

# Review of Australian Higher Education Discussion Paper

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To the Secretariat , Review of Australian Higher  
Education

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## **Executive Summary**

The Law Council has had a long standing interest in the provision of higher education to those seeking to enter the legal profession and to members of the profession undertaking continuing professional development.

The Law Council addresses the Discussion Paper in the context of its interest in higher education as it relates to law students.

The Law Council particularly addresses the issues of:

- The functions and characteristics of contemporary higher education as they relate to legal education
- The impediments to innovation in the legal education sector caused by poor government resourcing
- The need for a national approach to improving participation of students from Indigenous, low Socioeconomic and rural, regional and remote area backgrounds, which builds on successful initiatives undertaken by the legal profession including initiatives undertaken in partnership with the higher education sector
- The need for continued government support of initiatives to internationalise legal education and to obtain recognition for Australian law degrees overseas, including support of partnerships between the legal profession and the higher education sector
- The need for increased government support of initiatives for knowledge transfer and community engagement undertaken by law schools, particularly in relation to the provision of clinical legal education programs, which provide free legal services to disadvantaged members of the community

## **Acknowledgment**

The Law Council acknowledges the particular assistance of the Law Institute of Victoria in the preparation of this submission.

## Introduction

The Law Council is the peak national representative body of the Australian legal profession and represents approximately 50,000 Australian lawyers.

The Law Council has had a long standing interest in the provision of higher education to those seeking to enter the legal profession and to members of the profession undertaking continuing professional development.

The Law Council currently has a Standing Committee on Legal Education, which comprises representatives of the legal profession, as well as representatives of the:

- Australasian Law Teachers Association
- Australasian Professional Legal Education Council
- Australian Law Students Association
- Council of Australian Law Deans

Due to the specific nature of its interest, the Law Council will not address all the questions or issues raised by the Discussion Paper but offers views on those issues particularly relevant to the education of law students.

## **Q 1 How adequate is the statement of functions and characteristics of higher education in modern Australia?**

The Law Council supports the Discussion Paper's expression of the two core functions of higher education as:

- developing high level knowledge and skills
- generating new knowledge and developing new applications of knowledge

The Law Council welcomes the inclusion of the specific purpose of preparing graduates in relevant fields for professional practice, as well as the more general purpose of preparing a productive labour force.

The Law Council notes that the study of law attracts large numbers of students, with some entering the legal profession and others using their law degrees as a solid foundation for careers in other professions or industries.<sup>1</sup>

The Law Council agrees that the higher education system makes essential contributions to:

- developing and maintaining a civil and sustainable society
- building the national economy and regional economies

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<sup>1</sup> A Lamb & J Littrich, *Lawyers in Australia*, The Federation Press, 2007 at 14 -15

The Law Council submits that the study of law has a special contribution to make to the development of a civil society by:

- producing competent, ethical lawyers who add value to society
- familiarising law students with the Australian legal system and the rule of law and encouraging the use of this knowledge in whatever profession or occupation they pursue

## **Q 2 Are there impediments to the higher education sector being able to innovate in the development of courses and programs?**

The Discussion Paper addresses the significant changes which have taken place in the funding of higher education in the last decade. These changes have resulted in substantial difficulties for law schools in obtaining sufficient resources to maintain high quality legal education and further develop innovative courses and programs.

Since 1990, Australia has experienced rapid growth in law schools and numbers of students enrolling in law. There were 12 law schools in 1990 and there are now 31 law schools.<sup>2</sup> It has been observed that a significant motivation for this growth was the status and financial benefit to a university of having a law school. Law schools attract high achieving students, who usually undertake combined degree programs and therefore strengthen other programs. Traditional law programs (as distinct from contemporary law programs) could also be provided at a lower cost than other prestigious programs such as medicine and veterinary science.<sup>3</sup>

It has also been observed that this growth in law schools has occurred in a weakening funding environment for law. The relative funding model introduced in 1990 assigned law to the lowest cost cluster for government funding. This decision has been criticised on the basis that the calculation also included the lower costs of providing courses in 'legal studies' and 'justice' to non-law students as well as traditional law courses. Another criticism is that the calculation was based on the costs from only two law schools, which appear to have been under funded at the relevant time.<sup>4</sup> Subsequent changes to funding with the Commonwealth Grants Scheme have tended to perpetuate the level of resourcing introduced by the relative funding model.<sup>5</sup>

The Discussion Paper notes that it has been acknowledged that the relative funding model provided an imperfect approximation of the average range of costs of teaching different disciplines and that there have been persistent calls for a significant reworking of the approach. The Law Council supports such calls.

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<sup>2</sup> There are 30 law schools listed on the website of the Council of Australian Law Deans at [www.cald.org.au](http://www.cald.org.au) (accessed 17 July 2008) and the Law Council understands that the University of Southern Queensland has also recently received approval for its law course to be recognised for the purpose of admission to the profession, see <http://www.usq.edu.au/business/schools/law/default.htm> (accessed 17 July 2008).

<sup>3</sup> R Johnstone and S Vignandera, *Learning Outcomes and Curriculum Development in Law*, 2003 at 3, see [http://www.cald.org.au/docs/AUTC\\_2003\\_Johnstone-Vignandera.pdf](http://www.cald.org.au/docs/AUTC_2003_Johnstone-Vignandera.pdf) (accessed 17 July 2008)

<sup>4</sup> Chesterman, M 'Budget Allocation to Law Schools' Addendum to *The Cost of Legal Education in Australia*, Centre for Legal Education, Sydney, 1994 at p 1

<sup>5</sup> Australian Law Students Association, *Higher Education Policy*, October 2007

Despite law being assigned to the highest charge band for student contributions under the Higher Education Contributions Scheme (HECS), commentators have concluded that the resourcing of law programs remains poor.<sup>6</sup> This lack of adequate resources has led law schools to try and generate income from other sources such as post-graduate coursework programs, international students, local fee-paying students, consultancies and endowments.<sup>7</sup>

The efforts of law schools to raise further funds have been in response to necessary changes from traditional legal education, including the need to incorporate greater skills education in smaller groups, clinical experience and international perspectives.<sup>8</sup> Such innovations are impeded by lack of resources, particularly the low level of government funding for law.

Greater skills education in small groups is resource intensive, as are clinical programs which involve the placement of students in clinics offering legal assistance to clients. It has been observed that clinical programs are so expensive that only a handful of law schools have been able to fund them.<sup>9</sup>

It has also been observed that most law schools are unable to respond fully to the growing internationalisation of legal practice with relatively few opportunities for student involvement in international exchange programs and competitions due to limited resources.<sup>10</sup>

Similar observations about the needs of a contemporary as opposed to a traditional legal education have been made in the United States. The recent Carnegie Report calls for law schools to integrate realistic and real-life lawyering experiences throughout the curriculum. Discussion following the release of the report has centred on views that knowledge, skills and professional behaviour need to be better integrated in legal education.<sup>11</sup>

Similar considerations have seen the development of a project to identify necessary graduate attributes for law students in Australia.<sup>12</sup> Innovation in the development of courses and programs centred on such attributes is likely to be impeded by the low level of government funding for law.

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<sup>6</sup> R Johnstone and S Vignanendra, above n 3 at 4

<sup>7</sup> Ibid; see also Council of Australian Law Deans, Submission to the Review of the Impact of the *Higher Education Support Act* 2003: Funding Cluster Mechanism, 2007 at 1, see <http://www.cald.org.au/docs/CALD%20submission%20on%20DEST%20review%20of%20HESA%20-%20final.pdf> (accessed 17 July 2008)

<sup>8</sup> Council of Australian Law Deans Submission, above n 7 at 1; see also M Coper, 'Law Reform and Legal Education: Uniting Separate Worlds' in B Opeskin & D Weisbrot, *The Promise of Law Reform* Federation Press, 2005 at 393

<sup>9</sup> Council of Australian Law Deans Submission, above n 7 at 2

<sup>10</sup> *ibid*

<sup>11</sup> G Davis, International Conference on the Future of Legal Education, Atlanta USA, Report to Council of Australian Law Deans (Summary), 2008, see <http://www.cald.org.au/docs/FutureOfLegEdConfRptSummy.doc> (accessed 17 July 2008)

<sup>12</sup> G Davis and S Owen, Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment, 2008,

see <http://www.cald.org.au/docs/ProjectBackground%20&%20Goals.ppt#282,3,ALTC: Objectives>

## **Q 8 Should there be a national approach to improving Indigenous and low SES participation and success in higher education?**

As noted in the Discussion Paper, Indigenous people are vastly under-represented in higher education. As also noted by the Discussion Paper, there are two particular challenges: preparing students academically for university and retaining them once they are enrolled.

The low numbers of Indigenous students at law schools and in the legal profession has been of concern to the Law Council and its constituent bodies for some time. The Law Council and its constituent bodies have established mechanisms to provide support to Indigenous law students and lawyers as outlined below. Many of these mechanisms involve partnerships with universities. The Law Council would support a national approach by government to improving Indigenous participation and success in higher education, which builds on and provides increased funding for such mechanisms.

In 2000, there were 470 Indigenous students enrolled in law or legal studies courses out of a total of 22,000 law students in Australia.<sup>13</sup> It has been observed that attrition rates for Indigenous law students are very high with some estimates at up to 75%.<sup>14</sup>

There appear to be no comprehensive statistics on numbers of Indigenous lawyers. The Law Society of New South Wales conducts an annual Practising Certificate Survey, which, since 2000, has asked lawyers who wish to identify themselves as Indigenous to do so. In the 2006-07 survey 40 lawyers (0.5% of all lawyers) identified as Indigenous.<sup>15</sup> However, as the Discussion Paper notes, in 2006, 2.4% of the population identified as Indigenous, so the percentage of Indigenous lawyers falls well short of the percentage of Indigenous people in the population.

The Law Institute of Victoria in its Policy Statement on Indigenous Australians in the legal profession and justice system recognises that Indigenous Australians have a place within the legal profession but are under-represented. The Policy Statement also recognises that Indigenous Australians are over-represented in the justice system and experience barriers to access legal assistance in all areas of the law.<sup>16</sup> This recognition underlines the importance of greater participation by Indigenous people in the legal profession.

One of the support mechanisms for Indigenous law students established by the Law Council is the John Koowarta Scholarship.<sup>17</sup>

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<sup>13</sup> A Lamb & J Littrich, above n 1 at 78-79

<sup>14</sup> *ibid*

<sup>15</sup> Law Society of NSW Practising Certificate Survey 2006-07 at i

<sup>16</sup> Law Institute of Victoria, "Policy Statement: Indigenous Australians in the legal profession and justice system", August 2006

<sup>17</sup> The John Koowarta Scholarship commemorates John Koowarta, a member of the Winychanam community in Arukun and a traditional owner of the Archer River region in the Cape York Peninsula. Koowarta brought a challenge against the State of Queensland for a breach of the Federal *Racial Discrimination Act 1975* (RDA) which prompted the

The John Koowarta Reconciliation Law Scholarship Trust was established in 1994, with a \$300,000 contribution from the Federal Government. The Law Council continues to act as trustee and administrator of the Scholarship.

Since its establishment over a dozen Indigenous law students have been assisted by the Scholarship to complete their studies and go on to careers in the law or related areas. The Koowarta Scholarship also extends to graduates who were assisted by the Scholarship whilst completing their undergraduate studies and seek an extension of the award to complete a graduate certificate or diploma prerequisite for admission as a lawyer.

The Law Council notes that there are also government scholarship programs in relation to education costs and accommodation costs related to higher education, which can be accessed by Indigenous law students. The Law Council also notes the recent expansion of such programs generally and particularly to include Indigenous Access Scholarships and to include Indigenous students undertaking higher education enabling courses.<sup>18</sup> However, the Law Council shares concerns expressed by the Australian Law Students Association in relation to the limited coverage of such programs.<sup>19</sup>

Government scholarships are limited to four years in duration but most law schools require school leaver entrants to undertake combined degrees of longer duration.<sup>20</sup>

Government scholarships are generally also limited to undergraduate courses but the University of Melbourne now offers law only at post-graduate level and the Law Council understands that other universities are considering similar models. Practical Legal Training Courses, which law graduates are required to complete in some states and territories in order to be admitted to legal practice, are also post-graduate courses for which government scholarships are not available.<sup>21</sup>

The Law Council supports the suggestions of the Australian Law Students Association that the government scholarship programme be expanded to cover law degrees of more than 4 years duration; post-graduate law degrees if they are the only law degrees offered by a university and post-graduate Practical Legal Training courses.<sup>22</sup> The Law Council also supports the suggestion that there should be a national guideline to ensure that students are eligible to receive scholarships both for education costs and accommodation costs.<sup>23</sup>

The Law Council, with some government agencies, also provides support for an annual conference of Indigenous law students and lawyers.<sup>24</sup> The Law Council suggests that government support for such initiatives to improve the participation and success of Indigenous law students should be expanded.

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Queensland Government to challenge the Commonwealth's power to enact the RDA. The High Court ultimately upheld the validity of the RDA, see *Koowarata v Bjelke-Peterson* (1982) 153 CLR 168

<sup>18</sup> Dept of Education, Employment and Workplace Relations, *Scholarships for a Competitive Future: Expansion of the Commonwealth Scholarships Program – A Discussion Paper*, 2008, see [http://www.dest.gov.au/sectors/higher\\_education/policy\\_issues\\_reviews/key\\_issues/scholarship/scholarships\\_competitive\\_future.htm](http://www.dest.gov.au/sectors/higher_education/policy_issues_reviews/key_issues/scholarship/scholarships_competitive_future.htm) (accessed 17 July 2008)

<sup>19</sup> Australian Law Students Association, *Submission to the Dept of Education, Employment and Workplace Relations, Scholarships for a Competitive Future: Expansion of the Commonwealth Scholarships Program – A Discussion Paper*, 2008, April 2008 at 5

<sup>20</sup> A Lamb & J Littrich above n 1 at 27

<sup>21</sup> Australian Law Students Association Submission above n 19

<sup>22</sup> *ibid*

<sup>23</sup> *ibid*

<sup>24</sup> See [http://www.tarwirri.com.au/images/pdf\\_docs/tarwirriprogram.pdf](http://www.tarwirri.com.au/images/pdf_docs/tarwirriprogram.pdf) for details of the 2008 conference (accessed 17 July 2008)

Since the 1970s the University of NSW has run an Aboriginal Education Program, which has encouraged Indigenous students to study law. Through this program, the university developed specific Pre-Law and Indigenous cadetship initiatives. The Law Society of NSW works in partnership with the university in the placement of Indigenous cadets with law firms.<sup>25</sup> The NSW Bar Association also provides part-time employment opportunities for Indigenous law students and manages an Indigenous Barristers' Trust to support Indigenous students and Indigenous barristers in their early years of practice.<sup>26</sup>

The Law Council is aware that other universities now also run Pre-Law programs to assist Indigenous students and that some universities integrate Indigenous perspectives within the curriculum in order to reduce attrition rates of Indigenous law students.<sup>27</sup> However, it has been observed that many Pre-Law programs for Indigenous students have become shorter or been merged with such programs at other law schools due to a shortage of resources.<sup>28</sup> The Law Council believes that more government resources should be provided for such programs and that there should be a national approach to such programs.

The Law Council is also aware that a number of law societies, bar associations and law firms provide support to Indigenous law students and lawyers.<sup>29</sup> For example, the Law Institute of Victoria has made commitments to:

- provide pathways for Indigenous law students and lawyers to access designated: seasonal/article and practical legal training courses; associate positions; specialist legal education; legal training; mentoring; scholarship/funding and job opportunities
- encourage the development of strategies towards the recruitment of Indigenous people
- acknowledge the achievements of Indigenous law students and lawyers<sup>30</sup>

The Law Institute of Victoria hosts information seminars on Indigenous legal issues and assists the Victorian Indigenous Law Students and Lawyers Association to co-ordinate Community Education Programs, including visits to high schools with Indigenous students.<sup>31</sup>

Some law firms also provide support for Indigenous high school students.<sup>32</sup> The Law Council suggests that the allocation of further government higher education resources to Pre-Law and Indigenous Cadetship programs would assist in providing a

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<sup>25</sup> See <http://www.dest.gov.au/archive/iae/analysis/learning/1/law.htm> (accessed 17 July 2008)

<sup>26</sup> See <http://nswbar.asn.au/docs/professional/eo/indigenous/index.php> (accessed 17 July 2008)

<sup>27</sup> For example, see [www.cdu.edu.au/law/indigenouprelaw.htm](http://www.cdu.edu.au/law/indigenouprelaw.htm);

see also <http://www.usq.edu.au/newsevents/usqnews/usq+news+2007/newsitems/news/pfalk>

<sup>28</sup> H Douglas, 'The Participation of Indigenous Australians in Legal Education 1991-200' (2001) 24 *UNSW Law Journal* 485

<sup>29</sup> For example, see <https://www.liv.asn.au/members/sections/younglawyers/about/young> lawyers-Indigenous; <http://www.adelaide.edu.au/adelaidean/issue/25661/news25694.html>

<sup>30</sup> Law Institute of Victoria above n 16

<sup>31</sup> *ibid*

<sup>32</sup> See 'Enlightened self interest at the heart of CSR' *NSW Law Society Journal*, June 2008 at 20 - 23

comprehensive national approach to improving Indigenous participation in law schools, along with the measures adopted by the legal profession.

As the Discussion Paper also observes, people from low socio-economic (SES) backgrounds are less likely than people from high SES backgrounds to participate in higher education. This observation is particularly pertinent to the study of law.

Recent research indicates that factors associated with high SES backgrounds such as private school attendance, high status parental occupations and connections in the legal profession are key indicators for success as a law student.<sup>33</sup> The government's own research shows that students from low SES backgrounds are particularly under-represented in fields such as law.<sup>34</sup>

As noted above, law has been assigned to the highest charge band for student contributions under the HECS scheme. There is some evidence that this decision has resulted in a decline in students from low SES backgrounds participating in courses in the highest charge band.<sup>35</sup>

The Law Council supports concern about the placement of law in the highest HECS band, which has been expressed by the Australian Law Students' Association and the Council of Australian Law Deans.<sup>36</sup> The Law Council agrees that current data on graduate salaries supports the contention that law should be placed in a lower band, such as that applicable to engineering students.<sup>37</sup>

As observed in the Discussion Paper, students from rural low SES backgrounds are even more under-represented in higher education than students from urban low SES backgrounds. This observation is of particular concern to the Law Council as decreases in the numbers of lawyers practising in rural, regional and remote areas have also been observed. Those lawyers who remain in such areas are ageing and not being replaced.<sup>38</sup>

The Law Council is investigating a range of strategies to address the crisis in the supply of lawyers in rural, regional and remote areas. Such strategies are also relevant to this review, namely:

- the provision of clinical legal education programs in law schools located in such areas to provide students with experience in assisting communities in these areas, which may encourage them to practice in these areas
- the provision of scholarships for students who have lived in such areas for a number of years, which should encourage them to return to such areas
- the allocation of a certain number of law school places to students who commit to practice in such areas for a number of years following graduation

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<sup>33</sup> A Lamb & J Littrich above n 1 at 65-66

<sup>34</sup> L Andrews, 'Does HECS deter? Factors affecting university participation by low SES groups' Department of Education, Training and Youth Affairs Occasional Paper Series 99F, August 1999 at 27

<sup>35</sup> P Aungles, I Buchanan, T Karmel and M MacLachlan, 'HECS and Opportunities in Higher Education: A Paper Investigating the Impact of the Higher Education Contribution Scheme (HECS) on the Higher Education System', Department of Education, Science and Training, 2002

<sup>36</sup> Australian Law Students Association Higher Education Policy above n 5 at 38; Council of Australian Law Deans Submission above n 7 at 3

<sup>37</sup> Australian Law Students Association *Higher Education Policy* at 38

<sup>38</sup> "Country Practice A Grey Area That Needs Youth", *The Australian* 28 March 2008

- the proposal for the Commonwealth government to pay all or part of the graduate's HECS-HELP debt if the graduate commits to practice in such areas for a number of years

However, the comments above in relation to the limitations of the government's scholarship system for Indigenous students must also be borne in mind in relation to existing scholarships for students from low SES backgrounds and any new scholarships which target students from rural, regional and remote areas.

## **Q 9 If you support a national approach to improving Indigenous and low SES participation and success how do you see it being structured, resourced, monitored and evaluated?**

As discussed above, the Law Council suggests that a national approach to improving participation by students from Indigenous and low SES backgrounds in law schools should be structured around existing mechanisms which have proved to be successful, such as scholarships, Pre-Law programs, cadetship and mentoring programs.

Greater resources should be provided by government for such programs and existing monitoring and evaluation mechanisms.

## **Q 22 What is an appropriate role for government in assisting the Australian higher education system to internationalise? On what principles should this role rest and what purposes should it serve?**

As the Discussion Paper notes, there is growing internationalisation in the Australian higher education system as shown by growing numbers of international students; internationalisation of delivery and content of courses and international recognition of Australian degrees and qualifications.

The Law Council has provided support for various government and higher education initiatives in these areas as they relate to law.

The Law Council notes that in 2006 there were 2191 overseas students enrolled in law and legal studies courses in Australia and that there has been an increase in international students undertaking law courses at Masters level.<sup>39</sup>

The Law Council also notes a growing trend to incorporate international perspectives in law courses in response to the increasing internationalisation of legal issues and the legal services market.<sup>40</sup> However, the Law Council also notes that the under-resourcing of law schools by government, as discussed above, has meant that law

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<sup>39</sup> International Legal Services Advisory Council, *Fifth Triennial Report*, 2008 at 45-48, see

[http://www.ilsac.gov.au/www/agd/rwpattach.nsf/VAP/\(CFD7369FCAE9B8F32F341DBE097801FF\)-ILSAC+-+Fifth+Triennial+Report+2004-2007.PDF/\\$file/ILSAC+-+Fifth+Triennial+Report+2004-2007.PDF](http://www.ilsac.gov.au/www/agd/rwpattach.nsf/VAP/(CFD7369FCAE9B8F32F341DBE097801FF)-ILSAC+-+Fifth+Triennial+Report+2004-2007.PDF/$file/ILSAC+-+Fifth+Triennial+Report+2004-2007.PDF)

<sup>40</sup> See 'Law Schools show graduates the global horizon' Australian Financial Review 16 June 2008

schools have only been able to provide limited opportunities for students to participate in international exchange programs and competitions. Greater government resources would provide further such opportunities.

The Law Council notes that exports of legal services overseas are growing. Figures assembled by the Australian Bureau of Statistics show that exports for 2007 were valued at \$311M. On a broader measure of export income used by the International Legal Services Advisory Council of the Commonwealth Attorney-Generals' Department (ILSAC), export income for 2004-05 was valued at \$543M. The ILSAC study included the billings of the off-shore offices of Australian law firms.<sup>41</sup> On either basis, the export income represents a significant contribution to the Australian economy, which should be reflected in government support for internationalisation initiatives within law schools and in the legal profession.

The Law Council has an International Law Section which represents the interests of lawyers throughout Australia in international matters and provides continuing professional development activities in relation to such matters.

The Law Council supports and assists the ongoing involvement of government and higher education authorities in gaining recognition for Australian law degrees and qualifications overseas. ILSAC, the Department of Foreign Affairs and Trade and the Council of Australian Law Deans, together with the Law Council have been involved in several initiatives to obtain recognition of Australian law degrees and qualifications overseas.<sup>42</sup>

The Law Council suggests that an appropriate role for government is to partner with professional organizations such as the Law Council and higher education authorities in order to assist the Australian higher education system to internationalise.

## **Q 26 Do you believe that knowledge transfer and community engagement are legitimate and appropriate roles for contemporary higher education? If so, how do you see this additional role for the higher education sector blending with its traditional roles and are there limits to these additional roles?**

The Law Council notes that the Discussion Paper refers to the contribution of higher education to Australia's economic, social and cultural capital through teaching and research, as well as through an emerging third function which has been described as knowledge transfer, community service, community engagement and the third stream. This third function involves greater engagement between higher education and communities.

The Law Council benefits from the involvement of many university academics on its advisory committees and through its sections. Such academics work with members of the practising legal profession to fulfil the Law Council's mission to promote the administration of justice, access to justice and general improvement in the law. The

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<sup>41</sup> 'Offshore earnings finally kick in' The Australian 16 May 2008

<sup>42</sup> International Legal Services Advisory Council above n 36

Law Council considers that such involvement amounts to knowledge transfer and community engagement and that such roles are legitimate and appropriate for higher education.

The Law Council is aware of several clinical legal education programmes in law schools, which involve law students and academics in the provision of legal services to disadvantaged groups in the community.<sup>43</sup> Such clinical programmes involve knowledge transfer and community engagement and may lead to continued commitment by law graduates to the provision of legal services on a pro bono basis through their legal practice.<sup>44</sup> The National Pro Bono Resource Centre recently conducted a survey which showed that solicitors provided \$250M of pro bono services in 2007, which represented an average of one week's free services to the community by each solicitor in Australia.<sup>45</sup>

However, as discussed above the Law Council notes that most law schools have limited capacity to run clinical legal education programs due to a shortage of resources. The Law Council suggests that greater government funding for such programs would result in greater community engagement and benefit. The Law Council notes the Discussion Paper's reference to the United Kingdom Government's introduction of third stream funding for such purposes.

The Law Council also notes the Discussion Paper's reference to knowledge transfer initiatives such as the Australasian Legal Information Institute's (AustLII) provision of free internet access to Australian legal materials. AustLII is an initiative of the Law Faculties of the University of NSW and the University of Technology Sydney.<sup>46</sup> The Law Council notes that the legal profession also provides support to AustLII and it represents another example of productive partnerships between the higher education and the legal profession sectors.

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<sup>43</sup> Australian Law Students Association, Higher Education Policy above n 5 at 37

<sup>44</sup> See <http://www.nationalprobono.org.au/page.asp?from=3&id=36>

<sup>45</sup> *ibid*

<sup>46</sup> See [www.austlii.edu.au](http://www.austlii.edu.au)

## **Attachment A**

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### Profile – Law Council of Australia

The Law Council of Australia is the peak national representative body of the Australian legal profession. The Law Council was established in 1933. It is the federal organisation representing approximately 50,000 Australian lawyers, through their representative bar associations and law societies (the “constituent bodies” of the Law Council).

The constituent bodies of the Law Council are, in alphabetical order:

- Australian Capital Territory Bar Association
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society of the Australian Capital Territory
- Law Society of the Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar Association
- The Victorian Bar Inc
- Western Australian Bar Association
- LLFG Limited (a corporation with large law firm members)

The Law Council speaks for the Australian legal profession on the legal aspects of national and international issues, on federal law and on the operation of federal courts and tribunals. It works for the improvement of the law and of the administration of justice.

The Law Council is the most inclusive, on both geographical and professional bases, of all Australian legal professional organisations.