

Feedback Form: Review of practical legal training

Respondent details

Name: _Professor Sally Kift _____

Organisation (if applicable): __Consultant_____

Contact details: _____

Are you responding as (select one):

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Your submission will be shared with the Admissions Committee and the Law Admissions Consultative Committee and may also be shared with the Legal Services Council.

Unless stakeholders advise us otherwise, submissions may be published on the Council's website.

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This Submission: Part 1

Thank you for the opportunity to provide feedback on this review. I make this submission as a Law Discipline Scholar who authored the 2010 [Threshold Learning Outcomes for the LLB \(TLOs\)](#), which led to the further development of the [TLOs for the Juris Doctor](#) (2012) on which I was consulted. I was also the lead author on the 2021 report commissioned by the Council of Australian Law Deans (CALD): [Reimagining the Professional Regulation of Australian Legal Education](#) (*'Reimagining Report'*), which canvassed the research- and evidence-base for a number of the issues raised in the current LACC Consultation Paper. The *Reimagining Report* offers a detailed analysis of the regulation of legal education in Australia and in a global context, and of the various drivers for regulatory reform. From 2012-2017, I was Deputy Vice-Chancellor (Academic) at James Cook University. I have been engaged fairly frequently to conduct accreditation and reaccreditation reviews for the Victorian Legal Admissions Board (VLAB), for both PLT and law degrees.

I shall address the specific issues raised in brief answers to the questions posed in the feedback form attached (Part 2), but the **essence of my submission** in this Part 1 is that what has been proposed does not seem to be a very workable, principled-based, or evidence-informed approach to reimagining the legal education continuum from pre- to post-admission. This is due in part, I think, to the lack of a clear articulation of the problem that is sought to be solved and the absence of its positioning, and the consideration of its consequences, for the broader legal education and training system. It is unfortunate that the proposal has not engaged with the substantial body of international research, interrogation, and good practice on these issues, nor with the knowledge and “skills in contemporary teaching, learning and assessment principles relevant to the [law] discipline, [the educator’s] role, modes of delivery and the needs of particular student cohorts” ([Higher Education Standards Framework \(Threshold Standards\) 2021 \(HESF\)](#), Standard 3.2.3.b.). What has been proposed also appears to misunderstand the contemporary higher education regulatory environment – particularly the requirements of the Australian Qualifications Framework (AQF), under the HESF – while also not appearing to have considered or aligned itself with the broader national and international ‘skills first’ agenda being prosecuted, for example, by [Jobs and Skills Australia](#). There are clear and substantive equity issues that will need to be affirmatively addressed and accommodated, while the absence of any regard to Indigenous Cultural Capability or any First Nations-led or -focused considerations in the Skills Schedule at all, especially given the clear statements by the CALD, including in its [Australian Law School Standards \(2020\)](#) (*'CALD Standards'*), and the Law Council of Australia (LCA), for example in its [Policy Statement: Indigenous Australians and the Legal Profession \(2010\)](#), is a particular omission. It is surprising also that no alternative proposals are presented for consideration, particularly given the high cost to national uniformity that will follow should these proposals be implemented in a fragmented way across the *Uniform Law* jurisdictions.

As discussed briefly below, and set out in more detail in the *Reimagining Report* (from which this submission draws), the broader reform agenda that LACC itself sought to pursue in 2017 via its ‘Assuring Professional Competence’ development program,¹ should be focussed on developing a

¹ In 2017, and following the Law Society of NSW’s [FLIP Report](#), the desire to completely rethink the legal education continuum and the regulatory consequences of so doing — across the academic, PLT, preadmission, post-admission and CPD span — led LACC to propose an ‘Assuring Professional Competence’ development program. A Committee chaired by the former Chief Justice of the High Court was established — the Assuring Professional Competence Committee (APCC) — and a plan of work proposed to develop a ‘Competence Statement for Australian Legal Practitioners, as had recently been done in both England and Canada’. Writing in

‘Competence Statement’ or ‘Competence Framework’ for Australian legal practitioners. Such a Statement or Framework would be accompanied by a **‘Threshold Statement’**, that sets out the standard for entry-level lawyers (and, potentially also, for end-of-supervised-practice lawyers), and also by an authoritative, overarching **Statement of Legal Knowledge and Skills** (and Values) required for contemporary professional competence. This has been the reform route for a number of jurisdictions internationally over at least the last decade. The particular benefit of this approach is that it enables coherent, whole-of-system, reform across the three stages of legal education (i.e., academic, PLT, and post-admission training, the latter as regards both early career lawyering and ongoing professional competence via CPD). As the 2018 *Comprehensive Review of Legal Education and Training in Hong Kong* (**‘Hong Kong Review’**) notes, there is much about the ‘core’ of knowledge, skills and values, at least up to day-one entry-level, that is “not contested, and remains fundamentally unchanged”.² The challenge is to reconsider the efficacy of that core for the needs of contemporary practice and then to sequence and allocate the lifelong education and training imperative across the professional learning continuum.³

This is a key issue for and with the current proposal. It presents no cogently articulated *national* reason for the reform proposed, which will visit considerable disruption on PLT and PLT-adjacent skills training (only) – particularly by requiring even more to be included in an already crowded law degree – with little regard to the overarching reform imperative. The **opportunity cost** of pursuing only one element (such as PLT) of the broader reform agenda is high: doing so risks locking the system into a partial solution that will stall, or even preclude, further necessary reform for the foreseeable future. As Sullivan has observed “Legal education [has shown] a structural disadvantage

2017, soon after the APCC had begun its work, the Chair of LACC said that, in addition to a Competence Statement it was also proposed to develop:

- (a) a Threshold Statement, derived from the Competence Statement, which entry-level lawyers would be expected to meet; and
- (b) a statement of Legal Knowledge and Skills that someone will need to acquire in order to meet the Threshold Standard

From there, it should be possible to work out where, in the continuum of legal education, the relevant knowledge and skills can best be acquired; and how compliance with the Threshold Standard can reliably be assessed.”

(Sandford D Clark, ‘Regulating Admissions: Are We There Yet?’ in Kevin Lindgren, Francois Kunc and Michael Coper (eds), *The Future of Australian Legal Education* (Thomson Reuters 2018) 69.)

The members of the APCC were: The Hon. Robert French AC, Professor Sandford Clark AM (LACC), Mr Richard Besley (Director, Judicial Commission of Victoria), Mr John McKenzie (NSW Legal Services Commissioner) and Professor Sally Kift (James Cook University). Unfortunately, there was no funding available to pursue this ambitious scheme of work. In its place, a small Steering Committee established by LACC worked with CALD to recast the Priestley 11 as learning outcomes statements, the work of which was completed but ultimately not implemented.

² Standing Committee on Legal Education and Training, *Comprehensive Review of Legal Education and Training in Hong Kong* (Report, April 2018) 155 <<https://www.sclet.gov.hk/eng/pub.htm>> .

³ Sandford Clark, ‘Regulating Admissions: Are We There Yet?’ (2017) 91 *Australian Law Journal* 907, 911-912: it is ... unrealistic to assume that law schools or PLT providers can readily include all of these proposed new requirements [as recommended by the FLIP Commission] in their existing programs. Rather, we need to re-conceive legal education as a continuum, and allocate responsibilities for sequential components to other elements of the profession, after law schools and PLT providers have made their initial threshold contributions. Further, we may need to regulate each part of that continuum consistently. Where can additional knowledge, skills and values best be acquired by entry-level lawyers? When can this realistically occur? How can we make it happen?

by approaching improvement only incrementally, missing the advantages that come with pursuing educational development in an integrated manner”.⁴

Higher-value, longer-term regulatory reform embraces all three stages of the legal education and training continuum set out above (i.e., the academic, PLT, and post-admission training), just as this partial reform proposal also does. Given that, as proposed in the *Reimagining Report*, and in line with the 2013 *Legal Education and Training Review (LETR)* in England and Wales, it is suggested that this reform proceed by way of a “**shared space**” **regulatory engagement** or approach, in which all arms of the profession come together (ideally with legal services consumers also) in the spirit of continuing dialogue for iterative and ongoing assurance and evidence-based enhancement. As defined by LETR, the “shared space” is “a community of educators, regulators, policy-makers and professionals working in provision of legal services, drawing information from other jurisdictions, other professions and other regulators to identify best practices in [legal education and training] and its regulation”.⁵ The ultimate objective of shared space regulation is the assurance of the legal education and training system from the *whole system* perspective across the continuum, and then to persistently (re)consider the quality assurance mechanisms for the robustness of those systemic responses. As the LETR report observed, aligned to a considerable extent with some of the impetus for the current Consultation:⁶

Much of the focus of [legal education and training] has been on establishing initial competence: a baseline of knowledge and skills that form the foundation for a legal career. Until relatively recently [legal education and training] has paid less attention to continuing competence being demonstrated throughout that career. Whilst initial competence is essential, it is not sufficient training for a working life that may span 40 or more years beyond qualification. This report recommends some transfer of the burden of competence from the initial to the continuing stages of training.

It is suggested that a continuum conceptualisation for system reform would consider the relationship between the sequential components of legal education and training, across the academic and PLT phases (for pre-admission/entry-level competence) and then onto the post-admission phases of ‘newly admitted lawyer in supervised practice’ and continuing competence. Almost every recent international review, together with the **CPD Review conducted in 2020 for the Victorian Legal Services Board + Commissioner**,⁷ has signalled the imperative to address professional regulation in this way; over the practitioner’s lifelong career, for more integrated, system-wide legal regulation, from pre- to post-admission for sustained assurance of competence. As a number of international examinations make clear, this integrated system approach can be compared with a siloed and unbalanced scheme that focuses predominantly on the pre-admission stage for entry-level assurance, disconnected from the imperative to support and assure continuing competence. As many analyses also identify, such an integrated and pervasive approach replicates the modern regimes for many other regulated professions. It particularly speaks to the contemporary necessity to

⁴ William M. Sullivan, ‘After Ten Years: The Carnegie Report and Contemporary Legal Education’ (2018) 14 *University of St. Thomas Law Journal* 331, 335.

⁵ Legal Education and Training Review, *Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales* (Report, June 2013) (‘LETR Report’) 268 <<https://letr.org.uk/the-report/index.html>>.

⁶ LETR Report, n. 5, 277.

⁷ Chris Humphreys, *Getting the Point?: Review of the Continuing Professional Development for Victorian Lawyers* (Report, Victorian Legal Services Board and Commissioner, November 2020) (‘Getting the Point?’) <https://lsbc.vic.gov.au/sites/default/files/2020-11/CPD_Report_Final_0.pdf>.

assure professional competence and lifelong learning in response to the impact of technology-driven disruption to the nature of future legal work and skills. Legal services and legal practitioners, as for all industries and workers, must now constantly adapt, and up- and re-skill as the half-life of skills continues to shrink due to technological change.

It is understood that what is being suggested is long-term, structural and regulatory change. In the interim, it is suggested that, at least so far as the law degree phase of the continuum is concerned, LACC can be assured of the law degree's contemporary relevance by reference to the TLOs for both the LLB (including LLB(Hons)) and the JD. As explained further next, the development of the TLOs was a whole-of-discipline exercise that sought specifically to harmonise the various regulatory requirements that govern what law graduates should know and be able to do on completion of the academic phase, including specifically the current skills requirements of the [AQF](#), also set out next for LACC's assurance. The PLT phase could undergo some interim modification to address the 'overly prescriptive list' critique and to embed mental wellbeing, collaboration and Indigenous Cultural Competency which are currently missing, pending the larger scale review.

I would be pleased to meet with the LACC to discuss this submission further.

I shall now set out first the genesis, rationale, and content of law's TLOs, and then consider in slightly more detail the cogency of a reform based around a Competence Statement or Competence Framework, before turning to answer the questions posed by the Consultation, which responses should be read in the context of these preliminary observations.

Law's Threshold Learning Outcomes (TLOs)

It is suggested that the synthesising changes that this Consultation Paper seeks to effect for the law degree, have already occurred under the auspices of the TLOs for the [LLB and LLB\(Hons\)](#) ('**LLB TLOs**'), and for the [JD](#). The TLOs were developed by way of an inclusive and iterative consultation process, with extensive engagement across law's broad discipline communities. This included the judiciary, the practising profession, peak bodies, students, and graduates, for example: LACC, CALD, LCA, the eight Admitting Authorities, every law school, bar association and law society, the (then) Australasian Law Teachers Association (now Australasian Law Academics Association (ALAA)), the Australasian Professional Legal Education Community (APLEC), the Coalition of Australian Law Administrators (COALA), the Australian and New Zealand Academic and College Law Librarians (ANZACLL), Legal Services Commissioners, a then newly established Law Associate Deans Network (now the LEAD Network), student associations, individual students, and recent graduates (including the LCA's Young Lawyers Committee). Recognising the global nature of legal practice and law qualifications, specific regard was had to contemporary international benchmark statements (see [LLB TLOs](#), Appendix 1), while a Law Expert Advisory Group and a Law Discipline Reference Group were established for project oversight, both with international expert membership.

The TLOs ultimately agreed in 2010 set out the broad disciplinary consensus at that time as to what law students needed to know, understand and be able to do as a result of their discipline learning, at a threshold or minimum level of achievement. Law's six TLOs for the pre-PLT AQF Levels 7 and 8 — LLB and LLB(Hons) degrees respectively — were endorsed by CALD in November 2010. The TLOs for the pre-PLT JD, at AQF Level 9 Master Degree (Extended), were subsequently developed and endorsed by CALD in March 2012. The JD TLOs took the LLB TLOs as their starting point and adapted them to assure alignment with the increased cognitive and skilled requirements of the AQF Level 9 qualification and level descriptors. The TLOs for both LLB/LLB(Hons) and JD are supplemented by explanatory, non-binding notes, which provide guidance on their interpretation. With their

incorporation into the [CALD Standards](#) in 2013, and their referencing in the LACC [Accreditation Standards for Australian Law Courses](#) (Standard 2.2(e)), the TLOs are “now firmly established as common and significant guiding educational principles for all pre-admission law courses”.⁸ The 2018 *Hong Kong Review* commented favourably on the TLOs, especially in comparison to the “highly prescriptive” outcomes and associated standards that have now been implemented in England and Wales by the Solicitors Regulation Authority (SRA) saying: “broad benchmarks such as the English and Scottish [Quality Assurance Agency] Benchmarks, or the Australian TLOs create a framework, not a straightjacket”.⁹

The TLOs for both the LLB/LLB(Hons) and the JD are organised under the following six headings (and see Appendix 1 to this Submission where they are set out in full):

1. Knowledge
2. Ethics and professional responsibility
3. Thinking skills
4. Research skills
5. Communication and collaboration
6. Self-management.

A specific objective of the development project in 2010 was to **harmonise professional accreditation requirements** (the Academic Requirements for legal education) **and academic quality assurance requirements at both the institutional and national** (Tertiary Education Quality and Standards Agency (TEQSA)) levels of regulation. It was also considered essential that the TLOs be drafted sufficiently broadly to **assure flexibility** as regards both their interpretation by individual law schools and to accommodate subsequent developments in contemporary legal practice. The TLOs’ relationship with the Priestley 11 Academic Requirements is made explicit – the TLOs expressly include the Priestley 11 academic prerequisites for admission in ‘TLO 1: Knowledge’ by requiring that graduates “will demonstrate an understanding of a coherent body of knowledge that includes: (a) the fundamental areas of legal knowledge ...”. As explained in the accompanying notes:

‘fundamental areas of legal knowledge’ are those that are from time to time prescribed by the relevant Australian law admitting authorities The rules of statutory interpretation and the rule of law are examples of fundamental areas of legal knowledge.

The TLOs’ notes go on to record that TLO 1 is intentionally drafted in this way to be “flexible enough to allow for subsequent developments as negotiated between CALD and the law admitting authorities” in efforts to ensure that the stasis imposed by the 1982 articulation of the Priestley 11 is not further entrenched (LLB TLOs at 13). It has been observed subsequently that “[t]he introduction of the TLOs led to a process of curriculum review in many Australian Law Schools with some evidence of wholesale change to align the learning outcomes with course delivery”.¹⁰ As further set out in the accompanying notes, in arriving at the final, endorsed version of each TLO, regard was had to the AQF descriptors, the CALD Standards, and the many international benchmark statements in existence at the time.

⁸ LACC, *Specifying Learning Outcomes for Contract Law* (Report, 17 September 2018) (‘Specifying Learning Outcomes for Contract’) 2; also LACC, *Redrafting the Academic Requirements for Admission* (Discussion Paper, 2019) 2.

⁹ *Hong Kong Review*, n. 2, 75.

¹⁰ Natalie Skead, Sarah Murray and Penny Carruthers, ‘Taking Up the Challenge: Embedding, Mapping and Maintaining Threshold Learning Outcomes in the Transition to the JD: The UWA Experience’ (2013) 47 *The Law Teacher* 130.

Relevance of the Australian Qualifications Framework (AQF).

In the context of the current consultation, the harmonisation with the AQF is particularly relevant. For law degree courses, it is suggested that it is not necessary to prescribe practical skills in the way now proposed in the Consultation Paper. The [AQF](#), which is incorporated into the *HESF*, **already requires the development of specific skills according to qualification type**. The skills' requirements of the AQF are not canvassed in the Consultation Paper's Appendix D (re the regulation of higher education), and their regulatory existence is at odds with the statement in the Consultation Paper at p. 6 where it is said "For example, there are no current requirements for law courses to provide students with practical knowledge and skills."

In accordance with the higher education regulatory environment described in the Consultation Paper's Appendix D, the AQF "specification" for each of the relevant degrees requires as follows for "skills" and the "application of knowledge and skills":

At the Bachelor of Laws level (AQF 7) ([AQF](#) p 48):

"Graduates of a Bachelor Degree will have:

- cognitive skills to review critically, analyse, consolidate and synthesise knowledge
- cognitive and technical skills to demonstrate a broad understanding of knowledge with depth in some areas
- cognitive and creative skills to exercise critical thinking and judgement in identifying and solving problems with intellectual independence
- communication skills to present a clear, coherent and independent exposition of knowledge and ideas

Graduates of a Bachelor Degree will demonstrate the application of knowledge and skills:

- with initiative and judgement in planning, problem solving and decision making in professional practice and/or scholarship
- to adapt knowledge and skills in diverse contexts
- with responsibility and accountability for own learning and professional practice and in collaboration with others within broad parameters."

At the Bachelor of Law (Hons) level (AQF 8) ([AQF](#) p 51):

"Graduates of a Bachelor Honours Degree will have:

- cognitive skills to review, analyse, consolidate and synthesise knowledge to identify and provide solutions to complex problems with intellectual independence
- cognitive and technical skills to demonstrate a broad understanding of a body of knowledge and theoretical concepts with advanced understanding in some areas
- cognitive skills to exercise critical thinking and judgement in developing new understanding
- technical skills to design and use research in a project
- communication skills to present a clear and coherent exposition of knowledge and ideas to a *variety of audiences*

Graduates of a Bachelor Honours Degree will demonstrate the application of knowledge and skills:

- with initiative and judgement in professional practice and/or scholarship and skills
- to adapt knowledge and skills in diverse contexts
- with responsibility and accountability for own learning and practice and in collaboration with others within broad parameters
- to plan and execute project work and/or a piece of research and scholarship with some independence."

At the Juris Doctor level (AQF 9) (AQF p 48):

“Graduates of a Masters Degree (Extended) will have:

- cognitive skills to demonstrate mastery of theoretical knowledge and to reflect critically on theory and professional practice
- cognitive, technical and creative skills to investigate, analyse and synthesise complex information, problems, concepts and theories and to apply established theories to different bodies of knowledge or practice
- cognitive, technical and creative skills to generate and evaluate complex ideas and concepts at an abstract level
- communication and technical research skills to justify and interpret theoretical propositions, methodologies, conclusions and professional decisions to *specialist and non-specialist audiences*
- technical and communication skills to design, evaluate, implement, analyse and theorise about developments that contribute to professional practice

Graduates of a Masters Degree (Extended) will demonstrate the application of knowledge and skills:

- with creativity and initiative to new situations in professional practice and/or for further learning
- with high level personal autonomy and accountability
- to plan and execute a substantial research based project, capstone experience and/or professionally focused project”

The TLOs: First Nations and Indigenous Cultural Competency

At the time the TLOs were negotiated with the broader disciplinary community in 2010, only the NT practitioner group¹¹ and one legal clinic explicitly supported the inclusion of a specific TLO reference to Aboriginal and/or Torres Strait Islander law, knowledge, content, context, and/or perspectives, or to Indigenous Cultural Competency (ICC). It was hoped at the time that the flexibility built into the TLOs’ drafting for the *threshold level* would allow more aspirational law schools to take the lead on ICC and other curricular initiatives. Eight years later, Burns took this up, generously observing that, while the TLOs have been criticised for this “silence”:¹²

... the standards are broadly framed and therefore do not necessarily limit the inclusion of Indigenous knowledges and ICC. For example, TLO 1: Knowledge includes knowledge of the ‘broader context in which legal issues arise’, which the explanatory notes to the standards state may be extended to include ‘Indigenous perspectives’. There is also potential to include Indigenous knowledges and ICC in TLOs on Ethics and Professional Responsibility; Thinking Skills (including critical analysis); Research Skills; Communication and Collaboration (including the ability to effectively communication with legal and nonlegal audiences, and for appropriate communication to address the needs of the intended audience); Self-Management (which includes the ability to ‘reflect on and assess their own capabilities and performance’).

¹¹ At that time, the NT had already articulated ‘Indigenous Protocols for Lawyers’: see The Law Society of the Northern Territory, *Indigenous Protocols for Lawyers in the Northern Territory* (Protocol, 2004) <<https://jcdi.org.au/wp-content/uploads/2021/06/Indigenous-Protocols-for-Lawyers.pdf>>.

¹² Marcelle Burns, ‘Are We There Yet: Indigenous Cultural Competency in Legal Education’ (2018) 28(1) *Legal Education Review* 1, 10.

A ‘Competence Statement’ or ‘Competence Framework’ for Australian legal practitioners

This submission argues that the current Consultation Paper’s proposals on PLT and PLT-adjacent skills represents a limited, piecemeal reform that risks entrenching an inadequate and only partial response to the issues that have been raised in NSW, rather than delivering the systemic change required to ensure lawyer professional competence across the legal education continuum. Like the Humphreys analysis – [Getting the Point?: Review of the Continuing Professional Development for Victorian Lawyers](#) – for the Victorian Legal Services Board and Commissioner (**VLSB+C**), and aligned with jurisdictions internationally, I would recommend the adoption of a national Competence Statement or Framework for Australian lawyers, that includes

- (1) Threshold statement(s) with a clear description of the standard expected for an entry-level lawyer at admission (and possibly at the conclusion of supervised legal practice (**SLP**)). This is essential for regulatory assurance, quality curriculum design that is constructively aligned to specified learning outcomes, and national consistency; and
- (2) An authoritative Statement of Knowledge and Skills (and Values) required for professional competence, which becomes the reference point for curriculum design and delivery across the three stages of legal education.

This approach should be the organising principle for allocating responsibility, and then regulating for competence and its development, across the legal education continuum – from law school, to PLT, to early career lawyer in SLP, and on to CPD for the practising professional.

The LACC Consultation Paper recognises this imperative. It notes that current PLT requirements are outdated, overly detailed, and poorly aligned with contemporary practice expectations, and observes that the most effective learning occurs across multiple stages: “There is an opportunity to re-evaluate the requirements of PLT and consider where those requirements are best placed in the legal education continuum” (Consultation Paper, p. 7). It is further noted that: “Development of other practical skills and knowledge would be undertaken during the post-admission period, allowing new lawyers to learn these skills while supervised” (Consultation Paper, p. 7).

These statements reflect the broader international consensus: competence develops over time, and regulatory systems should define the required competence before determining where and how it is to be taught, learnt, and assessed. With an agreed Competence Statement or Framework in place, it is possible to determine the appropriate sequencing of knowledge and skills acquisition – the structure, duration, and content of the law degree, PLT, and post-admission legal training (**PALT**) – to the requisite (threshold) standard. This is an approach that enables an authoritative mapping of knowledge and skills (and values) to support developing competence, continuing competence, lifelong learning, and regulatory oversight. By way of very broad example:

- which of the specified knowledge and skills belong in the law degree (foundational knowledge; introductory skills; not business skills)
- which are best developed in PLT (core practice-ready skills; developing ability to respond to ethical issues; applied judgement)
- which require real-world context and should be learned during supervised practice (practice-area capability; risk management; client management; maturing professional identity).

Such a coherent sequencing aligns with international good practice, supports national consistency, and ensures that reforms are coherent, future-proof, and responsive to the contemporary needs of professional practice and the public.

For example, Humphreys in the Victorian context for the VLSB+C was particularly concerned for the experience of newly admitted solicitors during their period of SLP and for barristers in their first three years. He recommended that consideration be given to requiring completion of prescribed CPD as a precondition for the grant of an unrestricted practising certificate (Recommendation 8) and that newly admitted lawyers be required to have a learning plan and keep a reflective journal during the supervision period (Recommendation 9). He also found that the development of a competency framework was quite critical for newly admitted lawyers who were “unaware of what level of competence is expected of them at completion of their supervision period. A framework would provide them and their supervisors with valuable guidance and form a basis for discussing the supervisory relationship and training goals”.¹³ As Humphreys stated ([2020](#), 32):

A competency framework would provide a readily understandable guide for lawyers about their expected level of competence consistent with their level of knowledge and experience. It would provide a basis for re-focusing the CPD framework on learning outcomes rather than measuring activity inputs. If mandatory CPD is justified by the need to maintain professional competence, a framework would provide the means by which competence could be defined and CPD was organised to support it.

Four examples of Competence Statements were provided in the *Reimagining Report* ([2021](#), at 4.6.1, 233-236), two Australian and two international. As stated there, experience suggests it is important to avoid the “traps of over-specifying competencies while providing enough detail to be useful and relevant. The [*Hong Kong Review*] thought that the high level statements could be supplemented by guidance and exemplars” ([2021](#), 233). One example was the LACC’s Assuring Professional Competence program of work referred to above, which ultimately did not proceed. That initiative discussed the possibility of framing a Competence Statement around what a practising lawyer needs to be able to do, in broad terms, in each of the following domains, which were taken from the SRA [Competence Statement](#) (though the level of detail of the SRA Statement is not recommended):

- (i) Ethics, professionalism and judgement
- (ii) Technical aspects of legal practice
- (iii) Working with others, and
- (iv) Managing people and work.

Since the *Reimagining Report* was delivered, the VLSB+C has developed [The Early Career Lawyer Capability Framework](#) “to provide clarity on the capabilities and skills we expect lawyers to develop by the end of SLP”. The Framework is accompanied by two supporting resources for supervisors and supervisees: a [Supervision Plan Template](#) and a [Reflective Practice Template](#). Relevantly in this context, the VLSB+C Framework is divided into five “capability domains”:

- (i) Ethics and professional responsibility
- (ii) Legal knowledge and application
- (iii) Interpersonal and communication skills
- (iv) Professional skills
- (v) Professional development and wellbeing.

The Law Society of NSW has developed a [Solicitor Capability Framework](#) (2025) that “defines the enduring, non-technical skills and behaviours that reflect best practice in the profession. The Framework is designed to equip solicitors with the capabilities needed to thrive in practice and to

¹³ Humphreys, n. 7, 23.

support their ongoing professional development, both today and into the future.” Three levels of professional proficiency are described, similar in intent to the suggestion made here for a ‘Threshold Statement’, the three being: developing, proficient, and expert. Seven ‘Primary Priority Capabilities’ are identified – Critical Thinking and Decision-Making; Solicitor-Client Relationships; Professionalism; Problem Solving; Communication and Influence; Integrity and Ethics; and Adaptive Mindset and Resilience – and another seven ‘Secondary Priority Capabilities’ are enumerated – Practice Management; Risk Management; Collaboration; Empathy; Wellbeing; Cultural Awareness and Inclusion; and Environmental and Social Responsibility.

The Queensland Bar Association has also developed a [Competency Framework](#), which it references on its [CPD](#) page, organised under four headings: Ethics and Professional Responsibility; Practice Management and Business Skills; Substantive Law, Practice and Procedure, Evidence; and Barristers’ Skills.

In conclusion

It is possible to envisage the utilisation of an existing framework – one that is already known to the profession such as the VLSB+C Framework for example – to map the TLOs and a revision of the PLT Competency Standards onto its five domains in order to sequence professional capability development for the pre-admission phase and then on into the post-admission PALT phase and CPD.

It is suggested that this approach provides a principled, evidence-based foundation for allocating responsibility for competence development that enables regulatory oversight across the provision of legal education and training by law schools, PLT providers, and legal employers supervising PALT. Its alignment ensures reforms are appropriately coherent, transparent, and responsive, and are capable of supporting entry-level readiness, SLP outcomes’ attainment, and ongoing professional development.

Responses to consultation questions

Law courses	
1.1	Do you support the proposal for the LACC to amend the Accreditation Standards for Australian Law Courses to require law courses to demonstrate how they have included practical teaching and training of the practical skills identified at Appendix F, with appropriate assessment? Not in the way currently formulated, which raises more questions than it answers. The rationale for choosing this set of skills is unclear and, notably, given they arose out of the LPAB work, they do not align with the Law Society of New South Wales (LSNSW) Solicitor Capability Framework, which are said to define “the enduring, non-technical skills and behaviours that reflect best practice in the profession. The Framework is designed to equip solicitors with the capabilities needed to thrive in practice and to support their ongoing professional development, both today and into the future.” For law courses, it is suggested that it is not necessary to prescribe practical skills in the way now proposed given the current requirements of Australian Qualifications Framework (AQF) as discussed above. If this proposal proceeds, then at the very least the skills to be addressed (<i>beyond</i> the current requirements of the AQF and the TLOs requirements, both of which are already referenced in the LACC Accreditation Standards for Australian Law Courses (Standard 2.2(e)) would be best articulated as high-level, outcomes-based competency standards, aligned to an overarching competency framework with a specified standard of achievement for the law school graduate. The design of inputs – the teaching, learning and assessment activities – should be left to institutions, subject to appropriate accreditation oversight (both higher education and professional accreditation).
1.2	Do you suggest any amendments to the proposed skills schedule (Appendix F) in respect of the knowledge areas and skills to be included in the delivery of law courses, as identified in column three of the table? See Part 1 advice and answer to 1.1.
1.3	Would law schools be able to implement these changes by the beginning of the 2028 academic year, as proposed? Speaking as a former Deputy Vice Chancellor (Academic), and given the amount of work that remains to be done to provide certainty in the first instance as to what may be specifically required across, and as between, law degrees and PLT courses, and then to deliver the curriculum and assessment changes would need to be made, it would seem highly unlikely that 2028 is realistic.
Reform of PLT – Practical knowledge and skills	
2.1	Do you support the proposal to amend the PLT Competency Standards to reflect the categories and skills set out in the skills schedule at Appendix F as the practical knowledge and skills required at the time of admission? As canvassed in Part 1 of this submission, without any overarching competence framework, the proposal is difficult to assess, while the skills identified do not align with many of the existing analyses, national and international, of professional

	competence and 21 st century skills. For example, thinking skills – critical and creative thinking and problem solving are not mentioned.
2.2	Do you suggest any amendments to the categories or skills set out in the skills schedule at Appendix F? See Part 1 of this submission and the need for an overarching Competence Statement or Framework. The most obvious omission is as regards Indigenous Cultural Competence (ICC) and any reference to First Nations-led or -focused considerations in the Skills Schedule at all.
2.3	Do you think that the following areas need to be specifically included in the skills schedule, either as categories or identified knowledge and skills: i. Working with clients from culturally and linguistically diverse backgrounds? ii. Preventing and addressing sexual harassment? iii. Awareness of obligations under anti-money laundering/counter-terrorism financing regulations? iv. Awareness of ADR options, or specific skills relating to ADR? v. Negotiation skills in a wider range of settings, or other specific settings? vi. Drafting any other types of legal documents? If so, what types of documents? Perhaps some of these matters should likely be included, but only in a principled and organised way as canvassed in Part 1 of this Submission. The intent should be to ensure, as suggested there, to avoid over-specification of skills or competencies while providing enough detail to be useful and relevant. High level statements, supplemented by guidance and examples, is to be preferred. The areas set out here suggest a level of prescription that will replicate the issues that are evident in the current PLT requirements.
2.4	Should the option for graduates to undertake Supervised Workplace Training as a way of completing PLT be retained? No comment at this stage.
2.5	If the option of Supervised Workplace Training is to be retained, what aspects of the skills schedule should be delivered by an approved provider or as approved programmed training? No comment at this stage.
2.6	Should there be any other amendments to Supervised Workplace Training? No comment at this stage.
Reform of PLT – Delivery of PLT	
3.1	Do you support the proposal for the LACC to amend the PLT Standards to reduce PLT courses to be a minimum of four weeks in length, together with up to one week of pre-reading and viewing of preparatory materials? No, for the many reasons canvassed in Part 1 of this Submission – it is a piecemeal and partial response, when there is a clear imperative for more fulsome reimagining of legal education regulation across the continuum.

	Doing away with the surety of an AQF qualification is also a significant step that has not been fully considered, especially as regards the quality of educational provision and the regulatory oversight of the Tertiary Education Quality and Standards Agency (TEQSA). The removal of the option of FEE-HELP is a distinct disadvantage. It is said at p 44 of the Consultation Paper that “The PLT course will also not be subject to TEQSA oversight and the equivalent role will need to be performed by the relevant PLT accrediting body to ensure standards are maintained.” Without the quality assurance and backing of the HESF and TEQSA, the assumption of this expert role by the accrediting bodies seems to be a significant risk to the integrity of the educational provision and the quality of the student experience, particularly in this era where the impact of generative artificial intelligence on academic integrity is still being worked through. See for example, this April 2026 research article “On AI glasses and wearable AI in assessment” that uncovers yet another challenge to assessment security.
3.2	Do you think that a four-week period is too short or too long for a PLT course, taking into account the other proposals in relation to law courses and post admission training? See Part 1 of this submission and the need for an overarching Competence Statement or Framework. The duration and content of the PLT course should be dictated by the necessary sequencing of knowledge and skills (and values) across the pre-admission phase. There is a lot to be said for more focussed practical legal training pre-admission. Four weeks seems like a somewhat arbitrary period to propose, without any sense being provided of what the course’s learning outcomes should be or how it should be designed. It is noted that the Consultation Paper says at p 43: “it may be possible for PLT to be delivered as a shorter course over a period of several weeks” and that “A shorter PLT course may also drive down the upfront cost of PLT and have financial advantages for students”. This does not suggest that any particular modelling or curriculum design planning has been given to either of these matters to support the need for such a significant reduction in time, remembering again that the course design now would be done outside of the AQF qualification specifications and HESF requirements.
4.1	Do you support the proposal for the LACC to amend the PLT Standards to provide that a PLT course may be, but does not have to be, delivered at a graduate diploma level or equivalent? Not at all for the various reasons canvassed in this Submission.
4.2	If you support this proposal, would any additional safeguards be required for PLT providers (given they would not necessarily be regulated by TEQSA)? For example, should new quality assurance measures be required in the LACC framework documents? What should those additional measures be? I do not support the proposal and think that expertise would need to be brought in for this quality assurance, for which no costing seems to have been done.
5.1	Do you support the proposal that the LACC amends the PLT Standards to require that PLT coursework is to be delivered in person or, in exceptional cases (as determined by the PLT provider), by synchronous online delivery?

	This is not supported at all. Even putting to one side the legislative requirements of the <i>Disability Discrimination Act 1992 (DDA)</i> and the <i>Disability Standards for Education 2005 (DSE)</i>, which require equality and accessibility in education for individuals with disability to ensure their rights are protected and upheld in educational settings, a myriad of other equity concerns arise for: students from rural, regional, and remote backgrounds; students from low socioeconomic backgrounds; First Nations students; and students who have caring responsibilities. A face-to-face requirement is a significant barrier to access and participation and is not something that LACC should be considering if it wishes to ensure that the profession is more representative of the diversity of Australians to which it provides legal services. Further, there is no empirical evidence base that supports the proposition that face-to-face education is necessarily superior <i>per se</i> to quality online provision and wrap-around support. Indeed, for the purposes of this exercise if it were to go ahead, there would be a lot to be said for the provision of quality assured online resources to meet LACC's professionally focussed requirements. This would also relieve pressure on providers and the profession to provide the sessional (casual) teaching workforce, which in itself is another significant logistic, training and resourcing issue, no small thing and especially so in the regions. In this scenario, who would pay for the production of quality online resources is another outstanding issue.
6.1	Do you support a review of the PLT Standards to ensure that assessments are rigorous in measuring whether students have developed the required knowledge and skills? If so, do you have any suggestions on how the Standards should be set to ensure rigorous and effective assessment? I am not sure I know what LACC intends by 'rigorous' assessment, especially in the context of GenAI as mentioned above. It would be useful to hear more about what LACC is likely to require in this regard and how it might be resourced. It is also unclear whether the assessment is to take place within the four week period proposed or in some other time period.
6.2	Do you think that there is a need for the LACC to amend the PLT Standards to provide guidance on how incidents of academic misconduct should be recorded and reported to the admitting authorities in student conduct reports? If LACC proposes to provide PLT outside the regulatory framework of the HESF and TEQSA's oversight, it may well be the case that it will need to make this provision, together with a range guidance available to cover off on the various matters that have to date been assured by higher education regulation.
Workplace experience	
7.1	Do you support the LACC retaining the requirement for a minimum of 15 days of workplace experience prior to admission? Yes. One of the matters raised by LACC's Assuring Professional Competence Committee (APCC) in 2017 was whether the amount of mandated work experience before qualification is sufficiently 'substantial'. The APCC Discussion Paper refers to international benchmarking work that was conducted by the SRA, which suggests that the LACC PLT requirement is at the lower end of the international range. Of the 18 jurisdictions studied by the SRA, 15 require between 6 and 24 months' workplace experience before "qualification" as a solicitor. Only 3 require 6 months or less.

8.1	Do you support the LACC updating the Standards on PLT Workplace Experience to provide more information on the types of tasks and hours allocated to the development of specific skills for students completing their workplace experience, with regard to the skills schedule at Appendix F? Do you have any suggestions on what this guidance should include? Further guidance would always be useful. I have no other comment at this stage.
9.1	Do you support the LACC working with stakeholders to prepare guidance for supervisors on the supervision of workplace experience that addresses the purpose and requirements of workplace experience, the type of tasks to be undertaken and time allocated to them and the ethical standards and expectation of supervisors? Yes this is an important matter and there is a considerable evidence base available to inform its development.
10.1	Do you think that legal profession regulators should review the training that is offered to lawyers who wish to improve their supervisory skills? Yes. Again, there is a body of evidence and expertise relevant to this with which LACC should engage.
10.2	Do you think that there is a need for additional training for lawyers who wish to improve their supervisory skills? What do you think that training should include? How could it be delivered? Yes. Again, there is a body of evidence and expertise relevant to this with which LACC should engage.
11.1	Do you support the LACC amending the Standards and the Standards for PLT Workplace Experience to allow a PLT provider to approve workplace experience being undertaken while the student is studying a law course? If so, should any additional safeguards or requirements be imposed on such work experience? Should PLT providers play the role of certifying that appropriate work experience has been undertaken? I have no comment on this at this stage.
12.1	Do you support the LACC amending the PLT Standards to set out the obligations of PLT providers to assist students in sourcing workplace experience opportunities? I would support this.
Post Admission Legal Training (PALT)	
13.1	Do you support a new requirement being imposed for early career lawyers to undertake 15 hours of PALT in each of the first two years of practice? Is the amount of time proposed for PALT too long or too short? I support the idea of mandatory, quality PALT. I have not looked at international benchmarking to see what is appropriate, though would suggest that 15 hours seems quite light in the context of the substantial reduction in PLT training proposed (which is not supported). I would refer generally to analysis by Humphreys for the VLSB+C in 2020. Jordan Furlong conducted a similar review to Humphreys for the Law Society of Alberta also in 2020 - Lawyer Licensing and Competence in Alberta, which also had a particular focus on developing new lawyers. The Law Society of Alberta has a particularly well

	developed CPD system that would be of interest in this respect – see Lawyer Licensing and Competence in Alberta – and which includes a Professional Development Profile that references in its nine domains “Truth and Reconciliation” because “Alberta lawyers understand the historical and current impacts that Canadian law has on Indigenous Peoples (First Nations, Inuit and Métis) in Canada and participate in reconciliation”.
13.2	Do you think it is appropriate for this requirement be implemented as a condition on practising certificates? If not, please outline what you consider to be the preferable mechanism to impose the new requirement. Yes.
14.1	Do you support the proposal for lawyers who practise exclusively as barristers to be exempt from the requirement to undertake PALT? Would this pose any issues in your jurisdiction? I have no comment at this stage.
15.1	Do you support the proposal that PALT should be delivered in areas identified and developed by PALT providers, subject to the approval mechanisms set out separately below? Given the way this is presented in the Consultation Paper and in conjunction with the significant reduction in the PLT requirements that is proposed, this whole PALT proposal needs considerably more careful thought, which I have suggested be undertaken in the context of a Competence Statement or Framework. My suggestion would be that there be some mandatory PALT to assure the sequential development of the knowledge and skills required for professional competence.
15.2	Do you support the idea that lawyers can choose to undertake PALT in one practice area, or up to four different practice areas? See answer to 15.1.
16.1	Do you support the proposal that lawyers who are undertaking PALT should have further restrictions on their ability to practise? If so, what additional restrictions should apply? See answer to 15.1. I think more detail is required to enable an informed assessment of the matters raised regarding PALT.
Delivery of PALT	
17.1	Do you support the proposal that PALT should be delivered in person or, in exceptional circumstances (as determined by the PALT provider), by synchronous online delivery? See answer to 5.1.
18.1	Do you support the proposal that the content and providers of PALT should be approved by the regulator that issues practising certificates to solicitors?

	This seems an area of risk in many ways. This must be quality PALT with quality assured learning, teaching and assessment. Are the regulators in a sufficiently expert position to make these quality assessments?
19.1	Do you support the proposal that PALT should incorporate rigorous assessment? Do you have any views on the parameters for this requirement? See answer to 6.1, exacerbated again by the fact that these course offerings will not be subject to the HESF and TEQSA regulatory oversight.
Clinical legal education	
20.1	Do you support the Committees considering options for the inclusion of clinical legal education as a component of PLT? I have no comment at this stage other than to observe that clinical legal education is an expensive model to scale.
20.2	If introduced, should clinical legal education be a mandatory component of PLT or an optional extra for students to undertake? If clinical legal education is a mandatory component of PLT, should students be entitled to credit for clinical legal education undertaken as part of a law degree I have no comment at this stage other than to observe that clinical legal education is an expensive model to scale.
20.3	If clinical legal education is optional, should completion of clinical legal education satisfy the requirements for PALT? I have no comment at this stage.
20.4	Who should be responsible for delivering and supervising clinical legal education? I have no comment at this stage other than to observe that clinical legal education is an area of considerable expertise with a strong evidence- and research-base to which regard should be had.
20.5	Do you support the Committees inviting a working group comprising suitably qualified educators/experts to explore how clinical models of legal education could be employed as part of PLT? Yes – it is the only sensible approach, but again clinical legal education is an expensive model to scale.
Supervision of early career lawyers	
21.1	Do you think there is a need for additional guidance to supervisors of early career lawyers, to improve supervision? Absolutely yes. If this proposal goes ahead, professional integrity and competence is almost solely reliant on the supervisory arrangements. This will need to be strongly regulated and overseen. There is a body of expertise and experts available to advise on these requirements which should be mandatory. I would recommend that this be done in the context of an overarching Competence Statement or Framework, that will assist in generating the learning outcomes to be achieved under the training contract.

21.2	Do you support legal profession regulators establishing a working group to develop additional guidance and resources for supervisors of lawyers as part of their supervised legal practice and consider potential regulatory reforms? Yes and leading to mandatory supervision requirements for regulated training contracts.
Implementation timing	
22.1	Do you support the proposed transitional arrangements and implementation timeframe set out at Proposal 22? For all of the reasons stated across this Submission I do not support Proposal 22. The issue of transitional arrangements raises another significant matter to which some regard should be had – the transitional arrangements for Law Schools and their students. If this goes ahead, Law Schools will likely end up teaching two courses for some time as students are taught out of the previous courses. The question of how to deal with students who progressively graduate into and across changed arrangements should also be considered.

With apologies for typos and inelegant expression given time pressures.

Professor Sally Kift, PFHEA, FAAL, ALTF, GAICD

14 May 2026.

Appendix 1 – Threshold Learning Outcomes (TLOs) for LLB/LLB(Hons) and JD

The Threshold Learning Outcomes for the Bachelor of Laws are as follows:

TLO 1: Knowledge

Graduates of the Bachelor of Laws will demonstrate an understanding of a coherent body of knowledge that includes:

- (a) the fundamental areas of legal knowledge, the Australian legal system, and underlying principles and concepts, including international and comparative contexts,
- (b) the broader contexts within which legal issues arise, and
- (c) the principles and values of justice and of ethical practice in lawyers' roles.

TLO 2: Ethics and professional responsibility

Graduates of the Bachelor of Laws will demonstrate:

- (a) an understanding of approaches to ethical decision-making,
- (b) an ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts,
- (c) an ability to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and in service to the community, and
- (d) a developing ability to exercise professional judgement.

TLO 3: Thinking skills

Graduates of the Bachelor of Laws will be able to:

- (a) identify and articulate legal issues,
- (b) apply legal reasoning and research to generate appropriate responses to legal issues,
- (c) engage in critical analysis and make a reasoned choice amongst alternatives, and
- (d) think creatively in approaching legal issues and generating appropriate responses.

TLO 4: Research skills

Graduates of the Bachelor of Laws will demonstrate the intellectual and practical skills needed to identify, research, evaluate and synthesise relevant factual, legal and policy issues.

TLO 5: Communication and collaboration

Graduates of the Bachelor of Laws will be able to:

- (a) communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences, and
- (b) collaborate effectively.

TLO 6: Self-management

Graduates of the Bachelor of Laws will be able to:

- (a) learn and work independently, and
- (b) reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development.

The Threshold Learning Outcomes for the Juris Doctor are as follows**JD TLO 1: Knowledge**

Graduates of the Juris Doctor will demonstrate an advanced and integrated understanding of a complex body of knowledge that includes:

- (a) The fundamental areas of legal knowledge, the Australian legal system and underlying principles and concepts, including international and comparative contexts;
- (b) The broader contexts within which legal issues arise;
- (c) The principles and values of justice and of ethical practice in lawyers' roles; and
- (d) Contemporary developments in law, and its professional practice.

JD TLO 2: Ethics and professional responsibility

Graduates of the Juris Doctor will demonstrate:

- (a) An advanced and integrated understanding of approaches to ethical decision making;
- (b) An ability to recognise and reflect upon, and a developing ability to respond to, ethical issues likely to arise in professional contexts;
- (c) An ability to recognise and reflect upon the professional responsibilities of lawyers in promoting justice and in service to the community; and
- (d) A developing ability to exercise professional judgment.

JD TLO 3: Thinking skills

Graduates of the Juris Doctor will be able to:

- (a) Identify and articulate complex legal issues;
- (b) Apply legal reasoning and research to generate appropriate jurisprudential and practical responses to legal issues;
- (c) Engage in critical analysis and make reasoned and appropriate choices amongst alternatives; and
- (d) Demonstrate sophisticated cognitive and creative skills in approaching legal issues and generating appropriate responses.

JD TLO 4: Research skills

Graduates of the Juris Doctor will demonstrate the intellectual and practical skills needed to justify and interpret theoretical propositions, legal methodologies, conclusions and professional decisions, as well as to identify, research, evaluate and synthesise relevant factual, legal and policy issues. JD

TLO 5: Communication and collaboration

Graduates of the Juris Doctor will be able to:

- (a) Communicate in ways that are effective, appropriate and persuasive for legal and non-legal audiences; and
- (b) Collaborate effectively.

JD TLO 6: Self-management

Graduates of the Juris Doctor will be able to:

- (a) Learn and work with a high level of autonomy, accountability and professionalism; and
- (b) Reflect on and assess their own capabilities and performance, and make use of feedback as appropriate, to support personal and professional development.