committed to change’. However, it was also noted AITSL is quite uncertain about how the implementation phase (of teacher and principal standards) will work. Jurisdictions perceive engagement with teachers as a state responsibility, although AITSL should be encouraged to go directly to teachers because ‘our sector needs it’.

There were some contrary stakeholder opinions in how AITSL services its functions which ranged from AITSL being process-focussed rather than having the national expertise because it outsourced its thinking and technical work to AITSL over-stating its reach into the profession, the majority of whom are employed by the States and Territories responsible for mobilising resources. Examples were also provided to argue that AITSL operated in their jurisdiction with a ‘clumsy’ model of engagement that included ‘outdated’ contacts and processes and that their work had been compromised recently through ignorance of industrial implications or precedents because they simply are not in the business of running schools. AITSL’s role in the formative assessment discovery phase was questioned as it was regarded as an unclear role that needed to be heavily scaffolded which was not consistent with a jurisdictional expectation that the national architecture needed to be innovative.

Consultations indicated that the Teacher Registration Authorities in each jurisdiction would have varied views about AITSL’s authority with the profession. The Teacher Registration Authorities are on a broad spectrum: at one end there are those with a bold agenda and are more quality focused. On the other end of the spectrum, some only undertake compliance of teacher registration functions. In light of this, it becomes clear why AITSL ‘is herding cats’. The view followed that a shared funding arrangement is needed in all national architecture to ensure all jurisdictions have a vested interest.

Stakeholders also considered that AITSL was ‘industrially adrift’ in its role with no union voice included for the majority of the workforce and that the collaborative relationship with industrial partners could not be underestimated. Another stakeholder suggested that there was tension with jurisdictional teacher registration entities that needed improvement.

A number of stakeholders held the view that at the time of AITSL’s establishment, the teaching profession was in need of strong focus on greater professionalism and clarity on what the expectations of the profession were.

21 The average staffing cap was identified in the Review Survey as being particularly challenging leading to outsourcing and other strategies. See further in section 3.3.
To this end, AITSL has done a good job of meeting this need. However, if the purpose for which AITSL was designed has been achieved, then the question of what the next challenge is needs to be asked. The Australian Government has tasked AITSL recently with certain pieces of work which many stakeholders contend not only do not align with its fundamental core work, but the process and subject matter were concerning in the context of the principles of subsidiarity. In this context, AITSL was being regarded as just an arm of the Australian Government.

It was argued that the big question is whether the education sector has moved in a direction that has left AITSL behind. On this basis, some stakeholders questioned whether AITSL needs to be restructured to reflect this new direction whereas others questioned whether AITSL is still needed as part of the architecture with the national standards having been achieved. Another queried whether AITSL could become a subset of another body as its mandate was too small to be a standalone entity. Some jurisdictions suspected active mission creep in order for AITSL to stay relevant.

**Education Services Australia (ESA)**

ESA is responsible for advancing nationally agreed initiatives in the school, training and higher education sectors. ESA’s mission is to combine education and technology expertise to create and deliver national solutions that further education reform in Australia and contribute to improved student outcomes, enhanced teacher impact and stronger school communities.

**Box 4: Functions (ESA)**

**ESA’s strategic priorities set by the Education Council by Letter of Expectation until June 2020 are:**

- researching, testing and developing effective and innovative ICT systems and tools for education, in line with national eLearning initiatives
- devising, developing and delivering curriculum and assessment, professional development and career and information support services, consistent with the work of ACARA, AITSL, states, territories and other key stakeholders
- facilitating the pooling, sharing and distribution of knowledge, resources and services to support and promote eLearning, across jurisdictions, sectors and internationally, and
- ensuring access to quality assured systems and content and interoperability between individuals, entities and systems.

**Education Council also expects ESA should:**

- take the opportunity to offer its services, where appropriate, to the higher education and vocational education and training sectors and explore areas of intersection between the education and early childhood sectors in progressing priority work, and
- foster opportunities, where relevant, to contribute to the Council’s objective to reduce or remove regulatory burden, wherever possible, on individuals, early childhood and school community organisations, education institutions and business.

ESA sees its role as a service deliverer in that it does not separately go to AESOC or Education Council with project proposal or for funding, but rather is engaged on a largely commercial basis to deliver work of the national architecture. Some stakeholders’ views expressed were consistent with this understanding, recommending that there should be more clarity in favour of a purchaser/provider relationship and the role of ESA to ‘build to a specification’.

The 2014 Review of the Australian Curriculum described ESA as ‘one of the success stories of Australian school education, allowing jurisdictions to share resources among each other as well as with ACARA’. This mechanism of sharing product development or experience, and leveraging advantage from one investment for the benefit of others across the system, is a public value point of difference for ESA from the private sector market.

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Donnelly and Wiltshire (2014), 226.
A number of stakeholders considered that ESA was good value for money and a positive experience with material of a high quality and fit for purpose but considered that ESA were relatively under-utilised with a few stakeholders suggesting that they could promote the range of their products and their services more.

However, ESA – like ACARA – has suffered significant reputational damage with stakeholders for the difficulties experienced this year in transitioning to NAPLAN online: ‘so disappointed … we have lost confidence in their ability to deliver the technology-based platform’.

Other stakeholders considered that ESA appeared to no longer be doing the specialised work it did once and the question of whether the body is doing something unique or replicating services available in the wider market needed to be asked. It was acknowledged that ESA had made a major contribution in stimulating the market for education products such as theirs a decade ago although as another asked, do we still need a national IT resource for education now? Others wondered whether ESA should be integrated into ACARA as a ‘project shop’ extension to ACARA’s work.

ESA operates on a not-for-profit company basis applying commercial discipline in a public purpose context with specific education expertise, experience and partnerships. One jurisdiction explained that a national education advantage to ESA is its cost-effective availability for explorative work which would be harder to take to market without a more defined brief, and certainly more expensive to explore with a private sector provider if not prohibitively so. Another jurisdiction cited the formative assessments work as an example.

Review consultations learned of an additional example to illustrate this claim. An organisation that the Australian Government Department of Education (the Department) contracted through a tender process, was unable to complete a specific learning project and the contract was subsequently ended by mutual agreement.

The Department is now undertaking a direct source procurement with ESA to deliver this project. The reasons by the Department for selecting ESA, and direct sourcing their management of the project, are:

- ESA is a ‘not for profit’ organisation, that was established to deliver technology solutions for government and the school education sector, which reduces the risk with delivery of the project and helps provide a better value for money proposition for the use of public funding.
- As a jointly-Ministerially owned company, with significant experience in delivering technology enabled education projects, ESA are now best placed to complete a complex, time-limited project, including negotiating time and price requirements.
- ESA has extensive and demonstrated experience in delivering pedagogically aligned projects for the school education sector.
- ESA has successfully delivered other technology enabled education projects, which gives them an understanding of government requirements for the design and delivery of public-facing technology, implementation of IT security and other requirements, and management of data.

ESA has supported the system in this way previously. Similarly, ESA does numerous, small-scale jobs where ‘small budgets would be eaten up just getting it to market’. ESA advised that instead jurisdictions would contact ESA to scope directly what could be provided for a relatively small allocation of $30,000, $50,000, $70,000, for example – small jobs not best suited for private sector providers to maximise outcomes.

ESA sees itself as a trusted broker for certain projects in that it understands and knows the relevant stakeholders; it knows the AESOC and Education Council landscape and that it could be utilised to bring additional capacity in the brokerage of projects. ESA raised that there is a risk to project and product viability where multiple jurisdictions originally buy-in to a project, but then later one or more of those jurisdictions remove themselves from that project. However, ESA is trying to mitigate this issue through reinvesting surpluses into such projects, staying the course, being innovative, and also seeking to leverage enhancements and functionality improvements to any products so that jurisdictions may re-engage and buy-in once more. The online resource myfuture was raised as an example of this, where over time jurisdictions have sought out the subscription service, as the value and enhancements to that product have been realised. The board of the ESA was referenced as being actively engaged in this strategy and the role of ESA in the national architecture space. My Skills is another example similar to myfuture where ESA has significant product commitments outside school curriculum, assessment and teaching.
Some concern was expressed that a range of ESA’s products as a national resource may be ‘withering on the vine’ due to lack of investment. The ten-year old Scootle was offered as an example that ESA was not contemporary or particularly innovative.

ESA would agree that, while Scootle remains heavily used, it is true it is no longer ‘leading edge’ or readily regarded as ‘innovative’ in 2019 but that is a direct reflection of the investment in it over a decade. The Australian Government moved out of investing in it four years ago and States and Territories pay only a maintenance amount. However, this is a reflection of the willingness of jurisdictions to provide funding, not a capacity to be ‘innovative’. By contrast, the Early Learning Languages Australia (ELLA) product has had a four-year investment to produce a well-regarded product that ESA has advised has been the subject of two university studies to research and provide evidence that it works. ESA has also advised that it does try to build in mechanisms to keep products sustainable as stakeholder priorities move on. In any event, it is worthy of note that despite the reduced size of investment, the usage of Scootle has not dropped – indeed the number of users is steady with slight growth and Scootle had a not insignificant 20 million page views last year. It was submitted that ‘innovation’ does not just mean leading edge but also ‘innovation driven by scarcity’ where the most is made of what little funds are available and ESA has made some small, but high impact, revisions to Scootle to maintain its massive reach for Australian children and their teachers, despite no longer being the most leading edge product in the market ten years on.

ESA continued that its other advantage to the national architecture is that it operates on a not for profit basis which means its board regularly makes reinvestment decisions of profit as informed by the strategic priorities for ESA. Last year, the Board decided to reinvest approximately: $400,000 of its own surplus funds into Scootle to cover a shortfall; $600,000 of ESA surplus was invested in additional staff to support NAPLAN online outside of the NAPLAN online budget which was a decision by the board from ESA’s funds to help manage risk out of regard for NAPLAN online being a high risk project; and the remaining $600,000 was applied to reduce overheads on every project for government clients in the order of 2.7%, which saving went back in to ‘top up’ client project budgets.

NAPLAN online was used as an example by ESA as to their cost effectiveness in the market: ESA submitted their NAPLAN online 2014 costs which were accepted and ESA has been working within that envelope with the only exception being the additional costs that were directly responsive to changes in scope but the overall build cost is within 10% of the original 2014 price. This is a significant detail to note in a private sector ICT market which is well-known for contrary experiences.

ESA developed and maintains the Online National Assessment Platform, used to deliver NAPLAN online. The ESA owns the intellectual property in the Platform which is a significant national asset. Some discussion in consultations suggested that any large technology provider could have delivered NAPLAN online and that the ESA had ‘sub-contracts and sub-sub-contracts’ to deliver with the implication that this was due to an expertise deficit. Further information assists in understanding these issues. A claim that ‘any big technology provider could have done NAPLAN online’ does not appear easily supported by the history because the ‘big providers’ effectively did not want to do it. Procurement for the delivery system showed that the big providers did not tender for it. Moreover, procurement did not produce the big companies, only smaller specialists. It would appear therefore that there was not a huge interest in the market to take on NAPLAN online.

In terms of multiple sub-contracts, that is the reality of how major IT projects work. A fundamental understanding of the nature of this project, or of any large IT project, is that there is simply no single provider who would have all the solutions with best agreed security provision, best agreed database provision, best agreed student registration provision.

The ESA highlighted two other aspects of its national body role to support its value proposition in the architecture. The first for a high cyber-security certification was also raised by a jurisdictional stakeholder as being important and open to being relied on more by jurisdictions.

The second point of value differentiation from the private sector market is the inclusive terms of access that advantage remote, rural and regional use where the costs otherwise would limit their access to the market. For example, the terms of access for Scootle are that it is free of charge to every student, in every school, and every teacher and student.

23 ELLA encourages Australian students to study a second language by offering a fun, digital, play-based language learning program for preschool children.

24 ESA is one of the Australian Signals Directorate’s Certified Cloud Services, not at its highest level – Protected, of which there are only seven as of January 2019, but at the Unclassified level. ESA is one of 14 at this level. https://www.cyber.gov.au/node/293
A coordinated teacher focus

From within the national architecture, it was suggested that support for teachers is the one area in which all three bodies have a role but in which – setting aside learning progressions and formative assessment – there is no clear leader. Although one countered that each body had a different purpose and could co-exist; greater leadership could improve the sum of the parts.

A Review Survey comment validated the proposition that despite the role statements, there was scope for coordination of effort and output for teachers as a primary client because all three bodies produce resources for teachers for similar purposes:

All three agencies provide support material for teachers independently of one another. ACARA produces much sought after ‘illustrations of practice’ that are videos of teachers delivering lessons that integrate core content with the cross-curriculum priorities and the general capabilities, as well as ‘work samples’ that show teachers examples of student work that meets the curriculum standards. AITSL also provides ‘illustrations of practice’ for use by teachers, though their focus is more on pedagogy than curriculum; and ESA provides “educational content” drawing on “pedagogical expertise” and “expertise in the Australian Curriculum”.

ACARA had identified a clear and strong demand for resources supporting teacher practice as demonstrated by the strong uptake of ACARA’s publications on integrating the teaching standards into an area of the curriculum. Despite there being a clear demand for the work, there would not appear to be a lead agency (ACARA, AITSL or ESA) clearly taking charge of examining ‘what works’ in the practice of providing quality teaching, showing how to integrate all the resources, and providing practical resources to support effective practice.

This role should be clearly articulated and allocated within the national architecture in the context of the decision-making with the national evidence institute also.

Promotion and communications

Stakeholders suggested in a number of interviews in the course of analysing other issues that the three national architecture bodies do not promote their products and services of their role within the system as effectively as they might. It was even considered that AESOC does not necessarily have a good view of what the bodies do. There is some appreciation of this concern in the architecture, ESA for example in discussing its risk register and mitigation strategies identified enhanced stakeholder engagement as a priority to maximise the value of their contribution to the system. The operating environment is also challenging and changeable. The stakeholders’ observation is a well-made one deserving of consideration by the bodies to enhance mutual understandings and avoid missed opportunities.

An additional stakeholder issue was concerned with clarity of role in media relations, in particular: who has the authority to make public announcements on behalf of the education sector. For example, it was believed that AITSL has released public position papers and ACARA had issued press releases to the surprise of at least some jurisdictions. It is a reasonable expectation for Ministers to be able to make public announcements on matters relating to their portfolio. It was observed that this option is not available to a Minister when a body in the national architecture appears to act or speak on the behalf of the education sector. This concern is aggravated by first hearing of these representations in the media. It is recommended that public communication protocols settled by the architecture bodies with the Education Council and AESOC assist to clarify how to handle media enquiries and the logistics for approvals through identifying the role, process and expectations.
3.2 Governance, decision-making and accountability mechanisms

Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interests of the company and shareholders and should facilitate effective monitoring, thereby encouraging firms to use resources more efficiently.25

Institutional form and decision-making

Each of the three bodies in the national architecture for schooling has a set of different legal structures and governance arrangements, as summarised in Table 1. There is no ‘one size fits all’ proposition for good governance. Arrangements should be proportionate and responsive. Following the description of the current arrangements below, chapter 4 provides an analysis as to whether the structures are fit for purpose.

ACARA is established as a statutory corporation under its own specific enabling Commonwealth legislation. All jurisdictions nominate members to ACARA's governing board. AITSL is a Commonwealth company owned by the Commonwealth with a board appointed by the Commonwealth. ESA is a company jointly owned by all jurisdictional Ministers operating on a not for profit basis as a registered charity with a board appointed by Education Council.

Table 1: Institutional form and governance arrangements

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<tr>
<th>ACARA</th>
<th>AITSL</th>
<th>ESA</th>
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<tr>
<td><strong>Institutional form</strong></td>
<td>Established in 2008 as an independent Commonwealth statutory corporation under s5 of the Australian Curriculum, Assessment and Reporting Authority Act 2008 (Cth) (the ACARA Act).</td>
<td>Established in 2010 as a Commonwealth company as defined under s89(1) of the Public Governance, Performance and Accountability Act 2013 (Cth) (PGPA Act); and a public company limited by guarantee established under the Corporations Act 2001 (Cth) (Corporations Act). AITSL is a wholly-owned Commonwealth company as per s90 of the PGPA Act.</td>
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<tr>
<td><strong>Governance arrangements</strong></td>
<td>Governed by a Board of 13 members (independent chair and deputy chair, and 11 other members each nominated by federal, state and territory education ministers, and the National Catholic Education Commission and Independent Schools Council of Australia.)</td>
<td>AITSL is governed by a Board of 11 directors, consisting of independent experts.</td>
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A stakeholder perspective of an ideal organisational structure was one that offered an agenda that delivers on outcomes for students as well as the mechanisms to help achieve them, with clear reporting mechanisms back to the education departments of the States and Territories. The structure should facilitate return on investment and provide integrated service to policy leaders as well as the profession. Decision-makers need to have the relevant information to make decisions and insist on outcomes.

Many stakeholders considered that AESOC and Education Council needed ‘better line of sight’ over the bodies and the ‘structure needed to be responsive’. There was concern that AESOC does not have visibility over board matters. Duplicated decision-making was also claimed of the board structures as well as the AESOC and SPG processes. Comments on the governance and decision-making structures for ACARA which included advice via the board, then SPG and AESOC prior to Education Council was described as inefficient, complex and resulted in inconsistent advice and direction including from the two bodies: AESOC and the board. There were ‘many forums, often with the same people’; ‘who is reporting to whom – it varies depending on the issue’; ‘there is duplication of decision-making… but don’t necessarily get consistent advice’. The decision-making processes ‘do not provide a good return for effort’.

Boards

Guidance from the ASX Corporate Governance Council on the size of a board includes that ‘it should not be so large as to be unwieldy’. Good corporate governance expects that there are not too many board members that:

- Discussion is constrained and it is difficult for all board members to meaningfully engage in and contribute to deliberations.
- Ease of interpersonal relations at the board table is inhibited.
- Board members struggle to know their fellow board members to gain trust and confidence in them.

A rule of thumb example of size has a large ASX listed company at 8–12, medium ASX listed at 6–8 and public sector boards at 6–12 directors.

Publication of the Board’s regularly reviewed skills matrix will increase transparency and accountability of the Board to ensure that it has the ‘skills to discharge its obligations effectively and to add value’. Boards should also have in place annual performance reviews of its performance. Although not required, these measures would be consistent with leading practice guidance in the Corporate Governance Principles of the ASX.

Directors of boards who hold office as a representative nominee (or with another close interest such as employee of an education department) would exercise particular caution in undertaking their responsibilities to ensure any potential representative conflict of interest does not expose them to any civil or criminal liability for breach of their duties owed as a director. For example, there are nine board appointments from government departments with a further three members from statutory authorities to the boards of AITSL, ACARA and ESA.

Directors of companies owe fiduciary duties to the company for example to act in the bona fide interests of the company, exercise power for a proper purpose and to avoid conflicts of interest. Directors are also subject to a common law duty of care to the company. In addition, company directors owe a range of duties under the Corporations Act including exercising their powers and discharging their duties in good faith in the best interests of the corporation and for a proper purpose (s181, emphasis added). Under the Corporations Act, directors of companies are provided with a ‘safe harbour from personal liability in relation to honest and informed and rational business judgments’ (s180) which is concerned with the nature of the decision-making process. Again, board directors who are representatives, or nominees, or employees of stakeholders for example would need to be alert to their board director duties and any potential risk of compromise arising from their two hats role.

Directors of ACARA have a public sector duty of care and diligence under the PGPA Act (s25, which is modelled on the Corporations Act responsibilities).

Several consultations posed concern as to potential conflicts of interest involved in directors undertaking their role as representative or nominee of stakeholders.

26 ASX Corporate Governance Council (2019), 12.
27 Australian Institute of Company Directors (2016), 1.
28 ASX Corporate Governance Council (2019), 13.
Consultations also revealed a fundamental concern on the degree and nature to which Boards themselves are contributing or influencing national education policy given the choice and direction that the Board sets – and that such is not appropriate. The balance and governance are not right, it was concluded, if a ‘supplier of service’ has become the ‘policy influencer’ or direction setter.

Additional stakeholder concerns were raised in respect of the ACARA and AITSL Boards:

**ACARA**

ACARA is a large board of 13 members, 11 of whom are nominated for appointment by stakeholders. There is evidence of role confusion as to whether the Board is a representational, expert/advisory and/or governing Board. Some feedback in consultations suggested that there was board role confusion. Also, the Review Survey results validated a mix of responses in describing the nature of the role, with one respondent noting that ‘the ACARA board is intended to be an expert advisory board but believe that in practice it operates as a representative/stakeholder board’. The ACARA Board has a governing role under section 12 of the ACARA Act: ‘The Board is responsible for ensuring the proper and efficient performance of [ACARA’s] functions’. However, the Review Survey responses from the Board members did not identify ‘governing’ as describing their Board role, identifying instead as expert/specialist/advisor or stakeholder representative.

It is understood that recent leadership of the Board has worked hard to acknowledge the difficulty of representatives serving two masters to achieve role clarity by requiring members to explicitly identify whether they are speaking as a director or sharing information in their capacity as a representative. It was also suggested that the board functioned because of the care exercised by individual members, not because the structure was ideal. A contrary stakeholder perspective offered was that the downside of making a director’s representative nature of the role clear is that it then works to limit ‘divergent or disruptive thinking’ which would be more beneficial towards the company’s best interests in Board innovation or strategy. The same representatives around the table from other fora adds no real value to the decision-making process as they cannot offer new perspectives or fresh eyes. Therefore, it was concluded because the Board is not genuinely independent, the status quo is maintained.

As a further complication to the operations of the ACARA Board, it is understood that Board nominees do not necessarily have the same internal lines into their state administration. The varying extent to which Board members knew or could anticipate the views of their Minister was a factor that added complexity to the governance landscape. A jurisdictional stakeholder posed the challenge: do AESOC members know who their representative nominee on the board is.

Stakeholder feedback has included that the ACARA Board needs significant strengthening of its governance as it has a ‘high stakes’ role in delivering for the education sector. There was acknowledgement that the board is essentially representational but the ability and interest of jurisdictions to have their views represented through this mechanism was regarded as questionable. Some claim that ACARA sees its role as lowest common denominator because the Board has to accept what they can get everyone to agree with, it can be like ‘a mini COAG’. The ‘expert based board is not a reality’. The history and other indicators suggest that the primary purpose of the governance structure for ACARA is perceived as consensus-seeking, rather than performance driven.

It was suggested that ACARA’s Board does not have an appetite for more strategic over operational discussions. Stakeholders expressed concern that all three Boards need to appreciate where the ‘pain point is’ and that they need to be more politically astute.

Consultations queried what role the ACARA board thought it was undertaking in pursuing ‘expertism’ with precise debates around comparability for example which ultimately misled understandings. The ‘expertism’ did not recognise the landscape and timeliness imperatives of NAPLAN. Thus, should ‘expertism’ be: execute it technically well on the instructions given by the Ministers?

The conflict of interest concern regarding the dual roles of directors appears particularly acute in relation to NAPLAN online with representatives from jurisdictions having to wear both the hat as a local testing authority, and the hat as the governing board member responsible for successful transition to the test.
Another specific nature of the conflicts of interest raised in consultations is the representatives or nominees who head up or represent state or territory curriculum authorities. This was perceived as a risk that they might come with ‘their own agenda’ to curriculum discussions.

The Review of the Australian Curriculum had also identified the potential conflict of interest issues with representative directors in 2014:

> There is, of course, a design fault in the governance of ACARA ... It relates to the circular pattern of advice within the model. The majority of ACARA Board members are each nominated by an education minister and are then formally appointed on the agreement of the same state and territory ministers. The vast majority of Board members to date have been state or territory government officials from education authorities. From our research and consultations, including with some former Board members, they seem to act as representatives of their nominating minister rather than independently or as educational experts; this might well be expected since this whole situation represents a conflict of interest for them. Consequently, they wear two hats as they ride this Ferris-wheel of policy advice. They become the very people providing advice to ministers who are part of the Ministerial Council which is then issuing directions and Letters of Expectation to the ACARA Board on which they sit. This whole arrangement is also not conducive to ACARA becoming primarily an educational body governed by curriculum expertise, rather than a policy-driven one. 29

Reportedly, ACARA has had some difficulties achieving quorum of 9 of 13 members from time to time presenting decision-making difficulties. It would appear appropriate for this quorum to be lessened to 6 or 7 given the rule of thumb size indications, particularly if a Chair or Deputy Chair was present.

**AITSL**

The original AITSL board was representative with 17 members, which was regarded as a key method for buy-in of all stakeholders in the schooling sector. This larger Board also was to facilitate the capacity of AITSL to influence the creation and implementation of nationally consistent teacher standards as part of its original objective. A review was undertaken of the AITSL Board in 2010 which recommended that AITSL’s Board be reduced to between 6–7 members (all of whom would be appointed based on subject matter expertise). This did not eventuate although in mid-2012, the total number of directors was reduced from 17 to 9. The composition was later increased to 11 (current number) to enable additional subject matter expertise and representation from the Deans of Education without reducing existing representative positions.

In May 2015, the then Australian Government Minister for Education amended the AITSL constitution to move the composition of the AITSL Board from one based on representation, to one based on subject matter expertise. Prior to the amendment, the Board was required to comprise representatives from NCEC, ISCA, teacher unions, principals’ associations, State and Territory teacher regulatory authorities, and Deans of Education, plus two members of AESOC, a Chair, a Deputy Chair and another member chosen by the Commonwealth Minister. After the amendment, no such requirements as to AITSL Board composition applied and the Commonwealth Minister now has broad discretion to appoint AITSL Board members based on a set of non-mandatory subject matter expertise considerations. Upon this change to the company constitution, a new Board of directors was then appointed for AITSL. The Australian Education Union (AEU) and the Independent Education Union (IEU) wrote to the Chair of AITSL following the amendments to Board membership to outline their concerns with respect to the removal of representative nominations. The then Commonwealth Minister wrote to the AEU and IEU and invited their participation in AITSL’s subcommittees.

A further amendment to the company constitution last year reduced the minimum number of directors required to be appointed to the AITSL Board from seven to three (reflecting the minimum number required for a public company under the Corporations Act).

Recently, half of the AITSL Board changed at the same time which it is understood resulted in a significant loss of expertise. While corporate governance principles regard Board renewal as critical to performance, better practice would stagger appointment terms to rotate the board through a less-disruptive succession plan, as informed by the needs of its Board capability matrix and advised to the appointing authority.

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29 Donnelly and Wiltshire (2014), 225.
The AITSL institutional and governance arrangements give rise to jurisdictional concerns of too little influence and ‘buy-in’. It would appear that these concerns have been exacerbated recently by the disputed role of AITSL to undertake the new references that effectively relate to the way jurisdictions run schools and their responsibilities in industrial relations.

AITSL suggested a hybrid option, combining representational and expert board membership, would be a possible way to strengthen jurisdictional control and involvement. The Board structure of the Australian Institute of Health and Welfare was also suggested as a possible option as they are considered ‘honest brokers’. AITSL acknowledged the challenge for some directors working for two masters with the tension of representing jurisdictional views while making decisions in the best interests of the company.

**ESA**

ESA described the governance structure of the national architecture as meaning that ESA has dual governance. Although its Board has ultimate responsibility for the governance of ESA, Education Council and AESOC also play a role given that ultimately Education Ministers are the owners of ESA. To an extent, AESOC is therefore involved in setting the direction, and some of the priorities of ESA. This can mean that reporting lines on occasion may appear blurred, or duplicative, and can also require a balance between the role of the Board of ESA and AESOC. An example of this, and a recent development to the relationship between AESOC and ESA, is that ESA has been asked to provide input into a paper on governance for NAPLAN online.

The effective dual governance in practice may also risk blurring legal liabilities in company law. Although as shareholders of the company the liability of Education Ministers is limited to being a mere owner, the effective conduct of AESOC members in governance and setting strategy and priorities in practice akin to board directors may open the possibility of liability as a de facto director or shadow director under the Corporations Act which would make the AESOC members liable for any breach of directors’ duties as though they were appointed as a director. The AESOC member (as the de facto or shadow director) has the same statutory duties and liabilities as a director including the requirement to act in the best interests of the company and must not prefer his or her own interests to those of the company. A failure of those duties could expose members to being sued by the company, its shareholders or a third party or regulatory action by ASIC.

De facto and shadow directors may also present risks for the appointed board members if the arrangements compromise their ability to discharge their duties as the appointed board directors.

Regardless of the preferred option for the national architecture, this Review recommends that the better corporate governance and risk arrangements in respect of ESA (which functionally is a trading entity) would be ESA governed by its appointed board without strategic or governance direction from AESOC, i.e. not a ‘dual governance’ model. ESA would not attend AESOC meetings and discuss firewalls or the technical detail of projects with AESOC because ESA would function as simply a supplier for goods and services in response to specifications with direction of performance and accountabilities managed within the clear context of contract or grant agreement. That is, direct engagement with the ESA would be in the context of a direct contract or grant provider relationship within the terms of that relationship not as the ‘dual governance’ of a company in the national architecture. This will further help ensure that ESA is able to focus upon, and deliver, what it is to do best. That is, digital technology projects and solutions for the education sector, and based upon clear lines of accountability and direction.

The liability for Ministers should be limited as an owner (avoiding shadow director implications) with the constitution and other properly authorising sources of direction setting the strategy and priorities for the full benefit of ESA’s not for profit purpose for the public good of the education sector.
Steering and accountability mechanisms

There were many stakeholder concerns of inadequate accountability:

...the bodies were created to give States and Territories involvement, but they are so autonomous, we can’t tell them what to do...

...we need clarity of time, cost and quality, need to empower people who can make decisions on the spot...

...where has the accountability gone? They have generated their own business and are off-track now...

...there needs to be greater transparency of governance arrangements than currently exists...

...how can we make informed decisions?

As Commonwealth entities, ACARA and AITSL are subject to the relevant accountability requirements under the Federal Resource Management Framework.

ACARA must comply with the PGPA Act, the PGPA Rule 2014 and the Public Governance and Accountability (Financial Reporting) Rule 2015. Requirements include general duties of the governing body and officials, risk management, internal controls, and audits and assurance. ACARA reports to the Commonwealth’s Finance Minister and the Education Minister about requirements under the PGPA Act.

AITSL must comply with chapter 3 of the PGPA Act and PGPA Rule. PGPA Act requirements for wholly-owned Commonwealth companies complement and are additional to the director’s duties, financial and auditing requirements under the Corporations Act. PGPA requirements include:

- keeping the Education Minister and the Finance Minister informed about certain matters including its activities, significant decisions and issues
- providing the Education Minister and Finance Minister with documents and reports prepared on its activities
- preparing a corporate plan and budget estimates, and ensuring it has an audit committee
- providing annual report to the Education Minister, which the Minister is then required to table in Parliament.

Key components of the Commonwealth performance framework which generally apply to ACARA and AITSL are:

- Budget Statements within the Portfolio Budget Statements (PBS) for Education portfolio, which specifies the budgeted expenses, funding source, and forecast performance for each of the entity’s outcomes.
- Corporate Plan, which includes explanation of how the entity’s performance will be measured and assessed.
- For ACARA, Annual Performance Statement within the annual report, which reports on performance results against the forecasts in the corporate plan and PBS and provides an analysis of factors which contributed to performance.

ACARA and AITSL are subject to parliamentary scrutiny through the process whereby the Senate’s Education and Employment Committee considers estimates of proposed annual expenditure of agencies funded through the appropriation bills.

ESA is not subject to the PGPA Act and subsidiary rules and requirements, as it is not a Commonwealth entity. The Corporations Act sets out the directors and officer’s duties, financial and auditing requirements.

Risk, planning and performance frameworks

The common theme from stakeholders was that all three organisations in the national architecture undertake work outside their remit. Much of this, it was said, is a result of inadequate governance measures and the organisations not being clear about their remit.

However, it was also suggested that this situation is enabled by AESOC’s lack of scrutiny of and lack of accountability for poor quality workplans. This is made possible by the workplans slipping down the level of priority in an overcrowded AESOC agenda and so they avoid close scrutiny. In addition, the workplans are often poorly constructed with use
of very general descriptions of their deliverables. There is stakeholder frustration concerned with a low level focus on discrete and potentially disconnected outputs rather than on outcomes. Some tension is experienced when the ‘well-resourced’ organisations seek additional funds from AESOC, while jurisdictions are directed by their Ministers to reallocate their existing resources to meet any additional needs.

In response to queries relating to rigour of ACARA’s performance measures, the CEO agreed that ACARA’s performance framework could be improved. A performance criterion for a ‘fit for purpose’ advisory structure noted as ‘achieved’ because the status of delegates had been confirmed and published is a small target. Delivery of NAPLAN online was not a small target identifying its performance measure as NAPLAN online delivered successfully in 2019 – but it was rated as ‘achieved’ also.

Performance management in the public sector is inherently challenging, although the CEO agreed further work could be done to develop a more meaningful framework. Other members of the executive management provided context to the challenges of setting performance measures for ACARA. They described a ‘rapidly shifting operating environment’, where ACARA is vulnerable to such a large degree to its advisory structures to get progress that the uncertainty of this process (rather than stretching for a performance measure) are front of mind.

During this discussion, it became apparent that the process of building consensus and passing successfully through the various gateway and decision-making structures required such significant organisational effort that simply obtaining a consensus decision and being authorised to implement, had become a key measure of success.

Two further reflections arise. Firstly, there was some sense that the performance targets needed to be practical (i.e. tentative) within the constraints of the operating environment because there were too many variables outside the control of the ACARA executives. This ‘playing it safe’ strategy is a consequence of the many masters predicament and is recognised in education governance literature as the ‘multiple accountability disorder’ because ‘by trying to please everyone (or to not upset anyone) neither forums’ expectations are effectively met from charting the balanced, but suboptimal, path’.30

Secondly, an accountability paradox becomes evident where the apparent over-governance, or multiple overlay of reporting requirements, actually returns less scrutiny because the busy-ness of the process fails to offer a genuine opportunity to review reports and governance process to render accountability. Or, it might be the case that the dual board and AESOC processes are leading to split accountabilities creating effective gaps in who is responsible for checking and holding the performance to account. In those eventualities, the performance framework is less meaningful and accountability becomes less effective.

Integrated risk management frameworks and independent review committees are in place which are governed by Board processes as the usual part of Board responsibilities. Evidently though from the NAPLAN online 2019 experience, the risk tolerance thresholds and appetite of AESOC and Education Council need to be a critical inclusion to ensure shared understanding of the risk boundaries so that they can drive effective and responsive planning and performance.

When work is commissioned through AESOC, Education Council has a line of sight through its structure with AESOC. It was strongly argued during Review consultations that ‘getting the basics right’ would contribute to a clearer, more accountable process of commissioning work at the national level.

At the outset, the letters of expectation need to be clear. AITSL’s Letter of Instruction for example includes generalised action words with ‘strengthen’ and ‘support’ in potentially sensitive interjurisdictional territory.

Commissioning work at a national level has presented challenges. Early engagement at the outset of projects should assist the bodies to scope, risk assess and provide a clear and detailed work plan (including statement of risk appetite). This would include a direct line of sight to clear performance criteria that identifies specific, measurable, realistic and timely performance measures.

30 Fahey and Köster (2019), 36.
A review of the process of workplan approvals indicates that they are ‘starred’ through AESOC which means they are noted only and discussed by exception. Amending this practice to one where there is an agenda discussion (instead of a starred process) with sufficient lead time for the draft workplans to be reviewed by the jurisdictions in preparation for that discussion would be significant given the common concern that the bodies are working beyond their brief. AITSL does not submit a workplan to the Education Council for approval, although it is provided to Education Council annually.

Some jurisdictional stakeholders were not satisfied with the extent of detail provided to support an interrogation of the workplans and budgets and their relevant connections and expected impact on national strategy. There was also dissatisfaction with the perceived state of affairs where unforeseen expenses were continually going beyond budget requiring budget supplementation. There was also disappointment that more significant items of budget request might be inappropriately included in amongst less contentious material making it easy for busy AESOC members to miss the significance of the full bid. The lack of operational budget breakdown recently for one of the bodies which took an elongated time to resolve was described as an example of the lack of sufficient detail and forward planning being submitted for approval.

The Education Council Secretariat engage in iterative processes of quality control with the bodies generally but a specific gap analysis of the workplans and budget submissions (in consultation with stakeholders) on what additional clear and explicit information is relevant and meaningful to include in a revised format with specific provision of guidance for the bodies may assist.

Several comments suggested that bodies may not have the requisite skills’ set or experience to appreciate the nature, quality and focus of information that is properly submitted to leaders in government. Specific support to the national bodies to build capability could assist in improving the quality of papers being submitted to AESOC and Education Council. For example, a jurisdiction could offer to host a meeting for the relevant operational staff from the national bodies with their knowledge experts (such as in corporate or executive services) and the Education Council Secretariat, to coach and provide practical advice on how to prepare better quality papers in accordance with good public sector governance principles.

Such improvements would include a clear connection of budget bids to strategy and reference to the authorising source for undertaking that activity so that stakeholders are not trying to track and source the connections themselves in the first instance.

In further discussion as to continued concerns for quality, some stakeholders also observed that it appeared that the CEOs presenting to AESOC were not always aware of the detail of their own papers under consideration which did not assist the decision-making process. Appropriate feedback and opportunity for learning and improvement in these circumstances given the impact on the quality of decision-making might be provided to the CEOs formally by letter from the Chair or informally through the Education Council Secretariat as may be appropriate to the circumstances.

The letters of expectation are not used to hold the organisations to account and feedback to the organisations on their performance across the year is not provided cohesively on an annual basis. The annual general meetings were not used for this purpose with members typically providing proxies for a brief meeting.

The Education Council Secretariat might assist AESOC by periodically submitting an account of performance by the bodies against the commitments set out in the authorising documents of the Charter and Letters as well as any additional undertakings made at meetings or otherwise to support AESOC in holding the bodies to account in response to their performance against the authorising instruments. One stakeholder commented that if AESOC used the authorising agreements to hold the bodies more to account, the message of what matters ‘would soon get back’. The truism of what gets measured gets done is compelling.

To fairly address stakeholder concerns as to the completeness and manageability of the authorising documents and to promote transparency of expectations, each Charter letter, Letter of Expectation or Letter of Instruction to the bodies should represent the current set of expectations and replace all earlier letters. These authorising documents should be published31 with any corresponding and approved Letters of Intent in response from the bodies, as well as their relevant corporate and strategic plans in the usual course.

31 Evidently two of the three bodies publish their authorising documents already.
Evaluation and review

In terms of data collection and data governance, there was some concern that across the architecture lots of different data was being collected for different purposes and there was not a shared approach or necessarily efficient process although it was acknowledged that layers of historical drivers had led to the current perceived untidiness. The risk is the line of sight of the data from an assurance perspective where it is tied to funding or other accountability purposes. There was stakeholder suggestion that ACARA does not do any data cleansing, although ESA has a different process to cleanse data and it most likely relates to different functions. It is recommended that consideration be given to learnings from other portfolio processes to assist in designing an integration approach for a trusted national body with independence and clarity of roles and responsibilities to manage the system’s tendency to pull towards the lowest common denominator.

By extension, it would appear that national education reporting is a congested and reportedly a confusing space with reporting requirements for the National School Reform Agreement, the National Measurement Framework, Australian Education Act 2013 and associated regulation (which includes data-reporting to ACARA) plus the Organisation for Economic Co-operation and Development (OECD) Programme for International Student Assessment (PISA), NAPLAN, the National Report on Schooling in Australia (ANR), and the Australian Bureau of Statistics Schools Australia report. No one responsibility produces reports unilaterally which produces a landscape of many reports that are essentially re-publishing other reports and in circumstances where most of this information has been reported publicly already such that it has become a system described as ‘red tape’ reporting and duplication of effort. Despite the quantity of reports, the quality has been described as underwhelming by not fulfilling its purpose because of the bureaucratic processes of working groups and multi-clearances that tend to opacity of information. It may be the case that there is now duplication of effort through the effluxion of time and changed circumstances that raise questions as to whether the established reporting process is still fit for purpose. To the relevant extent that the national architecture currently intersects with these national reporting processes such as ACARA for the ANR and NAPLAN reporting, clarity of independence and purpose would redirect attention to better qualitative outcomes. The extent to which a responsibility within the national architecture for schooling may be able to provide stewardship to quality critique of the whole national education reporting outputs may be opportune for AESOC and Education Council consideration.

Reporting

The reporting framework to Education Council for ACARA includes:

- presenting its rolling quadrennial work plan and budget annually to Council for endorsement, (as required by its Charter)
- report to Education Council at least once per year regarding progress against the work plan (as required by its Charter)
- providing an annual report to Education Council on progress against its Charter and in accordance with any other directions (as required by its enabling legislation)
- responding to request from Council for supplementary information and/or additional reports (as required by its Charter).

Reporting requirements to the Commonwealth/Education Council under AITSL’s grant agreement includes:

- progress reports (every six months)
- work plans (annual)
- audited financial statements (per financial year)
- a final report (at the end of the grant agreement period).

The Australian Government also has the ability to require that additional summary or progress reports be submitted to the Education Council.

The reporting framework to Education Council specified in the Letter of Expectation for ESA includes:

- preparing an annual Work Plan that builds on Education Council’s Letter of Expectation and details ESA’s proposed relationships, services and engagements in relation to all relevant work.
• reporting against its Work Plan at least once per year (to coincide with scheduled Council meetings) or more frequently if requested

• consulting with and being responsive to AESOC and relevant working groups

• providing an Annual Report that outlines ESA’s activities during the preceding financial year and how these relate to the Letter of Expectation (Education Council receives a more detailed annual report than that published on ESA’s website).

Despite the range of these reporting requirements stakeholders were concerned that there was insufficient assessment and evaluation of whether the entities delivered. The issues would appear to be both quality of reporting, time allocated to consider the reporting, and governance mechanisms to assure that the right information is going to the right people at the right time. For example, the stakeholder concern that currently there is no oversight as to whether items from each year’s undertaking against their Charter, Letters of Instruction or Expectation have been reconciled. As suggested above, the Education Council Secretariat could play an additional role in supporting the AESOC and Education Council to hold each of the bodies to account regarding AESOC and Education Council decisions.

The intention for suggested improvements for provision of information would be smarter not harder effort to report. The AESOC members do not need more workload but less. Less workload is intended with a re-design of format and re-focus of purpose with more explicit, targeted submissions that transparently directs AESOC’s attention to the prioritised issues they need to decide and the information they need to have to make those decisions well, in accordance with good public sector governance principles. In making a decision for the national architecture, AESOC needs to be efficiently supported so that it can be clear about the scope, strategy and what success should look like. This quality support will promote economy and effectiveness of outcomes.

Relationships, leadership and culture

The importance of soft governance is well-described by Royal Commissions into various corporate governance failures over the last decade or so:

*Systems and structure can provide an environment conducive to good corporate governance practices, but at the end of the day, it is the acts or omissions of the people charged with relevant responsibilities that will determine whether governance objectives are in fact achieved. For example, the identification of the background, skills and expertise of the people who walk into the board room is a good start, but it is what they do when they get there that is critical.*

Good governance is supported by leadership that is strong, visible, committed, responsible, available and capable. Good governance is indicated by constructive stakeholder relationships, inclusiveness and collaboration.

*Interdependency [in education multi-governance] results in accountability relationships that are less vertical and instead more horizontal. Actors are mutually dependent on each other ‘holding their end of the bargain’ in order to fulfil their substantive purposes, service provision expectations, or meet departmental demands. A key challenge in this situation is to address ‘entanglement’ as actors may ‘wear a range of hats’ in the process...*

The governance effects of relationships, leadership and culture have been raised from varying perspectives. Good will and commitment to purpose have been described as seeking to navigate through challenges despite the constraints or gaps in ‘hard’ governance. Conversely, it has been perceived that the nature of shared ownership of architectural mission and trust and ‘no blame’ between the bodies could improve to strengthen the architecture. AESOC expect a joined-up effort. Also, it was suggested that a culture that is forward-looking nationally will help enliven innovation and strategy.

Reportedly, there have been strong personalities on the architectural landscape which hold correspondingly strong influences, positively such as with gravitas, or with potential to skew outcomes if not balanced by the processes and capability of hard governance such as leading an organisation in directions considered outside their remit.

The authority of the governance structure to redirect organisations when they go off track and provide explicit feedback when necessary is essential to ensure an effective and efficient national architecture.

3.3 Resourcing

ACARA’s baseline funding is jointly funded by the Australian Government and State and Territory governments. The amount of funding is approved annually by the Education Council, which has endorsed a 50 per cent contribution by the Commonwealth and 50 per cent contribution by State and Territory governments.

AITSL is primarily funded by the Australian Government. States and Territories do not currently contribute to the costs of AITSL. Until recently, AITSL was funded on an annual basis however it now has a multi-year funding agreement for three years. AITSL advised that although the multi-year commitment is a considerable improvement from annual funding, this relatively short-term funding arrangement still poses a major risk to continuity of business and the ability to plan strategically.

ESA does not receive any baseline funding from government. It is required to operate as a not-for-profit organisation, generating sufficient income from commissioned projects and services to remain sustainable. ESA has met or exceeded board target of 0–2% surplus in each year of operation. In 2018–19, ESA delivered over $2M net gain to government through commercial income and cost recovery. Revenues are funded by commissioned work from the Australian Government (approximately 60%) and States and Territories (approximately 20%) with 20% for subscriptions to education providers. ESA has forward contracts with States and Territories to 2024 including approximately $12M from NSW, Queensland and Victorian governments.

Table 2: Funding arrangements

<table>
<thead>
<tr>
<th>ACARA</th>
<th>AITSL</th>
<th>ESA</th>
</tr>
</thead>
<tbody>
<tr>
<td>50:50 funded between the Commonwealth and States and Territories</td>
<td>Commonwealth funded</td>
<td>Income earning</td>
</tr>
</tbody>
</table>

- In 2019–20, ACARA will receive a total of $13 million in baseline funding.
- ACARA also delivers priority projects on behalf of the Commonwealth government, which provides a separate revenue source above its Charter funding.
- Over the next 3 years it will receive $41 million from the Australian Government comprising:
  - $14.9 million in 2019–20,
  - $13.4 million in 2020–21 and
  - $12.7 million in 2021–22.
- AITSL receives a small amount of fee-for-service work.
- ESA received $33.5 million in 2017–18 from project funding, and $4.6 million from paid subscriptions to online services. While ESA does not receive baseline operational funding from Council, it does rely on funding from Council for core national services, as well as for Council approved projects, which it is expected to be delivered within the agreed funding commitments.

Both ACARA and AITSL operate within the Australian Government’s 'Average Staffing Level' (ASL) cap which represents the number of full-time equivalent employees (FTEs) averaged over the financial year for their organisation. AITSL is currently subject to an ASL cap of 69 FTEs and ACARA is currently subject to an ASL cap of 93 FTEs (although ACARA’s cap is anticipated to increase with national policy initiative work in the next two years).

Survey comments noted that the ASL cap can bring difficulties when new work is proposed but not yet funded, however AITSL will use contractors and sub-contractors which are not factored into ASL cap levels.

ESA is not a Commonwealth entity and therefore is not subject to an ASL cap but operates commercially. ESA currently employs 140 staff (75% FTEs, 20% fixed term contracts for projects and 5% casual).
Each of the three bodies is structured with an executive management team of seven, although for ACARA there is an executive team of four plus three ‘other highly paid staff’ 34 under the PGPA rule. The allocation of staffing resources across the two funded bodies according to business or corporate activities is summarised below:

**Table 3: ACARA staffing allocation as at 30 June 2019 breakdown**

<table>
<thead>
<tr>
<th>Area of work</th>
<th>FTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment &amp; Reporting</td>
<td>34.3</td>
</tr>
<tr>
<td>Curriculum</td>
<td>30.1</td>
</tr>
<tr>
<td>Communication &amp; Strategic Relations</td>
<td>7.0</td>
</tr>
<tr>
<td>Office of the CEO</td>
<td>7.0</td>
</tr>
<tr>
<td>Corporate Services</td>
<td>18.4</td>
</tr>
</tbody>
</table>

**Total staff of 96.8 (including seven executive remuneration level staff)**

**Table 4: AITSL staffing allocation as at 20 September 2019 breakdown**

<table>
<thead>
<tr>
<th>Area of work</th>
<th>Positions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evidence and Impact</td>
<td>15.5</td>
</tr>
<tr>
<td>Teaching and School Leadership</td>
<td>32.5</td>
</tr>
<tr>
<td>Assessment for Migration</td>
<td>8</td>
</tr>
<tr>
<td>Communication, External Relations and Corporate</td>
<td>18.5</td>
</tr>
<tr>
<td>Office of the CEO</td>
<td>5</td>
</tr>
<tr>
<td>Office of the Deputy CEO</td>
<td>4.5</td>
</tr>
<tr>
<td>General Counsel and Company Secretary</td>
<td>5</td>
</tr>
</tbody>
</table>

**Total staff of 89 (including seven executives)**

ESA is the legal entity for Education Council and in that capacity it receives funding for national projects into its accounts for management by the Education Council Secretariat on behalf of the Education Council. Decisions on expenditure of Education Council secretariat funding, to which all jurisdictions contribute, is generally made by AESOC and Education Council, and not ESA. There is some form of role for the Chief Financial Officer of ESA to have a level of oversight over the use of that funding, with yearly audited and financial statements also provided to AESOC. The legal responsibility of the ESA Board and others in relation to these funds under management in its accounts is less clear.

The Education Council Secretariat is to report to the Chair of AESOC to account for all funds under management in ESA’s accounts. The National Project Fund during consultations was highlighted as an example of how the Education Council secretariat manages its funding. Where jurisdictions bid for projects, if approved by AESOC, then the secretariat enters into a memorandum of understanding with the jurisdiction, and transfers funding to that jurisdiction for the project to be undertaken.

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34 The three ‘other highly paid’ staff below the executive team level are in the remuneration band $220,001–$245,000.
3.4 Coordination of work performed

The NAPLAN online 2019 experience offers a case study for the coordination of work performed in the national architecture, which can be contrasted with the perceived successes of the discovery phase for the learning progression and formative assessment initiative. From the Review consultations and consistent with good governance practices generally, the following lessons for improved governance in commissioning, coordination and performance of work effort in the national architecture are recommended:

*Set directions and expectations*
- early and inclusive engagement in developing projects in concept stage
- clear identification of a senior responsible officer who accepts that responsibility with the necessary authority and levers of control (responsibility with accountability)
- clarity of roles, interrelationships and priorities including agreement as to ‘who directs whom, and to whom the architecture is to be responsive’
- working groups are steered by relevant terms of reference
- a genuinely joined-up effort across architecture and jurisdictions focussed on achieving approved outcomes
- meetings should be an appropriate size and not ‘too unwieldy’ and participants at meetings should have the requisite authority to make decisions, but should be clear as to the proper limits of their role so as not to over-reach and burden the process
- responsibility of project partners in their agreed roles to quality assure and certify the quality of their project contribution, as a large coordinated effort may only be as strong as its weakest link
- agreed and proportionate governance of the funding arrangements
- open and honest reporting of relevant information, progress and risks, with options for suggested solutions or mitigation
- agreed internal (architecture, government and non-government schooling sector) and external (media) communication plan and authority as part of the project plan

*Manage risks*
- integrated risk management approach, where the project risk plan includes appetite of risk (pursuit) and tolerance of risk (limits) to inform planning and project management
- regular review of and adapt to conditions (proactive problem solving)
- decision-making by consensus or collaboration when the issue is high risk and/or time is of the essence is not the only option and escalation pathways should be settled at the outset for deploying urgently when required
- duplication of effort and ineffective processes be identified for resolution by appropriate authority
- monitoring and evaluation.

Stakeholder feedback included concern that some of the matters taken to the NAPLAN Online Assessment Working Group namely technical and contractual issues between ACARA, ESA and their sub-contractors were inappropriate and decisions of an ‘advisory group’ appeared to be imposed on ACARA and ESA, such that ACARA was not empowered to make decisions in respect of which it was accountable.

Inclusivity from the ground up in working with the profession was identified as a success factor in the discovery phase for the formative assessment initiative. Another stakeholder concluded that it exemplifies the bodies working collaboratively, with good representation, a mix of views and expertise, and an interim structure for discovery phase. It is succeeding because lessons have been learned and problems of governance have been addressed.
**Education Council working groups**

Regarding the coordination of work with the bodies within the national architecture, stakeholders generally shared the view that Education Council’s working group structure was overly complex; burdensome to the point of being inequitable for lesser-resourced stakeholders; inefficient; unaccountable; and offered no mechanism to resolve ambiguity. It was also observed that in the past, reviews undertaken by AESOC have aimed to be more strategic and ambitious, but the reality is that the work is being undertaken at the working group level and is of a technical nature. This has resulted in small tweaks rather than big picture reforms being made.

This landscape has added to the complexity for the national architecture bodies. While a review of the working groups was conducted in 2017, some jurisdictional stakeholders indicated that they did not know of the review or they did not consider that the review had streamlined or re-purposed enough.

It was suggested that the effectiveness of the Education Council and AESOC and its working groups is affected by the general perception that decisions are often not made at appropriate levels and are instead deferred to another group to make a decision. The observation was made that both AESOC and Education Council deal with process matters that crowd the agenda and could be managed more appropriately in other fora. For example, it might be the case that the ECPG could be delegated some decision-making responsibilities from AESOC in respect of lower risk process matters.

Some streamlining may assist the groups to be more efficient and effective. Better triaging of work would mean only channelling purposeful work of a national priority through to Education Council and AESOC and empowering and expecting other decisions to be made at the appropriate level.

There was a sense that some working groups had continued beyond their need for the sector and that it was not uncommon for a working group to take on a research task that was not critical, and certainly not justifiable to delay, the main work pending the research task.

A good governance approach is recommended where working groups are established or continued on condition that they are subject to review (if say a standing working group) or a sunset clause (if a sub-working group) to challenge the additional structures to be purposeful and relevant to justify their existence and value to the national agenda or be wound up for being excess to requirements. Even bodies created under legislation are subject to these conditions in contemporary public administration. The individual governing arrangements for working groups could require delegated work to be time-bound and specific as to its purpose and relevance to national strategy.

The attendees to working groups and sub-working groups should be at the appropriate level to contribute productively to the agenda and should have the requisite authority to make decisions. Such decision-making by attendees should be supported by their own internal agency processes informing that decision-making with relevant information and perspectives in advance of the meeting, and in reporting decisions back within their agencies subsequently for good knowledge governance supporting efficient, networked decision-making.

Other feedback was that ACARA’s own advisory structures were in tension with the advisory structures under Education Council, with the Schools Policy Group (SPG) the first touchpoint with how to float issues with Ministers – ‘no one does the pub test until SPC’. Both political astuteness and technical expertise are needed. By contrast, while time consuming, there was support for ACARA’s working groups, because jurisdictions value this avenue to provide input.

There was some concern regarding the need for the Data Strategy group (DSG) to continue as a standing working group as it is a technical rather than a strategy group. Confusion and poor communication between SPG and DSG were also discussed, with another concerned that SPG lacks a line of sight into what DSG does. The Unique Student Identifier (USI) project has been sent back and forth between AESOC and DSG, with the Commonwealth driving it and DSG suggesting reasons it should not go ahead. Even now that it is in the national agreement, it is still not progressing. Part of the problem is that DSG members often do not have the necessary authorisation or clarity of direction. It would appear reasonable for the DSG to be dissolved as it is no longer performing as a standing strategy group.

Responsibility for DSG’s outstanding strategic brief should be shared with the other two standing strategy working groups: SPG and ECPG. SPG and ECPG should also re-assign the technical functions of DSG within their sub-working group structures as required.
Clarification of the role and authority of the working groups would benefit from an assessment of whether the multiple layers of governance arising are appropriate or not in fact required. For example, ACARA feedback gave an example where on some projects ACARA was reporting to the DSG, SPG, the ACARA board, AESOC and EC.

While the possible merging of SPG and ECPG as an option would appear attractive in responding structurally to concerns about siloed policy development, in practice the organisational structures in jurisdictions would typically necessitate two representatives for both schooling and early childhood education expertise. This would make the group ‘unwieldy’ across a wide remit. Policy and strategic collaboration between SPG and ECPG may be more effective than a structural change to merge SPG and ECPG in the current organisational landscapes. SPG and ECPG could also share responsibility for oversight of the sub-working group structures to require an ongoing streamlining effort and to seek a responsible resource impost on stakeholders.

It is recommended that decision-making be delegated to the lowest appropriate level in the working group structure that is proportionate and responsive to risk. Similarly, design of project governance at the outset of a project should also identify the appropriate decision-making authorities and oversight roles for the particular project. In particular, the role of AESOC and the working groups should be made clear as part of an integrated risk management approach in commissioning projects. This would assist in empowering both standing working groups to deal with as many matters as appropriate to their authority in helping triage AESOC’s agenda and workload to enable more time for AESOC and Education Council to progress higher level strategic policy discussions.

Some stakeholders raised a consideration that the national schooling bodies had a conflict of interest when present in working groups during discussion that involved their organisations and also during discussions where they were potentially vying for the work. This conflict inhibited frank and fearless conversations at SPG due to the attendance of national architecture bodies. It would appear that the competing interests regarding attendance would require further consultation to resolve. A protocol should also clarify communication of relevant decisions requiring action or noting by the national bodies, whether the bodies were in attendance at the meeting or not.

While now at least there is a reform agreement in place, there is no accountability for when things come back to Education Council. In fact, it appears to be the case that working groups try to hold items back from Council. This results in Education Council only having visibility of what has not been done. As an example, the Melbourne declaration sets out an agreement for a biannual forum with stakeholders, but a decade later only one has taken place. The Education Council Secretariat’s role in managing a reporting framework to account for performance of allocated responsibilities should expose any undue delay occasioned by working group business.

**Aboriginal and Torres Strait Islander Education Advisory Group (ATSI EAG)**

ATSI EAG has not often been drivers or initiators of consultations with the national architecture entities and has limited capacity in the national architecture. ATSI EAG’s role with the national architecture entities is one described as being often reactive, responding to requests from the national architecture entities to provide input relating to Aboriginal and Torres Strait Islander considerations in projects and other work being undertaken. There are also no representative members of ACARA, AITSL, or ESA on ATSI EAG.

It was commented that ATSI EAG is a large body, with a large number of members. However, ATSI EAG has been trying to further shape and refine its work in terms of an overriding purpose, and also being more proactive in the national architecture. This has led to the development of a clearer set of priorities for ATSI EAG.

ATSI EAG described its role with ACARA and ESA as limited. In relation to ACARA, there is some common membership between ATSI EAG and the ATSI related working groups/committees that ACARA has established. In relation to ESA, ATSI EAG has very limited interaction, given ESA is more often engaged to deliver set projects. However, ATSI EAG does have ongoing interactions and consultations with AITSL. AITSL will often actively seek out ATSI EAG for the work that AITSL is undertaking.

ATSI EAG commented that, longer term, it could develop further into an advisory body for all of the national architecture, and that ATSI EAG is at a stage in its ongoing development to be able to further increase its capacity to engage with the national architecture in this way. ATSI EAG or similar consultative committee in the national architecture would therefore be a body that could provide guidance and expertise for school education policy, to the national architecture and States and Territories.
4. Fit for purpose

The three bodies in the national architecture for schooling are governed through different legal structures, ownership, funding, governance and accountability arrangements. Their degree of difference certainly adds complexity to the architecture and while simplicity is valued for its perceived efficiency, one size does not necessarily fit all, and simplicity is one of a number of expectations to consider in assessing whether the architecture is fit for purpose.

4.1 Autonomy and locus of control

Threshold choices are made about the degree of autonomy or independence in distributed public governance models such as this architecture where public power is effectively devolved or delegated to structures outside the traditional public service departments. It is not enough to decide that ‘independence’ is required. The need for independence from government departments can justify a decision to create a non-departmental body but understanding why the independence is required will guide design for the most suitable organisational form. If there is misalignment between what is needed and what is designed such as due to a change in circumstances over time, then ‘red tape’, inefficiencies and poor outcomes will inevitably result because the arrangements are not fit for purpose.

This Review has identified three main reasons for the national architecture for schooling needing a degree of independence in its institutional and governance arrangements:

- **Collaborative federalism**
  the traditional suspicion in Commonwealth-State relations is that undertakings risk being dominated by the Commonwealth, therefore intergovernmental arrangements would need to protect multi-jurisdictional interests and ideally facilitate multi-party buy-in.

- **Some specific functions that should be independent of political influence**
  such as, at its highest need, development and evaluation of national standards in curriculum and quality, national reporting of assessments, and system-wide evaluation.

- **Commercial/Trading**
  for pursuit of specific commercial activities.

The ‘independence’ purpose for federalism seeks to limit the Commonwealth’s control so that the arrangements are not uni-jurisdictional. This is of a distinctly different character than the independence required for a commercial reason or to protect the integrity of curriculum content from undue political interference. That is, arm’s length arrangements for federalism are to control the potential dominance of one jurisdiction over another, not necessarily to exclude jurisdictions from governing or control over decision-making together where functionally appropriate. Independence for commercial or curriculum content integrity is intended to put government influence at arm’s length. Herein lies the inherent tension – and risk – in the current governance arrangements for ACARA: the arm’s length intention is in respect of some functions but not all.

ACARA is a statutory authority, which is a valid organisational form choice for its functions, but its design also has a board which increases its degree of design independence that in practice is not consistent with the evident intention of the Commonwealth and the jurisdictions to maintain governance control over many functions. The intention for governments to maintain a significant degree of governance control is evidenced by the requirement for board members to be nominated by jurisdictions. Apart from governance commentators generally expressing caution for governing boards being representational, the greater concern here is that the tension arises because there is additional layering of governance to the board. The existence of AESOC and Education Council in the architecture and their legitimate governing and policy steering roles necessarily overlays further governance control of ACARA in addition to the board, which at times has been duplicative or inconsistent with the appointed board’s decision-making. This duplication of Board and AESOC roles can also lead to split accountabilities and gaps in governance as each expects or considers the other to be in control.

The eroding confidence in readiness prior to NAPLAN online in 2019 and the reactive governance mechanisms in an attempt to mitigate risks are evidence of this conflict in governance design with two masters. Transition of the whole
student cohort to NAPLAN online was a high risk, even pioneering, operational undertaking. Implementation of such a significant development in the national assessment policy is one the nature of which government would be expected to keep close control of the risks.

There are six principal reasons to justify a conclusion that the addition of a governing board to increase the degree of independence of the statutory authority for ACARA functions is disproportionate and fundamentally inconsistent to the nature and extent of independence intended:

1. The ‘independence’ of organisational form is no shield for Ministerial responsibility

Any contemplation that delegated public functions operating with ‘independent’ boards at arm’s length from a Minister’s direct control would shield the Minister from Ministerial responsibility is a twentieth century notion, if it ever was applicable. With a sustained pattern of decline in Australians’ trust in government across multiple survey sources in the same period as a decade of spectacular corporate and non-government institutional failures of governance, it is reasonable to expect that there is no public appetite for Ministers to seek safe harbour from accountability for serious performance failures in implementation of education policy by suggesting independence from a legal governance construct which at best citizens might regard as inappropriately limiting their capacity or at worst was designed to protect them ‘if things go wrong’.

Suggestions made to this Review that an advantage of having boards and independent entities in the architecture is to protect Ministers, misreads Education Council’s sense of responsibility and focus on success, and misapprehends that there could be any technical clarification to excuse the gravity for example of 30,000 students, or nearly a third of a State’s cohort – plus exponentially their teachers and families – suffering the stress and/or inconvenience of failed or compromising connection during an important online examination.35

Nearly two decades ago, academic commentary noted that:

... the loss in accountability has been less than the pure theory of institutional separation might suggest. The overriding cause has been the reluctance of the public to allow ministers to decline responsibility for mistakes occurring in their portfolios, regardless of whether or not the ministers have a direct institutional responsibility... Ministers who try to pass the buck when prisoners escape from private prisons or when job-seekers are rejected by publicly funded employment agencies or when lives are lost on corporatised public railways are pilloried in the media and parliament. The traditional expectations of ministerial responsibility – that, in times of crisis, ministers will front up, take charge and impose remedies – run very deep. The public are not prepared to accept a devolution of accountability for administrative error away from ministers to other agencies public or private contractors. Nor will they readily accept diminished access for their review agents such as Ombudsmen and Auditors-General.

In practice then, – in the interest of political survival – politicians and their advisers have drawn back from the theory of institutional separation and its attendant rhetoric of clarified responsibilities and accountabilities.35

After the Australian Government’s Review of the Corporate Governance of Statutory Authorities and Office Holders in 2003 (the Uhrig review), the Australian Government removed many governing boards from statutory bodies which were replaced with CEOs who report to the secretary/Minister (with the use of advisory boards or committees for guidance on technical matters).37

The federalist character of ACARA explains the instinct to add the governing board and there is little guidance publicly available on interjurisdictional governance options which have been described as ‘elusive’ in recent literature.38 For the purposes of analysis references to Minister should be read as references to all the Ministers. Sections 5.2 and 5.3 suggests analytical approaches and an alternative, more responsive and proportionate model to achieve the same federalist objective.

35 The number of students affected most by connectivity issues was in Western Australia. https://www.abc.net.au/news/2019-05-15/naplan-test-glitches-prompt-wa-schools-to-abandon-computers/11114770
36 Mulgan and Uhr (2001), 200.
37 Uhrig (2003); Similarly, in Queensland major changes to the footprint and approach to institutional design of government bodies followed a review of all the State’s non-departmental government bodies and introduction of a good governance framework to support fit for purpose governance design: Webbe and Weller (2008, 2009); https://www.premiers.qld.gov.au/publications/categories/policies-and-codes/public-interest-map-policy.aspx
38 Rimmer, Saunders, Crommelin (2019), 16.
2. Governance design should not include a governing board unless a full delegation of power

The current guidance from the Australian Government Department of Finance suggests that boards can be appropriate for commercialised activities but less so where government intends to have a level of operational or policy control:

"Boards are usually given autonomy to determine an entity’s corporate strategy and direction (subject to statutory constraints) and therefore can operate with managerial freedom. A governing board is most appropriate for a corporate Commonwealth entity or Commonwealth company whose activities are commercial in nature. Section 10 of the PGPA Act allows for a person or group of persons to be the accountable authority for a listed entity."

A governing board may be less appropriate for a body that the government wants to exercise a level of operational or policy control over.39

Boards are regarded as not a necessary feature of governance design and should be restricted to where they would add value with respect to the control continuum in which they must operate.

Uhrig considered that a board is not the appropriate governance structure for statutory authorities involved in service provision or regulation because government retains control of policy and strategy development leaving an ineffective role for the board that simply dilutes accountability by adding a layer between management and the minister.40 Further, where Ministers are playing a key governance role through the determination of policy and strategy, the statutory authority is limited to the efficient and effective performance of the activities specified through legislative parameters – which is essentially an executive management-oriented task with appropriate level of reporting to the Minister.

The current scenario has the Board formally responsible for governance but governance interventions outside the Board occur to steer policy outcomes or respond to the degree of strategic or operational risk involved. Governing and risk responses to increase oversight and direction is extenuated by any erosion of trust and confidence in the body’s performance.

It is understood that the practice is for Chairs to attend Education Council meetings with their CEOs, however the practice is for CEOs to attend AESOC meetings without their Chairs – even to explain and account for performance – which underscores the challenges of two masters and the conclusion that expectations of autonomy in practice misalign with the independence in theory accorded by the design structure.

Also, as observed by Uhrig, where a board’s power and responsibilities are less clear:

"...[board] may seek to define a role for itself other than one of governance...a board seeking to identify a role for itself may adopt an entrepreneurial approach and seek to establish new areas of activity for the statutory authority outside the parameters of its delegation or the expectations of government."41

3. Avoid structural conflicts of interest challenges

Section 3.2 outlines the unavoidable conflicts of interests for board members from their two hats’ predicament where testing, curriculum and education office-holders for example sit on the board.

In addition to actual, potential or perceived conflicts of interest, the internal organisational feedback loops as evidenced by the Review Survey results as well as prior office-holding positions taken in respect of issues can limit new ideas and may act merely as a reinforcing of representative ideas that are already within the system. Recent clarity led by the Chair to declare official positions or authority in respect of matters helps define the situation but its purpose for clarity or resolution is mixed where some members are not in the position to confirm authority and ultimately is a duplicative process extra-AESOC authority in any event.

Uhrig’s review of the Commonwealth bodies considered that representational appointments had the potential to place the success of the entity at risk.42

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40 Uhrig (2003), 9.
41 Uhrig (2003), 66.
42 Uhrig (2003), 12.
4. Jurisdictional interests and control already available through AESOC and Education Council

Nominations from stakeholders for board members at best offers a subset of views for jurisdictional interests and control. Full participation in jurisdictional interests exists already with the AESOC and the Education Council.

5. Excessive autonomy not required or appropriate in contemporary public administration

Less is more. Public administration literature confirms that the public sector reforms which have driven greater transparency and accountability of government make less valid the reasons for arm’s length arrangements in order to protect administration of a function from inappropriate political interference. Arguably, accountability is increased within the government transparency, financial and accountability frameworks, including accountability to the Australian National Audit Office and scrutiny by Parliamentary Senate Estimates.

As the recent review of the PGPA Act highlighted, the PGPA Act supports arrangements that ‘allow State and Territory governments to join up more readily with the Commonwealth’ through sharing of information and facilitating the audit by state and territory auditors-general following the receipt of Commonwealth money by certain recipients such as a Commonwealth entity. It is likely that such cooperation would be afforded regardless of the new legislative framework but it is indicative of contemporary parliamentary intent to support ‘more effective partnerships’.

6. A fit for purpose design will save AESOC and Education Council time and risk

A fit for purpose governance design that is framed around the specific locus of control intent will avoid the duplication in decision-making and potential gaps in scrutiny that a dual governance practice and split accountabilities generate. A fit for purpose design is efficient and effective. Education Council and AESOC should be supported by the governance arrangements to focus on the strategic and high-risk issues.

The current hybrid governance arrangements for the national architecture in practice are not offering the best of either governance model for the benefit of the body’s performance because the setting of the board is not truly independent and nor are the arrangements framed around providing AESOC with a full complement of the levers for control (such as provision of the right information at the right time to pivot in a different direction according to strategic priorities).

The above reasoning in support of a conclusion that having a governing board for the ACARA function is not fit for purpose concerns an analysis of independence and autonomy for the design of governance and institutional arrangements, it does not rest on the actual or perceived performance of the Board.

The AITSL institutional design is wholly Commonwealth owned and directed which does not address the federalism interests explained above. Some stakeholders have suggested that implementation on the ground can be difficult because the ‘buy-in’ is not there with Commonwealth ownership of the company, at least for larger jurisdictions that have their own substantial investments in teacher quality.

The recommended model in section 5.3 seeks to address this central concern with its institutional design and locus of control considerations.

The corporate structure of ESA is functionally aligned according to independence for commercial activity and an independent board with expertise is appropriate. However, as section 5.3 recommends the AESOC and Australian Government representative positions on the ESA Board should be replaced with independent positions.

CEO of a statutory authority without a board

This Review’s proposition in the case of the national architecture for schooling would be a CEO appointed as an ‘accountable authority’ with full responsibilities under the PGPA Act, responsible for reporting to the Education Council, through AESOC. AESOC and Education Council would have less need to deep dive into the detail of operational issues because the CEO elevates its role without a board to being an accountable authority fully responsible for the efficient

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43 Holland (2004), 66.
44 Alexander and Thodey (2018), 42.
45 Ss 82–83 PGPA Act.
and effective performance of delegated responsibilities from AESOC/Education Council, analogous to the respective responsibilities of Ministers with their Secretary or Director-General.

Just as a Minister is not expected to act like a corporate governing board in providing corporate governance scrutiny over the detail of a Secretary or Director-General’s finance, human resources, corporate planning and legal compliance matters for example, it would not be expected of AESOC or Education Council either to provide that level of governance scrutiny over the CEO of a national body who is an accountable authority.

Unlike for ACARA or AITSL where board roles are provided for in the legislation or the company constitution, the enabling legislation for a national body under this proposition will not be providing for a board role. Thus, there is no board role for AESOC or Education Council to assume, other than its existing intent to provide strategic direction and high-level steering or guidance as and when AESOC/Education Council determine. There would be no significant shift in focus for AESOC toward governance of the national body without the board, and AESOC is not required to do more for detailed oversight of the national body’s operations. Indeed, if AESOC and Education Council engaged with one national body for strategic direction instead of the three bodies of ACARA, AITSL and ESA on lower level governance concerns currently, significant time savings would be afforded. The Review’s proposition is for less time spent on oversighting governance than currently due to efficiency and effectiveness. The one significant new responsibility for AESOC/Education Council would be joint responsibility for the important process of appointment of the CEO and Deputy CEO.

AESOC and Education Council do not step down into governance detail, the CEO role steps up as an ‘accountable authority’ responsible as executive management for the efficient and effective performance of allocated responsibilities. Similar to a Secretary or a Director-General, an accountable authority of a corporate Commonwealth entity under the PGPA Act would scaffold performance outcomes with corporate governance checks and balances from internal governance frameworks (as well as manage external scrutiny processes such as PGPA Act requirements, audit, and Senate estimates).

The following three examples of current accountable authorities of corporate Commonwealth entities demonstrate the executive management function and responsibility with internal executive committees and other familiar governance arrangements scaffolding corporate governance and performance. All three national bodies carry significant risk (each with more staff than the current three national bodies combined), operating at arm’s length from the Minister in a corporate Commonwealth entity without a governing board.

**Comcare**

Comcare is a corporate Commonwealth entity with a CEO as the accountable authority. The Commonwealth Attorney-General and Minister for Industrial Relations is the responsible Minister. Comcare is the national workers’ compensation authority and national workplace health and safety regulator with approximately 556 FTEs across seven offices nationally.

Comcare can fairly be described as an organisation with significant risks and responsibilities in regulation and in administration of schemes nationally. Among a range of roles as the Comcare scheme manager, Comcare also develops, monitors and maintains legislation, policy and guidance. Comcare provides quality assurance of ‘whole of scheme’ data, identifying trends to ensure sustainable and better practice national schemes, while also providing oversight advice on the operation and effectiveness of the Act to the Minister. Its strategic priorities include driving innovation and better practice for the schemes to support healthy and safe workplaces; striving for ‘excellence in scheme design and management’; and it is accountable for its efficient and effective operations.

There is no Comcare board, with the CEO the accountable authority. To assist in Comcare’s governance, the CEO has an established committee structure that oversees the strategies and plans to improve service delivery and capability. The CEO’s Executive Committee, comprising the CEO and the six general managers, is directly responsible and accountable to the CEO in relation to statutory obligations and corporate administration. Comcare also has an audit and risk committee in accordance with the PGPA Act (with five independent members including the chairperson). Additionally, Comcare complies with the Commonwealth Fraud Control Framework 2014 and cites its Corporate Plan, Internal Audit program and embedded systemic risk management as part of its governing and planning processes and organisational culture. Comcare received no Ministerial Directions in 2018–19.  

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**Reserve Bank of Australia**

Similarly, the Reserve Bank of Australia (RBA) has an executive management structure to support the accountable authority under the PGPA Act who is the Governor of the RBA which is a corporate Commonwealth entity. The Boards of the RBA are responsible for monetary and banking policy, and payments system policy. Subject to the Board’s role in determining policy, management of the RBA is by the Governor as the accountable authority. The RBA’s Executive Committee is the key decision-making committee of the Bank for matters of a management and/or administrative nature that have strategic, Bank-wide or external significance. Its role is to assist and support the Governor in fulfilling statutory responsibilities to manage the Bank. (The RBA has approximately 1378 FTEs.)

**Director of National Parks**

For the purposes of the PGPA Act, the Director of National Parks is the accountable authority of a corporate Commonwealth entity with approximately 340 FTEs. The Director may perform any of the Director’s functions in cooperation with a State or Territory. The Director must also exercise powers in accordance with any directions given by the Minister. Advisory Committees may provide the Director with advice. The Director also has an executive management structure to support corporate governance, namely, two corporate boards of internal executive management (consisting of the Director and his five executives and a finance executive). The internal Executive Board provides strategic advice and guidance to the Director on core business activities and is responsible for overall agency administration. The internal Project Board monitors and supports the delivery and spending in relation to priority projects, major capital works and Australian Government commitments in line with the Parks’ Project Management Framework.

It would be expected that the CEO as accountable authority without a board would implement similar executive management arrangements as the above examples to support good corporate governance and performance. An independent expert audit and risk committee would be key.

Implementation plans should develop the detail of these processes further. As indicated above, precedent experiences of other corporate Commonwealth entities may be drawn on and would suggest that four scheduled AESOC meetings per year should be unproblematic given the strategic pitch of engagement intended. Out of session communication and escalation protocols should also be settled at the outset and may reflect the rotating chair as the first point of contact in any emergent circumstances as suggested in relation to the protocols for the ESA at p. 75. Other executive management to ministerial level procedures for implementation planning might also include a Letter of Intent in response to a Letter of Expectation (both to be published) setting out how the accountable authority intends to meet the set expectations; a Letter of Appointment; and agreed essential key performance indicators (both financial and non-financial) in an agreed reporting schedule.

4.2 **Responsive**

Initial stakeholder comments to the Review requested an examination of who the national architecture bodies considered was their ‘customer’. Many stakeholders during consultations subsequently expressed frustration as to a perceived low demonstration of responsiveness to feedback by the three bodies, with more common concern expressed in relation to ACARA specifically which is interesting given the greater number of stakeholder representation that pertains to the ACARA Board:

... need to hear, listen and act ... they pursue their own agenda despite being directed by Education Council not to continue to work on projects e.g. proficiency standards...

... need clearer lines of accountability and responsiveness to States and Territories’ concerns...

... need agility and flexibility to be responsive to changing needs.

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48 S 7A(1) Reserve Bank Act 1959.
49 Ss 10, 10B, 12 Reserve Bank Act 1959.
51 Ss 514B(2), 514D(1), 514U Environment Protection and Biodiversity Conservation Act 1999
The ‘two masters’ context with both the boards and AESOC/Education Council may lend some explanation to a split focus giving rise to this frustration. Other stakeholders suggest that the lack of responsiveness might be due to capability or experience issues in being able to service government leaders. The repeated occasions of what has been described as poor quality of written briefing material suitable for purpose was suggested as possible evidence. However, there was evident a competing assessment that ‘they act like their clients are AESOC and Education Council… we do not have a particular subject matter expertise and we asked for help, but ACARA do not see that as their role’.

The Review Survey asked executives and Board members, ‘who is your organisation’s customer?’ to reflect the initial brief of interest provided to the Review. The singular form of ‘customer’ was used in the survey to push for clarity of thought about the apex of service rather than use of the plural form which would bias the respondent into merely listing stakeholders. Many answers were succinct and focussed on customers such as ‘Education Council’ or ‘students, teachers and parents’, others used the text box to list customers/stakeholders broadly.

Teachers and Education Council received the most nominations as ‘customer’ for ACARA, with a balance across the other categories among executives and board members, as below:

**Figure 3: Review Survey: ‘Customer’ (ACARA)**

**ACARA – All responses**

<table>
<thead>
<tr>
<th>Customer Type</th>
<th>Nominations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education Council</td>
<td>5</td>
</tr>
<tr>
<td>Teachers and school systems</td>
<td>6</td>
</tr>
<tr>
<td>Parents</td>
<td>4</td>
</tr>
<tr>
<td>Students</td>
<td>5</td>
</tr>
<tr>
<td>Community</td>
<td>3</td>
</tr>
</tbody>
</table>

AITSL had a consistent focus on teachers and school leaders featuring in every response from Board members and the executives except for one executive response who nominated the ‘Federal Minister for Education’ as the customer. None of the AITSL responses described customer as being a student.

**Figure 4: Review Survey: ‘Customer’ (AITSL)**

**AITSL – All responses**

<table>
<thead>
<tr>
<th>Customer Type</th>
<th>Nominations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education Council</td>
<td>2</td>
</tr>
<tr>
<td>Teachers and school systems</td>
<td>21</td>
</tr>
<tr>
<td>Government</td>
<td>5</td>
</tr>
<tr>
<td>Other education sectors</td>
<td>10</td>
</tr>
<tr>
<td>Other industries</td>
<td>3</td>
</tr>
</tbody>
</table>

Given ESA’s purpose as service-provider to many, both Board members and executives described their customers more broadly, typically with longer lists than ACARA and AITSL responses.
Teachers and school systems was the largest customer grouping for each of the three bodies, with Education Council featuring more dominantly as a customer for ACARA than for the other two bodies.

As one stakeholder during consultations explained, the nature of the work done by the national architecture falls into two categories: the first is engaging with the profession which is outward facing, and the second is setting standards which is about servicing Education Council.

Arguably there is an analogy too with the view that the public servant serves the public interest as determined by the Government of the day as the elected and democratically accountable officials. Thus, the desired responsiveness expected of a fit for purpose governance design could be that the students, teachers and education systems are being served as determined by the Education Council as the elected and democratically accountable officials.

4.3 Efficient and Effective

As the Department of Finance suggests, key questions to consider for optimisation of efficiency and performance are:

- ‘What is the most efficient way to deliver the intended outcome of the activity?’
- ‘Can efficiencies be gained by leveraging synergies with existing activities?’
- ‘How will performance be measured?’

A range of improvements for efficiencies have been suggested in this report and section 5.2 considers more opportunities to leverage synergies with existing activities, particularly as the common customer as validated above are teachers. Feedback from both stakeholders and the bodies have included that there would be benefit to greater facilitation for the bodies to collaborate together as an architecture.

Review Survey comments identified duplication of back-office operations such as IT, finance and human resources, payroll and facilities. One Review Survey respondent identified ‘some unnecessary duplication of operational support services in the areas of IT, finance and HR. The duplication is most obvious across standard operating services such as IT managed services, privacy and data security, financial transaction and payroll processing and website hosting’.

Also, for efficiency dividends to extend beyond the architecture, one stakeholder suggested setting up arrangements to share services across jurisdictions for example in data hosting services with ESA’s high-level cyber-security where certification should be advantageous.

Given the feedback earlier in this report about the doubt that jurisdictions know enough about all the products and services available, there could be opportunities to consult with the sectors on the options and possible business cases

to progress synergies and savings. A more strategic approach to leveraging existing investment was also suggested for the national architecture in the Review Survey responses:

Governments have invested in a range of infrastructure to support education reform. While some of this investment may not be adapted for new initiatives and reform, there are many national ‘assets’ that can be re-purposed or upgraded to reduce time and cost of achieving the reform objectives.

Feedback in the Review Survey recommended a more strategic partnering relationship to produce more collaboration and higher levels of trust so that the system will be better placed to effectively manage short term ‘shocks’ that are associated with individual projects. Also, leveraging existing investment in education infrastructure could reduce time and cost by re-purposing and upgrading.

The Review Survey comments acknowledged that a federation involves duplication between the work delivered at a national level and the jurisdictions, but there is not always an easy distinction between the national curriculum and implementation of curriculum in States and Territories which can cause confusion for non-education stakeholders such as parents.

Some overlap with ACECQA and AITSL was identified in Review Survey comments in the accreditation of initial teacher education courses that prepare graduates for primary schools and early childhood settings. A long-term effort to professionalise the early childhood teaching workforce was suggested to benefit from greater involvement of AITSL. This would require some stronger definitions of boundaries with ACECQA’s role.

Review Survey results from Boards and executives indicated a medium to medium high response on perception of red tape. ESA had more lower ratings of red tape than the other bodies.

Review Survey results self-rating performance from the three bodies for capability, expertise, innovation, timeliness (in delivering projects), responsiveness (to customers’ needs and expectations) and accountability generally rated highly in the top 4–5 range across all three bodies which suggests some disconnect with perceptions provided with the qualitative feedback from stakeholders. Of all the performance indicators, innovation scored least well comparatively although still high overall.

Ideally, gains in efficiency would be reinvested in effectiveness. In particular, inefficiencies cause opportunity costs and strategic gaps such as when the strategic decision-makers are distracted by operational detail, poor quality briefs, or debate on administrative mandate. One stakeholder explained:

What is currently lacking are discussions about what leading research is happening both nationally and internationally. Education Council provides good building blocks but Ministers are not talking about really transformational issues such as how to close the gap because of the way the working groups and [architecture] agencies operate. What Ministers are asked to agree on is neither strategic nor ambitious, it is highly sanitised… Ministers need to have the big policy discussions and set the policy agenda themselves.

To achieve national outcomes, the agenda needs to be driven on a national level. Currently, the way national work is done lacks strategy and analytical ability… AESOC and Education Council do not have a strategic oversight, with working groups responsible for responding to issues and propositions. This creates a strategic gap.
Figure 6: Review Survey: Performance

**ACARA – All responses**

- Capability
- Expertise
- Innovation
- Timeliness
- Responsiveness
- Accountability
- Overall performance

![ACARA Survey Results](image)

**AITSL – All responses**

- Capability
- Expertise
- Innovation
- Timeliness
- Responsiveness
- Accountability
- Overall performance

![AITSL Survey Results](image)

**ESA – All responses**

- Capability
- Expertise
- Innovation
- Timeliness
- Responsiveness
- Accountability
- Overall performance

![ESA Survey Results](image)

Legend: 1 = Low level, 2, 3, 4, 5 = High level
4.4 Enduring

For the national architecture for schooling to be enduring it should be adaptive to evolving needs and developments on the horizon with a continuity of service and strategic approach that has anticipated and planned for those emerging needs. That is not the same as mission creep for individual bodies. The brand value of each national body of the architecture is first anchored in reliable, high performance of its core business to be an enduring proposition. With that essential anchor, then strategic planning, genuine stakeholder engagement and responsiveness will succeed in building the body’s enduring character.

AITSL faces the twin challenge of mixed buy-in from jurisdictions and the ‘what’s next’ proposition suggesting a too small and perhaps unsustainable mandate raised by some stakeholders given development of the national standards has moved to implementation. Enhanced roles in early childhood and VETiS would need to be supported by greater buy-in and support from jurisdictions and less concern as to dominant Commonwealth control. AITSL’s current company form would not be suitable for a national regulatory function, however owned, should a national regulatory role develop.

4.5 Accountable

The key fit for purpose challenges for accountability in existing arrangements are inadequate transparency, as well as inadequate clarity and specificity of performance expectations at the outset with a process for review and rigour around the design of performance measures and reporting of same, as basic as: what will success look like and how will we know when we see it. Accountability concerns also would be assisted by addressing the gaps between the formal requirements and the practical way the bodies operate, including greater use of the formal instruments of governance to hold the architecture bodies to account. Failing to use existing accountability arrangements effectively results in the organisations not being accountable and repeatedly making the same errors without consequence or incentive.

The architecture’s improved accountability being sought by stakeholders can be summarised as:

- clearer lines of accountability between the bodies and AESOC
- greater responsiveness to state and territory concerns
- earlier identification of risks (and the opportunity to mitigate and rectify them).

The Commonwealth governance policy requires that all new bodies must be allocated a sunset or review date (no more than 10 years since creation or last review). Good practice would apply similar review expectations for existing bodies.
4.6 Trust and confidence

Stakeholders invariably reported during consultations that the experience with implementation of NAPLAN online in 2019 was challenging, the process was frustrating, and the outcomes were most unsatisfactory. There were multiple difficulties with the delivery of the project including the distribution of responsibility that exposed risks and a lack of transparency of reporting to AESOC. Reputational damage was significant and suffered broadly. The different advice regarding lack of data comparability was less than well received.

It is essential that jurisdictions have confidence in the organisations in the national architecture to have the capacity and capability to deliver national priorities. Stakeholders report that the translation of work by the leadership in the architecture has been less than impressive for AESOC and Education Council and that there is a sense of a lack of understanding by the heads of the organisations of the role of AESOC and Education Council.

Stakeholders accepted that there are good people in each organisation but the performance overall of the organisations has been ‘patchy’. ESA has a generally positive reputation for technical work that has been largely overshadowed by the challenges experienced with NAPLAN online. AITSL’s reputation and perceived relevance of contribution is mixed and generally correlates to need and the degree of buy-in by stakeholder.

As a step towards building a more positive perception of ACARA, one stakeholder suggested looking for ways to reduce the perceived regulatory burden that ACARA requires of non-government schools such as collection of parental background data which could be done by the department as part of the student census which schools perceive in a different light because it leads to a funding outcome. Other stakeholders suggested that ACARA fails to act at school level if a black and white view of providing data causes problems but that this inflexibility is a cultural reluctance as they are ‘scared to step outside what they have been told to do’.

Trust is said to be easy to lose and hard to regain. Low trust increases transaction costs for organisations as they must operate in an environment that will tend to resist (even if against own interests) and react with cynicism, suspicion and alienation. A structural and organisational commitment to institutional integrity is recommended where each national body pursues its clear, shared purposes to the best of its capacity; with legitimacy that prioritises proper process as well as performance; keeping its organisational commitments in order to be trustworthy; and investing in robust accountability mechanisms.\footnote{Adapted from Kirby and Webbe (2019).}
5. Options and recommendations

In summarising the international experience of political risks in distributed public governance, the OECD study warned:

Governing may simply ‘lose control’ of their agencies. Creating an agency can create a constituency for that agency which is politically difficult to reverse. When governments attempt to re-assert control over agencies, the most vocal opponents may well be the agencies themselves.55

Significant governance reform typically follows a sustained erosion of trust and confidence in current arrangements, or a single critical moment of scandal or failure. This Review found that both conditions exist and stakeholders seek a restoration of confidence that the architecture’s current commitments will be delivered in the way and to the standard expected, and they seek assurance that the architecture will be equipped as national experts to support the federation to drive national education policy initiatives.

There are three risks when there is such significant reform intent. The first is that the reform is merely reactive and focuses on current issues at the expense of a holistic assessment. The second risk is abandonment where actors simply disengage and give it up as a lost cause making alternative work around arrangements of their own. The third risk is that the reform is disproportionate in reacting to particular pain points where there were losses of control and failure, by swinging the pendulum too far in the opposite direction in reigning in control beyond that which is necessary.

This last risk will invite the autonomy-red tape—autonomy cycle with the failure event prompting the delegated power to be recentralised, or over-layered with additional governance controls, only to lead to a red tape crisis as duplicated accountabilities with unclear responsibilities, and low innovation for a failure to engage risk ultimately lead to poor performance outcomes, before the momentum moves back to a more distributed state to loosen the stranglehold of red tape and excess bureaucracy. There was some evidence of this cycle to red tape progressing with descriptions during the Review:

... added layers of complexity have evolved through incremental changes to the architecture, where there are multiple layers of decision making, numerous meetings with volumes of material and lots of people involved. The cumulative effect of this situation is an underlying loss of confidence impacted by poor governance and a watering down of the impact of decision making. A clean slate to establish the national evidence institute would be very welcome.

5.1 Suitable range of organisational forms to follow function

The Australian Government Department of Finance outlines the reasons for establishing a statutory body as including the need for a level of independence from the responsible minister or the executive government; to provide a distinct ongoing status for the activity or function by describing it in legislation; and to achieve higher levels of accountability and transparency by describing a body’s activities and powers in legislation.56

Figure 7 outlines the range of possible form options available for intergovernmental cooperation on a spectrum of autonomy: from the highest degree of control to the company form offering the highest level of independence. As a relevant functional allocation indicated on the spectrum highlights, not all forms are most suited for all functions undertaken by the national architecture for schooling.

Figure 7: Possible organisational form options for intergovernmental cooperation
With the exception of the ESA’s commercialised character for trading, the other functions of the national architecture for schooling correspond to four potential organisational forms under legislation. Those four potential organisational form options that are most suited to the possible range of functions are:

**Executive agency**

An executive agency under the *Public Service Act 1999 (Cth)* (PS Act) is a non-corporate Commonwealth entity managed by an Agency Head as the accountable authority under the PGPA Act. Staff of the Executive Agency are APS employees. The Australian Government retains relatively broad control over the Executive Agency which is also subject to the Commonwealth financial and accountability framework and the PGPA Act. The National Mental Health Commission is an example of an Executive Agency.

The Australian Government would retain a relatively high degree of control over the Executive Agency form as it is essentially part of the Commonwealth.

The enabling legislation for the other three possible forms would set out the role, functions, powers, appointment, termination and other related matters for the body.

**Statutory office-holder**

A statutory office-holder is neither a non-corporate nor corporate Commonwealth entity, though they are likely supported by a non-corporate Commonwealth entity. The office-holder is the only decision-maker and the enabling legislation can make specific provision for governance arrangements, such as operational independence for most core functions and activities, and specific levers of control around certain confined operations; staff can be APS or appointed under the enabling legislation. The activities of the office-holder (and staff) are subject to the Commonwealth financial and accountability framework. With suitable provisions in specific enabling legislation, this option provides a balance between independence and the level of control required. However, as office-holders of this nature are generally supported by a non-corporate Commonwealth entity, it may not be perceived to be as independent as the next option. Furthermore, there is a level of complexity with respect to staffing arrangements, funding capacity and source, and the capacity to build-in support structures such as expert advisory committees, due to this option not being a corporate Commonwealth entity.

**Statutory authority/corporation**

Both statutory authorities and statutory corporations are corporate Commonwealth entities and all duties, responsibilities and reporting requirements under the PGPA Act apply. (A statutory corporation is created by the Commonwealth Minister for Finance under s87 of the PGPA Act, by listing the statutory corporation in a legislative instrument.)

The enabling legislation sets out the desired governance structure including whether a board is required or not. The board (if there is one) or the CEO is the accountable authority under the PGPA Act. The enabling legislation could also provide, for example:

- Appointment of the CEO and a Deputy CEO (and members of the board if there is one) based on subject matter expertise, and after a prerequisite consultation process/agreement of certain stakeholders (such as a process for ‘ownership’ by all the jurisdictions: e.g. jurisdictional nomination by AESOC and agreement by Education Council);
- Strict controls over how such appointments can be terminated (to offer a level of security of tenure or independence so it is not a broad discretion such as by majority);
- Operational independence and integrity for most core functions and activities;
- Specific levers of control around certain confined operations (such as requiring recommendation from an expert advisory committee on curriculum content before the approval process);
- An additional requirement of reporting, accountability and decision-making (for example, Ministerial Council);
- Appointment of advisory committees selected on the basis of specified subject matter expertise;
- Ministerial Council direction on certain matters.

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Additional layer of governance of a governing board is not recommended, as set out in section 4.1.
Provision can be made for staffing under the PS Act as APS employees and/or under the enabling legislation on its own terms. The advantage of staff employed under the PS Act is that they would be subject to the requirements and support for APS employees such as the APS Values and Code of Conduct. The Australian Institute of Health and Welfare (AIHW) is an example of a statutory authority which employs staff both under the PS Act and under its own legislation. ACARA is a statutory authority which employs staff on its own terms as required under its enabling legislation.

For accountability requirements, staff are ‘officials’ under the PGPA Act and subject to the duties imposed on officials under that Act accordingly.

Generally, other accountability frameworks of the Commonwealth do not apply to corporate Commonwealth entities such as the Commonwealth Grants Rules and Guidelines; the Commonwealth Risk Management Policy, and the Protective Security Policy Framework; and any whole of Government policy (for example, the Commonwealth Indigenous Procurement Policy). However, some of these are still encouraged as best practice, and can be applied by corporate Commonwealth entities (for example, the Protective Security Policy Framework).

Notwithstanding the above, the Commonwealth Procurement Rules can be prescribed as applying to a corporate Commonwealth entity, in section 30 of the PGPA Rule.

An example of this is the AIHW, which means that the AIHW must adhere to the Commonwealth Procurement Rules in any procurement that it is undertaking.

Generally, these statutory bodies also have accountability to the Australian National Audit Office, and Parliamentary oversight (for example, Senate Estimates).

The enabling legislation can set the control parameters necessary for role, functions, powers and its governance and accountability. It can also enable direct appropriation each financial year, under the relevant Appropriation Act.

A statutory authority/corporation is also able to receive payments directly from the Commonwealth and third parties (e.g. State and Territory governments). It does not require a special account. It exists as a separate legal entity as the corporate form of Commonwealth entity.

National Body

The national body is created in each separate State and Territory, by each jurisdiction applying the enabling legislation as a law in its jurisdiction. The effect being that the body is then a national body in its operation and activities. The enabling legislation creates the national body as a body corporate and establishes the board and functions, powers, processes for appointments, terminations and related matters. Examples of this form are Australian Children’s Education and Care Quality Authority (ACECQA) and the Australian Health Practitioner Regulation Agency.

The enabling legislation for a national body sets out the overarching governance structure and requirements, and necessary control parameters. The national body is able to receive payments directly from the Commonwealth and third parties (e.g. State and Territory governments).

Staff are generally appointed under the enabling legislation on the national body’s own terms and conditions. The PGPA Act and other Commonwealth accountability frameworks are not applicable although the enabling legislation is able to apply the laws of the Commonwealth to the national body that would not ordinarily apply to State or Territory based statutory authorities, for example: Privacy Act 1988; Freedom of Information Act 1982; Ombudsman Act 1976.

Case studies

**Australian Institute of Health and Welfare (AIHW)**

The AIHW is a statutory authority with its own enabling legislation which is relatively standard in its operation, and the powers and functions that it provides to the AIHW. It has a board appointed on the basis of subject matter expertise with no more than three board members nominated by State/Territory Ministers for Health (thereby providing a mixture of representation, but with the overriding subject matter expertise requirements); and the AIHW can establish committees to assist it in its functions.
The AIHW has been suggested to the Review as a successful statutory authority model for the review of the national architecture in light of the emerging national evidence institute. The AIHW was admired for its capacity and reputation to consider multitudinous data sets to inform evidence-based policy, making broad connections for example across social and economic policy indicators. It was suggested to the Review that there could be synergies with Longitudinal Data Store for NAPLAN data for improving evidence-based decision-making beyond education policy. The suggestion is recorded in this report for the information of the national evidence institute development process and because the focus of the terms of reference of this Review is the three national bodies for schooling. However, the successful regard for AIHW bears further consideration.

The AIHW has existed for more than three decades and in that time it appears to have been able to establish very clear arrangements with all levels of government and broader stakeholders. Its remit and functions are quite confined, in that it essentially collects, analyses and evaluates data in the sectors of health, welfare and social services, and (to a limited extent) education. AIHW also does not develop or implement government policies as such, but rather its data products are able to inform and assist in the development and implementation of government policies.

Consequently, its role appears mostly uncontroversial and de-politicised, in that its primary mission is data analysis, and not for example implementing NAPLAN online or setting a national curriculum (like with ACARA, which can be both controversial and quite political), or establishing the standards that school teachers will be expected to adhere to (like AITSL, and can also be controversial). AIHW, or its board, does not have the same level of government oversight as ACARA and AITSL through the structure of Education Council. There is capacity for the Commonwealth Minister for Health (after certain consultation pre-requisites) to issue directions to AIHW, which must be registered on legislation.gov.au as notifiable instruments.

The AIHW has reasonable autonomy to ‘get on with its job’, which is quite confined in its scope and is clear in its intended outcome.

**Australian Children’s Education and Care Quality Authority (ACECQA)**

ACECQA (like the Australian Health Practitioner Regulation Agency), is created in each separate State and Territory, by each jurisdiction applying the enabling legislation as a law in its jurisdiction. The effect being that ACECQA is then a national body in its operation and activities.

This is still a relatively uncommon approach to the creation of such national bodies, and largely occurs with respect to entities that need to undertake some form of regulatory function that was originally, or would otherwise need to be, undertaken by each State and Territory separately. This approach also overcomes any Constitutional constraints that the Commonwealth may have in trying to create such a national body directly (be it statutory or otherwise), and avoids the need for referral of powers from States and Territories (an example of where referral of powers was required is for the creation of the Australian Skills Quality Authority, a key regulator of registered training organisations).

Given the time, effort, and assumed expense in the creation of such a national body, it is difficult to discern a ready connection with the non-regulatory roles of ACARA, AITSL and ESA. A more ready example in the schooling space would be, for example, if each State and Territory (with support from the Commonwealth) established a national teacher accreditation authority, that applied across all jurisdictions and essentially replaced existing State and Territory based teacher accreditation authorities.

In addition, one weakness to the approach taken in creating such bodies, is that any one jurisdiction can modify the way in which the enabling legislation applies in its jurisdiction. For example, in relation to ACECQA, this has led to some differing requirements around the operation of child care centres applying in each jurisdiction (like ratios of educators to children).

**International precedent**

Comparisons with successful international precedents were difficult to make due to the degree of difference in government systems. Singapore benefits from a centralised system (not translatable to Australia’s federated system) and its consistent purpose, but Estonia and Canada were also high-performing PISA achievers in 2015 with decentralised systems. Canada’s Council of Ministers of Education and the German Standing Conference of Education Ministers provide fora for meeting and coordination. Australia’s COAG Education Council and national architecture
appear to offer greater levers for formal coordination. New Zealand’s recent curriculum review seeks to review and strengthen system leadership of curriculum, pedagogy, assessment and aromatawai (Maori for ‘assessment’).

The following international study observations however translate readily for learnings for the national architecture for schooling in Australia:

In most high-performing education systems there is a certain level of authority at which the buck stops – some agency or group of agencies that is responsible for the effectiveness and efficiency of the whole system. Usually this is the national or state ministry for education. Because they are held accountable for the quality and efficiency of education in their country, these overarching authorities assume responsibility for long-range planning. They commission research and make deliberate use of that research in their decision-making. The various parts of an education system need to be designed to work harmoniously with each other. Systems need to make effective plans and make sure those plans are carried out. They need the capacity to do the necessary analyses, deliver support to the field, monitor the degree to which their plans are being implemented, judge the results and change course if needed. If a country or a state or group of states in a federal system lacks this capacity, it might not be able to make comprehensive, coherent plans; and even if it has the capacity to plan, it might not matter very much what its policies are if the country or state lacks the capacity needed to implement them.

5.2 Four conceptually different approaches to configure the national architecture

Customer-centred approach

What is the essential purpose of an investment of $310.3 billion in recurrent funding from the Commonwealth alone over the next ten years? It will contribute towards funding curriculum, assessment, reporting and teaching, but these are means to an end. They are functions of schooling. The primary target to benefit from that investment is the learner in an Australian school, regardless of where that child lives, and the type of school that is attended.

According to research, teaching practice is the most influential school quality factor driving student outcomes. This factor is at least twice as important as any other school quality factor in explaining student outcomes when compared to all other observed drivers. Arguably then, an ‘investment’ strategy that wraps its guiding focus around what the teacher needs in delivery of those functions makes the teacher (and therefore the student) the target of design outcomes rather than the traditional organising principle according to function and synergy of function. As the Service NSW model would suggest, organising around the customer focusses design on a process continuum so that at the point of access, the highest priority is the positive ‘customer’ experience not the convenience of a rigid functional structure. This strategy is conceptually different to that evidenced currently where the teacher has multiple access points to negotiate separately into the three national bodies that each offer products relevant to teachers although there is no coordination of that offering across the architecture or coordinated evaluation of how the offering can improve support to the teacher. The context of this ‘customer’ is a teacher busy with an overloaded curriculum, with an interest in new and leading forms of assessment, with no shortage of research and evidence available but a prohibitively short amount of time to access and translate it for use in the classroom.

As an experienced educator sagely and plainly stated during Review consultations to theme: a teacher does not compartmentalise the week according to what suits the structure of the national architecture and decides today I will do curriculum, tomorrow I will do assessment, and the next I will consider my pedagogical approach. This was confirmed by a Review Survey comment:

The separation of curriculum from pedagogy does not reflect the way teaching programs are designed and implemented. Teachers think about both these aspects of their work simultaneously. The current architecture does not provide a ‘one stop shop’ for teachers. Improvements in governance arrangements which facilitate the organisation’s responsiveness to stakeholder concerns are necessary in the improved national architecture for schooling.

Another stakeholder described the trinity of curriculum, assessment and teaching.

59 Schleicher (2018), 120.
The particular concern for subsidiarity for the States and Territories in teacher professional development and pedagogy is appreciated. It is contended though that the existing configuration of the national architecture could be refocussed around what would support the teacher’s experience the most. A recent international study into 21st century school system endorsed breaking down the ‘walls’ in education systems that separate teachers from learning and information:

While globalisation is having such a profound impact on economies, the workplace and everyday life, education remains very local and often inward-looking. Education systems have a habit of building ‘walls’ that separate teachers, schools or the systems themselves from learning from each other. The way schools are organised and the way information is managed can make it difficult for schools and teachers to share knowledge about their work. While those who run education systems may have access to knowledge about their strengths and weaknesses, those who provide education services at the frontline – school principals and teachers – often do not, or they may not know how to translate that knowledge into more effective practices.\(^{61}\)

In responding to the concept of re-organising the national architecture around a simplified experience for teachers, a stakeholder contributed during consultations:

An organisational design approach would closely tie the content with evidence on the best ways to teach it and then provide an appropriate platform to deliver it. Agreed that a fit for purpose design would put the teacher or student as the customer at the centre of the process. A design that allowed the student or teacher to access the system at any point of the system, regardless of jurisdiction or stage of learning. It would also be desirable to incorporate functions that allowed for easy reciprocation or sharing of material between the organisations, states and territories as well as between teachers. It is also critical that quality assurance, measurement and evaluation are formalised and incorporated into the model.

A further Review Survey comment agreed that a common portal with a user-centric focus would increase efficiency for teachers and school leaders.

It will be the first time for a national body in Australia to have a single focus on curriculum, assessment and teaching and one driven by a mission to make the experience simple and positive in support of teacher practice and ultimately therefore the outcomes for learners in Australian schools. This new single national body is called the Australian Curriculum and Teaching Services (ACTS) in this report.

**Problem-solving and risk management approach**

Rather than projecting forward to design a new proposition according to fundamental purpose, this conceptual approach looks back at what has happened already and seeks to define the root causes for issues and assess ongoing risks.

The first significant change suggested under this approach is to understand the context and address the risks that arise for performance and accountabilities of the dual governance by the board and AESOC as discussed in detail in sections 4.1 and 3.2.

Addressing the mission creep, transparency and accountability, and concerns for coordination of work among agencies would be assisted by a united and streamlined focus of a new body that combines curriculum, assessment and teaching, with a CEO responsible as accountable authority.

The current expensive use of AESOC and Education Council’s time in the oversight, and degree of the oversight required, of the three current national bodies would be reduced to one body that has a CEO who steps up responsibility as an accountable authority under the PGPA Act. It would be expected that the AESOC and Education Council would be able to focus on strategic direction and policy settings like a Minister would with the Minister’s relationship with Secretary or Director-General. The ESA board would be responsible for governance of the ESA with strategic direction set in its authorising document and engagement under the terms of grant or contractual engagement in a purchaser/provider relationship which addresses the problems and risks experienced in the current state of unclear roles and accountabilities. ESA would deliver to a clear specification with explicit deliverables under contract or grant agreement. ESA can be preferred supplier, or agencies can choose to go to market.

\(^{61}\) Schleicher (2018), 35–36.
One national body with coordinated responsibility and national expertise for curriculum, assessment and teaching could also be expected to better service the strategic gap in providing advice to AESOC and Education Council.

Pending separate deliberation processes beyond the scope of this Review for the governance of the national evidence institute and subject in particular to decision-making as to the desired degree of independence, it may be the case that this new single national body – ACTS – provides an option for the location for the national evidence institute function pending transition of the national evidence institute function into the new body if that option was to be pursued.

Organise by function approach

More than once during consultations it was suggested that ACARA should take over ESA as functionally ESA could act as ACARA’s ‘project shop’, or a commercial arm of ACARA. Some of this suggestion is in response to NAPLAN online experience but generally it arises as a consideration of what ACARA needs functionally from ESA. This option does not adequately address the full suite of products and services by ESA, only some of which are provided in direct support of ACARA, and not all of which are provided for schooling in any event.

The disadvantage of organising by functional specialisation is the potential for silos (from AITSL that does provide support of high value to smaller jurisdictions and the non-government sector), competition for resources and the effort needed for cross-functional coordination.

The advantage considered from ACARA’s perspective is direct control over all components of its service provision although there was an element of caution among ACARA executives about taking on ESA functionality in recognition of the high risk, highly technical enterprise currently guided by a governing board in a commercialised environment. It was observed by the executives that such is far beyond the current capacity or experience of ACARA to manage without additional specialist expertise.

Reallocating ESA functionality to ACARA would also limit the capacity of ACARA to choose to go to market instead as it will be bound to use its own resourcing for those ESA offerings. It could also lead to inefficiencies, or spare or insufficient capacities. The reallocated ESA resourcing to ACARA would service ACARA according to the ebb and flow of that need rather than the larger scaled current ESA which can smooth the effects of those peak load periods with non-ACARA business. For ACARA to take on all ESA’s current work span of activities would not be consistent with ACARA’s core mission and business opening up further disadvantage to this model. Carving out ACARA-related business from ESA for assuming into ACARA risks undermining the financially viable and successful current business for ESA.

Spectrum of change approach

On a spectrum denoted by the degree of change, there is a minimalist ‘no change’ option that could be optioned up to include a range of governance and accountability recommendations as raised throughout this report.

One stakeholder acknowledged that continuing with the existing organisations would mean ‘buying into the current problems’ however due to tight timeframes, there may not be the ability to design the architecture that is needed for the longer term. A no-change option with governance improvements within the envelope of the current structures offers a transitional stage one for the immediate term.

The maximalist option on a spectrum denoted by the degree of change, would be one national organisation delivering the whole requirement for the national architecture, including all the challenges faced with curriculum,
assessment, reporting, teaching and learning and technology. This option is not recommended and could be expected to fail because of the non-alignment of functions, the risks inherent in achieving the merger of such different forms and the unsuitability of a new organisational form to be the most proportionate to function for the full span of activities.

This change would mean the creation of an entity with multiple different focuses, priorities, and trying to manage commercial activities in combination with core-policy development and implementation. This gives rise to a high-risk that the entity will not be able to focus on the quality of what it produces and governance challenges.

Given the significant commercial activities of ESA, it may mean that any single national architecture entity would need to be a jointly-Ministerial owned company, or wholly Commonwealth-owned company. This then causes tension with other functions, like developing the Australian Curriculum, and national assessments, which are functions more akin to a government authority. A company for commercial activity would be suited to have a board expert to govern those risks. Such governance arrangements for a commercially-focussed board however are even less compatible with the activities of the other non-ESA functions that are under locus of control tensions with dual governance currently as explained in section 4.1. AESOC’s and Education Council’s role in any single national architecture entity would need to be reduced, as there is limited capacity for AESOC or Education Council to be involved in managing the affairs of an entity engaged in significant commercial activities. This is very different, for example, to the current role of AESOC and Education Council in providing direction to ACARA and is likely to be inconsistent with the expectations of AESOC and Education Council also for the reasons explained in section 4.1.

Because winding up and transferring ESA would be such a significant undertaking, the business case to do so would need to be compelling, particularly as the nature and extent of ESA’s commercial activity is a different undertaking to the core business of the other functions. It is also likely that a single national body for schooling would not value the extra-schooling products of high value to other government sectors such as My Skills or myfuture which would risk losing their value to the current offering. This would be a more profound change to the national architecture and would involve a greater level of complexity; lengthier transition period; and may not have realisation of benefits. Given the current role of ESA, as a service deliverer, it is likely that any single national architecture entity would, over time, naturally end-up engaging with another entity that fills a potential gap left by ESA. Thereby undermining the argument for a single national architecture entity.

There would be less synergy to support transition of the national evidence institute to such a single body because of the already wide span of functions that includes the less consistent former ESA’s commercial activities as a technology provider.

Figure 8 maps each of four conceptually different approaches from strategy to option with an indication of the expected degree of technical change compared with the anticipated degree of positive impact for results.

As it happens, despite different starting points, the first two approaches – customer-focussed and problem-solving – conclude with the same option, which is the recommended option. A customer focus is a first principles thinking of why we are here and who do we want to serve. It is a forward design, ‘greenfields’ build proposition. Whereas, the problem-solving approach looks back at what went wrong to identify problems to solve and risks to manage for next time.
### Figure 8: National architecture for schooling in Australia: Conceptual mapping of approaches

<table>
<thead>
<tr>
<th>Organising principle</th>
<th>Role/Strategy</th>
<th>Options</th>
<th>Degree of technical change to implement</th>
<th>Degree of impact for results</th>
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<tbody>
<tr>
<td>Customer-centred</td>
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<td>ACTS</td>
<td>low to medium (new and repeal legislation, AITSL company wind-up and transfer to new body)</td>
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<td>‘greenfields’</td>
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<td>easier, more effective support to teachers (as priority medium to learner) with services responsive to EC/AESOC policy and strategy</td>
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<td>Problem-solving/ Risk management</td>
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<td>Functional approach</td>
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<td>Proportionate and responsive:</td>
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<td>which bodies should change or stay the same?</td>
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<td>no institutional change (three bodies) with operational governance recommendations</td>
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<td>all functions in one body</td>
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<td>separate AITSL</td>
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<td>if board structure retained – low</td>
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Figure 9 plots the expected degree of technical change required to deliver the option with the degree of positive impact that could be anticipated to indicate that the recommended option will have the least technical requirements to effect change with the most positive impact.

**Figure 9: Required change and expected impact**

![Graph showing the relationship between change required and impact](image)

Figure 10 represents the spectrum for the degree of change in respect of four main options indicating the recommended option in green.

**Figure 10: Degree of change to implement spectrum of options**

<table>
<thead>
<tr>
<th>Design Logic</th>
<th>No change</th>
<th>Customer-focus Problem-solving Low change</th>
<th>Functional Medium change</th>
<th>Functional High change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structural Options</td>
<td>Current bodies with governance improvements</td>
<td>ACTS</td>
<td>ACARA + ESA (separate AITSL)</td>
<td>ACARA AITSL ESA</td>
</tr>
<tr>
<td></td>
<td>(with governance improvements)</td>
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<td></td>
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<td>One body</td>
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</tbody>
</table>

**Degree of change to implement**

LOW <--- High
5.3 Recommended Model

This Review has sought to understand contextual drivers, the intended purposes and role for the architecture, the strengths and weaknesses of its current state and approached formulation of options by applying the organising design principle that there should be structural alignment consistent with strategy. There are two recommended and coinciding strategies for organising the national architecture for schooling. The first is a customer-centric analysis that prioritises the focus on teachers and school leaders for improved educational outcomes for learners. The second strategic reasoning seeks to map problems and risks to solutions and treatments.

**Establish a new Australian Curriculum and Teaching Services (ACTS)**

**Intent**

A single new body responsible for teaching quality support, curriculum, assessment and reporting in accordance with the responsibilities of the national architecture for schooling as directed by Education Council, is recommended.

The new body could be called the Australian Curriculum and Teaching Services (ACTS) and would replace ACARA and AITSL under a streamlined governance model that prioritises a customer-centred approach. Linking teaching with curriculum for the first time in a national body seeks to organise investment in the national architecture around a target of *what the teacher needs* which effectively targets every learner in an Australian school regardless of where that child lives, and the type of school that is attended.

This restructure offers effective and efficient institutional and governance arrangements to strengthen the national architecture’s support for the National School Reform Agreement, the anticipated Alice Springs Declaration on Educational Goals and the Council of Australian Governments’ priorities for early childhood education.

**Institutional and governance arrangements**

It is recommended that ACTS be led by a CEO as an accountable authority under the PGPA Act and responsible to AESOC and the Education Council under the enabling legislation which establishes ACTS as a statutory authority (corporate Commonwealth entity). The Australian Government considers that it has the legislative capacity to implement the preferred model.

Appointment of an additional layer of governance by appointing a board to ACTS is not recommended. An appointed board to ACTS would be duplicative of the existing legitimate governing and strategic interests of AESOC and the Education Council (see sections 3.2 and 4.1). However, the enabling legislation would provide for access to expertise through the appointment of six advisory committees (including its Strategic Outcomes, Risk and Audit Committee).

Under the new enabling legislation, the position of the CEO would be subject to strict accountability mechanisms and provision for targeted independence of function, including:

- the requirement to only make a recommendation to AESOC and Education Council on proposed content change for the Australian Curriculum, or nationally consistent teaching standards, after first receiving a recommendation from the relevant expert advisory committee;
- that Education Council will still ultimately need to approve any proposed change to the content of the Australian Curriculum or nationally consistent teaching standards;
- to act in accordance with any directions set by AESOC or Education Council; and
- all duties and reporting requirements of an accountable authority, as set out under the PGPA Act.

A series of expert-based advisory committees would be established under the enabling legislation to support the operations of ACTS. In particular, the purpose of the committees is to support ACTS’ expertise and the arm’s length nature of some of its functions with the degree of independence provided for in the legislation (through a
prior recommendation from committee process). In addition to the new body’s independent Strategic Outcomes, Risk and Audit Committee, the following additional expert advisory committees are recommended:

- **Curriculum Standards Committee** – reviews, develops and makes recommendations to the CEO on the content of the Australian Curriculum. Under the enabling legislation for ACTS, the CEO must have regard to any recommendation made by this committee. Education Council ultimately approves any changes to the Australian Curriculum.

- **Teaching Standards Committee** – reviews, develops and makes recommendations to the CEO on the content of nationally consistent teaching standards, and initial-teacher education courses. Under the enabling legislation for ACTS, the CEO must have regard to any recommendations made by this committee. Education Council ultimately approves any changes to nationally consistent teaching standards, and initial-teacher education courses.

- **National Assessments and Reporting Committee** – provides expert guidance on conducting all national student assessments, including NAPLAN.

- **Aboriginal and Torres Strait Islander Educational Outcomes Committee** – provides expert guidance on how the operations and projects of ACTS can support indigenous school students.

- **Quality Assurance and Data Collections Committee** – oversees all projects undertaken by ACTS and conducts quality assurance testing. Provides expert guidance on all data collections.

The CEO of the new ACTS will report to AESOC and Education Council on the entity’s performance and strategic outcomes. Expectations of this reporting relationship will be an early task of the CEO to develop in consultation with AESOC. (See other implementation considerations at pp. 52–54.)

The new entity will have a governance structure that demands excellence in its operations, with a clear and distinct line of accountability, and streamlined executive management structure. This will be exemplified through the positioning of a single responsible officer for the entity, its CEO, who will ultimately be accountable to Education Council and AESOC for the operations and outcomes of the entity. This will ensure a responsive entity, which is best placed to meet the needs of the school education sector.

Consistent with Commonwealth governance policy for new bodies, as for many other jurisdictions, ACTS should be subject to periodic review under the legislation. The legislation could provide for not more than five years enabling a preference for earlier reviews to align with reform agreements or other national initiatives. It is suggested that the first review could be 2023 to align with the term of the National School Reform Agreement.

**For federalism**

In respecting the federalism context in which the national architecture operates, it is key to note that the new ACTS is not taking on an existing role of state. Rather, the recommended model is concerned with maximising the benefits of the existing national investment in an architecture for schooling. Aligning those resources to strategy pursues a fit for purpose model that is assessed as offering more effective, efficient and enduring arrangements for achieving national policy initiatives and the shared goals of supporting teaching practice in service of improved student outcomes.

With a wider span of services and the opportunity for greater jurisdictional control, this recommended model should be more responsive to multi-jurisdictional interests and is therefore well-placed to offer jurisdictions a differentiated product offering according to the different needs of States and Territories and the non-government schooling sector.

A potential argument against the recommended model might be a perception that the new body is an ‘arm of the Commonwealth’ captured by Commonwealth interests because it is governed by Commonwealth legislation under the specific enabling legislation and the PGPA Act. The interests leveraged by the PGPA Act regime are accountability interests not strategic, policy or project interests. The accountability interests are in favour of supporting an enduring public confidence in the probity in the fund and spend of public monies. These accountability interests align with the
accountability frameworks of the States and Territories and are tangibly supported in the new PGPA Act which also offers to share information and access to state and territory auditors-general.\(^2\)

The new entity will provide opportunity for greater input and control by Education Council, and jurisdictions. A majority of Education Council will need to agree to the appointment of the entity's CEO and Deputy CEO positions. Currently, AITSL is entirely Commonwealth owned, with the Commonwealth Minister for Education provided unfettered control of its Board appointments, objectives, strategic framework, and company constitution. Moreover, while Education Council needs to agree to appointments to the Board of ACARA presently, it is still the Commonwealth Minister for Education that must ultimately agree to and then make those appointments.

The new entity's legislative underpinning and structure ensures a legal, structural, and direction-setting separation from the Commonwealth. This is achieved by ensuring the governance role of AESOC and Education Council with respect to the new entity; enabling AESOC and Education Council to issue directions to the new entity; and establishing the new entity as a corporate Commonwealth entity.

Following a detailed consideration of the possible alternatives in section 5.1 and Figure 7 above, this recommended option is proposed as a model of collaborative federalism distinguished by its legislated shared governance directly with all jurisdictions.

The recommended option in this Review offers jurisdictions a significantly greater level of governance control than that under the current architecture.

To underscore the importance of the constitutional and operational imperatives and which set the scene for the collaborative federalism that provides the national architecture for schooling, it is recommended that the new legislation creating ACTS should include a preamble similar to the drafting approach of using a preamble in contemporary legislation that was taken for the Australian Education Act 2013.

**For teachers**

Potential arguments against the recommended model might also be a perception that there has been a dilution of the role of AITSL being the smaller entity in the combined arrangement and therefore loss of support of the teaching profession. In counterpoint, for the first time in its history, Australia will have a single national body under new legislation that links teaching with curriculum, thereby enabling an enhanced focus on what works in building and supporting the teaching profession, linked with what works in bringing key educational outcomes for students through the curriculum. The new entity will facilitate, coordinate, link and support the teaching profession, schools and students. The role and focus of the former AITSL will not be diluted, as a focus on supporting the teaching profession will be a core priority of the new entity - which is deliberately a new entity, for a new narrative and new opportunities to shape the impact of the architecture's contribution to national policy initiatives.

**For transition**

ACARA and AITSL may anticipate that there will be a loss of funding made available to the new entity due to efficiencies and cost-savings of the new entity, thereby diluting its budget capacities. The executive remuneration profile and corporate services to business ratio indicated in section 3.3 indicates potential for cost savings. The span of control and size of the new organisation would not be extraordinary with a total for the new entity of 162 FTEs in compliance with the Averaging Staffing Level caps. It is intended that that staffing profile will apply in full to the new entity, thereby not diluting available staffing numbers. Further, there is capacity and potential for increased project and program management positions to be created. The new entity will not have a loss of funding, and any savings made through a consolidation of functions such as corporate services, will then be available for re-investment in supporting schools, teachers and students.

Any existing functions of AITSL, such as its skilled migration assessment work, can be transferred to a new entity, and with limited disruption in service delivery. Any organisational change process will bring some level of change

\(^{2}\) Ss 82–83 PGPA Act.
management disruption and will be of concern for existing staff. However, this process should be carefully managed with a comprehensive change program, with a key focus being on ensuring that the concerns of staff are recognised, and a continuous feedback loop established to ensure that all staff are supported and issues are addressed in a timely manner. (See also section 5.4 and Appendix 4.)

**ESA continue in its current form, but with role and governance changes**

For the reasons outlined in section 3.1 together with its value to the market and non-schooling sectors, plus the significant intellectual property holdings and government roles it undertakes, it is considered that ESA continues to provide value-add products and services not otherwise available in the broader market-place, through its capacity to take on projects for which ESA’s relationships, expertise, not-for-profit status, and history of delivery make it best placed to deliver.

**Governance**

It is therefore recommended that ESA continue in its current form as a separate component of the national architecture but with a refinement of role and a small but significant change to the composition of its Board to remove the AESOC and Australian Government members. It is recommended alternatively that those positions be held by a member with appropriate experience with government schools (replicating the existing member position for non-government schools) and an independent expert member on government relations to complement the current Board mix.

It is recommended that ESA not directly report to, nor get directly involved with, the processes of AESOC and Education Council to remove any ambiguities of the corporate’s role and accountability risks and enables ESA to focus on its business of service delivery. This recommendation is intended to ensure that the Board of ESA is fully independent from all levels of government and is able to undertake its commercial operations without direct government influence.

If ESA requires Ministerial involvement (as the owner members of ESA), then the Board of ESA can request and organise that Ministerial involvement. Also, all Australian Education Ministers still maintain ultimate ownership of ESA, and thereby have an overriding control mechanism if ever required. Transfer of the Education Council Secretariat function out of ESA will further enable ESA to focus upon its core objective of service delivery in digital technology and to not be unnecessarily involved in processes related to Education Council (including AESOC, working groups and general administration).

Enhanced accountability of the company is therefore expected as there will be a clearer line of accountability and performance expectation, with ESA’s Board responsible for ensuring that ESA performs to the level expected by its owners. What is being removed under the recommendation for ESA is the dual-governance role of AESOC, and Education Council processes, which dilute accountability and performance expectations.

These recommendations seek to ensure that the Board of ESA is fully independent from all levels of government, and is able to undertake its commercial operations without direct government influence and it seeks to avoid conflicts of interest arising for government members from ‘two hats’, or of not acting in the best interests of ESA, when ESA is tendering for or undertaking projects for jurisdictions. (See section 3.2).

Efficiencies could be expected in the operations of ESA through not being required to be involved AESOC or Education Council processes.

It is also recommended that a governance protocol be settled between the Chair of the Board and with the shareholding Ministers that make clear the communication expectations of the Chair to the shareholding Ministers when proposed in urgent circumstances such as by telephone notice to the Chair of the Education Council followed by emailed confirmation of the communication to all shareholding Ministers. The protocol should also include clarification of roles and expectations regarding communications with the media.

**Service deliverer of choice**

Clarity, and therefore accountability for performance expectations, are promoted by engagement within the terms of contract or grant agreements whether for project specifications or for engagement of expert services for exploration or discovery work, or for the provision of strategic advice.

These recommendations do not preclude ESA’s engagement to provide strategic ICT and education-related information technology advice at the national level.
The new ACTS will also be able to leverage ESA, and to the relevant extent potentially the national evidence institute, when preparing and providing strategic ICT advice to Education Council (similar to a consortium preparing for a bid). The new entity will also be able to liaise with ESA on, and source where required, strategic ICT expertise or presentations concerning strategic opportunities in the school education sector, in particular involving new and emerging technologies. Moreover, due to its joint ownership ESA can be preferred supplier and, due to its not for profit status and experience in the architecture, ESA offers cost effectiveness in such engagements. Jurisdictions can still engage with ESA directly.

As ESA would be the service deliverer of choice for ACTS, ACTS is encouraged to use the services of ESA wherever possible. However, this does not preclude ACTS from exploring other private sector opportunities, where such is considered to provide the best value for money and outcomes.

**Education Council Secretariat transfer out of ESA**

This Review did not conduct a performance or quality review of the Education Council Secretariat.

These recommendations concerning the location of the Education Council Secretariat follow the recommended changes to the role and governance of ESA, although there are advantages in increased transparency and accountability in these suggested changes also.

**Financial management role**

Throughout the consultations undertaken during the Review, stakeholders commented on the important role of the Education Council Secretariat (under the auspice of Education Services Australia) in relation to the coordination of funding contributions for national reform priorities and project initiatives, including but not limited to the National Project Fund.

This role includes facilitating payments of funding contributions by all jurisdictions to such reform priorities and initiatives, which are then able to be allocated through the Education Council Secretariat across multiple years, recognising the long-term nature and commitment required to develop and implement reform priorities and initiatives at the national level.

The Review’s recommended model does not diminish this important and enduring role. ACTS, as a legally separate and distinct entity from the Commonwealth and able to hold funding on its own terms, is able to fully undertake the role currently administered by the Education Council Secretariat in relation to its management of funds for national priorities. The new entity is separate from the appropriations framework of all jurisdictions and can hold funding on its own terms. Accordingly, there should be no loss to any existing funding flexibility.

There will also be a greater level of accountability over how the new entity manages public funding, with the CEO, Deputy CEO and staff of the new entity subject to the duties of the PGPA Act. This will bring an enhanced level of confidence and trust in the accountability for public funding. It would ensure a balanced measure of accountability in order to maintain public confidence and trust in the funding of national reform priorities and national project initiatives.

Furthermore, the recommended arrangements will end the current risks for the ESA Board and Chief Financial Officer in relation to their corporate responsibilities for management over the funds of their accounts.

Under this recommendation, the Education Council funding such as National Project Funds would move from ESA’s company accounts and the legal responsibilities of the ESA Board, to the accounts of the ACTS which are subject to the duties of the PGPA Act affording greater public sector transparency and accountability. This is relevant in considering whether there could be a risk of conflict of interest as well as the fact that the funds would be still subject to the direction and control of AESOC and Education Council. Independent internal and external audit arrangements would also seek to assure integrity in the dealing of the funds in the accounts.
Administrative and secretariat support role

The new architecture arrangements would clarify ESA’s role and governance as a company, with a board, operating commercially as a digital technology services provider. There is no obvious fit for the Education Council Secretariat to continue as company employees of a digital technology services provider, other than an understanding that continued employment of the secretariat, outside the public sector, may provide an independent, non-politicised secretariat for Education Council.

However, the extent to which the administrative and secretariat functions performed by the Education Council Secretariat need that degree of independence – which ultimately also comes with limited scrutiny and limited support from operating public sector obligations – should be weighed against considerations of whether there are alternative suitable locations for the administrative and secretariat role, and the irregularity of the governance fit with ESA.

It is recommended in the first instance that the role of the Education Council Secretariat transfer out of ESA.

It is further recommended that the Education Council (and AESOC) consider which of the following options is most proportionate and responsive to these needs and risks, arguably in ascending order of independence. Education Council Secretariat support responsibilities could transfer to:

a) Commonwealth Department of Education
b) A State or Territory Department of Education
c) the State or Territory Department of Education of the jurisdiction that is currently chair of AESOC for the duration of the chair responsibilities, or
d) ACTS with similar arrangements for operational independence as currently in place except without the responsibilities of a Board to a company under the Corporations Act.

The primary administrative role of the Secretariat is to manage the AESOC and Education Council meetings and related papers. The Commonwealth would not have any increased control or capacity with relation to this process than what is already the case under existing AESOC and Education Council processes.

A departmental arrangement is also broadly consistent with the secretariat function for seven of the current nine COAG Councils, whereby that secretariat support is undertaken through a Commonwealth Department, including the Council of Attorneys-General which also has a rotating Chair arrangement. The Health COAG Council is undertaken through the South Australian Department of Health, but still through a government department.

Administrative support for COAG-related Ministerial Councils is part of the core business of the Australian Government and is reflected in such role being undertaken by almost all other COAG-related Ministerial Councils.

Option c) might be considered to have the advantage of disrupting any undue influence (of one jurisdiction) on an annual basis.

Movement of the function to a Department will enable a greater level of accountability, transparency, and oversight of the provision of administrative support to Education Council and AESOC as individuals from the Department involved in the provision of such administrative support, are subject to a range of accountability requirements, such as for the Australian Government including security clearances, the Australian Public Service (APS) Values, and the APS Code of Conduct.

Option d) could facilitate similar independent arrangements as presently experienced with ESA (without the legal risks posed for a board in holding Education Council funds). If Option d) was pursued it might also enable consideration of the financial management role of the Education Council Secretariat also being undertaken by the Secretariat with the funds in the accounts of ACTS. As explained above, the structure offers no loss of flexibility for the Education Council’s funds in ACTS compared with ESA.
A refined protocol developed with agreement of AESOC and Education Council on the administrative role of the EC Secretariat should be included as part of managing the change for ESA.

Figure 11 summarises the recommended model and its interrelationships as part of the national architecture. Figure 11 indicates that the new ACTS should provide data and reporting output for consumption by the national evidence institute process to return, in a learning loop of research and evidence to feed back into ACTS' products as seamlessly and time-efficiently as possible.

Throughout this report, a number of governance and process improvements have been suggested within the national architecture. These improvements are grouped as Part C in the list of recommendations following the executive summary and although they can be implemented independently of Parts A and B, they should be pursued together with the major structural changes for greatest impact. Parts A, B and C recommendations are included in Appendix 4.

As an interim measure, Part C changes should be pursued as soon as practicable. It is important to note, however, that these governance and process improvements will not materially resolve the fundamental issues, tensions and difficulties with the current structure of the national architecture. Nevertheless, they are offered as interim measures to help set in train changes that will be reflected in the establishment of ACTS and afford opportunity for a level of enhanced accountability and effectiveness in the short-term.
Enabling legislation:
Australian Curriculum and Teaching Services Act (Cth)

authorises

Education Council
AESOC

Enabling legislation: Australian Curriculum and Teaching Services Act (Cth)

Education Council
AESOC

ACTS – Australian Curriculum and Teaching Services
AESOC – Australian Education Senior Officials Committee
ATSIEAG – Aboriginal and Torres Strait Islander Education Advisory Group
ECPG – Early Childhood Policy Group
ESA – Education Services Australia
ISCA – Independent Schools Council of Australia
NCEC – National Catholic Education Commission
NEI – National Evidence Institute
SPG – Schools Policy Group

Expert advisory committees
- Curriculum standards
- Teaching standards
- National assessments and reporting
- Aboriginal and Torres Strait Islander Educational Outcomes
- Quality Assurance and Data Collections
- Strategic Outcomes Risk and Audit

ACTS – Australian Curriculum and Teaching Services
NEW BODY (no board but independent functions on expert advice)

CEO as Accountable Authority
under the Public Governance, Performance and Accountability Act 2013 (Cth)

provides data
receives analysis & evidence
receives evidence & research
commissions evidence & research

MKT

supplies services

Teachers, school leaders
All learners in schools

1 Before making recommendations to Education Council about the curriculum or teacher standards, the CEO of ACTS must have regard to the recommendations of the Curriculum standards committee or Teaching standards committee respectively.

2 Post-implementation of the new architecture, consider integration of ATSIEAG’s role with the new Aboriginal and Torres Strait Islander Educational Outcomes committee of ACTS.

3 National evidence institute is represented here as a function, not an institutional structure.

4 ESA is represented here as a supplier in the market, but can be the preferred supplier for certain reform initiatives and national priorities.
5.4 Implementation Considerations

The recommended model for a new configuration of the national architecture for schooling would require enabling legislation for the new national body. New legislation to establish the Australian Curriculum and Teaching Services (ACTS) would clearly set a new narrative for a contemporary model that is best placed to efficiently and effectively deliver the current suite of national policy initiatives and to respond to current and emerging needs.

Under the guidance of a transitional and detailed change management plan, ACARA and AITSL would be replaced by the new body with repeal of the ACARA Act 2008 by the Commonwealth Parliament and winding up of AITSL through the Australian Government Minister for Education. The requisite planning and actions would include a consideration of assets, liabilities, legal and contractual obligations, and transfer of employees.

The timing of legislative change would need to be managed concurrently with ACARA’s responsibilities in particular for successful delivery of the critical function of NAPLAN online in 2020. Subject to consultation, it may be that at this relatively late point in time in the annual calendar the delivery of NAPLAN online in 2020 needs to continue unabated under ACARA’s leadership. The transition and change management planning should include absolute clarity for organisational responsibility as well as accessible and timely pathways to support ACARA to escalate any perceived obstacle in transitional planning or undertaking. Transitional arrangements should scaffold ongoing performance outcomes to promote a ‘no excuses’ approach for delivery of critical functions such as NAPLAN.

Subject to implementation planning and consultation with relevant stakeholders, it would be anticipated that ideally the period of transition from ACARA to ACTS for NAPLAN online 2021 would occur as soon as possible after the 2020 test dates in May to maximise the available year, with specific transitional planning for the NAPLAN assessment and reporting components also. Beyond delivery of NAPLAN online 2020, an early stocktake for planning would be required of all responsibilities, timeframes and pressure points for delivery of other key national reform initiatives and core business, current and impending, for both ACARA and AITSL. (See also section on stocktake of projects for the new architecture below.)

To achieve the structural change recommended to ESA’s Board, a special resolution will be required of all owners of ESA, which are the Education Ministers, to amend the company constitution accordingly. This change could occur independently of the change process for the new ACTS and indeed should be considered separately in advance and even as part of the no change option with regard to the risks outlined in section 3.2.

Beyond these technical legal steps to effect change, the following suggestions are offered as an initial planning list of steps to consider:

**Establishment of the new ACTS**

- Development of an agreed implementation plan with AESOC for the new entity (including consideration of a consultation and communication strategy and the scope of stakeholders.

  For example, the principals’ associations and the Education Departments’ Chief Information Officers sought consultation opportunities during the course of this Review and were beyond the scope of nominated targets but might be considered as appropriate in future stages.

  Consultation and communication with teachers should also be considered in a timely and genuine approach so as to be informed of their needs if the new ACTS is to consider their positive experience as a priority, as well as to maintain the opportunity for the positive reform momentum intended.)

- Full transparency to AESOC and Education Council on preparation of new enabling legislation. This includes obtaining Prime Ministerial approval to share legislative drafts with AESOC and Education Council members.

- Regular reporting to AESOC against the implementation plan.

- A time-limited (e.g. 6 months) advisory-committee for the establishment of the new entity, which will include: an AESOC representative; an Australian Government representative; a representative or combined representative for ISCA and NCEC; a representative for the existing staff and operations of each ACARA and AITSL; and other relevant advisors as determined.
• Regular messaging and liaison meetings with staff of AITSL and ACARA, on implementation of the establishment of the new entity.

• Regular messaging for schools and teachers on the establishment of the new entity, as well as a “road-show” on what the new entity offers the school education sector.

• Consideration of a broad-based marketing campaign on the new entity. The narrative needs to emphasise the creation of a new entity, rather than the merging of AITSL and ACARA.

• The development and agreement on an overarching grant agreement/MOU with all jurisdictions (including the Commonwealth), for an initial period till the end of 2023, and which clearly establishes funding accountability and payment mechanisms for the new entity.

• Consideration should be given to the physical location of the body to ensure a national presence and a national diversity of perspectives in its staff body.

• Development of a protocol with agreement of AESOC and Education Council on the appointment process for the CEO and Deputy CEO position(s) of the new entity. This includes a skills matrix for individuals to be considered for those positions. Similarly, guidance and agreement for appointment of the advisory committees for ACTS.

• A protocol developed with agreement of AESOC and Education Council on the level of oversight, direction-setting, reporting, and involvement of AESOC and Education Council with the new entity.

Stocktake of projects and initiatives in the new architecture

With the establishment of ACTS and the national evidence institute, a stocktake should be undertaken of existing projects and initiatives being delivered by ESA, to explore the appropriateness of ACTS or the national evidence institute to instead take carriage of some of those projects or initiatives directly (as may be determined through appropriate authorising environments and authorities). This will help avoid blurring of lines of accountability, roles, objectives, and focus between the entities and a clear settlement and understandings at the outset.

As part of that stocktake, there should be consideration of what kinds of projects and initiatives jurisdictions/AESOC/ Education Council may ordinarily undertake with ESA directly, and which would be more appropriately undertaken by ACTS or the national evidence institute moving-forward (again with continued support and assistance of ESA, where it may be considered appropriate).

This will help ensure that ACTS and the national evidence institute are directly responsible for, and involved in, projects and initiatives that best fit their respective roles, objectives, and functions, with ESA able to continue to focus on and provide core service delivery in digital technology solutions for the education sector.

Further, such a stocktake for a similar objective should be undertaken of existing projects and initiatives being delivered by ACARA and AITSL, to consider the appropriateness of whether some of those projects or initiatives should instead be undertaken by the national evidence institute.

Appendix 4 summarises the recommendations for establishing the new ACTS; making changes to the role and governance of ESA; and implementing the various governance and process changes identified in this report, in recommendation of the most appropriate arrangements to achieve an effective, efficient and enduring national schooling architecture.
Appendix 1: Terms of Reference

Review of the national architecture for schooling in Australia

Terms of Reference

The Council of Australian Government’s Education Council has agreed to review the national architecture for schooling in Australia.

The purpose of the review is to identify options for, and make recommendations on, the most effective and efficient institutional and governance arrangements which will support implementation of the eight national policy initiatives in the National School Reform Agreement and deliver other national priorities for schooling, as identified by Education Council. In developing options and making recommendations, the reviewer will examine and have regard to the existing national schools architecture and previous reviews of this architecture.

Context

In December 2018, the Commonwealth and all state and territory governments signed the National School Reform Agreement. This agreement establishes eight national policy initiatives for school education in Australia. Key national policy initiatives include:

- The development of learning progressions and formative assessment capability, which will help teachers tailor their teaching to support students’ achievement through continuous learning growth.
- Establishing an independent national evidence institute to inform teacher practice, system improvement and policy development.

Looking ahead, the national architecture for schooling in Australia is expected to play a leading role in the successful development and implementation of the national policy initiatives, along with other national priorities for schooling, including the National Assessment Program – Literacy and Numeracy (NAPLAN).

The current national architecture for schooling comprises three education organisations:

- The Australian Curriculum, Assessment and Reporting Authority (ACARA) was established in 2008 to manage and develop a national curriculum, the National Assessment Program, and a national data collection and reporting program.
- The Australian Institute for Teaching and School Leadership (AITSL) was established in 2010 to provide national leadership for the Australian, state and territory governments in promoting excellence in the profession of teaching and school leadership.
- Education Services Australia (ESA) was established in 2010 to advance nationally agreed initiatives and provide technology-based products and services for education in Australia.

Each organisation has different legal structures, funding, governance, accountability and decision making arrangements. This has contributed to complex processes for decision-making, resourcing and effort as new initiatives and priorities have emerged, issues around the co-ordination of, and responsibility for, key projects across organisations, and stakeholder confusion about accountability for delivery.

The new national evidence institute will add another body to this already complex national schools architecture. On 22 February 2019, Education Council agreed in-principle that the institute will focus on generating new evidence, translating and curating evidence and mobilising evidence in school and early childhood settings. The operating model, governance structure, legal framework and funding arrangements for the new institute are yet to be agreed by Education Council.
In view of the role to be played by Australia’s national schools architecture in the implementation of Education Council’s reform agenda, it is timely to review the existing national architecture and consider what arrangements will best serve governments to deliver an Australian schooling system that achieves the twin goals of equity and excellence.

Scope

The review will be limited to examining and making recommendations on the national architecture for schooling in Australia. It will not examine the architecture for early childhood education nor higher education in Australia. In early childhood education, reviews of the National Quality Framework (NQF) and the Australian Children's Education and Care Quality Authority (ACECQA) are underway and will progress concurrently but will not be duplicated by this review. The review will consider the role of ACECQA, and the outcomes of the reviews of ACECQA and the NQF.

The reviewer shall also have regard to the role of the national school education organisations in other stages of education. This includes the existing role of AITSL in promoting excellence in early childhood education and the future role of the national evidence institute to support better practice in early learning settings, as well as schools.

Terms of reference

The review will:

a) Examine the individual roles and responsibilities, functions, governance and decision-making arrangements, accountability mechanisms, and resourcing of the three national organisations: ACARA, AITSL and ESA, as well as the coordination of work between the three organisations.

b) Based on the impact of arrangements at point a), assess the strengths and weaknesses of, and any gaps in, the existing national schools architecture and its ability to deliver the national school reform agenda effectively and efficiently, as well as respond to current and emerging needs.

c) Have regard to the in-principle agreement by Education Council on the scope and focus of the national evidence institute and its proposed role and functions.

d) Examine the most effective and efficient means of commissioning and authorising work through Education Council, the Australian Senior Officials Committee (AESOC), and the standing working groups, including the setting of expectations, and establishment of mechanisms to support well-managed work programs and outcomes for short and long term projects.

e) Provide options on the configuration of a national architecture for schooling that identifies at least two different approaches for effective and efficient institutional and governance arrangements to support implementation of the eight national policy initiatives in the National School Reform Agreement and delivery of other national priorities, as identified by Education Council.

f) Make recommendations on the most appropriate arrangements to achieve an effective, efficient and enduring national schooling architecture. Recommendations should, as necessary, identify any models, pathways and structural changes required to deliver best practice in governance, transparency and accountability for current and emerging national school priorities.

Review approach

The review will be conducted by a reviewer as agreed by Education Council.

AESOC will oversee the review on behalf of Education Council and will provide advice and guidance to the reviewer throughout the review. To achieve this, the Chair of AESOC will convene additional meetings of AESOC as necessary.

The Australian Government Department of Education will contract the reviewer on behalf of Education Council and provide secretariat support for the review.

The cost of the review will be funded by the Australian Government and the state and territory governments through Education Council’s National Project Fund.
**Consultation**

In addition to seeking the views of jurisdictions through individual discussions with AESOC members, the reviewer will undertake targeted consultation with Education Council’s standing working groups, ACARA, AITSL, ESA, the Education Council Secretariat, the Independent Schools Council of Australia, and the National Catholic Education Commission.

**Timeframes**

A draft report, including draft recommendations, should be provided to AESOC by **18 October 2019**.

A final report will be provided to AESOC by **8 November 2019**. The final report should incorporate AESOC feedback on the draft report.

The final report will inform the development of options on the national architecture to be provided to Education Council for its consideration on **6 December 2019**.
## Appendix 2: Stakeholder Consultation

### Stakeholder Consultation (in alphabetical order)

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Representative/s</th>
<th>Meeting type</th>
</tr>
</thead>
<tbody>
<tr>
<td>AESOC (Chair)</td>
<td>Dr Michele Bruniges AM, Secretary, Australian Government Department of Education</td>
<td>Face-to-face meeting (Canberra)</td>
</tr>
<tr>
<td>AESOC</td>
<td>AESOC members</td>
<td>Attended item at AESOC Meeting (Canberra)</td>
</tr>
<tr>
<td>AESOC member, Australian Capital Territory</td>
<td>Ms Meg Brighton, Director-General, ACT Education Directorate</td>
<td>Meeting held (Canberra)</td>
</tr>
<tr>
<td></td>
<td>Ms Deb Efthymiades – Deputy Director General ACT Education Directorate</td>
<td></td>
</tr>
<tr>
<td>AESOC member, New South Wales</td>
<td>Ms Leslie Loble, Deputy Secretary, Education Futures and Governance, Secretary,</td>
<td>Meeting held (Sydney)</td>
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<tr>
<td></td>
<td>NSW Department of Education</td>
<td></td>
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<tr>
<td>AESOC and SPG members, Northern Territory</td>
<td>Ms Leanne Nixon, Acting Chief Executive, Northern Territory Department of Education</td>
<td>Teleconference</td>
</tr>
<tr>
<td></td>
<td>Ms Gillian Sharkey, Deputy Chief Executive, Northern Territory Department of Education</td>
<td></td>
</tr>
<tr>
<td>AESOC member, Queensland</td>
<td>Mr Tony Cook PSM, Director-General, Department of Education, Queensland.</td>
<td>Meeting held (Brisbane)</td>
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<tr>
<td></td>
<td>Ms Sharon Schimming, DDG Early Childhood and Community Engagement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Bevan Brennan – Assistant Director-General, State Schools</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ms Lesley Robertson-A/g Deputy Director-General, Policy, Performance and Planning</td>
<td></td>
</tr>
<tr>
<td>AESOC member, South Australia</td>
<td>Mr Rick Persse, Chief Executive, Department for Education, South Australia</td>
<td>Meeting held (Melbourne)</td>
</tr>
<tr>
<td></td>
<td>Dr Peta Smith, Acting Executive Director, Strategic Policy and External Relations, Department for Education, South Australia</td>
<td></td>
</tr>
<tr>
<td>AESOC member, Tasmania</td>
<td>Mr Tim Bullard, Secretary, Tasmanian Department of Education</td>
<td>Meeting held (Hobart)</td>
</tr>
<tr>
<td></td>
<td>Ms Jenny Burgess, Deputy Secretary, Strategy and Performance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Ben Coates, Principal Policy Analyst, Intergovernmental</td>
<td></td>
</tr>
<tr>
<td>AESOC member, Victoria</td>
<td>Ms Jenny Atta, Secretary, Department of Education and Training Victoria</td>
<td>Meeting held (Melbourne)</td>
</tr>
<tr>
<td></td>
<td>Ms Kim Little, Deputy Secretary, Early Childhood Education</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Scott Widmer, Executive Director, Portfolio Strategy and Planning, Policy Strategy and Performance Group</td>
<td></td>
</tr>
<tr>
<td>AESOC member, Western Australia</td>
<td>Ms Lisa Rodgers, Director General, Western Australian Department of Education</td>
<td>Meeting held (Perth)</td>
</tr>
<tr>
<td>Stakeholder</td>
<td>Representative/s</td>
<td>Meeting type</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
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</tbody>
</table>
| Australian Institute for Teaching and School Leadership (AITSL)           | Mr Mark Grant, CEO, AITSL  
Professor John Hattie, Chair of AITSL Board  
Mr Edmund Misson, Deputy CEO AITSL                                                                                                                                   | Meetings held (Canberra and Melbourne)           |
| Australian Curriculum, Assessment and Reporting Authority (ACARA)          | Mr David de Carvalho, CEO, ACARA  
Mr Norman Hart, Deputy Chair, ACARA  
Ms Janet Davy, Director Curriculum  
Mr Wayne Evans, Direct Corporate Services  
Ms Ann-Maree Ashburn, Director Communications and Strategic Relations  
Mr Peter Titmanis, General Manager Assessment and Reporting                                                                   | Meetings held (Canberra and Sydney)              |
| Commonwealth Government Minister for Education                             | The Hon Dan Tehan MP, Minister for Education                                                                                                                                                                         | Meeting held (Canberra)                          |
| Commonwealth Government Department of Education                            | Dr Michele Bruniges, Secretary                                                                                                                                                                                         | Meeting held (Canberra)                          |
| Commonwealth Government Department of Education                            | Ms Alex Gordon, Deputy Secretary Schools and Youth                                                                                                                                                                    | Meeting held (Canberra)                          |
| Chief Executives and Board Chairs of AITSL, ACARA and ESA                | Mr Andrew Smith, CEO, ESA  
Ms Diane Joseph, Chair, ESA  
Mr Mark Grant, CEO, AITSL  
Professor John Hattie, Chair of AITSL Board  
Mr David de Carvalho, CEO, ACARA, Ms Belinda Robertson                                                                                  | Meeting held (Canberra)                          |
| Minister for Education and Training, Western Australia                    | The Hon. Sue Ellery MLC, Minister for Education and Training  
Ms Liz Carey, Chief of Staff                                                                                                                                                                                              | Teleconference                                   |
| Education Council Secretariat                                              | Mr Rick Harrison, Secretary, Education Council  
Mr Greg Donahue, Deputy Secretary, Education Council                                                                                                                                                                 | Meeting held (Melbourne)                         |
| Education Services Australia (ESA)                                        | Mr Andrew Smith, CEO, ESA  
Ms Diane Joseph, Chair, ESA                                                                                                                                                                                                  | Meeting held (Melbourne)                         |
| Indigenous Advisory Group (IAG)                                           | Ms Vicki Bayliss, Chief Executive, NT Department of Education in her capacity as Chair of the IAG.                                                                                                                                 | Teleconference                                   |
| Independent Schools Council of Australia (ISCA)                           | Mr Barry Wallett, Executive Director  
Ms Collette Colman, Special Advisor                                                                                                                                                                                        | Meeting held (Canberra)                          |
| National Catholic Education Commission (NCEC)                             | Mr Peter Hamill, Deputy Director of the National Catholic Education Commission                                                                                                                                              | Teleconference                                   |
| SPG member (Commonwealth)                                                 | Ms Alex Gordon, Deputy Secretary, Schools and Youth Cluster, Australian Government Department of Education                                                                                                                                 | Meeting held (Canberra)                          |
# Appendix 3: Implementation status of previous reviews

Implementation status of recommendations arising from reviews of the national architecture for schooling in Australia in the period from 2008–2015

<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendations</th>
<th>Initial response to recommendation</th>
<th>Action to implement (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governance</td>
<td>G1: Education Council revises the current Charter with reference to the next endorsed quadrennial work plan and budget.</td>
<td>Endorsed by Education Council in September 2015 and referred to Australian Education, Early Childhood Development and Youth Affairs (AEEYSOC) with initial advice to be provided by last Education Council meeting of 2015.</td>
<td>New Charter was issued by the Education Council and took effect from 23 November 2016.</td>
</tr>
<tr>
<td>Governance</td>
<td>G2: Education Council removes the Letter of Expectation from the suite of authorising instruments under which ACARA operates.</td>
<td></td>
<td>The power to give written directions remains in legislation, however, is not currently used. There is no reference to letter of expectation in current Charter.</td>
</tr>
<tr>
<td>Governance</td>
<td>G3: Education Council delegates authority to AEEYSOC to monitor the progress of ACARA’s work against the Charter including progress against the one and four year work plan and budget within the agreed parameters set by Education Council.</td>
<td></td>
<td>This recommendation was actioned together with the response to G1, when Education Council updated the Charter in November 2016. The Charter was revised to require ACARA to report to Ministerial Council via AESOC at least once per year regarding progress against work plan. The Charter also requires ACARA to comply with Ministerial Council and AESOC protocols, procedures and arrangements.</td>
</tr>
</tbody>
</table>

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63 AEEYSOC renamed the Australian Senior Education Officials Committee (AESOC) in February 2016 following machinery of government changes.
<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendations</th>
<th>Initial response to recommendation</th>
<th>Action to implement (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governance</td>
<td>G4: AEEYSOC maximises alignment between ACARA’s planning documents – the annual work plan, the four-year plan and related budget as well as the Commonwealth Public Governance, Performance and Accountability Act 2013 requirement for a four year corporate plan.</td>
<td>This recommendation was actioned together with the response to G1, when Education Council updated the Charter in November 2016.</td>
<td></td>
</tr>
<tr>
<td>Governance</td>
<td>G5: Education Council reviews ACARA’s role, function and governance every six years against the aims and objectives of ACARA’s Charter.</td>
<td>TBC – due in 2021</td>
<td></td>
</tr>
<tr>
<td>Governance</td>
<td>G6: Education Council considers moving towards an ACARA Board appointment process that retains the current representational nominations and includes a more collaborative assessment of the skills of board members.</td>
<td>Not implemented.</td>
<td></td>
</tr>
<tr>
<td>Internal Governance</td>
<td>G7: ACARA reviews and simplifies its advisory and consultative mechanisms to make them more efficient, effective, timely and strategically aligned with future priorities.</td>
<td>In December 2015 ACARA reported to Education Council on implementation noting, ‘ACARA’s advisory structure will be formally reviewed (including members’ feedback) in 2016/17 and again in 2019/20 to ensure it is fit-for-purpose.’</td>
<td>The initial review was actioned by ACARA and documented in ACARA’s 2015–16 Annual Report.</td>
</tr>
<tr>
<td>Category</td>
<td>Recommendations</td>
<td>Initial response to recommendation</td>
<td>Action to implement (if any)</td>
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</tr>
<tr>
<td></td>
<td><strong>Review of the national architecture to support SCSEEC reforms (Nous, June 2013)</strong></td>
<td>Considered by Education Council 13 July 2013.</td>
<td>Not implemented.</td>
</tr>
<tr>
<td></td>
<td>Jurisdictions raised a concern that any potential change to the entities may lead to cost shifting between the Australian Government and States and Territories. Council:</td>
<td></td>
<td>Advice on recommendations 2–5 not provided to SCSEEC by end of 2013.</td>
</tr>
<tr>
<td></td>
<td>a. noted the NOUS Group’s Final Report on the Review of the National Architecture to support SCSEEC reforms;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. agreed that it is not necessary to establish a new entity for SCSEEC to deliver its strategic priorities, including those reforms that support school improvement and enhance national data, accountability, analysis and research capability;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. agreed that there is no imperative at this point in time to rationalise the number of existing national school entities; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>d. agreed to refer the Final Report to AEEYSOC for further consideration, with a view to advice on recommendations 2, 3, 4 and 5 being provided to SCSEEC by the end of 2013.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entity</td>
<td>1. Maintain the three-entity structure (Option A) until such time as a move to Option C appears more cost-effective (i.e. after taking account of transition costs and risks).</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>structure</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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64 The Standing Council for School Education and Early Childhood (SCSEEC)
<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendations</th>
<th>Initial response to recommendation</th>
<th>Action to implement (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entity structure</td>
<td>2. Transition AITSL from Commonwealth to SCSEEC ownership with a concurrent revision to board membership, reporting and funding arrangements (drawing on analysis in this report).</td>
<td>September 2013: AEEYSOC asked the Schools Policy Working Group (SPWG) provide advice on the transition of AITSL from the Commonwealth to SCSEEC ownership.</td>
<td>Recommendation not implemented.</td>
</tr>
<tr>
<td>Entity structure</td>
<td>3. Undertake further work to scope the new research and evaluation and best practice dissemination functions. This process could include a cost benefit analysis of the functions to more clearly identify the benefits for each jurisdiction and a deeper consideration of more cost-effective modes of delivery (e.g. through outsourcing)</td>
<td>September 2013: AEEYSOC asked SPWG to provide advice on this matter, with referral to the Data Strategy Group as needed.</td>
<td>Recommendation not implemented.</td>
</tr>
<tr>
<td>Governance: internal</td>
<td>4. Introduce consolidated financial and non-financial progress reporting arrangements to improve the transparency of national entity expenditure on agreed priorities. This can allow boards to better ‘trouble-shoot’ while also providing an important input into annual reviews (see below).</td>
<td>September 2013: AEEYSOC asked SPWG and the Early Childhood Policy Group (ECPG) to provide advice on this matter.</td>
<td>Recommendation not implemented.</td>
</tr>
<tr>
<td>Governance: external</td>
<td>5. Institute an annual review process to assess the continued value and priority of each function delivered by national entities, the mechanisms and models through which functions are delivered, and the extent to which vertical duplication and in-kind support costs are impacting on efficiency. The annual review should be undertaken by a working group operating under the auspices of AEEYSOC. The review process should concurrently review and propose revisions to national entity Letters of Expectation to ensure ongoing alignment with SCSEEC reform priorities and each entity’s annual work programs.</td>
<td>September 2013: AEEYSOC asked SPWG and the Early Childhood Policy Group (ECPG) to provide advice on this matter.</td>
<td>Recommendation not implemented.</td>
</tr>
<tr>
<td>Category</td>
<td>Recommendations</td>
<td>Initial response to recommendation</td>
<td>Action to implement (if any)</td>
</tr>
<tr>
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</tr>
<tr>
<td>A new national architecture for school curriculum, assessment and reporting (The Boston Consulting Group, October 2008)</td>
<td>Decision to establish the new body was taken by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) on 12 September 2008, and COAG on 2 October 2008.</td>
<td>ACARA established with these functions.</td>
<td></td>
</tr>
<tr>
<td>Entity structure</td>
<td>The formation of a new national body, the National Curriculum, Assessment and Reporting Board (NCARB), to execute MCEETYA’s policy decisions in relation to curriculum, assessment and reporting.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Entity structure</td>
<td>The establishment of NCARB as a statutory authority under the Commonwealth Authorities and Companies (CAC) Act, with a single board of directors and a legislative mandate to report to MCEETYA and be tasked by MCEETYA.</td>
<td>Implemented.</td>
<td></td>
</tr>
<tr>
<td>Category</td>
<td>Recommendations</td>
<td>Initial response to recommendation</td>
<td>Action to implement (if any)</td>
</tr>
<tr>
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</tr>
</tbody>
</table>
| Governance: Role and structure | The representative governing body (MCEETYA) should have clear overarching responsibility for all aspects of the strategic policy and decision-making level. AESOC should continue to provide expert advice to MCEETYA. The AESOC subcommittees in this area should be rationalised into a single policy advisory subcommittee covering curriculum, assessment and reporting. The Independent and Catholic schools sectors should be represented on this policy advisory subcommittee, in line with the successful arrangements in the National Goals for Schooling Working Group. | The Schools Policy Group (SPG) has strategic oversight of and provides advice to AESOC on:  
- national curriculum  
- national reporting  
- national assessment  
- national education architecture  
- planning, monitoring and reporting in relation to Australian Curriculum Assessment and Reporting Authority (ACARA), Australian Institute for Teaching and School Leadership (AITSL) and Education Services Australia (ESA), including their respective Charter/Letter of Expectation  
- initial teacher education, teacher and school leadership, and professional development,  
- quality of schooling,  
- International Education  
- School education Related National Project Fund bids  
- National school-based initiatives and programs (including those targeting student wellbeing and community safety); and  
- National funding arrangements for schooling and any associated agreements  
SPG includes representatives of Independent and Catholic school sector. |
<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendations</th>
<th>Initial response to recommendation</th>
<th>Action to implement (if any)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governance:</td>
<td>An expert Board of Directors should have responsibility for the policy execution level (NCARB), with each jurisdiction nominating one member, Independent and Catholic schools nominating two members, and MCEETYA appointing the chair and deputy chair – a similar model used for the interim National Curriculum Board.</td>
<td></td>
<td>ACARA Board members are representational, not expert.</td>
</tr>
<tr>
<td>Role and</td>
<td>Expert governing bodies should have responsibility for the service delivery entities, comprising relevant operational and project management experts for each service delivery entity.</td>
<td></td>
<td>Not implemented.</td>
</tr>
<tr>
<td>structure</td>
<td></td>
<td></td>
<td>NB: Education Council decision on 10 October 2019 regarding the revised governance model for managing NAPLAN Online.</td>
</tr>
<tr>
<td>Governance:</td>
<td>Consensus at the strategic policy and decision-making level to ensure every stakeholder has the power of veto for the most important national reform decisions.</td>
<td></td>
<td>Sections 21 and 22 of the ACARA Act do not enable consensus voting to apply.</td>
</tr>
<tr>
<td>Decision-</td>
<td>Majority voting at the policy execution level, with most decisions expected to be through consensus and majority voting used as a deadlock breaker.</td>
<td></td>
<td>Sections 21 and 22 of the ACARA Act only enable majority voting.</td>
</tr>
<tr>
<td>making</td>
<td>Typically majority voting at the service delivery level, but at the discretion of each service delivery body.</td>
<td></td>
<td>Sections 21 and 22 of the ACARA Act do not enable ad-hoc voting requirements to apply.</td>
</tr>
<tr>
<td>Governance:</td>
<td>BCG recommended converting the Curriculum Corporation into an independent (not for profit) corporate, able to provide services to NCARB and other parties under contract.</td>
<td></td>
<td>Education Services Australia was created.</td>
</tr>
<tr>
<td>Transition</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>to new</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>arrangements</td>
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</tbody>
</table>
Appendix 4: Summary of recommendations: actions

Establish the new Australian Curriculum and Teaching Services (ACTS)

**Actions:**

- Develop an implementation plan for agreement by AESOC, including key actions, expected timeline and overall costs.
- Establish a time-limited (e.g. 6 months) advisory-committee for the establishment of ACTS, which will include: an AESOC representative; an Australian Government representative; a representative each or combined representative for ISCA and NCEC; a representative for the existing staff and operations from both ACARA and AITSL; and other relevant advisors as appropriate.
- New enabling legislation to establish ACTS.
- Repeal the ACARA Act (as per transition plan).
- Wind-up AITSL (as per transition plan).
- Stocktake of all existing projects and initiatives of ACARA, AITSL, and ESA to consider appropriateness of those projects and initiatives being undertaken by ACTS or the national evidence institute. Also, consider allocation of responsibility for current service gaps such as teacher-focussed evidence and national tracking of systemic successes.
- Development of overarching funding agreement/MOU with all jurisdictions for ACTS, till end of 2023.
- Development of protocol with agreement of AESOC and Education Council on the appointment process for the CEO and Deputy CEO position(s) of ACTS. This includes a skills matrix for individuals to be considered for those positions.
- A protocol developed with agreement of AESOC and Education Council on the level of oversight, direction-setting, reporting, and involvement of AESOC and Education Council with ACTS.
- CEO and Deputy CEO positions appointed for ACTS, no Board required in governance model.
- ESA preferred supplier for delivery of digital technology services for projects and initiatives undertaken by ACTS.

This will create a single national body that, for the first time in Australia, links teaching with curriculum. Education Council and AESOC will have greater input and control of ACTS given its streamlined governance model, which is a governance model that demands operational excellence. All entities in the national architecture will also understand their roles and responsibilities upon the commencement of ACTS and the national evidence institute.

Make changes to the role and governance of ESA

**Actions:**

- Replace AESOC and Australian Government ESA Board Members with a member with appropriate experience with government schools, and an independent expert on government relations.
- Limit ESA’s direct involvement in all AESOC and Education Council processes.
- Governance protocol be settled between the Chair of the Board of ESA and the shareholding Ministers, to make clear the communication expectations of the Chair to the shareholding Ministers, and clarification of roles and expectations regarding communications with the media.

ESA’s role in the national architecture will be clearer, and will enable ESA to focus on the core objective of service delivery in digital technology for the education sector. ESA is also independent from all levels of government, in particular in relation to its commercial activities. These actions seek to minimise liability risks from existing structural conflicts of interests or reporting processes.
Transfer Education Council Secretariat function

**Actions:**

- The Education Council Secretariat administrative/secretariat role be transferred out of ESA to be hosted by the Commonwealth, a State or Territory on an ongoing or rotating basis, or transferred to the new ACTS.

- Existing funding flexibility role for national reform projects and initiatives (for example, the national project fund) be transferred to ACTS.

This will increase accountability, transparency and oversight of administrative support to Education Council and AESOC, and reflects a core function of the Australian Government. The transfer to ACTS of funding flexibility role will ensure a balanced measure of accountability in order to maintain public confidence and trust in the funding of national reform priorities and national project initiatives.

Implement governance and process improvements

**Actions:**

- Development of service principles and objectives for the national architecture for its statement of purpose.

- All work plans discussed and considered in detail by AESOC. Work plans must be linked to Charter/Letter of Expectation/Letter of Instruction, and include targeted and meaningful performance measures and reporting.

- Commissioning of work of the national architecture entities to follow the principles set-out at pages 6 and 46 of this Review. This includes clear performance criteria that identifies specific, measurable, realistic and timely performance measures, and ensures appropriate and sufficient stakeholder engagement occurs for all commissioned work.

- Each Charter, Letter of Expectation and Letter of Instruction to the national architecture entities must represent the current set of priorities and replace all earlier letters. These should be published with any corresponding and approved Letters of Intent in response from the entities.

- Education Council and AESOC standing working-groups are subject to regular review, and sub-working groups to a sunset clause, to justify their existence and value, or be wound-up for being excess to requirements.

- Clarification of the role and decision-making authority of each working-group, including that any individual present at a working-group must have full authority to make decisions and progress the agenda expected of that working-group.

- DSG to not be a standing working-group, and wound-up.

- SPG and ECPG collaborate in triaging AESOC’s agenda and workload. This will be assisted by AESOC delegating decision-making to the lowest appropriate level in the working group structure that is proportionate and responsive to risk.

- ATSI EAG transitioned to the Aboriginal and Torres Strait Islander Education Outcomes expert advisory committee in ACTS.

- Informed and qualitative feedback provided to the national architecture entities (including their respective CEOs) on submissions and performance at Education Council and AESOC, either formally through the Chair of AESOC or informally through Education Council Secretariat.

- Investment in professional development for building the capability of the national architecture entities for quality papers and budget submissions to AESOC and Education Council.

- Protocol established on the circumstances in which the national architecture entities should attend Education Council, AESOC, or working-group meetings (noting that ESA should not be required to attend) and communication of relevant decisions to the national architecture entities.

- Protocol established between the national architecture entities and AESOC on the handling of media enquiries, stakeholder contact (including school visits), and general communication expectations (including agreed process for updating key stakeholder contacts).
• The Education Council Secretariat assists AESOC by periodically submitting an account of performance by the national architecture entities against performance measures, to support AESOC in holding the entities to account.

• Clarification and reduction in any duplication of national reporting requirements as they relate to the national architecture entities, and review of the quality of the reporting responsive to purpose.

• Direction to AITSL [or ACTS] to cooperate further with ACECQA on early childhood teaching standards.

• Quorum for ACARA Board meetings reduced [only if ACTS is not implemented].

• Appointment and terms of board members should be staggered for succession planning and informed by its board capability matrix.

• Settle ACARA’s role [or ACTS] with respect to the senior secondary curriculum and for conducting research.

• Ongoing and coordinated promotion of existing products, and service-offering, by the national architecture entities.

These will not materially resolve the fundamental issues, tensions, and difficulties with the current structure of the national architecture. However, the governance and process improvements are offered as complementary and interim measures to help set in train changes that will nevertheless be reflected in the establishment of ACTS, and afford opportunity for a level of enhanced accountability and effectiveness in the short-term.
References


