UNIVERSITY GOVERNANCE: STRATEGY AND ACCOUNTABILITY

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Governance is about the frameworks in which universities and colleges manage themselves and about the processes and structures used to achieve the intended outcomes – in other words about how higher education institutions operate.¹

1 INTRODUCTION

This Chapter considers first the contextual background for higher education governance, its historical development to the changing climate within which universities operate today. Secondly it outlines the legislative and policy provision and framework for university governance. It then considers the various suggested models for governance through the lens of managerialism and corporatisation of the sector, and the implications of the current trends on university decision-making and the constitution, culture and values of university governing bodies.

In 2006, a UK commentator wrote, with reference to the system of higher education there:

A new emphasis on quality assurance and assessment has been established, in both teaching and research. More generally, globalisation and internationalisation have developed, together with the impact of new technology, especially in the fields of communications and information handling, as key drivers of change in higher education. Arguably, strongest of all the forces for change have been the growing influence of market forces and competition within higher education.²

He could well have been referring to higher education in Australia in 2014. The sector is undergoing significant change, precipitated by a multitude of factors, driven by international developments, economic factors and political imperatives.³ It is impossible to underestimate the effect of the ‘evolution’ of higher education upon institutional corporate and academic governance. As in comparative jurisdictions, the sector has for some time been called upon to respond to phenomena variously referred to as ‘massification’, ‘commodification’ and ‘corporatisation’, accompanied and assisted by the rapidly accelerating impact of technology. The market driven model with its principles of commercialisation and competition have led a need for universities to review the composition of their main governing bodies, particularly in terms of ‘professionalism’ and the range of business and financial expertise needed.⁴ Within this climate it would be easy for governing bodies to lose sight also of the essential nature of institutions as providers of a public good, and to prioritise quality education of a high standard assisted by representation from their key stake-holding groups. Certainly current demands raise many questions and spawns new tensions between the corporate and academic nature of a university

² J Taylor, “‘Big is Beautiful”: Organisational Change in Universities in the United Kingdom: New Models of Institutional Management and the Changing Role of Academic Staff” (2006) 31(3) Higher Education in Europe, 251, 251.
³ See Chapter Squelch.
⁴ The need for members to cover a wide spectrum of knowledge and expertise is provided for in the Provider Registration Standards, Standard 3.2 (discussed below).
It is now a reality that university governance is tested by the need to adapt to swings in policy and legislative changes, and to rapid developments in teaching, learning and research. While the Australian Commonwealth Government has no power to legislate with respect to education per se, it has increasingly used its constitutional funding leverage5 to enter the higher education domain.6 The Bradley Review,7 implemented by the Federal Labour regime introduced many reforms in the nature of widening participation and greater moves towards national regulation.8 The current Federal government in its 2014 Budget announced a succession of considerable cuts to funding and regulation of the university sector. These are embodied in the Higher Education and Research Reform Amendment Bill 2014 which aims to amend the Higher Education Support Act 2003 (Cth) (and other measures).9 This legislation, in whatever form it is finally enacted, will require university managers and governing bodies to undertake a total rethink of both their financial basis and their operations generally. Whatever the outcome, university governance bodies are now responsible for huge multi-faceted enterprises with increasing commercial and entrepreneurial imperatives. This leads inevitably to the need for accompanying expertise and focus of those who sit on those bodies.

In addition, there is now the emergence of new teaching and learning methods and platforms afforded by technology, and governing bodies must consider how best they may be implemented to accommodate the new generation of students.10 There is a strong emphasis on innovation and creativity in order to be competitive in this environment, in addition to demonstrating ‘research impact’ in the quest and accountability for the public

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5 Section 96, Australian Constitution.
6 The funding of universities is pursuant to the Higher Education Support Act 2003 (Cth) (HESA). Regulation was through the mechanism of the National Protocols for Higher Education Approval Processes (the National Protocols) and the Australian Universities Quality Agency (AUQA), which have both now been replaced by the Tertiary Education Standards Authority (TEQSA) and its Provider Standards. In the context of education and federal and state powers in the Australian Constitution it is of interest to note the recent decisions of the High Court of Australia in Williams v Commonwealth of Australia [2012] HCA 23 (20 June 2012) and Ronald Williams v Commonwealth of Australia & Ors [2014] HCA 23.. These actions (the second post the 2014 June Federal budget) concerned a contest to the Commonwealth Government’s implementation and funding of a chaplaincy program in state schools throughout Australia. Note now the Higher Education and Research Reform Amendment Bill 2014 currently before the Senate which aims to amend HESA and implement the funding cuts in the May 2014 Budget of the Federal Government and other major reforms. See n 9.
8 Embodied in the regulatory body the Tertiary Education Standards and Quality Agency (TEQSA) with its mandate for ongoing regulation, which replaced the Australian Universities Quality Agency (AUQA), which operated more on a basis of ‘parachuting in’ to conduct five-yearly audits.
10 Within this context are exponential developments in course delivery, and the advent of MOOCs or Mass Online Open Courses—examples of early MOOC collaborations between US and Australian universities are Coursera and Udacity.
dollar. While maintaining their primary focus on quality and standards, universities must pay increasing attention to the identification and amelioration of risk.\footnote{TEQSA regulates according to principles relating to regulatory necessity, risk and proportionality and for this purpose it has developed a Regulatory Risk Framework. See Chapter Squelch for further discussion.}

In this turbulent environment with predictions that the Australian university sector will never be the same again, it remains vital that university governors maintain a staunch focus on the core business of the university, the scholarship of teaching and learning and research.

**II UNIVERSITY GOVERNANCE: AN HISTORICAL PERSPECTIVE TO THE PRESENT DAY**

When Australian public universities were first established, beginning with the Universities of Sydney and Melbourne, there was no appropriate governance model from their UK counterparts. Public universities there, such as Oxford and Cambridge, comprised a collection of colleges and although they conferred university degrees each college was managed and governed autonomously. The model instituted in the first Australian universities comprised a governing body over which the Chancellor both presided and had a strong influence. As recorded by Professor Geoffrey Bolton,\footnote{Keynote Address at the Annual Conference of the Chairs of Academic Boards, Senates and Secretaries at Fremantle, Western Australia, November 2011.} these bodies later took to seeking advice on academic matters, such as the establishment of new disciplines, from Professorial Boards comprising all the professors and heads of department (some of whom were non-professorial). By the middle of the 20\textsuperscript{th} century, most Australian public universities had evolved to have a governing body presided over by a Chancellor, a Vice-Chancellor as the Chief Executive Officer, usually but not always a senior academic at the head of the executive or management arm of the university’s operations, and a Professorial Board which was entrusted with the maintenance of standards and quality, and later, for the formulation of academic policy. The Vice-Chancellor had to look to the governing body for the allocation of resources in order to fulfil the university’s functions and operations in terms of its strategic plan, and both he or she and this body in turn relied on the advice of the Professorial Board for oversight of academic matters and policy.

The development of the Australian university sector and its governance, particularly in terms of accountability, can be traced in three stages. First was its expansion assisted greatly by Commonwealth support, from the Murray Report in 1957 to the 1975 demise of the Whitlam government. This was followed by a decade of comparatively little change until 1988 and the Dawkins era.\footnote{See Chapter Squelch.} From that time universities have been facing much greater federal intervention through funding mechanisms, the push to corporatisation with greater accountability and less involvement of the states and ‘… government normative expectations of good university governance have been progressively refined through review and legislative change’.\footnote{Jeanette Baird, ‘Beyond Professionalism: enhancing the governance culture for Australian university governing boards’ (2006) 12 Tertiary Education Management, 297-309, 301.} The pressure to operate on corporate principles arguably has led to a blurring between public and private good, created tensions between corporate and academic values, and posed threats to institutional autonomy.\footnote{Margaret Thornton, *Privatising the Public University: The Case of Law*, Routledge, Taylor & Francis Group, Oxon, UK, 2012.} Carnegie and Tuck put
it in these terms: “Indeed, the massification of higher education and on-going pressures
from the state to attract and grow private sources of income, reduce expenditure, increase
efficiency and encourage cross-sector competition, have brought into question the very
idea of a university (Kennedy 2003) or the place of academic staff within them (Carney
2006)”.16

Academic governance, as the overseer of academic quality in a university,17 and the
corporate governing body as being ultimately accountable, are at the centre of this
changing world.

III THE LEGISLATIVE FRAMEWORK OF UNIVERSITY GOVERNANCE

Legislation, outlined above in Chapter Squelch, confers generally wide ranging powers on
university governing bodies to fulfil these aims. These fall within four main categories:

- Oversight of strategy;
- Ensuring effective management
- Responsible financial and risk management
- Academic matters prescribed by each university act, by state and federal legislation and
  by other instruments and codes.

Such matters are subject to policy and procedures the prescription for which is the shared
responsibility of management and governance bodies. The Corporate governing body
(referred to in most legislation as the Council), while it is legislatively responsible for all
matters of university governance, traditionally delegates the responsibility for academic
matters to management and the Academic governing body.

A Federal Legislation

The primary federal legislation is the Higher Education Support Act 2003 (Cth) (HESA).
It defines ‘Australian university’ as a registered higher education provider (a) that, for the
purposes of the TEQSA Act, is registered in a provider category that permits the use of the
word "university"; and (b) that: (i) is established by or under, or recognised by, a law of
the Commonwealth, a State or a Territory; or (ii) is registered as a company under
Part 2A.2 of the Corporations Act 2001 (Cth). The purpose of HESA is essentially to
provide for the funding of universities and a basis for accountability in return for that
funding. The Corporate governing body is ultimately responsible for ensuring that
accountability. The requirements are set out in Section 19.1 as:

The quality and accountability requirements are:

(a) the financial viability requirements (see Subdivision 19-B); and

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16 Gary Carnegie and Jacqueline Tuck, “Understanding the ABC of University Governance” (2010) 69(4)
Australian Journal of Public Administration, 431, find page no
17 It is of interest to note that while these terms are commonly used, definition of ‘quality and
standards’ is difficult. See H Coates ‘Defining and monitoring academic standards in higher education’
(2010) 22/1 Higher Education Management and Policy, 29-45 and M L Skolnik ‘Quality assurance in
higher education as a political process’ (2010) 22/1 Higher Education Management and Policy, 67-87.
(b) the quality requirements (see Subdivision 19-C) – meeting the requirements of TEQSA registration and compliance with the Provider Standards (Higher Education Threshold Standards); and

(c) the fairness requirements (see Subdivision 19-D) – must treat all students and prospective students fairly; and

(d) the compliance requirements (see Subdivision 19-E) – must comply with all legislative instruments and provider compliance requirements – now in regard to TEQSA registration; and

(e) the contribution and fee requirements (see Subdivision 19-F) – must charge student contributions and tuition fees; and

(f) the compact and academic freedom requirements (see Subdivision 19-G) – all Table A and Table B providers must enter into mission based compacts with the Federal Minister. In accordance with Section 19-115 each such provider must have a policy that upholds free intellectual inquiry in relation to learning, teaching and research.

There are also standards for governance set out in the Commonwealth legislation and policy relating to overseas students: the Education Services for Overseas Students Act 2000 (Cth) (the ESOS Act) and the National Code of Practice for Registration Authorities; the Providers of Education and Training to Overseas Students 2007 (the National Code) which govern registration and obligations of providers of educational services to overseas students and is designed to protect the interests of this group. A provider must fulfil the ESOS standards for governance in order to have CRICOS registration required to deliver courses to overseas students. The law relating to international education receives comprehensive treatment in Chapter Ramia.

The Tertiary Education Quality and Standards Agency (TEQSA) has responsibility for registering providers and accrediting courses of study. Its regulation is according to the principles of regulatory necessity, risk and proportionality, and registration uses a standards-based quality framework. In addition TEQSA may review or examine an entity’s operations to assess whether it meets the standards prescribed by the Higher Education (Threshold) Standards 2011 currently known as Threshold Standards. Within these standards are Provider Standards which make provision for university governance.

B State Legislation

At state level, the Corporate governing body’s powers and functions are set out in each individual university act passed by state legislatures, with the exception of the Australian National University (ANU) and the University of Canberra which are governed by Commonwealth legislation, and the Australian Catholic University, which is incorporated

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18 For a definition of these categories of providers see Chapter Squelch.
19 Applications for inclusion on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) are now assessed by TEQSA.
20 Established by the (Cth) Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act).
22 § 59, TEQSA Act - check
under the *Corporations Act 2001* (Cth). The university acts generally confer wide ranging powers on the Corporate governing body, for example *Australian National University Act 1991* (Cth): ‘entire control and management of the University’; and section 9(1); section 17(3) – set out powers of Council which it cannot delegate. These powers focus on budget, commercial activities, appointments and the responsibility to ‘review and monitor the management of a university as a whole or the University’s performance as a university; and *University of Melbourne Act 2009* (and other Victorian university Acts such as the *Royal Melbourne Institute of Technology Act 2010*) makes the governing body responsible for ‘the general direction and superintendence of the University’; and sets out its primary responsibilities as: mission, strategic direction, monitoring systems of control and accountability, commercial activities, assessment and management of risk, overseeing and monitoring the academic activities of the University.

The accountability requirements of university governance for Federal public funding and adherence to national higher education priorities, are supplemented at State level by oversight through annual university audits and other such requirements. For example, in New South Wales this is through the *Public Finance and Audit Act 1983* (NSW) and each state has its equivalent. The Corporate governing body of a university is ultimately responsible to ensure that universities use their resources effectively and efficiently and university policies are administered and implemented properly. Within this responsibility they must ensure that they have integrated, efficient and transparent approaches to risk management and compliance.

**IV GOVERNANCE BODIES**

There are variations in terminology used in legislation and practice for the governance bodies in Australian universities rendering it necessary for definition at the outset. The governing body with overall responsibility for the university is known as either the Council (University of Technology, Sydney), Senate (University of Sydney) or Board of Trustees (University of Western Sydney) (all referred to here as “the Corporate Governing Body’). The body responsible for academic governance may be known as Academic Board (Southern Cross University), or Senate (Macquarie University) (all referred to here as “the Academic Board”). The term “Senior Executive” is used for university management, known variously as Vice-Chancellor or Provost, and Deputy Vice-Chancellors or Pro-Vice-Chancellors, with the Faculty Deans or School Heads below them.

The unique nature of a university means that while the functions of these bodies are theoretically separate, the essential nature of their decision-making is necessarily intertwined. The decisions of each one generally has impact upon the others, making a three pronged approach or framework essential. The integral nature of academic considerations to all university decision making, particularly financial, is set out clearly by Shattock in his discussion of the 2012 crisis at London Metropolitan University:

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23 The University of Notre Dame Australia is incorporated under Western Australian legislation, *The University of Notre Dame Australia Act 1989* (WA), and Charles Darwin University is incorporated under Northern Territory legislation.

24 *University of Melbourne Act ss 8(3) (3)(and other Victorian university acts have corresponding provisions).

25 Such audits are contained within the annual report to Parliament by the Auditor-General of audits of key public sector bodies within the state.

26 See below for a discussion of Shared Governance.
Even what may seem a purely financial decision may have a significant academic component: the closure of a course or a department, the decision to invest in a new building or the determination of tuition fees all involve academic as much as financial considerations. Good governance extends to academic decisions about course structures, appointments and the maintenance of academic infrastructures which, while they may have financial implications, are primarily about academic priorities which contribute to the academic reputation of the institution (itself an important component of financial viability). 27

Even before the latest decades of most change successive federal government reports have since the Hoare Report in 1995, 28 raised issues relating to the size, composition, roles and responsibilities of governing bodies. Most recently the structure and functions of university governance has received particular attention in the Provider Registration Standards of the Higher Education Standards Framework formulated by the Higher Education Standards Panel and introduced in 2011 alongside the new Government regulator, the Tertiary Education Standards and Quality Agency. These Standards are under review. Consultation pursuant to the Consultation Draft April 2014 has been completed and the proposed new standards have been submitted for Ministerial consultation and determination. Although the new standards will take a different form the provisions, in 6.1 Corporate Governance and 6.2 Academic Governance, are substantially unchanged. It is significant to this discussion however that, rather than requiring an institution to have an Academic Board, 6.2.1 provides for academic governance thus: ‘Processes and structures to be established …to maintain academic oversight of the quality of teaching, learning and research’ and to provide advice to the ‘corporate governing body’ on academic matters.

Importantly, in terms of accountability for government funds required to retain support from both government and community, university governance bodies must not only operate effectively but be seen to be doing so. The governance structures of a university must ensure that all its different and wide ranging facets, from property and finance to academic quality, equity and diversity, are managed efficiently and effectively. The challenge within that is to maintain university autonomy and academic independence.

In October 2014 TEQSA released Draft Guidance Notes on Corporate and Academic Governance. These are designed to reflect TEQSA’s interpretation of the current Threshold Standards as they relate to practice within the sector and provide guidance in relation to different cases. 29 They set out the core roles and responsibilities of the three components of institutional governance – the Corporate and Academic Governing Bodies and Executive Management. The notes set out the fundamental principle that while all three components are ‘interdependent and overlapping … there needs to be a separation of, and clarity about, their principal roles and functions to ensure that governance is effective’. 30 So while it is a requirement in the Threshold Standards that there be a ‘clear and discernible separation between corporate and academic governance’ and ‘a clear

29 Meaning the whole higher education sector which includes a large and diverse range of private providers in addition to universities.
30 Draft Guidance Note Corporate Governance, 1 October 2014, p 2.
distinction between governance and management’, shared responsibilities necessitate ‘a balance between separation and co-operation’.  

A The Corporate governing body

Chaired by the University Chancellor, this is the primary governance body of Australian public universities and the key component of the governance framework. It has the legislative functions set out below. It has overall responsibility for the university’s operations particularly in terms of its organisational resources and finances, and is accountable for the university’s application of public funds. In the last few decades these bodies have been increasingly ‘professionalised’ with smaller number of members and less staff and student representation. In 2002 a National Conference on Governance highlighted the need for these bodies to have procedures for proper induction and review, better channels of communication between this body and the Executive and professional development. Recognition of the need for improved university governance saw the inception of the National Governance Protocols in 2004, now replaced by the Voluntary Code of Best Practice for the Governance of Australian Universities in 2011. This provides that the Corporate governing body should adopt a statement of primary responsibilities. While retaining ultimate responsibility it may delegate specific areas. Its functions are wide ranging and include (among others) the university’s strategic direction and mission, oversight and management of the university and its performance, establishing policy and principles of procedure ‘consistent with legal requirements and community expectations’, approving and monitoring systems for control and accountability, overseeing and managing risk, overseeing and monitoring the university’s academic activities. The Code further provides that the functions and responsibilities of the members should similarly be spelt out in the university legislation. There should be procedures in place of induction and professional development of members and biannual assessment of performance.

In relation to composition of the Code provides that membership shall not exceed 22 and for the appointment of members with qualifications and experience commensurate with the requirements of the role, in terms of financial and commercial expertise, and in terms of ability to contribute to the effective operation of the body. It is central to the duties of members that all times they act in the best interests of the university. Importantly, while the Code agrees on provisions for the appointment of members of a university governing body, and states that there should be ‘a majority of independent members who are neither enrolled as a student nor employed by the university’ it is otherwise silent on internal membership. Provider Registration Standard 3.2 prescribes that this body must use a ‘full range of expertise including higher education expertise and independent financial expertise’ in order that the Board’s deliberations and decisions are sound and well-informed.

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31 n 29, p 3.
32 The National Governance Protocols were implemented under the former Government’s reforms in higher education: Our Universities: Backing Australia’s Future. The Protocols provided a set of standards to ensure that governing bodies effectively oversaw university operations and aimed to ensure a consistent national approach to governance.
33 Approved and endorsed by the Ministerial Council for Tertiary Education and Employment in July 2011.
The specific responsibilities or the Corporate governing body are set out in the Provider Registration Standards as: risk management (3.4); delegations in terms of decisions to be made by governance or management (3.5); strategic planning for the institution (3.6); academic governance including the maintenance of academic standards and quality assurance (3.7.3.8). While the responsibility for the latter is delegated to the Academic governing body ultimate accountability for all the institution’s operations rests with the Corporate governing body (3.1).

B The Academic governing body

The function of this body is oversight of the core business of the university, teaching and learning and research, and it is the principal policy-making and advisory body on all academic matters and educational programs. Importantly, it is also responsible to the Corporate governing body for assuring academic quality including academic freedom, academic integrity, assessment, admissions, and research conduct.

TEQSA gives a definition of academic governance in the glossary to its Regulatory Risk Framework (February 2012):

> Academic governance is a subset of the overall governance of an educational organisation, and deals with the framework that regulates academic decisions and academic quality assurance within the organisation. Academic governance includes the policies, processes, definitions of roles, relationships, systems, strategies and resources that ensure academic standards and continuous improvement in academic activities, and is concerned with the integrity and quality of the core higher education activities of teaching, research and scholarship.

The Academic Board has its origins in ‘the community of scholars’ and as such is generally collegial and representative of the university community – senior executive and management, academics and students. In the Higher Education Standards Framework which will replace the Higher Education (Threshold) Standards 2011, there is no specific requirement for an institution to have an Academic Board or Senate but rather that:

> Process and structures are established and responsibilities are assigned to provide governance of academic policies, to maintain academic oversight of the quality of teaching, learning and research and research training [where research is undertaken by the higher education provider] and to provide academically-informed advice to the corporate governing body on academic matters.

The academic governing body maintains all aspects of its operations through committees such as teaching and learning, course accreditation, research and research training. While senior managers may be members of these committees, “it is they, not the boards or committees, who are responsible for implementation of academic policies and processes at the operational level”.

The TEQSA Draft Guidance Note sets out the activities of an Academic governing body as: academic policy, processes and procedures, academic leadership, academic quality

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36 Higher Education Standards Framework Consultation Draft – April 2014, 6.2.1.

37 TEQSA Draft Guidance Note at 18 September 2014 – Academic Governance, p 3.
assurance, developing scholarship, staff professional development, maintenance of academic standards and protection of academic integrity. They state that while oversight is with this body, the responsibility for implementation and management rests with the executive.\(^\text{38}\)

\textit{C The Senior Executive or Management}

This consists of the senior management of the university with the Vice Chancellor or Provost at the head of a group of Deputy Vice-Chancellors or Pro Vice-Chancellors with responsibility for the day to day organisation of all areas of university activities. This ranges from teaching and learning, research, international engagement, indigenous education to corporate services, property and financial management. Within the portfolio of each of these positions is a unit or department of staff such as managers, executive officers and secretaries. Senior management extends also to the Faculty Deans and Associate Deans – generally teaching and learning, and research. Each Faculty has a Faculty Board made up of representatives from academic and professional staff, and students, and often (but not always) presided over by the Dean. As the primary faculty governance body it is arguable that the chairing of this body should be distinct from management.

\textbf{V MODELS OF GOVERNANCE: SHARED GOVERNANCE}

While the roles, functions and principles of governing bodies are universal, differences between institutions in historical development, enabling legislation, institutional missions, sizes and cultures leads inevitably to differences in each governance body, and the balance between them. The values base of each institution and the manner in which it manages its relationships within and out in the external and political environment will dictate the approaches and dimensions of its governance operation. Whatever the particular flavour of institutional ethos, it is important that for the integrity of governance there must be, in relation to the university’s central business, a balance of business-like approaches against the place of higher education as a public good and ‘as an autonomous sphere for the development of a critical and productive democratic citizenry’.\(^\text{39}\)

It is generally accepted that strong, collegial and representative university governance is best achieved through a ‘shared governance’ model. This is customarily seen as a triangular framework for the operation of governance functions,\(^\text{40}\) and was proposed by Michael Shattock as an integrated governance framework best suited for avoidance of narrow commercial approaches and to enable universities to best ‘fulfil their missions as social institutions’.\(^\text{41}\) Although there have been variations proposed the holistic model,\(^\text{42}\) an adaptation of the enterprise governance model of private entities, remains as:

\(^{38}\) n 35, pp 6 and 7.  
\(^{40}\) Sometimes referred to as the Clark triangle (1983).  
\(^{42}\) See, for example, a more radical ‘corporate governance’ model with an upper tier ‘supervisory board’ proposed by Roger Brown, ‘What do we do about university governance?’ (2011) 15 (3) \textit{Perspectives: Policy and Practice in Higher Education}, 87.
Corporate governing body

The Senior Executive and Management

Carnegie and Tuck suggest an ‘ABC’ of university governance with academic governance placed first so as to remind us of the imperative of the vital role of scholarship in universities. Their thesis goes further to four separate but overlapping facets of scholarship: discovery, integration, application and teaching, all of which are integral to the governance function of a university. They then follow with business governance, being the financial performance of a university, and corporate governance concerned with accountability and assurance as other key components of university governance. Acknowledging that this builds on the notion of shared governance, they refer to the ABC model as: ‘… a mission related integrated approach which focuses on the interdependence of scholarship, performance and conformance’ which is designed to ‘preserve the integrity of the organisational missions of public universities as social institutions’. The appeal of this adaptation is that it strongly reinforces the true nature of universities and it is suggested that its validity is in principle within the framework of accountability provided by legislation.

VI CURRENT ISSUES

A Composition of Governing Bodies

In 2001 Edwards identified the balance in composition of membership of governing bodies as a key issue. Importantly members of a governing body must act in the interests of the university as a whole, and not be ‘advocates of a particular group of constituents or a particular viewpoint’ (at p15). She discusses as a vital element of university governance as all sharing the same vision, and a trust in the constituents to effectively carry out the roles assigned to them. She argues for a collegial and participatory model with the essential component of transparency and accountability.

As circumstances (particularly economic) driven by government policies, together with national and global factors, push universities towards the entrepreneurial commercial model, the nature and composition of Corporate governing bodies is being called into question. Unlike corporations, public universities are not concerned with shareholder profits and ‘bottom lines’ but rather with the key mission of teaching, learning and research, and thus developing the intellectual capital of the nation. While the demands of accountability, the magnitude and breadth of ‘business operations’ of a university render it essential that this body is comprised of members with sound business experience, expertise and acumen in terms of risk and assurance, it is equally important not to discount academics as a vital resource, and students as key constituents for the operations in which they are required.

45 Meredith Edwards, Deputy Vice-Chancellor and Director, National Institute for Governance, University of Canberra, “University Governance: a mapping and some issues” paper delivered at the LifeLong Learning Network National Conference 2001 Canberra.
this body is engaged. It is inevitable in the current scenario that tensions arise between the different perspectives arising in the operation of this body.

In order to satisfy both the primary interests of academic and financial viability, the composition of particularly the Corporate governing body, but also the Academic governing body is crucial. Of equal importance is the framework which sets the parameters for the functions of each body. A key component of governance within an institution which serves all interests are mechanisms to achieve effective participation. Arguably this aspect assumes greater prominence with changes in the sector ever increasingly driving the sector towards corporatisation. This is summed up thus by Simon Marginson and Mark Considine:

> Governance is concerned with the determination of values inside universities, their systems of decision-making and resource allocation, their mission and purposes, the patterns of authority and hierarchy, and the relationship of universities as institutions to the different academic worlds within and the worlds of government, business and community without.\(^46\)

While university governance covers a wide range of functions, crucially it embraces a number of important relationships – both external and internal. Externally university governance covers the relationship between the university, government and the community, each with often differing expectations and agendas (evidenced in Australia in recent years with changes of governments – both federal and state). Internally, university governance both covers, and is representative of management and the university community, academic and professional staff and students. In addition and in variance to private corporate governance, universities must also incorporate the views and requirements of both state and federal governments. All ‘stakeholders’ are of fundamental importance to the very nature of a public institution and thus its decision making processes in it governance bodies must be based on principles of participation, equity and collaboration in decision making. This is an important challenge facing Australian universities today, with differing interventions by state governments. The Victorian Government in 2012 passed an amendment to the *Education and Training Reform Act 2004* (Vic) to remove the existing right of automatic election of staff and students to university main governing bodies and to provide that election will only occur by way of Government or Council election. Appointments will be based on holding qualifications to perform the duties of the position of a director of a major institution. As a result, staff and students may be elected to the Council as Council-appointed members, however, their election is not guaranteed and they will have to demonstrate adequate skills for the role. Alternatively in New South Wales the *University Governing Bodies Act 2011* (NSW)\(^47\) provides that a university governing body may adopt or otherwise standard governing body provisions to replace those for each university in their individual acts. The Standard governing body provisions, set out in Schedule 1 provide for a participatory model with categories of members being official, elected, governing body appointed members and Ministerially appointed members with no category at any time constituting a majority of the total members. The Constitution Rules of each institution may prescribe the numbers of elected academic staff and non-academic staff members and elected student members,

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\(^47\) *Universities Governing Bodies Act 2011* (NSW) s 4.
mandating at least one from each of these elected categories. The total size of the governing body shall be not less than 11 or more than 22 members.48

**B The Role of Students in University Governance**49

With increasing deregulation of the sector and increased student fees there is perhaps an increasing need for the student to have a voice in the standard, quality and delivery of the higher education, in which they are investing significant time, energy and money. It has become fashionable to apply the supplier/consumer analogy to the university/student relationship.50 Fundamental to this concept is the notion that ‘passive’ purchasers are acquiring a product or a service. The ‘consumer’ categorisation is perplexing. It is built on the notion that the student purchases a product or services in which he or she has no input, rather than the student being viewed as a co-producer of the product. This ignores the increasing focus on student-centred learning. In terms of university governance it is perhaps more useful to factor in the importance of students’ views into how the product will be developed, and into the maintenance and advancement of the quality and standards attached to their teaching and learning.51

As discussed in Tyrrell’s chapter, comparative jurisdictions are now emphasising ‘student-driven’ higher education, with calls for the student experience to be at the centre of strategy and innovation in universities.52 In the UK the Quality Assurance Agency (QAA, the UK equivalent of TEQSA), ‘has been working at the forefront of engaging students in quality assurance and enhancement ...’ .53 In Europe, consideration of the role of students in university governance has been a key feature of the Bologna Project for European Higher Education.54 The formal provision for and practice of student participation was the

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48 *Universities Governing Bodies Act 2011* (NSW) Schedule 1, Division 1, 3.
50 Of importance is the formal recognition of a governance role for students in Cl 6.2.3 the Draft Proposed Higher Education Standards Framework Consultation Draft April 2014.
52 Anthony McCIaran, Chief Executive QAA, Foreword to the University of Bath and QAA research publication: ‘Student Engagement in Learning and Teaching Quality Management – A good Practice guide for higher education providers and students’ unions’, p 4.
53 Anthony McCIaran, Chief Executive QAA, Foreword to the University of Bath and QAA research publication: ‘Student Engagement in Learning and Teaching Quality Management – A good Practice guide for higher education providers and students’ unions’, p 4.
54 It is of interest to note that the role of students in university governance dates back historically to 13th century Europe when there was a strong dominance of students in universities such as Bologna. This feature however had largely faded by the mid-20th century with the exception of universities in some Latin American countries, for example the University of Cordoba in Argentina. In most comparative jurisdictions student democratization was replaced by the student/client/consumer concept. However, M E Menon discusses the significant involvement of students in the governance of Canadian Universities in ‘Student Involvement in University Governance: A need for negotiated educational aims? (2003) *Tertiary Education and Management*, No 9, 233-246. See also M E Menon, ‘Students
subject of a report commissioned by the Council of Europe in 2002 and a seminar in Oslo, Norway in June 2003. In a statement known as the Budapest Declaration from the 21st European Student Convention 2011, the European Students’ Union stated:

Students are not consumers of higher education, but significant components within it. Consumers are not involved in the management of process, but students are co-responsible for higher education management, as higher education is developed for students. Students are the main beneficiaries of increasing the quality of [higher education]. Students should have more impact in decision-making and governance of higher education, which must be a community of students and professors who are equally responsible for its quality.

VII CONCLUSION

Strong, innovative and strategic governance is essential to the success of a university and to the higher education sector as a whole. In the current climate universities are ‘defined by strong corporate executive control imposing economic performance targets in internal structures’ there is an ever increasing need to concentrate on the balance between the economic imperatives imposed on them and their fundamental mission of scholarship.

While the widely varying natures of Australian universities calls for differences in governance culture, it can generally be said that most have a shared governance model with the primary governance body being called the Council or Senate chaired by the University Chancellor, and an Academic Board which is responsible for academic standards and quality. The new ‘professionalism’ of the membership of governing bodies should come with a culture of ‘empowerment’ and engagement with the university and its strategy but not at the expense of collegiality within the partnership model.

Never before in the history of Australia has the higher education sector been faced with so many challenges to its continued high national and global standing. In this turbulent era it is vital that universities maintain their focus strongly on teaching, learning and research as it is this scholarship which is the essence of their activities. It is essential also that universities not only maintain the expertise in their governance to ensure their effectiveness and integrity in their wide reaching entrepreneurial and commercial activities, but they do not lose sight of the importance of input from all stakeholders.

While it is probably accurate to predict that universities of the future will maintain their

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Views Regarding their Participation in University Governance: Implications for distributed leadership in higher education’ (2005) Tertiary Education and Management, No 11, 167-182.


Budapest Declaration: Governance and Student Participation, 21st European Student Convention, February 2011.


For composition of this body see for example the University Governing Bodies Act 2012 (NSW).

In the discussion of ‘overreach’ of commercially orientated governing bodies, it is of interest to note the empirical research conducted of university governing bodies prior to 2000, which revealed a feeling of ‘disempowerment’ or ‘collective rubber-stamping’ – Jeanette Baird (2004). Repertoires of governance of members of Australian university governing boards. PhD thesis, University of New England, Armidale.
commercial orientation, governments and their policies will come and go. In the maelstrom, the best future will be assured universities by their maintenance of a staunch defence of a strong culture of partnership in their educational endeavour.

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