We wish to make a comment in relation to the proposal to remove the subject area Company Law from the Academic Requirements. Specifically we will comment in answer to Question 6.1 as we believe Company Law to be an area of fundamental legal knowledge that cannot be adequately dealt with in the current PLT programmes as they operate within the Australian system. In doing so we endorse the submissions already made by the Council of Australian Law Deans, the Corporations Committee of the Business Law Section of the Law Council of Australia and the Corporate Law Teachers Association. We also make the following points

1. We view the study of corporate law as fundamental. In that context we note that particular outcomes for graduate knowledge reflected in the TLOs, and referred to by LACC on p 2 include:

   - “fundamental areas of legal knowledge, the Australian legal system, and underlying principles and concepts, including international and comparative contexts”

   - "the broader contexts within which legal issues arise”,

   - “the principles and values of justice and of ethical practice in lawyers' roles”

Taking each of these in order the first point to be made is that we suggest it is difficult to gain an understanding of the Australian legal system and its context without a significant knowledge of and understanding of the nature of corporate personality and the rights of stakeholders in the corporate entity. Having regard to the extent to which economic activity is carried on through corporations both large and small it would be a very limited picture of our legal system without such knowledge. Further in an international context what depth of knowledge could a graduate demonstrate about international and comparative contexts without a knowledge of the basic unit of economic activity in nearly all jurisdictions, the
limited liability company. The second requirement of the TLO is that graduates need to have an understanding of the broader contexts within which legal issues arise. Again, this outcome surely requires an understanding of the law relating to companies as many legal issues will revolve around stakeholders’ interests in corporate behaviour and corporate assets. Put simply, broader context requires the understanding of the corporate entity. Finally many issues of justice and ethics will involve behaviour relating to corporate entities. This is particularly so in relation to issues relating to director behaviour and advice to be given to various stakeholders in the corporation. Having regard to what the Review says are the reasonable aspirations reflected within them, we are firmly of the view that the outcome as elaborated cannot be met without the knowledge of company law as generally taught in the undergraduate programs in Australian Law Schools.

2. The argument put forward in the Review in respect of the removal of corporate seems to rest on two points the first being that it is not taught at undergraduate level in England and second that it might be taught at the PLT course following graduation. Taking the first point, as other submissions1 have made very clear the system of legal education and admission in England differs in many respects from the Australian system. Also there is no evidence presented by the Review that the knowledge and performance of newly admitted solicitors and barristers in those jurisdictions is better than those in the same position in Australia. The Review notes a statement from the Setting Standards report in 20132 which seems to admit that in England and Wales there is a “lack of an overall and coherent legal education system as such”. Hence it is difficult to understand why the position there is to be preferred to the current one in Australia with respect to this issue. Even if the English position is to be accepted as relevant, the Review provides inconsistent arguments about the importance of company law; the practitioner survey clearly rated knowledge of company law highly. The fact that the subsequent question is inconsistent with this indicates at best confusion about the position in that jurisdiction rather than any clear argument in favour of the position adopted there. Fundamentally the argument presented does not justify the change as advocated in the Review and on the basis of the arguments in favour of retaining corporate law as presented above and in other submissions, we argue for its retention.

3. There is a suggestion within the Review that the area of company law might be taught with the PLT. We have noted above that the position in England may be somewhat different however we argue that the practical legal training as it operates within Australia provides just that- namely the training for practice in various areas of the law. It is not a place where an understanding of the fundamental legal principles relating to an area is to be provided. That must be done within the undergraduate degree if a law degree is to be distinguished from any other degree. As we have noted above company law is clearly an area that is needed to be understood in a very fundamental way if any form of legal practice is to be undertaken. It is necessary for law students entering practice to not only have the practical

1 Corporations Committee of the Business Law Section of the Law Council of Australia submission p 3-4; The Honourable JC Campbell submission pp7-9 and Council of Australian Law Deans initial submissionp5.
skills to deal with company documents but to have deep understanding of the some basic areas such as the role of directors, the company constitution and corporate contracting. It is impossible to see how the PLT program can provide the broader context of these types of issues as required by the Threshold Learning Outcomes.

4. Further, given the importance of legal regulation to the Australian economy, it is important that graduates not only appreciate public law areas such as administrative law and constitutional law, but also private areas of law such as commercial and corporate law. The opportunity for students to appreciate the linkages between the law and economic activity is relatively limited following contracts law, which is often taught early in a law degree – to revisit commercial issues in a core unit such as Company Law later in the degree is important, as students who have selected non-commercial electives may find when they enter practice that an understanding of commercial and corporations law is important – whether in the ‘big end of town’ or in practices advising small and medium enterprises. The importance of this as an area of substantial litigation and commercial significance is notable in the extent of the specialist corporations lists e.g. in the Supreme Court of New South Wales and the new Commercial and Corporations National Practice Area in the Federal Court.

5. Finally we note that Review pushes strongly for the inclusion of statutory interpretation as an academic requirement. Whilst we do not wish to comment on this particular issue, we do suggest that it is very counterproductive to at the same time be removing a unit that is largely about interpretation of statutory provisions. The knowledge of statutory interpretation is best developed through application. Company law provides such an application. There is, in the company law study, the opportunity for students to come to grips with a statute with all its difficulties, history and interpretations by the courts in a very practical way. By removing the need to undertake company law students will be provided with the opportunity to undertake even less statutory interpretation than they have now. This will not improve any student’s ability in the area of statutory interpretation but in fact detract from it.