

## LAW ADMISSIONS CONSULTATIVE COMMITTEE<sup>1</sup>

### REDRAFTING THE ACADEMIC REQUIREMENTS FOR ADMISSION

This paper proposes revised descriptions of the 11 existing Academic Requirements for admission to the Australian legal profession. The reasons for proposing revised descriptions are set out below, together with the principles that have determined the scope of the revisions.

Comments on the draft and suggestions for its improvement are invited by **30 September 2019**. They should be sent in Word format to –

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All submissions received will be published on the LACC website.

#### 1. BACKGROUND

In 2017, an influential PhillipsKPA report *Professional Accreditation – Mapping the territory* noted a move by most professional accreditation bodies to express their threshold education and training requirements in terms of "outcomes". This reflects TEQSA's accreditation and regulatory regime for all higher education providers. TEQSA applies the Higher Education Standards Framework (Threshold Standards) 2015 (**Threshold Standards**) when accrediting Universities for educational purposes. These Standards require all degree courses to be designed to reflect "expected learning outcomes".<sup>2</sup> They also require the specified learning outcomes to include the knowledge and skills "required to be eligible to practise where applicable."<sup>3</sup>

To meet these requirements, all Australian law schools and CALD have adopted a common set of Teaching and Learning Outcomes (**TLOs**) for the LLB and JD degrees respectively, which are also required by the CALD Standards for Australian Law Schools.

The TLOs for the Bachelor of Laws are set out in **Attachment D**. They represent –

- (a) the set of knowledge and skills that someone will have acquired; and
- (b) the application of that knowledge and those skills that the person can demonstrate

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as a result of learning during that degree course. There are 6 nominated areas, respectively relating to –

- Knowledge
- Ethics and Professional Responsibility
- Thinking Skills
- Research Skills
- Communication and collaboration
- Self-management.

The TLOs acknowledge that a law graduate on the threshold of legal practice must have complementary and interlocking attributes and competencies, which cannot be accurately captured by a simple list of the various topics which might usually be taught in, or be included in the syllabus for, a particular substantive subject like, say, Contract.

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<sup>1</sup>LACC's Charter is approved by the Council of Chief Justices which also appoints its Chairman. LACC is not, however, a Committee of the Council, nor does it act on the Council's behalf.

<sup>2</sup> Higher Education Standards Framework (Threshold Standards) 2015, Part A, item 3.1 1. e.

<sup>3</sup> Note 2 above Part A, item 1.4 2. c.

Thus, to solve a client's contractual difficulties, a practitioner will need to supplement the contractual principles recalled from Contract classes with thinking skills to analyse the client's problem appropriately; conduct additional research to recall and to discover any recent developments in the relevant law; possibly understand the effect that blockchain technology may have had on the drafting of the contractual document; know when and how to seek appropriate inputs from others; know how to reach and express conclusions based on sound ethical values; and communicate those conclusions effectively to the client and, possibly, others.

A lawyer with the supplementary attributes and competencies embraced by the several TLOs should thus be able rapidly and effectively to recall and deploy the part-remembered principles first encountered in Contract classes.

The TLOs thus acknowledge that it is part of a law school's mission to develop this wider range of attributes and competencies which a graduate will need to deploy in an integrated fashion if a client's needs are to be met successfully.

The TLOs are now firmly established as common and significant guiding educational principles for all pre-admission law courses. While they may evolve to meet emerging needs, this can only happen with the common consent of all stakeholders.

The TLOs do not impinge on the proper preserve of the Academic Requirements for Admission and of Admitting Authorities in any way. Rather they assume the existence of the Academic Requirements,<sup>4</sup> and provide further, complementary learning outcomes beyond the scope of those Requirements

Indeed, the Threshold Standards make compliance with the Academic Requirements for Admission a precondition for accreditation of a law course by TEQSA.<sup>5</sup>

The PhillipsKPA report noted that accrediting bodies for many professions have now acknowledged the importance and wide acceptance of describing curricula in terms of learning outcomes and have adjusted their requirements accordingly. In these circumstances, LACC decided to examine whether it might be feasible to recast the wording of the present 11 Academic Requirements for Admission to become more compatible with the wording of both the TLOs and the now-mature TEQSA regulatory regime. It commissioned a committee to examine how this might be done, using the subject of Contract as a pilot.

The Committee closely examined the relationship between the TLOs and the Academic Requirements for Admission; and the descriptions of student attributes and competencies for both law courses and for individual law subjects, in a number of Universities. It did so in order to propose a preferred approach to the task of redrafting the Academic Requirements.

The Committee's report of 17 September 2018 was adopted by LACC at its meeting on 19 October 2018 and is published on the LACC website -

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<sup>4</sup> The Commentary for TLO 1 provides "TLO 1 develops 2.3.2 and 2.3.3 of the Council of Australian Law Deans (CALD) Standards, which have been endorsed by the Law Admissions Consultative Committee...TLO 1 has been drafted to encompass the current "prescribed academic areas of knowledge" known as the "Priestley 11" and to be flexible enough to allow for subsequent developments...".

<sup>5</sup> Part A, item 1.4 2.c. of the Threshold Standards requires learning outcomes to be established for each course; and that those specified "for each course of study encompass discipline-related and generic outcomes including ... knowledge and skills required for employment ... including those required to be eligible to seek registration to practise where applicable." A course that does not comply with this requirement will not be accredited by TEQSA; and a self-accrediting provider that disregards this requirement will be in breach of its obligations under the TEQSA Act.

[https://www.lawcouncil.asn.au/files/web-pdf/LACC%20docs/252098968\\_6\\_LACC%20-%20Specifying%20Outcomes%20for%20Contract%20Law.pdf](https://www.lawcouncil.asn.au/files/web-pdf/LACC%20docs/252098968_6_LACC%20-%20Specifying%20Outcomes%20for%20Contract%20Law.pdf)

The existing descriptions of the prescribed areas of knowledge which it is proposed to redraft are set out in **Attachment C**.

The Committee proposed the following guiding principles for drafting a revised description of an area of knowledge.

#### 1.2 **Maintain present content and scope**

Any review of an existing prescribed area of knowledge should retain the present content and scope of the area, except where it is prudent to allow for more recent developments in the relevant law. Recent experience with updating descriptions of Evidence and Civil Dispute Resolution bear out this principle.

#### 1.3 **Indicative not prescriptive**

The present descriptions of the Academic Requirements for Admission are, and always were intended to be, indicative rather than prescriptive. Their purpose was to indicate to teachers the scope of the subject matter which might be considered appropriate by an Admitting Authority, but not to dictate how, or where in the course, or to what depth such teaching should occur. Any future descriptions similarly should not seek to prescribe how or where the subject matter is taught in a law course; to limit innovation in teaching techniques; or to mandate the proportionate attention to be given to each element of a description.

The proposal also to specify how the application of acquired knowledge is to be demonstrated upon graduation will necessarily give helpful indications of the depth of treatment required. This is lacking in the present descriptions of prescribed areas of knowledge.

#### 1.4 **Adaptable to change**

The present 11 prescribed areas have proved to be extremely difficult to change. In the case both of Evidence and Civil Procedure, fundamental changes in the law, practice, and what was taught by law schools had long occurred before agreement was recently reached to bring their descriptions up to date. This is manifestly undesirable. Any future prescriptions thus need to be expressed in a way that allows for such changes and consequent variations in emphases to be made as circumstances alter, without having to revise the description of a prescribed area.

### 2. **PROPOSED PREFATORY COMMENTS**

In order to clarify what the Academic Requirements are intended to achieve, LACC agreed that any revised document should be preceded by the following comments –

This document sets out the prescribed areas of knowledge which an applicant for admission to the Australian legal profession must have acquired during an LLB or JD course, and be able to demonstrate an understanding of upon graduation. They are "fundamental areas of legal knowledge" referred to in the Teaching and Learning Outcomes (TLOs) for each of those degrees.

While each area sets out what knowledge of that area an applicant must acquire, it does not seek to prescribe how, and at what point in a law course, teaching and learning in the area will occur, to limit possible innovation in teaching methods, to prescribe the proportion of teaching to be devoted to particular topics, or to prevent the teaching of new developments in the relevant law, its context or practice.

Consistently with the TLOs, an applicant is required to "demonstrate an understanding of a coherent body of knowledge" in each prescribed area. This does not imply that an additional summative assessment of one or all areas of knowledge is required at the point of graduation. Rather, the requirement will be satisfied if a graduate applicant, having acquired all the attributes and competencies envisaged by the TLOs, is able to deploy them to provide a responsible partner with a sound first draft of appropriate legal advice to a client in a prescribed area knowledge.

### 3. **DRAFTING REVISED DESCRIPTIONS OF AREAS OF KNOWLEDGE**

LACC sought the assistance of the Chair of CALD to identify people with relevant expertise who might assist in preparing revised drafts of each of the revised descriptions. At his request, Professor Nick James, Chair of the Australasian Law Academics Association (formerly the Australasian Law Teachers Association), identified teams of teachers who willingly agreed to assist in the drafting process. Their names, and those of the Steering Committee which has endeavoured to coordinate the drafting process, are set out in **Attachment B**.

LACC extends its warmest thanks to all those who have contributed so willingly to the project at what is usually a most inconvenient time of the year for law teachers.

Contributors provided the Steering Committee with an initial draft. In some cases, like Property, the draft was accompanied by a careful explanation of the draft and how it related to the existing description of that prescribed area of knowledge. Each initial draft was closely examined by the Steering Committee in the light of the guiding principles set out in item 2; to ensure consistency between descriptions; and to avoid potential problems of interpretation. The Steering Committee usually prepared comments on the initial draft, which were then considered by the contributors and an agreed final draft prepared.

In some instances, contributors sought the opinion of teaching colleagues when preparing their drafts. The contributors of the draft description for Civil Dispute Resolution obtained 21 written responses to their survey of the views of fellow teachers. Similarly, the authors of the Company Law draft description circulated their proposal to the Executive of the Corporate Law Teachers Association to seek their views.

LACC wishes to acknowledge, and to express its thanks to, all those who have with generous effort and great goodwill shown remarkable cooperation between November 2018 and mid-January 2019 to devise and negotiate the proposed descriptions set out in **Attachment A**. They represent a significant Summer achievement.

## **ATTACHMENT A**

### **PRESCRIBED AREAS OF KNOWLEDGE**

This document sets out the prescribed areas of knowledge which an applicant for admission to the Australian legal profession must have acquired during an LLB or JD course, and be able to demonstrate an understanding of upon graduation. They are "fundamental areas of legal knowledge" referred to in the Teaching and Learning Outcomes (**TLOs**) for each of those degrees.

While each area sets out what knowledge of that area an applicant must acquire, it does not seek to prescribe how, and at what point in a law course, teaching and learning in the area will occur, to limit possible innovation in teaching methods, to prescribe the proportion of teaching to be devoted to particular topics, or to prevent the teaching of new developments in the relevant law, its context or practice.

Consistently with the TLOs, an applicant is required to "demonstrate an understanding of a coherent body of knowledge" in each prescribed area. This does not imply that an additional summative assessment of one or all areas of knowledge is required at the point of graduation. Rather, the requirement will be satisfied if a graduate applicant, having acquired all the attributes and competencies envisaged by the TLOs, is able to deploy them to provide a sound first draft of appropriate legal advice to a client in a prescribed area of knowledge.

An applicant for admission to the Australian legal profession must demonstrate a coherent body of knowledge that includes, in the case of –

#### **ADMINISTRATIVE LAW**

Understanding -

- (a) the theoretical foundations of administrative law and its constitutional context;
- (b) the structures and processes of administration and administrative decision-making;
- (c) merits review and Ombudsman review;
- (d) the jurisdiction of Australian courts to undertake judicial review;
- (e) the grounds of judicial review;
- (f) restrictions on judicial review deriving from rules and principles relating to standing, privative clauses, non-justiciability and Crown immunity;
- (g) constitutional, statutory, common law and equitable remedies;
- (h) the impact of human rights legislation on administrative law, where such legislation exists;
- (i) freedom of information laws.

#### **CIVIL DISPUTE RESOLUTION**

Understanding –

- (a) the broad theoretical basis of civil dispute resolution and its social context;
- (b) the roles of institutions, actors and processes in civil justice;

- (c) how the legal system seeks to promote access to justice and the related rights and obligations of participants who seek to resolve civil disputes;
- (d) the range of available options to resolve civil disputes;
- (e) the role of parties in litigation;
- (f) how litigation and other dispute resolution mechanisms are initiated, the issues in dispute defined, and evidence managed;
- (g) how litigation and civil dispute resolution processes are finalised, including compromise and disposition without trial.

## **CONTRACT**

Understanding -

- (a) the broad theoretical basis of the law of contract and its social context;
- (b) why, and recognising when, a valid and enforceable contract exists;
- (c) what may destroy or impair that validity or enforceability;
- (d) how to ascertain the parties to, and terms of, a contract; the principles applying to the interpretation of those terms; and whether and how contractual rights and obligations can be duly assigned, performed and discharged;
- (e) when a contract has been broken; and the various remedies available for that breach.

## **COMPANY LAW**

Understanding -

- (a) the broad theoretical basis of company law and its social, historical and global context;
- (b) the different types of companies;
- (c) incorporation, its uses and consequences;
- (d) how companies incur civil and criminal legal obligations and liabilities;
- (e) the governance of companies including the duties of directors and officers and the rights and remedies available to members;
- (f) how companies are financed;
- (g) the options available to an insolvent company;
- (h) the role of the corporate regulator in regulating companies and their directors and officers.

## **CONSTITUTIONAL LAW**

Understanding -

- (a) the broad theoretical basis, and the social and historical context, of Australian constitutional law, including the relationship between Aboriginal and Torres Strait Islander Peoples and the Australian constitutions;
- (b) the Commonwealth and relevant State or Territory constitutions and constitutional systems, including the relationships between the laws and governments of a State, the Commonwealth and its Territories;
- (c) the constitution and operation of the legislature, executive and judiciary in the context of the doctrine of the separation of powers;
- (d) what may affect the constitutional validity of laws or executive actions;
- (e) the principles and methods of constitutional interpretation;
- (f) how constitutions and their interpretation establish and reflect rights and freedoms;
- (g) the mechanisms for amending the Australian constitutions and relevant proposals for constitutional change.

## **CRIMINAL LAW AND PROCEDURE**

Understanding -

- (a) the broad theoretical basis of the criminal law and procedure and its wider contexts;
- (b) the nature and sources of criminal law (for example, common law and statutory offences); the procedural consequences of breach (for example, summary and indictable proceedings); and the substantive consequences of breach (for example, sentencing);
- (c) the elements of a representative range of criminal offences (for example, offences against the person such as homicide, non-fatal and sexual offences; property-related and financial offences; regulatory offences; illegal possession or supply of prohibited items);
- (d) how liability for such offences can be established (for example, by considering principles of onus and standard of proof; physical and fault elements; strict and absolute liability; individual, group and corporate liability);
- (e) the role and availability of defences and excuses; and how a range of defences and excuses may be established;
- (f) the role of the state and the courts in enforcing criminal law; and how a range of criminal procedures are applied.

## **EQUITY AND TRUSTS**

Understanding -

- (a) the broad theoretical basis, and historical origins, of equity and its social context;
- (b) the relationships between equity and the common law; and between equity and statute;

- (c) the distinction between equitable doctrines and equitable remedies;
- (d) when a fiduciary relationship arises and the obligations of a fiduciary;
- (e) the equitable doctrines about unconscionable dealings;
- (f) the role of equity in developing the trust; the rules for creating trusts; the various types of trust; the obligations, powers and rights of trustees; and the rights of beneficiaries.
- (g) the range of equitable remedies and defences; and remedies and defences for breach of trust;
- (h) the rules about equitable assurances and assignments.

### **ETHICS AND PROFESSIONAL RESPONSIBILITY**

Understanding -

- (a) the broad theoretical and conceptual basis of lawyers' ethics and professional regulation, and its social context;
- (b) the sources of lawyers' ethical obligations and professional responsibilities (for example, in common law and equity; procedural law; and professional regulation), and the consequences of breach;
- (c) and evaluating substantive rules and principles governing professional conduct in respect of the lawyer's duties (for example, to the law; to the administration of justice; to the client; to fellow practitioners; to others);
- (d) both the contextual difficulties of, and approaches to, ethical tensions that arise for practising lawyers in seeking to discharge their professional obligations.

### **EVIDENCE**

Understanding -

- (a) why society has laws of evidence; and the broad theoretical basis of evidence law, court process and proof;
- (b) sources of Australian evidence law in both uniform legislation jurisdictions and "common law" jurisdictions;
- (c) fundamental principles of evidence law; and how they are applied (for example, relevance; probative value; prejudice; credibility; the presumption of innocence; public policy);
- (d) fundamental requirements of proof; and how they are applied (for example, burdens and standards of proof; judicial notice; case to answer);
- (e) the rules about presenting and challenging oral, documentary and real evidence; and how they are applied (for example, rules about competence; compellability; witness examination; the role of views; proof of documents and of real evidence);
- (f) rules about excluding evidence, and exceptions to those rules; and how they are applied (for example, rules and exceptions about admissions and privileges; hearsay; opinion; credibility; character; coincidence; tendency (disposition) evidence);



- (g) judicial discretions to limit or exclude evidence; and how these discretions are exercised;
- (h) processes to deal with unreliable evidence, especially in criminal trials; and how they are applied (for example, notice requirements; pre-trial rulings and directions; identification evidence; judicial warnings (including any corroboration requirements); comments and directions).

## **PROPERTY**

Understanding -

- (a) the broad theoretical and conceptual bases, and the diverse contexts, of the law of property;
- (b) the principles of indigenous Australian law that form the basis of Aboriginal and Torres Strait Islander claims to land;
- (c) and evaluating the means by which the State creates, validates, and records interests in property in Australia;
- (d) how a property interest arises, how it may be construed or enforced, and how it may end, with reference to common law and equitable principles, their relationship with statute, and their connection with private agreement-making;
- (e) that multiple property interests may co-exist in the same thing, and how the interest holders' respective rights, obligations, and remedies are ascertained.

## **TORTS**

Understanding -

- (a) the function and development of tort law in its social context, including the role of fault in establishing liability;
- (b) the tort of negligence and its defences;
- (c) a representative range of other torts relating to personal, property, and economic interests and their defences;
- (d) how damages are assessed;
- (e) how common law and statute deal with multiple wrongdoers (for example, vicarious and concurrent liability);
- (f) the complementary operation of tort law and statutory compensation schemes.

## **ATTACHMENT B**

### **STEERING COMMITTEE**

The following people comprised the Committee that prepared the report "Specifying Learning Outcomes for Contract Law", now published on the LACC website. LACC asked the Committee to act as a Steering Committee for the purpose of compiling a revised draft of the 11 prescribed areas of knowledge.

Associate Professor Allan Chay  
Queensland University of Technology

Professor Sandford Clark  
Chairman LACC

Professor Sally Kift  
National Centre for Student Equity in Higher Education  
Curtin University

Professor Alex Steel  
University of NSW

### **DRAFTING GROUPS**

#### **1. ADMINISTRATIVE LAW**

Professor Anthony Cassimatis  
University of Queensland

Associate Professor Andrew Edgar  
University of Sydney

#### **2. CIVIL DISPUTE RESOLUTION**

Professor Peta Spender  
Australian National University

Professor Lisa Toohey  
University of Newcastle

#### **3. CONTRACT LAW**

Professor Sandford Clark  
Ashurst

Professor Sally Kift  
National Centre for Student Equity in Higher Education  
Curtin University

Associate Professor Allan Chay  
Queensland University of Technology

Professor Alex Steel  
University of NSW

4. **COMPANY LAW**

Professor Stephen Bottomley  
Australian National University

Professor Michelle Welsh  
Monash University

Professor Ian Ramsay  
University of Melbourne

5. **CRIMINAL LAW AND PROCEDURE**

Professor Heather Douglas  
University of Queensland

Associate Professor Kelley Burton  
University of the Sunshine Coast

6. **FEDERAL AND STATE CONSTITUTIONAL LAW**

Associate Professor Melissa Castan  
Monash University

Professor Jonathan Crowe  
Bond University

7. **EQUITY**

Professor Natalie Skead  
University of Western Australia

Professor Brendan Edgeworth  
University of NSW

8. **EVIDENCE**

Professor Jill Hunter  
University of NSW

Mr David Caruso  
Senior Lecturer  
University of Adelaide

9. **ETHICS AND PROFESSIONAL RESPONSIBILITY**

Professor Julian Webb  
University of Melbourne

Professor Christine Parker  
University of Melbourne

10. **PROPERTY LAW**

Associate Professor Kate Galloway  
Bond University

Associate Professor John Page  
Southern Cross University

11. **TORTS**

Professor Joachim Dietrich  
Bond University

Professor Barbara McDonald  
University of Sydney

## **ATTACHMENT C**

Although the topics below are grouped for convenience under the headings of particular areas of knowledge, there is no implication that a topic needs to be taught in a subject covering the area of knowledge in the heading rather than in another suitable subject.

### **CRIMINAL LAW AND PROCEDURE**

1. The definition of crime.
2. Elements of crime.
3. Aims of the criminal law.
4. Homicide and defences.
5. Non-fatal offences against the person and defences.
6. Offences against property.
7. General doctrines.
8. Selected topics chosen from:
  - attempts
  - participation in crime
  - drunkenness
  - mistake
  - strict responsibility.
9. Elements of criminal procedure. Selected topics chosen from:
  - classification of offences
  - process to compel appearance
  - bail
  - preliminary examination
  - trial of indictable offences.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the general doctrines of the criminal law and, in particular, examination of both offences against the person and against property. Selective treatment should also be given to various defences and to elements of criminal procedure.

### **TORTS**

1. Negligence, including defences.
2. A representative range of torts (other than negligence) and their defences.

3. Damages.
4. Concurrent liability.
5. Compensation schemes.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The potential compass of this area is so large that considerable variation might be anticipated. At the very least, there should be a study of negligence and of a representative range of torts, with some consideration of defences and damages, and of alternative methods of providing compensation for accidental injury. Examples of these topics are: concurrent liability, defamation, economic torts, nuisance, breach of statutory duty and compensation schemes.

### **CONTRACTS**

1. Formation, including capacity, formalities, privity and consideration.
2. Content and construction of contract.
3. Vitiating factors.
4. Discharge.
5. Remedies.
6. Assignment.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

Some variation may be expected in the breadth and detail of the topics. In general, however, knowledge of the formal requirements for concluding contracts, capacity, the content and interpretation of contracts, their performance and discharge, and available remedies, together with an understanding of the broad theoretical basis of contract would be expected.

### **PROPERTY**

1. Meaning and purposes of the concept of property.
2. Possession, seisin and title.
3. Nature and type (i.e. fragmentation) of proprietary interests.
4. Creation and enforceability of proprietary interests.
5. Legal and equitable remedies.
6. Statutory schemes of registration.
7. Acquisition and disposal of proprietary interests.
8. Concurrent ownership.
9. Proprietary interests in land owned by another.

10. Mortgages.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should provide knowledge of the nature and type of various proprietary interests in chattels and land, and their creation and relative enforceability at law and in equity. Statutory schemes of registration for both general law land and Torrens land should be included. A variety of other topics might be included, e.g., fixtures, concurrent interests and more detailed treatment of such matters as sale of land, leases, mortgages, easements, restrictive covenants, etc.

**EQUITY**

1. (a) The nature of equity.
  - (b) Equitable rights, titles and interests.
  - (c) Equitable assignments.
  - (d) Estoppel in equity.
  - (e) Fiduciary obligations.
  - (f) Unconscionable transactions.
  - (g) Equitable remedies.
2. Trusts, with particular reference to the various types of trusts and the manner and form of their creation and variation. The duties, rights and powers of trustees should be included, as should the consequences of breach of trust and the remedies available to, and respective rights of, beneficiaries. (It is expected that about half the course will be devoted to trusts.)

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should cover the elements of trust law, equitable doctrines apart from those relating to trusts, and equitable remedies. The following aspects of trusts law should be dealt with: various kinds of trusts; the rights, duties and powers of trustees; the consequences of breach of trust. Apart from trusts, the following equitable doctrines might be covered, for example, fiduciary obligations, equitable assignments, unconscionability and confidential information. The remedies of specific performance, injunction, declaration and damages in equity should be included. (It is expected that about half the course will be devoted to trusts.)

**COMPANY LAW**

1. Corporate personality.
2. The incorporation process.
3. The corporate constitution.
4. Company contracts.
5. Administration of companies and management of the business of companies.

6. Duties and liabilities of directors and officers.
7. Share capital and membership.
8. Members' remedies.
9. Company credit and security arrangements.
10. Winding up of companies.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include an analysis of incorporation and its effects, management and control of a company, the various methods of financing - by the issue of shares and by debt - and the processes of winding up a company.

### **ADMINISTRATIVE LAW**

1. Organisation and structure of the administration.
2. Administrative law theory.
3. Common law and statutory avenues of judicial review at Commonwealth and State level.
4. Grounds of judicial review.
5. Remedies.
6. Crown immunity.
7. Administrative Appeals Tribunal.
8. Statutory review.
9. Freedom of information.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should not only embrace traditional common law remedies concerning judicial review of administrative action, but should also cover the range of Commonwealth and State statutory regimes.

### **FEDERAL AND STATE CONSTITUTIONAL LAW**

1. State constitutions and constitutional systems.
2. The Commonwealth Constitution and constitutional system.
3. The constitution and operation of the legislature, executive and judiciary.
4. The relationship between the different institutions of government and the separation of powers.
5. The relationship between the different levels of government.

OR



Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the major principles of both the relevant State or Territory Constitution and the Commonwealth Constitution, including the relations between the different Commonwealth and State or Territory laws. A general knowledge of the scope of both State or Territory and Commonwealth Constitutions is required, although the topics will differ in the depth of treatment of specific heads of power, particularly in the Commonwealth sphere.

### **CIVIL DISPUTE RESOLUTION**

1. Court adjudication under an adversary system.
2. The cost of litigation and the use of costs to control litigation.
3. Service of originating process – as foundation of jurisdiction, including service out of the relevant state or territory and choice of forum.
4. Joinder of claims and parties, including group proceedings and the defence of prior adjudication as instances of the public interest in avoiding a multiplicity of proceedings and inconsistent verdict.
5. Defining the questions for trial – pleadings, notices to admit and other devices.
6. Obtaining evidence – discovery of documents, interrogatories, subpoena and other devices.
7. Disposition without trial, including the compromise of litigation.
8. Extra-judicial determination of issues arising in the course of litigation.
9. Judgment.
10. Appeal.
11. Enforcement.
12. Alternative dispute resolution.
13. Obligations of parties and practitioners relating to the resolution of disputes.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topic should embrace the general study of rules of civil procedure and alternative dispute resolution relevant in the State or Territory. The law concerning jurisdiction, the initiation and service of process, the definition of issues through pleadings and judgment and enforcement should all be included.

### **EVIDENCE**

Explanatory Note:

The following topics are fundamental to understanding the major features of evidence law and procedure, both statutory and common law, and the major sources of judicial interpretation relevant to a general study of the role, sources and foundation of the law of evidence and a trial procedure, of pre-trial obligations and of rules concerning the burden and standard of proof. These topics explicitly take into account the language of procedural changes created by the

common law and uniform evidence law in Australia, including High Court jurisprudence that is indispensable to understanding the conduct of a trial.

1. Introduction
  - (a) The relevant sources of the law of evidence and procedure.
  - (b) Fair trials, proof and adversarialism, including principles underpinning accusatorial justice.
  - (c) Evidentiary issues to be addressed before trial: disclosure, notices and requests.
2. Forms of evidence
  - (a) Witnesses: Competence and compellability:
    - (i) The examination of witnesses, including vulnerable witnesses
    - (ii) The accused as a witness, including the privilege against self-incrimination
  - (b) Documentary evidence, including proof of contents.
  - (c) Real evidence.
3. Evidentiary principles and rules, and exceptions to the rules
  - (a) Relevance.
  - (b) Original evidence including *res gestae*.
  - (c) Hearsay evidence.
  - (d) Opinion evidence.
  - (e) Admissions and confessions.
  - (f) Tendency and coincidence evidence.
  - (g) Credibility evidence.
  - (h) Character evidence.
4. The bases for privilege including legal professional and client privilege
5. Judicial warnings, comment and directions
6. Mandatory and discretionary exclusions and the limitations on evidence

### **ETHICS AND PROFESSIONAL RESPONSIBILITY**

Professional and personal conduct in respect of a practitioner's duty:

- (a) to the law;
- (b) to the Courts;
- (c) to clients, including a basic knowledge of the principles relating to the holding of money on trust; and
- (d) to fellow practitioners.

OR

Topics of such breadth and depth as to satisfy the following guidelines.

The topics should include knowledge of the various pertinent rules concerning a practitioner's duty to the law, the Courts, clients and fellow practitioners, and a basic knowledge of the principles relating to the holding of money on trust.

## **ATTACHMENT D**

The Threshold Learning Outcomes for the Bachelor of Laws are -

### **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 comparable in scope, but pitched at a standard appropriate to a post-graduate degree.