

APPENDIX ONE

THE GRIFFITH LAW CURRICULUM

General Aims Of The Curriculum:

The curriculum is focussed on meeting the future needs of the profession and the community it serves while fully satisfying the professional admission requirements of today.

As a new university it will be able to incorporate the best practices from Australian and overseas law schools within a coherent framework.

The curriculum aims to:

- cover the substantive areas of law identified by the professional admission bodies as necessary for practice;
- develop a modern law curriculum to meet the needs of the 21st Century, reflecting changes in the nature of law and legal practice since existing law curricula were designed in mid-century;
- create a law degree that not only provides the academic stage of a professional lawyer's education but also an education that is of use in the many other purposes to which law degrees are increasingly put;
- be a law school with an international focus in its research and its teaching programmes at both undergraduate and graduate level; and
- pioneer integrated degree programmes.

The first four programmes will be

- Law Politics and Public Policy (LLB/BCom);
- Law and Environmental Science (LLB/BSc);
- Law and Japanese (LLB/BA);
- Law and International Business (LLB/BIntBus).

These programmes will:

- provide a broad overview of law and a broad legal education that supports a career in any area of practice;
- enable students to pursue interests in law emphasised by the various degree programmes;
- enable those students who wish to specialise in those areas the firmest possible foundation;
- provide, for those who do not wish to practise, the kind of broad legal education that can be put to good use in the range of careers open to lawyers in business, government and community service.

Key Features Of The Griffith Law Curriculum:

The Griffith University Law Curriculum will:

- update some of the core curriculum to incorporate areas of law that are of growing importance to law in general and professional practice in particular (e.g. the Property Law course will include introductions to Resources and Intellectual Property Law);
- teach related areas of substantive law in larger and broader subjects so that students will have a broader understanding of the law and its

- functions within society;
- group these larger subjects into annual themes for the first three years:
 - 1st year - Laws that regulate interpersonal civil obligations,
 - 2nd year - Laws that regulate the creation and operation of organisations,
 - 3rd year - Laws that regulate the creation and transfer of property rights;
- incorporate the critical and theoretical dimensions of legal education as recommended by the Pearce Report;
- introduce the consideration of ethical issues in all of the core areas of law;
- improve clinical legal education and relevant skills training by placing them within the context of core subjects;
- emphasise the increasingly national and international dimensions of the areas studied.

An 'Academic' and a 'Practical' Education:

Law is founded on the attempt to order society according to rules determined and promulgated in advance. Law schools have traditionally sought to teach students how to sift through legislation and judicial precedents for relevant material and to interpret them for the legal rules that may be derived from them. A knowledge of the rules currently in force and the principles that attempt to order them underpins this process.

In recent years, the realisation has grown that law schools must do much more if they are to produce lawyers for the next century. The Pearce Report criticized Australian law curricula for lacking a 'critical and theoretical dimension' in which students would be expected to ask questions about the nature of law and its role in society. More recently, Australia's Chief Justice, Sir Anthony Mason, called for 'greater emphasis on jurisprudence and philosophy of law so that graduates emerge from a university with a panoramic view of the law as an entire discipline rather than as a series of discrete and unrelated pigeon holes.'

At the same time, practising lawyers have urged universities to address the range of skills that is required for the practice of law.

Some see these as conflicting demands - competing claims to academic education and professional training. However, there should be no tension between the two - indeed each is essential for the other. Understanding the social, historical and cultural context of legal rules is not merely an academic pursuit but vital for professional practice. Lawyers do not practise law in the abstract or deal with legal rules as disembodied theoretical constructs. They practise law and use legal rules in the context of their client's problems and needs. Similarly, being able to exercise legal skills is not merely of concern for those who intend to practise. No one can have an academic understanding of law without knowing the way lawyers reason, argue and operate. Furthermore, there are many legal skills that are useful in a wide range of careers (such as negotiation and the ability to reason from rules). Indeed, the transferability of the skills is one of the reasons for the enormous popularity of

law degrees and the increasing diversity of uses to which they are put.

Existing law schools have only been able to respond to these demands incrementally - adding a theory subject here and a skills subject there. However, the vast majority of subjects remain untouched by the process and fail to draw on the knowledge, skills and understanding in the added subjects. It is very difficult to reform existing law schools so the creation of a new law school makes it possible to provide the correct balance from the beginning.

The law programmes that are being designed at Griffith University are intended to weave critical, theoretical and contextual material into the teaching of legal rules, doctrines and skills into the degree as a whole and into each subject in particular.

Updating the Compulsory Core:

The core of the curriculum must reflect the changes to law since the original core subjects were formed last century.

To take but one example, most property courses concentrated on real property reflecting the time when real property was the most important form of property for clients and hence for practice. In today's world real property is important. But intellectual property and securities are more central to the workings of the law and an economy built on technology and finance - and laws that govern the exploitation of resources above and below the ground are assuming an importance as great as the rights registered under the Torrens System. Rather than hive these areas off to create new optional subjects which would mean that many students were never even introduced to the relevant concepts or add a new subject to the list of compulsory subjects, it is intended introduce new material into larger and broader subjects.

Larger and Broader Subjects

A number of the Griffith subjects are larger in terms of contact hours and broader in scope than the subjects traditionally taught at other Queensland universities. These subjects are: Constitutional and Administrative Law, The Law of Associations, Property, Civil Obligations, Litigation, and Advanced Practice.

The basic strategy for these core subjects is to combine two or more related areas of law, teach them as a core subject with an emphasis on understanding the recurring issues and the principles most commonly used to deal with them, and intentionally facilitate the possibility of taking a broader overview of the subject matter and introducing the discussion of critical and theoretical issues.

These subjects would cover a broader area of law and within those areas more emphasis would be given to those parts that are more important in the 1990s. In order to cope with the extra material, these subjects will frequently be much larger than in existing law schools. While many subjects are taught in law schools for two hours per week for one or two semesters, the first three abovementioned subjects will occupy four hours per week for the whole year. The last three will occupy three hours per week for the whole year.

These reorganised subjects also achieve the goal of collectively representing the variety of legal doctrine, institutions, techniques and whatever else is considered the most significant variables within law. When subjects are reorganised in this way, it is also more likely that that variety will be represented in a single subject. This facilitates comparative work. For example it is both easy and natural to consider how similar purposes are fulfilled by different sets of rules and institutions (e.g. Trading Trusts, Partnerships, and Corporations), and how similar issues are confronted or avoided in the different areas of law.

By covering a broader area of law these subjects can also offer a better overview of the subject area whether as an introduction to later year advanced subjects or a basic understanding of the relevant law for those who specialise in other areas.

This approach follows and builds on the experience of other law schools (most notably those of Melbourne, New South Wales, and Adelaide) who have introduced such broad based subjects as Constitutional and Administrative Law, Litigation and Associations.

Annual Themes:

To further assist students to take a broader overview of law, and to understand the relationships between the various areas studied, the subjects will be grouped into annual themes for the first three years. Thus students can better understand the way that law regulates interpersonal obligations by studying them together during first and fourth years; they can better understand the way that law regulates institutions by studying Constitutional and Administrative Law and Associations Law in second year; and they can better understand the way that law recognizes and regulates property rights and their transfer in third year.

Jurisprudence, Pearce's 'Critical and Theoretical Dimensions':

In responding to Pearce's criticism that Australian law schools lacked 'critical and theoretical dimensions' the Griffith Law School does not merely intend to incorporate a single 'Jurisprudence' subject into the curriculum. It seeks to reintroduce the 'critical and theoretical dimensions' into the structure of legal education. This will be done in three ways:

- 1: The first year course introduces students to a full range of jurisprudential issues in the context of a substantive law subject - Contract.
- 2: In later year subjects, it is not possible to raise, let alone deal with, all of the 'jurisprudential' issues in every area of law as most of the time will be spent on the substantive law. However, lecturers are encouraged to take up one or two of the broader range of jurisprudential, institutional and historical issues, depending on their theoretical interests and the nature of the relevant subject.
- 3: Within the penultimate year, there should be a core subject that asks the full range of jurisprudential questions - but this time about the whole of law, and the discipline within which it is integrated, rather

than about a single subject within law.

Legal Ethics:

Ethical issues recur throughout law. It is not sufficient to wait to discuss them in a professional subject taught at the very end of the course. Neither is it sufficient to include Ethics as a compulsory later year subject.

Griffith intends to incorporate ethical issues within a proportion of the problems discussed in every subject of the degree. To equip the student to handle these later year discussions, the first year of the course will raise ethical issues and discuss the ethical theories that inform the various responses to those problems.

There will also be dedicated coverage of ethical issues within the final year course: Advanced Practice.

Legal Skills:

Educational philosophy and theory highlight the need to integrate theory with practice in teaching and learning. Consequently, Griffith University will incorporate skills based learning within the core subjects rather than relegate 'skills' to the periphery of the curriculum.

Skills such as legal research and writing, interviewing, drafting, negotiation, interviewing and counselling will be developed through the core subjects of the degree programme with the emphasis varying, depending on the nature of the subject matter. Students will be introduced to computers as research and writing tools. Formal and informal mootings sessions will form part of the assessment in one of the core subjects in each year. In first year, informal moots are aimed at increasing student confidence and communication skills, refining their conceptual understanding of the area of law under debate, and illustrating how law operates within an institutional and procedural framework. In later years the complexity of the problems and the range of related skills that have to be brought to bear will be increased. Students will also be given exercises involving alternative means of dispute resolution with a special emphasis in the final year Advanced Practice course.

Clinical Legal Training, Placements and Summer Clerkships:

As with skills based learning, clinical legal education programmes assist student learning because they situate knowledge in a framework for the recall of knowledge and information assist students to understand the operation of the law. Like skills training, clinical legal education will be incorporated into core legal subjects. The placement programme will cover a range of different kinds of legal practice - including summer clerkships, work within a neighbourhood legal centre, a Brisbane law firm (or, for Law and Japanese students with good language skills, a Tokyo firm), a government department or an environmental lobby group. It is a goal of the Faculty to provide clinical experience of the practice of law in at least one, and preferably two relatively different sites.

The Law School will be seeking to develop ties with various law firms,

companies and other groups to provide students with these key educational opportunities.

An Emphasis on the Teaching of Law:

The Law School is making a major commitment to quality and innovation in the teaching of law.

The Law School aims to encourage the development of independent, autonomous, and lifelong learners who are able to conduct independent research and engage in critical analyses in law. A balance of teaching and assessment approaches will be adopted in order to actively engage law students in their study. Class sizes will be kept small to permit a greater degree of staff-student interaction so that students' needs can be better addressed. Small classes provide students with the opportunity to develop skills of oral argument.

In addition attention will be given to the use of modern technologies in order to enhance the educational process.

Griffith's commitment to excellence in teaching is reflected in its first two appointments. Professor Sampford, the Foundation Dean, has written extensively on legal education and is particularly interested in innovation in curricula in law. Ms Le Brun, senior lecturer in charge of the Foundation Programme is one of the few Australian legal academics who holds a Masters degree in education, has written on teaching and curriculum in Australian law schools, and who is an organiser of the Australasian Law Teachers' Association Workshop which teaches legal academics to teach.

The law school's commitment to teaching will be emphasised by giving full weight to teaching in the appointment and promotion of Griffith staff.

Integrated Degree Programmes:

For many years, Universities have offered combined degrees in Law and other disciplines. The idea was that students would gain much from working within two disciplines and that the insights of both disciplines could be brought to the benefit of each.

Unfortunately, combined degrees have generally failed to live up to their expectations. The two disciplines are taught in parallel at best and in conflict at worst.

The Griffith Law degree programmes aim to avoid this and realise the possibilities of dual degrees by limiting students to particular combinations and, by careful design, achieving a degree of integration hitherto impossible. This will be done in several ways:

- 1: Students will be required to do subjects within each degree that complement the other - thus students doing the Law, Politics and Public Policy course will be expected to take more public law options.
- 2: Some of the courses in each degree will be jointly taught and contributions will be made by staff in particular areas (e.g. economists will help provide background and contextual material in economic law

subjects and lawyers will provide the legal foundations for some of the courses taught within International Business).

- 3: Wherever possible, the co-operating divisions will put a 'spin' on existing courses - i.e. change the courses a little to take account of the different profile of students involved.
- 4: In some subjects there will be separate tutorials for each of the integrated programmes.
- 5: In first year, students are assigned to different 'offices' involving other students in the same integrated degree programme. Offices are groups of 6-12 which meet once a week without a tutor or lecturer to consider questions about the week's work that are relevant to their integrated degree programmes. They are required to discuss these questions and associated readings and to take it in turns to 'report back' the groups conclusions at the next large group class.
- 6: Wherever possible, co-operating divisions will schedule their subjects to complement the themes of the law degree. Accordingly subjects that deal with institutions would preferably be placed in second year and those on economics in third year.
- 7: Different assignments will be set for different integrations.
- 8: Moot problems will reflect the legal issues relevant to the combined degree programmes.
- 9: In each programme there will be a jointly taught subject that brings together the key critical and theoretical issues arising in each degree.
- 10: In final year there will be other 'Capstone' courses - advanced courses that attempt to use the full range of knowledge and skills that have been developed throughout the course.
- 11: Students will complete individualised work in 'Offices' which meet weekly and are degree specific.

The staff of law and the co-operating divisions are attempting to devise new ways of integrating the two degree programmes.

OUTLINE OF THE GRIFFITH UNIVERSITY LAW DEGREE PROGRAMMES:

The First Year:

The first year of the law component is entirely taken up with the Foundation Programme. That programme aims to introduce students to the various civil obligations which law regulates, concentrating on contract law. At the same time, the foundation programme will pose the full range of questions that Universities ask about law and introduce the range of skills they will have to develop. Contract Law will provide the backbone around which the programme is constructed. The other substantive areas of law will be introduced in relation to Contract and its history. Equity will be introduced as a body of principles that once served as a brake on the perceived harshness of common law and as something that has re-emerged in a similar same role in recent years. Torts will be introduced by tracing the familiar 'road to Donoghue' and beyond where it broke free of contract based notions.

The other half of first year is occupied by a foundation programme for the other degree.

Second Year:

In second year the law content expands by about 50% while the content of the other degree remains constant, leaving law with 60% of an enlarged programme. The law component will concentrate on the variety of laws that regulate the creation and operation of various kinds of institution and organisation. In Constitutional and Administrative Law, the course covers government institutions. The Law of Associations covers non government organisations.

The other degree will involve a combination of core and optional subjects

Third Year:

In the third year, the law course will concentrate on property and the ways that law regulates its creation and transfer between persons (Torts and Succession) and between private and public purposes (Taxation). Property is not limited to Land Law or even Personal Property but includes an introduction to those forms of property that have become more important in the modern economy such as Securities, Intellectual Property and Resources Law.

The other degree will involve a combination of core and optional subjects chosen to integrate with the law degree.

Fourth Year:

In fourth year, the law content expands from 60% to 80% and the other degree has an increasingly legal orientation. This allows a number of goals to be pursued. In substantive law, the year returns to legally imposed obligations. Students will do Criminal Law and an advanced course in Civil Obligations that covers issues within Contract and Torts not already covered in first and third year along with various aspects of Commercial Law. A

feature of the course will be the interaction between the different obligations covered by those subjects.

Students will also be learn the law of Evidence and Procedure in the subject Litigation. This returns to the points raised in first year that the law is an institutional phenomenon and as such is dependent on the availability of proof and procedure to have a direct effect.

Fourth year also sees the first of the optional subjects in which students can do a variety of subjects relevant to their integrated degree programme.

Also during this year, students will do a general theory course. In so doing they will again consider the critical and theoretical questions that were raised about the substantive law in Contract and later subjects. However, they will now be posed about the whole of law rather than about the individual subject areas about which they have been raised until now.

Fifth Year:

In final year, students will do a further course on Legal Practice which covers legal ethics, the operation of legal institutions including courts, law firms and the Bar.

They will also be required to do a jointly supervised research project on a topic relevant to both degrees and will have the opportunity to do further optional subjects relevant to their integrated degree programme and subjects not within the core that are required for admission as a barrister and solicitor.

It is intended that the final year subjects should be 'capstone' courses in the sense that they seek to address problems using all the skills from both degrees.

First Year:

Theme: Law and the Obligations it creates

LAW (50%):

Foundation programme in Law: Law and Legal Obligations:

Contract (incl Formation, Privity, Discharge, Terms, Remedies)

Introduction to Torts

History and Basic Principles of Equity

History and Philosophy of Law (incl an introduction to Legal Ethics)

First moot

Contact hours - 6 per week for the whole year

OTHER DEGREE (50%):

Foundation programme in the other discipline

Second Year:

Theme: Laws that regulate the creation and operation of organisations

LAW (60%):

Constitutional and Administrative Law

Constitutional law

Administrative law

Introduction to Public International Law

Second moot

Contact hours - 4 per week for the whole year

Associations and Trusts:

Company Law

Partnership, Agency and Unincorporated Associations

Trusts

Introduction to Regulatory Law

Contact hours - 4 per week for the whole year

OTHER DEGREE (40%):

Prescribed Courses selected as suitable for integration with the law degree.

Third Year:

Theme: Laws that regulate the creation and transfer of property rights

LAW (60%):

Property: Land Law

Personal Property

Shares and Securities

Introduction to Intellectual Property

Introduction to Resources Law

Vendor and Purchaser

Drafting

Contact hours - 5 per week for the whole year

Revenue Law

Contact hours - 3 per week for one semester

Succession

Contact hours - 1.5 hrs per week for one semester

Torts

Economic Torts

Personal Injuries at common law and in compensation schemes

Third moot

Contact hours - 3 per week for one semester

OTHER DEGREE (40%):

Prescribed and Optional courses in the other degree

Fourth Year:

Theme: Obligations and Procedure

LAW (80%):

Advanced Civil Obligations - The course will cover some of the more difficult areas of Contract, Torts and Equity, Remedies and emphasise areas where they overlap.

Contract - (Capacity, Vitiating Factors)

Torts - (Torts Against the Person, Deceit, Defamation)

Equity - (Unconscionability, Remedies and Restitution)

Fourth moot

Contact hours - 3 per week for the whole year

Litigation

Evidence

Practice

Alternative Dispute Resolution

Contact hours - 3 per week for the whole year

Criminal Law and Procedure

Contact hours - 3 per week for the whole year

Two Optional Law Subjects (except the Law and Japanese programme in which students do two further language subjects)

Contact hours - 3 per week for one semester

JOINT WITH OTHER DEGREE (20%):

'Theory subject'

- Jurisprudence and Political Theory (in Law, Politics and Public Policy Programme)

- Legal and Economic Theory (in the Law and International Business programme)

- European and Asian Jurisprudence (Law and Japanese programme)

- Jurisprudence and the Environment (in Law and Environmental Science programme)

Contact hours - 3 per week for the whole year

Fifth Year:

LAW (80%):

One Law subject taken from a group of International and Comparative Law courses - (incl Conflicts, International Law, Asian Law, American law, EEC law).

Advanced Practice

Legal Ethics

The legal profession

Introduction to management skills

Contact hours - 3 per week for a semester

Six Optional Law Subjects

Contact hours per subject - 3 per week for one semester

One of these subjects to include a fifth moot.

JOINT (10%):

Research Project - 5,000 words for pass, 10,000 words for honours (except Law and Japanese students who do a Japanese Law and Language project which is shorter but more intensive).

OTHER DEGREE (10%):

One optional subject in the other degree with a strong legal emphasis such as Environmental Law or Comparative Asian Law

Optional Courses:

Optional courses will include the following:

Advanced Public Law, Book keeping and Accounts, Comparative Asian Law, Advanced Bankruptcy Law, Family Law, Human Rights Law, Intellectual property, International Trade Law, Labour Law, Maritime Law, Planning Law, Public International Law, Resources Law, Trade Practices Law

Contact hours - generally 3 per week for one semester