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Mr Warren Mundy and Ms Angela McCrae
Access to Justice Arrangements Review
Productivity Commission
Locked Bag 2, Collins St East
Melbourne VIC 8003, Australia

Dear Commissioners,

Thank you for the opportunity to comment on the *Access to Justice Arrangements Draft Report*, April 2014. This response from the Newcastle Law School is responsive to recommendation 7.1.

The traditional route to becoming a lawyer in Australia involves a separation of the acquisition of academic areas of knowledge contained within the 'Priestley 11', additional law courses usually referred to as electives followed by a stand-alone and add-on practical legal training course (PLT). As a general practice, PLT does not have a clinical legal education ethos and its skills training is undertaken predominantly through simulated activities and is supplemented by workplace experience. Therefore, 'live client' clinical legal education can take a 'back seat' to the teaching of academic areas of knowledge, theory and practical skills training. This artificial separation and the lack of distinctive and high quality clinical legal education experiences disadvantages law students when they transition from law school and PLT into the workplace as they have not had sufficient opportunities to put their knowledge and skills into practice with real life client casework. Further, the lack of quality clinical legal education experiences can lead students to have a blinkered understanding of how the rule of law actually operates in practice and the difficulties that some people face in accessing justice. In contrast, a clinical legal education experience in a community legal centre highlights for students the barriers people with a disability or economic disadvantage can face in pursuing or defending their legal rights. Such hands-on experiences shape the attitudes and values of students which in turn impacts and influences the values of the legal profession as they transition into legal practice. Best practice legal ethics approaches and professionalism traits can be developed at a deeper level when students are faced with legal (and non-legal) issues in a well-supervised clinical legal education environment. This can be further enhanced when such experiences are integrated with the academic underpinning for these approaches and informed by legal scholarship.

Newcastle Law School has been engaged in a year-long process of reviewing its curriculum and teaching in order to deliver graduates who possess, at a minimum, three core attributes: 1. critical understanding of how law is made and enforced at a broader systemic level; 2. strong disciplinary fundamentals in the Priestley 11 and new legal domains that characterise the regulatory state; and 3. competence in the actual delivery of legal services in the modern marketplace. As part of this effort, our new Juris Doctor program was designed after incorporating the views of leading practitioners, best practice from leading legal service clinics in the United States, and insights from the Carnegie Foundation's path-breaking report

on legal education.¹ Therefore, uniquely, the NLS JD program includes an embedded Graduate Diploma of Legal Practice. All students are mandated to undertake intensive ‘live client’ clinical legal education experiences which are fully integrated into their degree and PLT diploma. Students can choose from a list of clinical courses in their second and third year; electives include refugee and asylum law, environmental and natural resources law, civil justice, commercial transactions, and criminal advocacy.

Our model of clinical education is delivered at the University of Newcastle Legal Centre (UNLC), which is located in the legal precinct – adjacent to the courts, and is staffed by six solicitors. UNLC has a strong record of public interest case work – representative matters include the Cornelia Rau case, and the ongoing Kathleen Folbigg case.² The opportunity for students to learn from working on cases of such national prominence can be life changing. At a minimum, it is likely to inculcate a deep respect for the rule of law, critical thinking about our institutions and their accountability mechanisms, and the need for legal services to be accessible to those who suffer disadvantage.

We submit that Newcastle Law School’s unique model of experiential education could offer a model for the proposed review of legal education in Australia.

We also support your recognition of the importance of the independence of the legal profession, and the duplicative – and often unnecessarily burdensome – regulatory processes imposed on Australian law schools. In this regard, we believe it would be advisable to minimise (or eliminate) the role of non-specialist bodies such as TEQSA; a system similar to that administered by the American Bar Association for law schools in the United States would be more effective, efficient, and less costly whilst preserving incentives for innovation and competition.

Thanking you,

Sandeep Gopalan, Dean, and Mr Shaun McCarthy, Director UNLC.

¹ *Educating Lawyers: Preparation for the Profession of Law*. William M. Sullivan, Anne Colby, Judith Welch Wegner, Lloyd Bond, Lee S. Shulman. San Francisco: Jossey-Bass, 2007.

² <http://www.newcastle.edu.au/about-uon/governance-and-leadership/faculties-and-schools/faculty-of-business-and-law/newcastle-law-school/the-university-of-newcastle-legal-centre/free-legal-services>